

CROWN LAW

ANNUAL REPORT

for the YEAR ENDED
30 JUNE 2009

*Presented to the House of Representatives
Pursuant to s 44(1) of the Public Finance Act 1989*



ANNUAL REPORT

CONTENTS

SOLICITOR-GENERAL'S INTRODUCTION.....	4
STRATEGIC DIRECTION.....	5
THE WORK OF CROWN LAW.....	6
CROWN LAW STRATEGIC GOALS 2007-2010.....	8
CHIEF EXECUTIVE'S OVERVIEW.....	10
ORGANISATION INFORMATION.....	25
STATEMENT OF RESPONSIBILITY.....	32
AUDIT REPORT TO THE READERS OF CROWN LAW'S FINANCIAL STATEMENTS.....	33
STATEMENT OF OBJECTIVES AND SERVICE PERFORMANCE.....	36
INCOME STATEMENT.....	47
STATEMENT OF MOVEMENTS IN TAXPAYERS' FUNDS.....	48
BALANCE SHEET.....	49
STATEMENT OF CASH FLOWS.....	50
STATEMENT OF COMMITMENTS.....	51
STATEMENT OF DEPARTMENTAL CONTINGENT LIABILITIES.....	51
STATEMENT OF UNAPPROPRIATED EXPENDITURE AND CAPITAL EXPENDITURE.....	52
STATEMENT OF DEPARTMENTAL EXPENDITURE AND APPROPRIATIONS.....	53
SCHEDULE OF TRUST MONIES.....	54
NOTES TO THE FINANCIAL STATEMENTS.....	55
DIRECTORY.....	74

SOLICITOR-GENERAL'S INTRODUCTION

It is with pleasure that I present Crown Law's annual report and its audited financial statements for the year ended 30 June 2009.

During the past financial year Crown Law continue to demonstrate its value as the Crown's "independent law firm". Over the past 12 months Crown Law has had to manage a challenging and diverse range of litigation and advice work.

An indication of Crown Law's expanded workload can be gauged from the following basic structure:

- In the year ended 30 June 2009 55 applications for leave to appeal in criminal matters were dealt with. Eleven applications were granted and 44 cases dismissed. In comparison, in the year ended 30 June 2005 Crown Law dealt with 31 applications for leave to appeal in criminal matters in the Supreme Court resulting in four applications being granted and 31 cases being dismissed.
- The total value of the claims in litigation conducted by Crown Law during the last financial year exceeded \$3 billion.

In addition to a heavy litigation workload, lawyers in Crown Law are involved every day in providing advice and guidance to Ministers and departments to assist the Government of the day in implementing its policies lawfully.

Crown Law has continued to benefit from a very targeted recruitment programme which has ensured that Crown Law has continued to attract and retain lawyers of the very highest calibre. During the last financial year there have been no

changes in the management team, with the Practice Manager, three Deputy Solicitors-General and 15 Team Leaders and Managers providing a very stable platform within Crown Law.

As always, I am grateful for all staff for their professionalism and commitment throughout the year.



Dr David Collins QC
Solicitor-General & Chief Executive
30 September 2009

STRATEGIC DIRECTION

CROWN LAW – STATEMENT OF DIRECTION

Supporting New Zealand’s system of democratic government, under law and in the public interest.

CROWN LAW’S VALUES

Consistent with Crown Law’s overall obligation to support New Zealand’s system of democratic government, under law and in the public interest, Crown Law:

- will support the Law Officers, the Attorney-General and the Solicitor-General, in their work in a way that enables them to meet their obligations to make decisions independently and objectively in the public interest;
- will demonstrate a proper understanding of the roles of each of the branches of government;
- will take a “whole of government” perspective in carrying out our primary functions;
- will be responsive to client needs and concerns and will provide legal advice and representation which:
 - shows an understanding of the particular contexts in which legal problems arise;
 - is relevant and focused;
 - is well researched and well reasoned;
 - is balanced but decisive; and
 - is expressed and organised in a simple, direct and concise way;
- will conduct itself consistently with the expectation of the Crown as a model litigant; and
- aims to create a work environment, which stimulates and challenges all who work in Crown Law to meet the highest standards of public service, while recognising the need for a balanced and well-rounded personal life.

THE WORK OF CROWN LAW

Crown Law provides legal services to the Crown thus contributing to the effective and lawful functioning of New Zealand's Government. The work of Crown Law comprises legal advice to, and legal representation of, public sector clients. Crown Law also supports the Law Officers, the Attorney-General and the Solicitor-General.

Legal services are provided to the Government and government departments by in-house legal advisors, private sector legal advisors and Crown Law. In-house legal advisors typically instruct Crown Law. The engagement of external legal advisors, for example, Queen's Counsel, is undertaken where particular specialist knowledge is required, where work pressures within Crown Law create capacity problems, and to preserve independence.

Crown Law operates much like a private sector legal practice and charges for services to public sector clients. Crown Law seeks to service client departments and agencies efficiently and effectively. Key to this is the quality of the working relationship established with the client's internal legal advisors, and the strength of the organisational links with the client's operational and policy functions.

LEGAL ADVICE AND REPRESENTATION

The Crown is subject to the rule of law and has an obligation to ascertain what the law is, comply with it and enforce it. This means that when advising individual departments Crown Law has an overarching duty to the public interest.

Thus Crown Law's clients have two needs: advice that is of high quality addressing the immediate legal problem and advice which

takes into account the Crown's overriding obligations and interests.

The Cabinet Directions for the Conduct of Crown Legal Business 1993 direct departments in the use of Crown Law's legal services. The Cabinet Directions provide for two categories of legal work:

- Category 1, which must be referred to the Solicitor-General, includes cases concerning actual or imminent litigation where the Government or a government agency is a party, situations involving the lawfulness of the exercise of government powers, constitutional questions (including Treaty of Waitangi issues) and issues relating to the enforcement of the criminal law and the protection of the revenue.
- Category 2 is essentially all other work, for example, employment matters, and is contestable. Departments may choose other legal advisors to assist them to resolve Category 2 matters.

Crown Law has no specific responsibility for policy formation or for the development of legislation. However, when requested, Crown Law provides legal input on policy issues.

By providing legal services Crown Law intends that the Crown's legal interests are protected and its responsibilities are lawfully carried out. This work assists to manage legal risk arising from the operations of government agencies and policy development.

To further promote these outcomes across government, Crown Law provides leadership for legal services within government. Crown Law convenes the Chief Legal Advisors' Forum and supports PS Law, an opinion database and workspace for government lawyers, by sitting on the steering committee and contributing opinions. Crown Law plans to expand these activities by adding to its regular newsletters on legal developments and hosting seminars. This contributes to increased quality and consistency of legal services across government.

SUPPORTING THE LAW OFFICERS

Crown Law supports the Law Officers of the Crown, the Attorney-General and the Solicitor-General, by providing legal advice and assisting them in the performance of their statutory and constitutional functions. Specific activities include advice and representation to support the following functions:

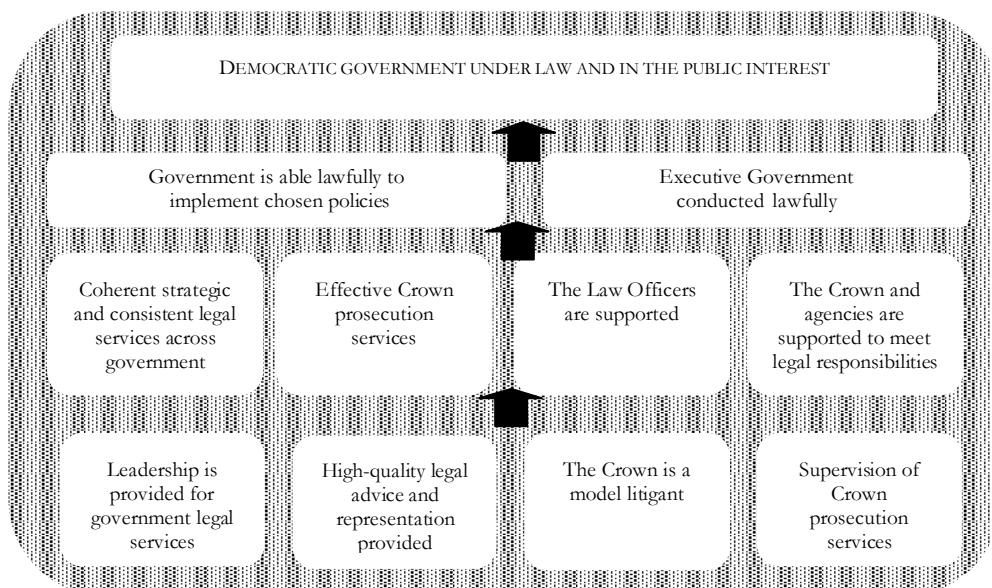
- supervision of charities;
- representation of the public interest;
- vexatious litigant proceedings;
- extraditions;
- participation in Pacific Island Law Officers Meeting (PILON); and

- the exercise of a variety of other powers, duties and authorities arising from statutory powers and constitutional conventions.

Crown Law makes key contributions to the criminal justice system and the Law Officers' responsibilities through the supervision and conduct of the Crown prosecution function. The Solicitor-General has responsibility for prosecuting indictable crime throughout New Zealand. Crown Solicitors are appointed throughout the country under warrant of the Governor-General. They undertake indictable prosecution work for the Crown and appeals to the High Court from the summary jurisdiction. Crown Law provides a co-ordination role within the network to guide and share prosecution practice and knowledge. Crown Law also oversees the prosecution work of the Serious Fraud Office, and conducts criminal appeals to the Court of Appeal, the Supreme Court and the Privy Council.

Crown Law's activities have an impact on the lawful conduct of Executive Government and the ability of government to lawfully implement its chosen policies. Ultimately, Crown Law contributes to New Zealand's system of democratic government under law and in the public interest. The figure below demonstrates how Crown Law's activities are directed toward that outcome.

Figure 1



CROWN LAW STRATEGIC GOALS 2007-2010

In 2007 Crown Law identified two goals which are intended to ensure that Crown Law's activities are effective.

GOAL 1: ENSURING THE HIGHEST POSSIBLE QUALITY OF LEGAL SERVICES ARE PROVIDED TO GOVERNMENT

This goal recognises that high-quality legal services to government are crucial to the Government's long-term priorities as well as to Crown Law's objectives. Crown Law has well-established processes to ensure high standards of advice. These include peer review of advice, and litigation management planning processes. Crown Law recognises that continuous improvement is necessary to ensure that, as well as being trustworthy and professional, the services offered are solution-focused, innovative and efficient. Training and continuing professional development are a key priority for all staff in achieving this goal.

CLIENT RELATIONSHIP MANAGEMENT

During the year, we were pleased to introduce our revamped Client Relationship Management protocol. This programme is designed to ensure that we focus on the delivery of outstanding client service at all levels, and in all matters. We have commenced a training programme to ensure that all staff understand our client service standards, and are committed to achieving them.

Through the work of our client relationship managers we are constantly monitoring the standards of our service to our clients.

VALUE-ADDED SERVICES FOR CLIENTS – PROMOTING LEGAL LEADERSHIP

In assisting our clients to manage risk effectively, we focus on raising their awareness of relevant legal issues. This involved hosting fora, seminars and presentations, which were well attended by our clients. We held four fora for Chief Legal Advisors, and five seminars for our wider client base. The fora addressed the Conveyancing Bill, Judicial Review, Torts and the Crown, Information Law, Government Legal Spending, Role of the Treasury Solicitor, Restructuring, Redundancy and Contract Issues.

We continued to provide a number of specific seminars for individual clients on an ad hoc basis, which were designed to help government employees acquire the legal knowledge and skills they need to do their jobs efficiently.

Over the past year we have produced four Employment Updates which were distributed electronically to 170 clients.

GOAL 2: ENSURING CROWN LAW IS THE MOST ENGAGING AND RESPONSIVE WORKPLACE FOR LEGAL AND SUPPORT STAFF

Crown Law has continued to attract and retain staff of the highest quality. Crown Law aims to ensure that all staff know they are truly valued and have opportunities to continue their career development.

Crown Law has focused on:

- continuing to build leadership and management capability through training and mentoring opportunities for Team Leader and Senior Manager development;
- trialling a new performance management structure;
- a broad range of inhouse legal seminars;
- encouraging staff to participate in relevant external development opportunities; and
- arranging secondment opportunities for legal staff both in and out of Crown Law.

lawyers. This will result in a report back to the Attorney-General in late 2009.

2. To commence a series of projects that, over time, will deliver increased effectiveness and efficiency of government legal services.

GOVERNMENT LEGAL SERVICES

Crown Law was directed by Cabinet (EXG Min(07)7/1 in late 2007 to lead a project for the review of government expenditure on legal services. Crown Law has proceeded with this project in conjunction with the Chief Legal Advisors and Chief Executives who have together established a programme whose purpose is to coordinate and oversee a series of projects aimed at improving government legal services.

Streams of work are underway in the areas of:

- external procurement;
- training;
- electronic networking and legal resource sharing;
- risk management and legal compliance;
- recruitment and career progression; and
- management practices.

There are two broad objectives for this programme:

1. To consider and propose governance arrangements for increasing cooperation and collaboration amongst government

CHIEF EXECUTIVE'S OVERVIEW

Crown Law supports New Zealand's system of democratic government, in accordance with the law, by providing legal advice and representation to Executive Government and supporting the Attorney-General and Solicitor-General in the performance of their statutory and other functions as Law Officers. Crown Law has continued to perform this role by providing legal advice to government departments and agencies, often on complex and urgent matters, and conducting litigation on behalf of the Crown generally, in the name of the Attorney-General.

Crown Law was involved in matters during the year which covered a wide range of issues and areas of the law. Some of these matters, which demonstrate the nature of work undertaken by Crown Law, are summarised below.

PUBLIC LAW GROUP

Ben Nevis Forestry Ventures Ltd v CIR [2009] 2 NZLR 289

This case arose from the so-called "Trinity Scheme", a large tax avoidance scheme related to forestry investments in Southland. The heart of the scheme was that taxpayers claimed immediate substantial deductions in respect of payments that were not in fact due to be made for 50 years, thereby effectively giving the taxpayers a 50-year tax holiday. The majority of the Supreme Court (Tipping, McGrath and Gault JJ) held that the deductions would have been legitimate as a matter of "black letter" analysis. However, the Court was unanimous that the Trinity Scheme was a tax avoidance arrangement and therefore void as against the Commissioner of Inland Revenue for income tax purposes under the general anti-avoidance provisions, that is s BG 1 of the Income Tax Act 1994.

The case is particularly significant because it provided the first occasion for the Supreme Court to consider when use of specific provisions will amount to proscribed tax avoidance. The Court expressly recognised that it had to "identify a means for determining where permissible use of specific provisions ends and tax avoidance begins". The majority did so by suggesting that appropriate effect had to be given to both specific tax provisions and the general anti-avoidance provisions. The majority stated that these provisions "are meant to work in tandem". The majority then suggested that the appropriate approach is to consider, firstly, whether the use made of specific provisions was within their intended scope and, secondly, whether the taxpayer had used the specific provisions, and thereby altered the incidence of income tax, in a way which cannot have been within the contemplation and purpose of Parliament such that it represented and was part of a tax avoidance arrangement.

BNZ Investments Limited & Ors v CIR

This case concerned the challenge by BNZ to multiple tax avoidance assessments totalling \$416 million made by the Commissioner in relation to six structured finance transactions entered into by the BNZ Group between 1998 and 2005. Each of the six transactions involved the investment of \$500 million by BNZ into specific purpose vehicles owned by a counterparty group. The transactions were structured so as to enable BNZ to claim deductions for expenses related to the transaction while at the same time earning income free of tax from the investment.

The High Court upheld the Commissioner's assessments. In doing so the Judge applied *Ben Nevis Forestry Ventures Limited & Ors v CIR* [2009] 2 NZLR 289 and concluded, having

regard to the commercial and economic reality of the arrangements, that:

1. the manner in which each arrangement deployed the provisions of the Income Tax Act 1994 was not within Parliament's contemplation;
2. the transactions substantially altered the incidence of tax for the BNZ;
3. the Guaranteed Procurement Fee paid by BNZ to the counterparty was a contrivance. BNZ had no commercial purpose or rationale for entering the transaction (absent the tax benefits);
4. the use of the foreign tax credit and conduit relief was not within the scheme and purpose of the Act; and
5. the expenses claimed were generated in a contrived and artificial way.

Crown v BAE Systems Australia Defence Pty

The Crown took delivery of a Multi Role Vessel (MRV), HMNZS Canterbury, in May 2007 under the Project Protector contract between the Crown and BAE Systems Australia Defence Pty (formerly Tenix Defence Ltd Pty). The Crown made a warranty claim against BAE Systems in respect of various defects on the MRV in May 2008. The Crown and BAE Systems conducted various commercial negotiations during the latter half of 2008 which produced no satisfactory outcome, so far as the Crown was concerned. The Crown initiated formal mediation under the contract in December 2008. The scope of the mediation was extended to cover issues across the entire Project Protector fleet that were common to issues on the MRV (for example, certain mission systems common to the MRV, the Inshore Patrol Vessels (IPV) (4) and the Offshore Patrol Vessels (OPV) (2)) and to the issue of the service life margin (weight that can be added to a ship without affecting its stability) of the OPVs (that have yet to be delivered to the Crown). The mediation occurred in May and June 2009 before retired High Court Judge, the Honourable Robert Fisher QC and an agreement reached between the negotiating

teams for further consideration by the principals on each side. The outcome of that consideration has yet to be determined.

Westpac Banking Corporation v CIR [2009] NZCA 24

The issue arose as part of Westpac's challenge to the Commissioner of Inland Revenue's assessments of certain structured finance transactions as tax avoidance. Westpac pleaded a second cause of action, being a judicial review claim challenging the validity of the assessment. Central to this claim was the ability of Westpac to rely on a private binding ruling having been obtained by Westpac in respect of a similar transaction and on the behaviour of the Commissioner in coming to the assessments that had been made. The Commissioner successfully applied to the High Court for an order striking out this cause of action and this was appealed.

The decision in favour of the Commissioner was upheld by the Court of Appeal (and leave to appeal to the Supreme Court was not granted), who held that:

1. the established principles in relation to applications for judicial review in tax cases should not be widened;
2. as a general rule, the correctness of a tax assessment can only be challenged in challenge proceedings under Part VIIIA of the Tax Administration Act 1994;
3. to allow collateral challenge to assessments through judicial review can provide scope for gaming and diversionary conduct. It involves not just delay but diversion of effort and resources;
4. a challenge by way of judicial review is reserved for exceptional circumstances;
5. a challenge by way of judicial review in other than exceptional circumstances is an abuse of process;
6. circumstances are exceptional for this purpose if they produce a situation in which the assessment can fairly [be] seen

as not within the scope of ss 109 and 114 of the Tax Administration Act 1994; and

7. judicial review is essentially confined to two circumstances, namely assessments that were not truly assessments at all and where there has been conscious maladministration.

Westpac Bank & Ors v Commissioner of Inland Revenue

This proceeding is a sequel to the *Thomas Cook (New Zealand) Ltd v Commissioner of Inland Revenue* proceeding. In that case, the Privy Council held that foreign currency drafts (cheques issued by Thomas Cook and drawn on foreign banks) were unclaimed money under, and for the purposes of, the Unclaimed Money Act 1971 and must be paid to the Commissioner of Inland Revenue at the time specified by the Act. Three banks (Westpac, ANZ National and the BNZ) filed proceedings seeking declarations that unrepresented bank drafts (that is, foreign currency drafts) and unrepresented bank cheques are not unclaimed money under, and for the purposes of, the Unclaimed Money Act 1971. The Commissioner counterclaimed for payment of the unrepresented bank drafts and unrepresented bank cheques and sought summary judgment as to liability. The High Court held itself bound by the judgment of the Privy Council in *Thomas Cook v CIR* and also decided on the merits that the unrepresented bank drafts and unrepresented bank cheques were unclaimed money under, and for the purposes of, the Unclaimed Money Act 1971. The banks appealed to the Court of Appeal.

Parsons & Ors v Attorney-General

Crown Law successfully defended an application for judicial review of a decision by the Commissioner of Police to appoint a Police Tribunal to hear disciplinary charges against four Police Officers who had been acquitted on various charges of assault.

The High Court was persuaded that the matter was distinct from the Supreme Court decision *Z v Dental Complaints Assessment Committee*, which

held that continuing with a disciplinary process was an abuse of process where the disciplinary charges were identical to the criminal charges.

Clifford J was satisfied that the disciplinary process in this case had a distinct purpose to that of the criminal process; that is, to uphold specific standards of conduct required of Police Officers under the terms of their employment and to promote the credibility, integrity and reputation of the Police. The Judge also found that the decision to pursue the disciplinary charges was not in breach of a legitimate expectation that the charges would not be proceeded with in the event of an acquittal.

DEPOSIT GUARANTEES

In response to the worldwide economic crisis, the Government established, in 2008:

A retail deposit guarantee scheme whereby, for participating and approved entities (including New Zealand-registered banks, building societies, credit unions and deposit-taking finance companies), the Minister of Finance would give a guarantee under s 65ZD of the Public Finance Act 1989 over deposits and other debt securities held with the participating and approved entity.

A wholesale funding guarantee facility whereby the Minister of Finance would give a guarantee under s 65ZD of the Public Finance Act 1989 to qualifying investment-grade financial institutions.

The Minister of Finance delegated his discretionary power to give guarantees under s 65ZD to the Secretary for the Treasury. In decision-making on individual applications to either of the schemes, the Treasury is assisted with advice from other officials, most particularly from the Reserve Bank as well as Crown Law. Policy guidelines have been formulated to guide the exercise of discretion under s 65ZD in respect of each of the schemes.

HISTORIC CLAIMS AGAINST THE CROWN

The historic claims against the Crown brought by former psychiatric patients and/or former Social Welfare wards of the State continue to be filed, and heard or settled.

While no claims have progressed to trial in the period of this report, the High Court has dismissed two claims where the plaintiffs failed to obtain leave under the Limitation Act 1950. Also, several claims have been settled after negotiations between the parties and a further number of plaintiffs have discontinued their claims. Two unsuccessful plaintiffs in one of the first claims to come to trial relating to allegations about care in a Social Welfare institution have appealed the High Court judgment in the Crown's favour, heard by the Court of Appeal in August 2009.

In the historic psychiatric hospital litigation, the Supreme Court in 2009 heard an appeal against the 2008 Court of Appeal decision.

The Crown is currently facing approximately 270 claims for damages from former psychiatric hospital patients. Most claims date back to the 1960s and 1970s. In 2005 the Crown applied to strike out claims on the grounds that they were barred under s 124 of the Mental Health (Compulsory Assessment and Treatment) Act 1992. The Crown argued that except for allegations of sexual assault by staff, the claims required leave to proceed under s 124 of the Mental Health (Compulsory Assessment and Treatment) Act 1992 and that leave had not been granted.

The issue of the application of the leave provision to the claims was the subject of the appeals to the Court of Appeal in 2008. The Court of Appeal considered the scope of the leave provision and found that the leave provision was widely cast, covering more than only the matters in the Act, and covered both formal and informal patients. It held that careful scrutiny of allegations is required and an assessment of whether the act complained of could ever fall within the scope of the Act, to determine whether the leave provision applies.

The plaintiffs were given leave to appeal the third finding relating to informal patients to the Supreme Court. The Supreme Court heard the appeal in April 2009. A decision is expected before the end of 2009.

Hawkes Bay Local Authorities v Minister of Health

Crown Law acted for the Minister of Health who dismissed the entire Board of the Hawkes Bay District Health Board in early 2008, replacing it with a Commissioner. The Minister decided, under the New Zealand Public Health and Disability Act 2000 that he was "seriously dissatisfied" with the Board. The decision was challenged, by way of application for judicial review, by local authority Councils in the Hawkes Bay area. The matter was discontinued by the local authority, on the eve of the hearing, after the former Board members returned to an advisory role, assisting the Commissioner.

Commissioner of Police v Hawkins

This appeal to the Court of Appeal was in relation to an Employment Court decision which found that Mr Hawkins, who had applied for and been granted a voluntary medical disengagement from Police, had been constructively dismissed. The Employment Court reinstated Mr Hawkins and awarded him compensation for lost income and for distress.

The Commissioner appealed on a number of grounds, including that a voluntary medical disengagement under the Police Act 1958 could not be reversed by way of a personal grievance alleging an unjustifiable constructive dismissal. The Commissioner also challenged the remedies of reinstatement (after nearly seven years away from Police) and distress compensation (of \$35,000).

The Court of Appeal dismissed the Commissioner's appeal and upheld the Employment Court's decision, including on remedies.

CRIMINAL & HUMAN RIGHTS GROUP

Attorney-General v Chapman; McKean v Attorney-General

Chapman arises out of the Privy Council's decision in *R v Taito* [2003] 3 NZLR 577. Mr Chapman seeks \$900,000 public law compensation for alleged breaches of his rights under ss 25 and 27(1) of the New Zealand Bill of Rights Act 1990 (NZBORA) committed by a Deputy Registrar and Judges of the Court of Appeal in the course of determining Mr Chapman's criminal legal aid application and his appeal against conviction.

The Attorney-General successfully applied for four preliminary questions of law to be removed to the Court of Appeal prior to the substantive hearing of this claim. Those questions relate to:

- the Court's jurisdiction to hear and determine a claim for public law compensation for alleged breaches of ss 25 and 27(i) of the NZBORA occurring in the course of determining a criminal legal aid application and an appeal against conviction where the convictions have subsequently been quashed on appeal and a retrial ordered;
- whether public law compensation is an appropriate remedy;
- whether the Attorney-General is the proper defendant in such proceedings; and
- whether the Attorney-General is entitled to the benefit of the same immunities as the judicial officers who committed the alleged breaches.

The hearing of the Attorney-General's application in *Chapman* was set down alongside another appeal (*McKean v Attorney-General*). *McKean* raised very similar issues but concerned breaches of s 27(1) NZBORA committed by a Visiting Justice in the course of determining a prison disciplinary charge. The Court of

Appeal has reserved its decision in both proceedings.

R v Williams [2009] NZSC 41

This decision of the Supreme Court is now the governing authority on s 25(b) of the New Zealand Bill of Rights Act 1990 (the right to be tried without undue delay). The appellant was convicted for conspiring to manufacture methamphetamine after a series of miscarried trials and a significant pre-trial appeal, nearly five years after his arrest. At first instance, Asher J found that the appellant's s 25(b) right had been breached, and gave the appellant an 18-month sentence reduction by way of remedy. An appeal to the Court of Appeal was dismissed. While noting that the appellant was fortunate to receive the generous remedy he did, the Supreme Court ultimately upheld Asher J's conclusions. The judgment provides guidance on determining breaches of, and remedies for, the s 25(b) right. The Court held that unjustifiable delay was to be assessed as a function of time, cause and circumstance. Remedies for breach of s 25(b) should be proportionate. A Court will only stay the proceedings or quash a conviction in extreme circumstances, where there has been egregious delay or prosecutorial failure or misconduct. In other circumstances, remedies such as sentence reduction or compensation may be appropriate.

Miller & Carroll v New Zealand Parole Board & Attorney-General

The applicants are two prisoners serving sentences of preventive detention who have been declined parole over successive years and now seek release. Their claim challenged the systemic independence and impartiality of the New Zealand Parole Board and its predecessor, alleging that the appointments process, the way Board members are remunerated and the relationship between the Board and the Department of Corrections is unlawful and in breach of the New Zealand Bill of Rights Act 1990 and the International Covenant on Civil Political Rights. The applicants also made a number of allegations concerning the

lawfulness of their individual parole hearings dating back to 1998 and the Department's alleged failure to provide them with treatment for their sexual offending prior to their first parole hearings.

The High Court dismissed all 40 causes of action. The applicants have appealed the High Court's decision and seek to relitigate all causes of action. A five-day fixture in the Court of Appeal has been sought for 2010.

Boscawen & Ors v Attorney-General

This proceeding challenged the Attorney-General's function under s 7 of the New Zealand Bill of Rights Act 1990 to report to the House inconsistencies in proposed legislation with the rights and freedoms contained in the Bill of Rights. The applicants also sought declarations in relation to alleged inconsistencies between provisions of the Electoral Finance Act 2007 and the Bill of Rights. The High Court struck out the claim. In upholding the decision the Court of Appeal held that Parliament had entrusted the s 7 judgment and reporting obligation to the Attorney-General, not to the Courts; that the role is part of the legislative function and is therefore covered by the principle of comity; that judicial review of the s 7 duty would be "the antithesis of the comity principle"; and that (contrary to the appellant's submission) there was no continuing duty on the Attorney-General to report inconsistencies to the House.

Child Poverty Action Group v Attorney-General

This case was brought under Part 1A of the Human Rights Act 1993, which was amended in 2001 to allow legislation to be challenged on the basis it is discriminatory. Child Poverty Action Group (represented by the Office of Human Rights Proceeding) claimed that two provisions in the Income Tax Act 2007 governing eligibility requirements for the in-work tax credit were discriminatory on the ground of employment status. The main focus of the claim was the "off benefit rule", which provides that those in receipt of an income-tested benefit are not eligible for the in-work

tax credit. The Tribunal, following a five-week hearing in mid-2008, rejected the Crown's view as to how the discrimination analysis under s 19 of the New Zealand Bill of Rights Act 1990 should be approached and found that the off-benefit rule gives rise to *prima facie* discrimination on the ground of employment status. The Tribunal, however, found that this *prima facie* limit was justified under s 5 of the Bill of Rights and accordingly was not in breach of Part 1A of the Human Rights Act 1993. Child Poverty Action Group is now pursuing an appeal to the High Court. A hearing date for the appeal has not yet been set.

Atkinson v Ministry of Health

This claim was brought by the Office of Human Rights Proceedings on behalf of a group of parents of adult disabled children, challenging the Ministry of Health policy that prohibits the employment of close family members to provide Ministry-funded disability support services to their disabled children. The claimants allege that the policy discriminates against them on the grounds of family status. The case was heard by the Human Rights Review Tribunal over five weeks in September/October 2008. The Tribunal has reserved its decision.

The case is significant as it challenges a long-standing policy which in turn relies on fundamental underlying assumptions about the role of the state in family/whānau relationships including care decisions made by family/whānau (where there are no care and protection concerns). The issues arising in the proceeding include:

- whether the policy should focus on equality of inputs to, or equality of outcomes for, disabled people;
- whether the state should support family/whānau through support services and respite care (which reduces the demands on family carers), or by funding the employment of family/whānau to provide care;

- the inappropriateness of monitoring family/whānau-provided care and the need to avoid commercialising those relationships; and
- the importance of fostering the independence of disabled people.

X v RSAA & Ors

X involves an appeal against the High Court’s decision to dismiss *X*’s application for judicial review of the Refugee Status Appeals Authority’s determination that he was excluded from the protection of Article 1F of the Refugee Convention (crimes against humanity) and was not a refugee. The case is significant because it raises several issues relating to the application of the exclusion provisions in the Refugee Convention for the first time at an appellate level, including: (i) the proper approach to Article 1F (including the standard of proof required); (ii) the test for establishing complicity in crimes against humanity; and (iii) the standard of review to be applied by the Court when reviewing determinations of refugee status by the Refugee Status Appeals Authority. The Court of Appeal has reserved its decision.

Couch v Attorney-General

The *Couch* proceedings arise out of a claim by Ms Couch, the surviving victim of the 2001 attack on the Panmure RSA by a parolee, for exemplary damages for breach of duty of care by the Department of Corrections and/or the individual probation officer. In *Couch v Attorney-General* [2008] 3 NZLR 725 (SC), the Supreme Court reversed the majority of the Court of Appeal’s finding that the claim should be struck out on the basis that the Department and/or probation officer did not owe Ms Couch a duty of care. The proceedings were then adjourned so that the parties could file submissions on the availability of exemplary damages for negligence.

This aspect of the proceedings was heard on 23/24 March 2009. The proceedings are significant because they put in issue whether

exemplary damages should be available for breach of a duty of care and, if so, what the proper test is for determining when an exemplary award is appropriate. This may require the Supreme Court to consider, among other things: (i) whether the test set down by the majority of the Privy Council in *Bottrill v A* [2003] 2 NZLR 721 (PC) is appropriate for determining the availability of exemplary damages in New Zealand; (ii) the relationship between the ACC scheme and awards of exemplary damages; and (iii) broader issues around the liability of government departments in tort.

Ye v Minister of Immigration, Qiu v Minister of Immigration and Huang v Minister of Immigration

These three appeals were heard in the Supreme Court in May 2009. They each involved overstayer parents of New Zealand citizen children and how the interests of those children should be taken account of at the final stage of removal of the parent(s) when an immigration officer conducts a “humanitarian interview”. There is effectively one unanimous judgment in *Ye/Qiu* which held that the right question for the immigration officer to ask him/herself following a humanitarian interview (whether it is a s 54 decision to make a removal order or a s 58 decision to cancel one) is the test applied by the Removal Review Authority (“RRA”) set out in s 47(3) of the Act: Are there exceptional circumstances of a humanitarian nature that would make it unjust or unduly harsh for the person to be removed from New Zealand, and would it not in all the circumstances be contrary to the public interest to allow the person to remain in New Zealand? Because the officers in *Ye* and *Qiu* did not turn their minds to this question they erred in law and the Supreme Court has ordered that the decisions be reconsidered by an immigration officer or the Minister of Immigration. The best interests of New Zealand citizen children remain an important mandatory factor to be considered in light of the s 47(3) standard and the Supreme Court (as did the High Court and Court of Appeal) expressly rejected the appellants’ argument that the best interests of affected

children are a paramount or overriding consideration in immigration decision-making.

In the third case, *Huang*, the Supreme Court found that the immigration officer made the same mistake of law (as made in *Ye* and *Ding*) but declined the exercise of its discretion to order reconsideration because, on the facts, the decision would be the same regardless.

The Court discusses the humanitarian interview procedure and Immigration New Zealand's general practice and procedure and expressly rejects a minority view in the Court of Appeal that these were somehow inconsistent with the Immigration Act 1987.

BILL OF RIGHTS VETTING ADVICE

The Human Rights Team provides advice to the Attorney-General on the consistency of proposed legislation in the Justice portfolio with the New Zealand Bill of Rights Act 1990. Advice on legislation outside the Justice portfolio is usually provided by the Ministry of Justice, but with concurrency from Crown Law where an inconsistency is identified. Where proposed legislation raises an apparent inconsistency with the New Zealand Bill of Rights Act 1990 the Attorney-General is required to bring that to the attention of the House under s 7. Advice has been provided on the following s 7 reports:

- Criminal Investigations (Bodily Samples) Amendment Bill (10/02/09) (DNZ testing of offenders and suspected offenders);
- Sentencing and Parole Reform Bill (18/02/09) (the "three strikes" proposal); and
- Parole (Extended Supervision Orders) Amendment Bill (2/04/09) (supervision orders for sex offenders following completion of sentence).

Concurring advice has been provided on the following s 7 reports:

- Eden Park Trust Amendment Bill (March 2009); and
- Liquor Advertising (Television and Radio) Bill (July 2009).

INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

In addition to its work on international human rights law for the purpose of court proceedings, Crown Law continued to undertake advisory and advocacy work in international fora in conjunction with and/or on instruction from the Ministry of Foreign Affairs and Trade and the Ministry of Justice. In particular:

- It drafted the New Zealand Government submissions in two pending individual cases before the United Nations Human Rights Committee under the (First) Optional Protocol to the International Covenant on Civil and Political Rights. The cases, in which the Committee is yet to give decisions, respectively concern criminal process rights, particularly towards young people, and procedures for compulsory mental health care.
- Crown Law also drafted the New Zealand Government submission in the one case decided in the period under review, *Dean v New Zealand* CCPR/C/95/D/1512/2006. The Human Rights Committee found, as in its earlier decision in *Rameka v New Zealand* CCPR/C/79/D/1090/2002 and as the Government had accepted that the complainant had suffered a breach of art 9(4) of the Covenant through delay in eligibility to seek parole consideration. Crown Law is presently preparing the Government's response to the *Dean* decision.
- Crown Law contributed to the preparation of reports and preparatory and follow-up material in response to the periodic review of New Zealand by the Committee against Torture and the Human Rights Council Universal Periodic Review. In May 2009 the Deputy Solicitor-General (Constitutional)

attended both review sessions as a senior member of the New Zealand delegation.

- It contributed to New Zealand Government involvement in other international human rights matters, including the drafting of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

Matenga v R [2009] NZSC 18

This case concerned the correct interpretation of the proviso to s 385 of the Crimes Act 1961. This provision invests an appellate court with discretion to dismiss a conviction appeal notwithstanding the establishment of a ground of appeal if no substantial miscarriage of justice has occurred. The appellant was convicted of rape and sexual violation following a jury trial in which that Court received potentially inadmissible evidence. The Court of Appeal dismissed the appellant's appeal upon the basis of the proviso, holding that the jury would have undoubtedly convicted the appellant in the absence of the inadmissible evidence. Although the Supreme Court allowed the appellant's further appeal, it accepted the Crown's arguments in relation to the principles applicable to the proviso, and in particular, that the focus is not upon what the jury or a reasonable jury would have decided but for trial error, but rather, whether the appellate court was satisfied of the appellant's guilt beyond reasonable doubt.

Aylwin v Police [2009] 2 NZLR 1

Now the leading case on defences to breath alcohol prosecutions and the most significant yet in addressing unmeritorious technical defences offered by drink drivers to escape conviction. In 2001 Parliament moved decisively against the running of such technical defences with an amendment to the Land Transport Act 1998. This case was an opportunity for the Court to rule on whether these changes had been effective. The Court ruled in favour of the Police and concluded their judgment with the following observation:

“Every driver of a motor vehicle on the roads of this country should by now be aware that driving after consuming more than a small amount of alcohol is dangerous, illegal and socially unacceptable. The great majority of drivers comply with their obligations in this respect. A small minority do not. Parliament has legislated to ensure that these drivers do not escape responsibility through technical and unmeritorious defences. The courts must give full effect to that clear parliamentary indication.”

Solicitor-General v Siemer [2009] NZCA 62

This case concerns the relationship between contempt proceedings and the right to a jury trial. Mr Siemer was held in contempt by the High Court on an application brought by the Solicitor-General. He persisted in publishing statements about an individual which he was prohibited from publishing by an earlier High Court injunction. Mr Siemer had been held in contempt by the High Court on two previous occasions for similar conduct. A full bench of the High Court dismissed his application for trial by jury on the basis that the proceeding was one of “civil contempt”. Mr Siemer appealed to the Court of Appeal. The argument concerning a right to a jury trial arises because there is no maximum penalty for common law contempt. Indefinite imprisonment or fines can be imposed. This *prima facie* might seem to engage the right to jury trial guaranteed in s 24(e) of the New Zealand Bill of Rights Act 1990, which provides that everyone charged with an offence “shall have the right to the benefit of a trial by jury where the penalty for the offence is or includes imprisonment for more than three months”. The Court of Appeal held that because the Solicitor-General sought an indefinite term of imprisonment which would end immediately upon Mr Siemer's compliance with the injunction, he had the “keys to his own prison”. In that situation the proceedings are properly characterised as “civil contempt”. The sanction did not “include a term of imprisonment of more than three months” for the purposes of

s 24(e) as the length of imprisonment is at the contemnor's option. Mr Siemer has been granted leave to appeal to the Supreme Court. The Solicitor-General, while fully endorsing the Court of Appeal judgment, submitted leave should be granted in light of the issues of public importance raised by the decision which will affect contempt law generally.

R v A [2009] NZCA 205

This was a case dealing with the issue, among others, of character evidence. The trial Judge refused the accused leave to call evidence of his good character from his family priest. Evidence of an accused's good character was routinely admitted prior to the enactment of the Evidence Act 2006. The Court of Appeal undertook an analysis of the Evidence Act 2006 and held that character evidence can no longer be called as a matter of course. Rather, the accused must demonstrate that it is either evidence of propensity or veracity, both of which have specific admissibility criteria. The case represents a substantial departure from the common law, where evidence of character was generally admissible as going to both credibility and propensity.

R v Bain [2008] NZCA 455 and 585, [2009] NZCA 1; [2009] NZSC 16

The retrial of David Bain for the murder of his family gave rise to a series of pretrial challenges to the admissibility of evidence. These included the admissibility of the trial transcript of the accused's evidence at his first trial and statements to the Police upon his arrest; a contested portion of a 111 emergency call made by Mr Bain; a conversation he had with a school friend relating to the use of his paper round as an alibi; and multiple objections to the evidence of witnesses. Overarching these issues was whether the Evidence Act 2006 applied to this evidence. In ruling the Act did have application the Court of Appeal dismissed the substantive appeals from the trial Court's rulings including the admissibility of the 111 call but excluded the "alibi" evidence. On appeal to the Supreme Court the objected

passage in the 111 call was held either to be irrelevant or illegitimately prejudicial having regard to the state of the expert opinion as to its contents and therefore inadmissible.

Solicitor-General v Fairfax New Zealand Limited CIV-2008-485-705 HC, Wellington (10 October 2008), Randerson & Gendall JJ

An unsuccessful application by the Solicitor-General for an order that Fairfax New Zealand Limited and Tim Pankhurst, Editor of *The Dominion Post*, be held in contempt on the grounds that prior to trial they published information that was likely to prejudice the fair trial rights of 16 people charged under the Arms Act 1983 with offences which arose from alleged military style training camps in Eastern Bay of Plenty ("Operation Eight"). Part of the prejudicial information published included intercepted communications which by law were inadmissible at the forthcoming trials. The High Court held that the information had the clear potential to prejudicially affect the minds of future jurors sitting on the case. However, the Court considered that the publication of the information would not add materially to the potential prejudice that arose from other statements and information that were already in the public domain. In light of that, the Court was not satisfied beyond reasonable doubt that the particular articles caused a real risk of interference with the fair trial rights of the accused.

Department of Labour v Hanham & Philp Contractors Limited, Cookie Time Limited and Black Reef Mine Limited (Full Bench) [2009] 9 NZELC 93,095; [2008] 6 NZELR 79

This was a successful appeal brought by the Department of Labour in respect of the sentences imposed on three companies for breaches of the Health and Safety in Employment (HSE) Act 1992. The issues were: (i) whether sentencing guidelines in the earlier High Court decision of *Department of Labour v De Spa & Co Ltd* [1994] 1 ERNZ 339 should be revised; (ii) appropriate sentencing methodology; (iii) relationship between

reparation orders and fines; and (iv) the approach to be taken where an offender has insurance cover to compensate victims. The Court considered the interplay between the HSE Act 1992 and the Sentencing Act 2002 and issued guidelines to assist with sentencing in the District Court. Additionally, the Court recognised the need for the imposition of fines more commensurate with the maximum penalty of \$250,000 that most HSE Act 1992 offences attract.

R v Gordon-Smith (No 2) [2009] 2 NZLR 725 (SC)

This appeal concerned how much information the Crown is required to disclose to defendants about the criminal history of potential jurors. It is standard practice for the Police to obtain and provide to Crown Counsel details of prospective jurors' criminal histories, information which is then used by the Crown in the jury-vetting process. Ms Gordon-Smith appealed against her conviction in the High Court, arguing that this practice was unlawful or, if lawful, that all information obtained by the Crown should be passed on to the defence.

The Supreme Court upheld the decision of the Court of Appeal that the practice is lawful. The Court noted the Crown has a legitimate interest in the information for the purpose of exercising its rights to peremptory challenge and is entitled to call on the Police to assist in gaining the information. The Police, in turn, are entitled to supply the information to the Crown. Regarding the extent of information the Crown must then disclose to the defence, the Court noted there are three possible approaches: that the Crown supplies no information, all information or limited information. The majority of the Supreme Court (McGrath J dissenting), like the majority in the Court of Appeal, favoured the third approach. The majority held that the Crown is required to disclose any previous convictions of a potential juror only if the previous convictions give rise to a real risk that the juror might be prejudiced against the accused or in favour of the Crown. Limiting disclosure to such information strikes

a balance between the privacy interests of jurors and the fair trial rights of the accused.

Davies v Police

Dr Davies carelessly secured a mattress on the trailer of his car. It came loose and landed on the road, where the victim ran into it on her bicycle. She suffered extensive injuries and was off work for many months. Dr Davies pleaded guilty to careless driving causing injury. He was not fined but was ordered to pay reparation, including an amount to compensate the victim for the 20% of lost wages that was not covered by ACC. Dr Davies appealed on the basis that the Sentencing Act 2002 provided that he could not be ordered to make reparation for any amount for which the victim had entitlement under the ACC legislation. The question in the proceeding was whether the victim had entitlement to cover for the lost wages under the ACC legislation even though 20% of the loss would not be paid by ACC. The Crown argued that the Sentencing Act 2002 and ACC acts served different purposes and the sole purpose of the provision in the Sentencing Act 2002 was to prevent a double recovery. The High Court and Court of Appeal upheld the Crown position but the Supreme Court (McGrath J dissenting) held that victims of offences were not intended to be put in a better position than victims of accidents and as lost wages were covered by the ACC legislation, reparation for the 20% that ACC did not pay could not be ordered.

CONSTITUTIONAL GROUP

Docherty v Chief Electoral Officer

The Chief Electoral Officer rejected the applicant's candidacy for the New Zealand Republic Party for the 2008 General Election because he was not a registered elector by noon on 13 October 2008, that being the relevant cut-off point for candidacy under the Electoral Act 1993. In proceedings heard in the week before the election the applicant sought to overturn the decision and have his name restored to the ballot in time for the election.

The High Court held that Mr Docherty's nomination was rightly rejected. It also rejected the applicant's criticism of electoral staff, holding that the applicant's failure to achieve registration as an elector rested totally with him and his party.

Edwards v Toime

In 2001 the Registrar of Electors for Wellington Central Electorate inquired into the validity of the enrolment of a Member of Parliament, Ms Bunkle, in the Wellington Central electorate. The Registrar's inquiry concluded that Ms Bunkle's residential arrangements were complex and the validity of her enrolment could not be determined without making subtle and highly subjective factual findings.

Mr Edwards unsuccessfully applied for judicial review of the Registrar's inquiry. On appeal the Court of Appeal held that the Registrar's inquiry went beyond the scope of the Electoral Act 1993, upholding the appeal on that ground, and holding that other causes of action (such as whether the process was oppressive and negligent) either did not apply or did not need to be considered due to its conclusions as to jurisdiction. The Court declined to issue any declaration in relation to the inquiry as requested by the appellant.

Travis Trust v Charities Commission

This was the first challenge against a Charities Commission decision refusing to register a Trust as a charitable entity under the Charities Act 2005. The Travis Trust was established for the purpose of funding a significant annual horse race, the Travis Stakes, and to otherwise provide for the settler and her family. Other beneficiaries included the Cambridge Jockey Club Inc. The issue was whether the Trust met the general benefit requirement under s 5(1) of the Charities Act 2005.

The High Court held that sport, leisure and entertainment are charitable only if it furthers deeper purposes within the spirit of the Statute of Charitable Uses 1601 (UK), and that the

purpose of the Trust were the 350 members of the Jockey Club, and it was very much a private club; membership was not open to the public generally on payment of subscription. Finally, the Court found that the beneficiaries of the Trust were not a sufficient section of the public, and therefore both parts of the test were not met. The appeal was dismissed.

Wikio & Beckham v Attorney-General

The applicants were both convicted in the High Court and unsuccessfully appealed their convictions to the Court of Appeal. In these proceedings the applicants claimed that the decisions of both Courts were invalid as the Courts were neither independent nor impartial. The applicants challenged the constitutionality of legislation providing for the appointment of acting High Court Judges; the process of nominating and assigning High Court Judges seconded to the Court of Appeal; the divisional nature of the Court of Appeal; and the impartiality of a sitting Judge who holds a concurrent appointment as a Law Commissioner.

The High Court dismissed the applications on all points but did express the view that it might be desirable for the basis for the payment of the "higher duties allowance" paid to High Court Judges seconded to the Court of Appeal to be examined.

The Judge considered that it was arguable that a reduction in salary occurs when the allowance ceased to be payable. He also expressed a concern that the basis for such payments is not expressly authorised by the Remuneration Authority Act 1977. He noted, however, that he did not consider the issue raised any implications for the independence and impartiality of the Judges who heard the applicants' appeals or indeed any Court.

The Court also noted that the change from a defined benefit to a defined contribution superannuation scheme for Judges in 1992 may need to be readdressed in the light of Remuneration Authority comments in 2003. He noted that it might be worthwhile to look at

the impact that the change from compulsory superannuation to voluntary superannuation (as far as individual Judges were concerned) might have on the financial security aspect of judicial independence.

Saxmere Company Limited & Ors v Wool Board Disestablishment Company Limited and the Attorney-General

Saxmere was granted special leave to appeal against the judgment of the Court of Appeal allowing an appeal against a judgment of the High Court in favour of Saxmere and others. The Court of Appeal comprised three Judges, including Justice Wilson. The grounds of the application to the Supreme Court were allegations of actual or apparent bias of the Court of Appeal due to a business association between Justice Wilson and senior counsel for the successful appellants in the Court of Appeal.

The Attorney-General was not a party to the proceedings in the Courts below, but appeared as an intervener due to his responsibility for the rule of law in New Zealand and for the New Zealand Bill of Rights Act 1990, and in the interests of natural justice.

The Supreme Court held that the governing principle with regard to judicial bias requires that a Judge be disqualified if a fair-minded lay observer might reasonably apprehend the Judge might not bring an impartial mind to a resolution of the question the Judge was required to decide. This principle gives effect to the requirement that justice should both be done and be seen to be done. The Court held that upon analysis there was no cogent or rational link between the identified friendship and business association between Justice Wilson and counsel, and its capacity to influence the Judge's decision in the case in which counsel was appearing before him. The Court concluded that a fair-minded observer would have had no reasonable apprehension of bias arising from Justice Wilson's personal and business relationship with counsel and dismissed the appeal.

New Zealand Recreational Fishing Council Inc and Ors v Sanford Limited, Sealord Group Limited, and Pelegic and Tuna New Zealand Limited and Ors, SC40/2008, 28 May 2009, Elias CJ, Blanchard, Tipping, McGrath and Wilson JJ

In this appeal we represented the Minister of Fisheries and the Chief Executive of the Ministry of Fisheries. The Supreme Court considered the way in which the Minister of Fisheries decides the allocation of fish stocks between recreational and commercial fishing interests. The Court effectively confirmed the approach set out in a decision of the Court of Appeal in 1997, which allows the Minister a reasonable degree of latitude so long as he or she is adequately informed about the nature of the interests at stake. The Court rejected an argument by recreational fishing interests that they should get some priority over commercial interests, leaving the allocation to the Minister's judgment in the particular case.

Warin and Jensen v Registrar-General of Land and the Maori Trustee, HC Whangarei, CIV-2006-488-245, 31 October 2008, Allan J

The plaintiffs purchased a section in North Auckland from the Māori Trustee in 1995. The transfer was not confirmed by the Māori Land Court but was registered against the title under the Land Transfer Act 1952. Subsequently there was a challenge to the plaintiff's title and the Māori Land Court imposed a status order declaring the land to be Māori land. The plaintiffs applied to the High Court seeking a determination from that Court that, notwithstanding the failure to confirm, they held indefeasible title. The High Court appointed an amicus to represent the dispossessed Māori owners and the amicus presented an argument that the provisions of Te Ture Whenua Māori Act 1993 in relation to confirmation represented an exception to indefeasibility of title if confirmation was not obtained. Result: The relevant provisions of the 1993 Act did not override the indefeasibility provisions of the Land Transfer Act 1952. Costs formally reserved.

Greenpeace New Zealand Inc v Genesis Power Ltd [2008] NZSC 112

This decision concerned the application of s 104E of the Resource Management Act 1991. The Supreme Court confirmed that consent authorities may only consider the effects of greenhouse gas emissions on climate change when considering applications for the use and development of renewable energy; and shall not consider those effects for the use and development of non-renewable energy. The decision turned on the interpretation of s 104E and the legislative history of the Resource Management (Energy and Climate Change) Amendment Act 2004. The Attorney-General intervened at the Supreme Court level, providing a historic analysis of the provision's development through the Select Committee process and with reference to Ministerial comments that was supported by the majority of the Court.

Minister of Conservation v Māori Land Court [2008] NZCA 564, CA61/07, 18 December 2008, Chambers J, Robertson J, Baragwanath J (*Wakapuaka mudflats*)

In 1986 and 1998 the Māori Land Court made orders that the Wakapuaka estuary Māori freehold land. The Minister of Conservation sought judicial review of the Māori Land Court's decisions on the grounds that the Māori Land Court had erred in law as to the status of the estuary and had failed to take into account the relevant and determinative preliminary survey plans underlying the titles subsequently issued. The Crown pointed to the fact that the relevant Native Land Court certificate of title had, in 1901, been effectively superseded by a title under the Land Transfer Act 1885 showing the land ending at high-water mark. The High Court held that the Native Land Court title was to be preferred to the Land Transfer Act 1952 title. The Crown appealed largely because of the potential impact of this judgment on other cases.

A majority of the Court of Appeal upheld the Crown's appeal making a declaration that the

certificate of title issued under the Land Transfer Act in 1901 did not include the Wakapuaka mudflats below the mean high-water mark, and setting aside decisions of the Māori Land Court treating the estuary as Māori freehold land. An appeal stands adjourned in the Supreme Court. The case is important for restating the relationship between the Māori Land and Land Transfer systems, and not endorsing the novel principles of interpretation adopted by the High Court.

Paki v Attorney-General [2009] 1 NZLR 72, CIV-2004-419-17, 30 July 2008, Rhys Harrison J

Representatives of the Pouakani people issued this proceeding claiming a beneficial interest in the length of the Waikato riverbed adjoining their former land. They allege the Crown was in a fiduciary relationship with the original Māori owners; the Crown owed an incidental obligation to advise those owners before acquiring their land of the principle of *usque ad medium filum aquae* – that is, the legal title to the land ran to the riverbed's mid-point – and to obtain their informed consent to the transactions; and the duty was breached. The representatives sought a declaration that the Crown holds the relevant area of the riverbed on a constructive trust subject to specific terms. The Crown denied the existence of a fiduciary relationship or an advice obligation and associated duty; and, raised affirmative defences of limitation, laches and acquiescence in its subsequent alienation of part of the bed to third parties. The High Court entered judgment for the Crown against the plaintiffs on the grounds the claim was not justifiable; the representatives lack standing, the Waikato River was a navigable river in 1903 within the meaning of s 14 Coal Mines Act Amendment Act 1903; the Crown did not owe the Pouakani people a fiduciary duty when acquiring the land between 1887 and 1892; relief by way of a declaration of a constructive trust is now unavailable to the Pouakani people; and the representatives' claim is time-barred.

Statistics for Decisions given for Criminal Appeals

SUPREME COURT (CRIMINAL APPEALS)	NUMBERS
Application for leave to appeal	58
Refused	44
Granted	11
Application for leave to appeal granted, substantive hearing held	8
Allowed	5 ¹
Dismissed	4

COURT OF APPEAL (CRIMINAL APPEALS)	NUMBERS
Solicitor-General appeals filed	49
Pre-trial	15
Sentence	26
Case stated	8
Solicitor-General appeals heard	24
Allowed	21
Dismissed	3
Criminal appeals filed (includes Solicitor-General appeals)	501
Heard orally	426
Abandoned	77



Dr David Collins QC
Solicitor-General and Chief Executive

¹ Includes 1 heard in previous financial year.

ORGANISATION INFORMATION

Crown Law is organised into three practice groups, comprising seven client service legal teams and a Corporate Services group. The legal teams are focused on the delivery of specialist legal services to government covering the following core areas of business:

- public law issues which, for example, arise out of the exercise and control of governmental power and public sector governance;
- the conduct of Crown prosecutions and criminal appeals; and
- constitutional advice and litigation including Treaty of Waitangi work, advice on international human rights obligations, bill of rights and constitutional conventions.

The practice group structure is designed to enable better coordination of work, to enable improved sharing of resources across teams and to improve the capacity to serve Ministers and clients. A Deputy Solicitor-General is responsible for the professional leadership and management of each practice group. Within each practice group, there are a number of specialist client service teams. A Team Leader, who is a Crown Counsel, has responsibility for the development and management of staff in each team and is also the principal contact point for clients of the team. Each team is staffed with further Crown Counsel, Associate Crown Counsel, Assistant Crown Counsel and Litigation and Secretarial Support staff.

The current group/team structure comprises:

Practice Group	Legal Teams
Public Law Group	<ul style="list-style-type: none"> • Social Services and Employment Team • Tax and Commercial Team
Criminal Law & Human Rights Group	<ul style="list-style-type: none"> • Criminal Team and Crown Solicitors • Human Rights Team
Constitutional Law Group	<ul style="list-style-type: none"> • Law Officer Team • Natural Resources Team • Treaty Issues and International Law Team

Corporate Services consists of Finance, Human Resources, Organisational Development, Information Technology, Knowledge Management, Litigation Services, Support Services, including Facilities Management and Central Business Support.

MANAGEMENT STRUCTURE

SENIOR MANAGEMENT GROUP:

Dr David Collins QC	Solicitor-General
Cheryl Gwyn	Deputy Solicitor-General (Constitutional Law)
Dr Matthew Palmer	Deputy Solicitor-General (Public Law)
Cameron Mander	Deputy Solicitor-General (Criminal Law & Human Rights)
Diana Pryde	Practice Manager

LEGAL TEAM LEADERS:

Bronwyn Arthur	Team Leader, Natural Resources
Rebecca Ellis	Team Leader, Taxation and Commercial
Maria Deligiannis	Acting Team Leader, Taxation and Commercial
Peter Gunn	Team Leader, Law Officer
Virginia Hardy	Team Leader, Treaty Issues and International Law
Brendan Horsley	Team Leader, Criminal Law
Una Jagose	Team Leader, Social Services and Employment
Christina Inglis	Team Leader, Human Rights

HUMAN RESOURCE MANAGEMENT

During 2008/09 the overall permanent staffing of Crown Law increased to reflect the increased demand for services. The number of employees permanently employed at year-end was as follows:

	30 June 2009	30 June 2008
Solicitor-General, Deputy Solicitors-General and Practice Manager	5	5
Counsel (including Legal Advisors)	97	90
Legal Support	28	24
Secretarial and Word Processing	34	32
Corporate Services Group	37	33
Total Number of Employees	201	184

(Part-time arrangements are included in these numbers)

OUR PEOPLE CAPABILITY

Crown Law, like other professional service organisations, strives to have human resources management policies, processes and systems directed towards attracting and retaining experienced and skilled staff across the organisation.

Crown Law continues to be an employer of choice due in large part to the diverse range of legal work available.

As the largest public law and litigation practice in New Zealand, Crown Law has been and continues to be a sought after workplace for lawyers.

Crown Law, in accordance with its obligations under s 56 of the State Sector Act 1988 is constantly working towards providing a healthy and supportive work environment for all staff and contractors.

Crown Law's success in realising potential and maximising contribution is dependent on providing clear expectations, successfully challenging people to perform to the highest standard, developing and supporting individual performance potential and being flexible about how that performance is delivered.

The Legal Counsel competencies for the three levels of Counsel, Deputy Solicitors-General and Practice Manager, referred to in the previous Annual Report have been completed and adopted by the Crown Law Management Board.

A further range of competencies will be developed for all support staff positions within Crown Law.

The issue of remote working was assessed during the year, with the introduction of the Employment Relations (Flexible Working Arrangements) Amendment Act 2007 providing options for staff.

Crown Law currently has a number of staff on reduced or modified hours to meet various work/life balance commitments and we expect

to see further applications under the provisions of the flexible working hours legislation.

The work of the PEER Committee was concluded in late 2008 with some issues arising out of that work requiring further work or in some cases ongoing monitoring.

Crown Law and the Public Service Association will continue to collaborate on a range of issues including negotiation for a new Collective Employment Agreement.

Crown Law is continuing to make progress in maintaining an environment which values its people, and is a desirable and satisfying place to work and which encourages organisational as well as individual potential and growth.

CROWN SOLICITOR NETWORK

There are 15 private law practitioners holding 16 warrants as Crown Solicitors. Together with their partners and staff solicitors, Crown Solicitors prosecute indictable offences in those centres where District Court and High Court jury trials are conducted.

LEGISLATIVE RESPONSIBILITIES

Crown Law administers the Crown Solicitors Regulations 1994 which set out the basis upon which the scale of fees is calculated and the process by which fees are claimed and paid to Crown Solicitors for undertaking Crown prosecution work.

The Cabinet Directions for the Conduct of Crown Legal Business 1993 govern the conduct of legal business between the Law Officers of the Crown, Crown Law and government departments and agencies.

INFORMATION SYSTEMS MANAGEMENT

During 2008/09, Crown Law undertook major change to its IT platform. In addition, as a result of unsupported software for

Practice and Financial Management, new software – 3E (Thomson Reuters) – was purchased and implemented.

ELECTRONIC LITIGATION SUPPORT IN CROWN LAW

Signature, the electronic litigation support system, continues to be used successfully greatly reducing the manual effort and the use of paper for both large and small matters. All discovery lists are completed in Signature.

System@Law Court has been used in four hearings.

Counsel and the Judiciary are finding this to be a very effective way of managing the exhibit process and significantly reducing the time taken to locate and distribute documents. Crown Law has provided demonstrations to many interested parties.

KNOWLEDGE MANAGEMENT

At Crown Law, knowledge management initiatives are prioritised around four themes: better collaboration; easier, quicker access to information; public records compliance; and technology which serves the business. Key initiatives undertaken during the last year include:

- promoting the importance of open, creative conversation and providing more opportunities for cross-team collaboration;
- developing an internal expertise directory (as a precursor to profiling Crown Law Counsel on our website);
- reviewing our Document Management System to leverage existing technology more effectively for easy, quick access to information;
- completing a Request for Proposals for implementation of an Electronic Records Management System;
- finalising an Information Technology Strategy, and improving IT governance to reflect a more effective working

partnership between the business and the IT department; and

- embarking on the development of a web strategy as the first phase in the redevelopment of Crown Law’s web presence.

ORGANISATIONAL DEVELOPMENT

Since the adoption of the vision “Being the first choice public sector lawyer” Crown Law has worked steadily towards the two strategic goals of quality of service and being an engaging and responsive workplace.

The contract role for organisational development was established as a permanent management position in November 2008 to develop and implement identified change initiatives.

Crown Law continues to focus its learning and development opportunities towards the enhancement of all its staff for the overall benefit of Crown Law.

Development of management and leadership capability at the senior level is seen as a key organisational development strategy that supports both strategic goals. 360 reviews have been undertaken by all tier one, two and three managers as well as the Group and Team Administrators to establish development priorities for these people.

The Management Board and Team Leaders have attended “Developing People” workshops. All Crown Counsel and Associate Crown Counsel along with Corporate Managers and Group and Team Administrators have attended “Coaching and Delegation” workshops to ensure the maximisation of development opportunities for all staff.

The “Future Leaders” programme is now in its second year. This programme provides individual coaching to senior Crown Counsel who are interested in developing their

management and leadership capability. This is the first step in an organisational Talent Management Strategy that will be expanded on in the coming year.

In January 2009, the one-year trial for a new performance management process at Crown Law was started. The As and When process focuses on performance and development discussions taking place throughout the year rather than at the end of the performance year in an annual appraisal.

To support the first strategic goal of quality of service, a programme of efficient work practices, WorkWise, has been rolled out to some Counsel and all Support Staff.

Work on the strategic direction and strategy steps is ongoing. For the first time, a short workshop for all staff was held in December 2008. The session, a brainstorm of ideas on how Crown Law can work better and smarter with less, was very productive. Information from this session has been used to inform organisational development initiatives for the coming year.

OFFICE ACCOMMODATION

Crown Law is predominantly located in Unisys House, The Terrace and occupies four floors of office accommodation. The premises are under lease until 31 March 2013, with a right of renewal available until 31 March 2019.

A smaller team of staff are located in an adjacent building, 50 The Terrace. These premises were leased on 11 August 2008 for an initial 12-month period with a further one-year right of renewal exercised to 10 August 2010.

ENVIRONMENT

Crown Law was a member of both the Govt3 network and the Carbon Neutral Public Service and continues to work on monitoring energy efficiencies, waste minimisation practices and sustainable purchasing.

Various energy saving initiatives have been implemented over time including the use of

energy efficient light bulbs, motion sensor light controls, zoned floor lighting and after hours lighting timers; the installation of water efficient shower heads, the use of timers to turn off water filters and billies at the end of the day, the replacement of electric coffee machines with thermal plunger pots; economy settings utilised on dishwashers, and energy saving modes invoked on all photocopiers and printers.

Recycling of paper, cardboard, toner cartridges, fluorescent tubes, glass, plastic, cans and compostables including food waste and paper towels is carried out office-wide with recycling stations provided in each kitchenette.

Sustainability is considered when purchasing stationery and other office consumables. All white copier/printer paper is 100% recycled and chlorine-free as are Crown Law letterhead and business cards. Toilet paper, hand towel and soap dispensers specifically designed to reduce paper/soap wastage are being used in conjunction with 100% recycled Green Seal Certified sanitary papers and economical foam soap. All kitchen-cleaning products utilised within the office meet the relevant NZ Environmental Choice standards. Crown Law commercial cleaning contractors also regard environmental sustainability highly and assist Crown Law in its waste recycling whilst also using only Ecolab cleaning products.

STAFF PUBLICATIONS AND PRESENTATIONS DURING THE YEAR

PAULINE COURTNEY

“Issues with Electronic Information, E-Discovery and E-Inspection”, seminar presented to the Inland Revenue Department’s Limitation Management Unit, 28 May 2009.

JESSICA GORMAN

“Discovery”, seminar presented to the Reserve Bank of New Zealand, 12 and 17 June 2008.

Current author of McGrechan, with responsibility for the Part 30 and Judicature Amendment Act 1972 sections.

ANDREW IRWIN

“Justiciability, the Treaty and Foreshore and Seabed Agreements”, presented to the Māori Legal Forum, 29 July 2009.

ANNSLEY KERR

“Marine Protected Areas: Marine Reserves and Taiapure”, presented to the Department of Conservation, February 2008.

DONNA LLEWELL

Lecturer “International Environmental Law (Semester 2, 2008)”, delivered by intensive block combined with distance learning at Emalus Campus (Vanuatu), University of South Pacific during 30 November – 6 December 2008.

DAMEN WARD

“Māori Litigation about Rivers and Riverbed Titles”, presentation to the Treasury, 2008.

“Riverbed Law”, presentation to the Department of Conservation”, 2008.

“Rivers and Riverbed Law”, presentation to Land Information New Zealand, 2008.

“Civil Jurisdiction, settler politics, and the colonial constitution, circa 1840-1858”, Victoria University of Wellington Law Review, (2008) 39 VUWLR 497.

“Reassessing Colonial Law and Politics in New Zealand, c. 1840-1860”, paper presented to “Transpositions of Empire. Historiographic Approaches to the Translation of Juridical and Political Thought in Colonial Contexts. A

Symposium in Legal and Intellectual History”, Monash University Campus, Prato (Italy), April 2009. Publication forthcoming, [attended with support from Crown Law, Victoria University of Wellington and University of Queensland].

Adjunct Research Associate, “New Zealand Lost Cases project”, a Victoria University of Wellington research project funded by the New Zealand Law Foundation. <http://www.victoria.ac.nz/nzlostcases/> [website launched mid-2008, project ongoing]

BRONWYN ARTHUR

Presentations were made to the Resource Management Law Association branches in Wellington, Auckland, Bay of Plenty and Waikato as a member of a three-person panel on “The Incorporation of RMA Instruments in Treaty Settlements”.

MARK HICKFORD

“Strands from the Afterlife of Confiscation: Property Rights, Constitutional Histories and the Political Incorporation of Māori, 1910s-1940s”, paper presented to the Stout Research Centre Conference, “Coming to Terms? Raupatu/Confiscation and New Zealand History”, Wellington (publication of the paper forthcoming in Richard Hill and Richard Boast eds, *Raupatu – The Confiscation of Māori Land* (Victoria University Press, Wellington, 2009).

“This Intricate Question”: Some Reflections on Māori Property Rights, Custom and Constitutionalism in the 1840s”, presentation to the Prato Symposium, April 2009, “Transpositions of Empires”.

CHRISTINA INGLIS

“Working with Crown Law”, paper given to Public Sector Legal Advisers Accelerator Conference (Lexis Nexis, 2009).

IAN CARTER

“An Update on Immigration Cases”, paper given to Immigration Law Conference (Lexis Nexis, 2009).

BEN KEITH

“Developments in Domestic Application of International Law”, remarks to Beeby Colloquium on International Law (MFAT/ILA (NZ), September 2008).

“The Right to Seek Asylum on the 60th Anniversary of the Universal Declaration of Human Rights: Neither indeterminacy nor the last word”, paper given to Celebrating 60 years of the Universal Declaration of Human Rights Conference (Victoria University of Wellington, December 2008).

“Remedies in Human Rights Law”, paper given to Public and Administrative Law 2009 Conference (LexisNexis, 2009).

CHRIS CURRAN

“Deference in a Bill of Rights Act context”, paper given to Public and Administrative Law Conference (LexisNexis, 2009).

“The Bill of Rights Act: Liability and Remedies”, in *Liability of Public Authorities* (New Zealand Law Society, June 2009).

ROBERT KIRKNESS

“Deference in a Bill of Rights Act context”, paper given to Public and Administrative Law Conference (LexisNexis, 2009).

Guest Lecturers at Victoria University “The role of exemplary damages in tort law, 18 May 2009.

DAVID COLLINS AND CHARLOTTE BROWN

The impact of the Cartwright Report upon the regulation, discipline and accountability of medical practitioners in New Zealand (2009) 16 JLM 595.

MATTHEW PALMER

“The Treaty of Waitangi in New Zealand’s Law and Constitution” (Wellington: Victoria University Press, 2008).

“Stabilising the Treaty of Waitangi in New Zealand’s Law and Constitution”, presentation to Department of Conservation National Law Conference, 27 February 2009.

“Governance of the Public Sector: Constitutional Framework”, paper presented to Public Sector Governance Intensive (New Zealand Law Society, June 2009).

“The Treaty of Waitangi in New Zealand’s Law and Constitution”, presentation to Waitangi Tribunal, 29 June 2009.

**MATTHEW PALMER AND
TANIA WARBURTON**

“Information Law”, paper presented to Crown Law Practice Seminar, 30 June 2009.

STATEMENT OF RESPONSIBILITY

FOR THE YEAR ENDED 30 JUNE 2009

Pursuant to s 45 and s 45c of the Public Finance Act 1989, I am responsible, as the Chief Executive of Crown Law, for the preparation of the financial statements, statement of objectives and service performance and the judgements made in the process of producing these financial statements.

In my opinion, these financial statements, statement of objectives and service performance fairly reflect its financial position and operations of Crown Law for the financial year ended 30 June 2009.

I have responsibility of establishing and maintaining Crown Law's internal control procedures designed to provide reasonable assurance as to the integrity and reliability of the financial reporting.



Dr David Collins QC
Solicitor-General and Chief Executive
30 September 2009

Countersigned by:



Chris Walker
Chief Financial Officer
30 September 2009



Diana Pryde
Practice Manager
30 September 2009

AUDIT REPORT

TO THE READERS OF THE CROWN LAW OFFICE'S FINANCIAL STATEMENTS AND STATEMENT OF SERVICE PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2009

The Auditor-General is the auditor of Crown Law Office (the Office). The Auditor-General has appointed me, John O'Connell, using the staff and resources of Audit New Zealand, to carry out the audit. The audit covers the financial statements and statement of service performance included in the annual report of the Office for the year ended 30 June 2009.

Unqualified Opinion

In our opinion:

- The financial statements of the Office on pages 47 to 73:
 - comply with generally accepted accounting practice in New Zealand; and
 - fairly reflect:
 - the Office's financial position as at 30 June 2009;
 - the results of its operations and cash flows for the year ended on that date;
 - its expenses and capital expenditure incurred against each appropriation administered by the Office and each class of outputs included in each output expense appropriation for the year ended 30 June 2009; and
 - its unappropriated expenses and capital expenditure for the year ended 30 June 2009.
- The statement of service performance of the Office on pages 36 to 46:
 - complies with generally accepted accounting practice in New Zealand; and
 - fairly reflects for each class of outputs:
 - its standards of delivery performance achieved, as compared with the forecast standards included in the statement of forecast service performance adopted at the start of the financial year; and
 - its actual revenue earned and output expenses incurred, as compared with the forecast revenues and output expenses included in the statement of forecast service performance adopted at the start of the financial year.

The audit was completed on 30 September, and is the date at which our opinion is expressed.

The basis of our opinion is explained below. In addition, we outline the responsibilities of the Solicitor-General and the Auditor, and explain our independence.

Basis of Opinion

We carried out the audit in accordance with the Auditor-General's Auditing Standards, which incorporate the New Zealand Auditing Standards.

We planned and performed the audit to obtain all the information and explanations we considered necessary in order to obtain reasonable assurance that the financial statements and statement of service performance did not have material misstatements, whether caused by fraud or error.

Material misstatements are differences or omissions of amounts and disclosures that would affect a reader's overall understanding of the financial statements and statement of service performance. If we had found material misstatements that were not corrected, we would have referred to them in our opinion.

The audit involved performing procedures to test the information presented in the financial statements and statement of service performance. We assessed the results of those procedures in forming our opinion.

Audit procedures generally include:

- determining whether significant financial and management controls are working and can be relied on to produce complete and accurate data;
- verifying samples of transactions and account balances;
- performing analyses to identify anomalies in the reported data;
- reviewing significant estimates and judgements made by the Solicitor-General;
- confirming year-end balances;
- determining whether accounting policies are appropriate and consistently applied; and
- determining whether all financial statement and statement of service performance disclosures are adequate.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements and statement of service performance.

We evaluated the overall adequacy of the presentation of information in the financial statements and statement of service performance. We obtained all the information and explanations we required to support our opinion above.

Responsibilities of the Solicitor-General and the Auditor

The Solicitor-General is responsible for preparing the financial statements and statement of service performance in accordance with generally accepted accounting practice in New Zealand. The financial

statements must fairly reflect the financial position of the Office as at 30 June 2009 and the results of its operations and cash flows for the year ended on that date.

The financial statements must also fairly reflect the expenses and capital expenditure incurred against each appropriation administered by the Office and each class of outputs included in each output expense appropriation for the year ended 30 June 2009. The financial statements must also fairly reflect the Office's unappropriated expenses and capital expenditure for the year ended on that date.

The statement of service performance must fairly reflect, for each class of outputs, the Office's standards of delivery performance achieved and revenue earned and expenses incurred, as compared with the forecast standards, revenue and expenses adopted at the start of the financial year.

The Solicitor-General's responsibilities arise from sections 45A and 45B of the Public Finance Act 1989.

We are responsible for expressing an independent opinion on the financial statements and statement of service performance and reporting that opinion to you. This responsibility arises from section 15 of the Public Audit Act 2001 and section 45D(2) of the Public Finance Act 1989.

Independence

When carrying out the audit we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the Institute of Chartered Accountants of New Zealand.

Other than the audit, we have no relationship with or interests in the Office.



John O'Connell
Audit New Zealand
On behalf of the Auditor-General
Wellington, New Zealand

Matters Relating to the Electronic Presentation of the Audited Financial Statements and Statement of Service Performance

This audit report relates to the financial statements and statement of service performance of Crown Law Office for the year ended 30 June 2009 included on the Crown Law Office's website. The Crown Law Office's Solicitor-General is responsible for the maintenance and integrity of Crown law Office's website. We have not been engaged to report on the integrity of the Crown Law Office's website. We accept no responsibility for any changes that may have occurred to the financial statements and statement of service performance since they were initially presented on the website.

The audit report refers only to the financial statements and statement of service performance named above. It does not provide an opinion on any other information which may have been hyperlinked to or from the financial statements and statement of service performance. If readers of this report are concerned with the inherent risks arising from electronic data communication they should refer to the published hard copy of the audited financial statements and statement of service performance and related audit report dated 30 September 2009 to confirm the information included in the audited financial statements and statement of service performance presented on this website.

Legislation in New Zealand governing the preparation and dissemination of financial information may differ from legislation in other jurisdictions.

STATEMENT OF OBJECTIVES AND SERVICE PERFORMANCE

FOR THE YEAR ENDED 30 JUNE 2009

OUTPUT EXPENSE: CONDUCT OF CRIMINAL APPEALS

OBJECTIVE

To determine whether the Crown should take pre-trial and case stated appeals in the appeals against sentence are lodged and to appear or arrange representation at the hearing of appeals whether brought by the Crown or by offenders following trials on indictment.

OUTCOME

By conducting criminal appeals Crown Law contributes to the Justice sector outcome for safer communities that requires that offenders be held to account. By its conduct in criminal appeals Crown Law also contributes to the outcome of a trusted Justice system in which civil and democratic rights and obligations are enjoyed.

FINANCIAL PERFORMANCE

(Figures are GST exclusive)

2008 Actual		2009 Actual	2009 Main Estimates	2009 Supp Estimates
\$000		\$000	\$000	\$000
3,120	Revenue – Crown	3,444	3,294	3,444
2,539	Expenditure	3,367	3,294	3,444
581	Net surplus / (deficit)	77	-	-

EXPLANATION OF MAJOR VARIATIONS:

The number of appeals disposed of by the Court has increased with a corresponding increase in revenue and expenditure.

OUTPUT EXPENSE: CONDUCT OF CRIMINAL APPEALS - CONTINUED

SERVICE PERFORMANCE

QUANTITY

2008 Actual	Measures	2009 Actual	2009 Forecast
	Number of appeals disposed by the Court of Appeal/Supreme Court/Privy Council arising out of criminal trials on indictment, brought by:		
26	• the Crown	24	30 – 35
353	• offenders	426	550 – 600
	Decisions made on requests for the Solicitor-General to take Crown appeals in relation to:		
12	• sentence	26	40 – 50
14	• case stated or other appeals	23	25 – 30

QUALITY AND TIMELINESS

Measures	Performance
Success rate for sentence appeals brought by the Solicitor-General to be not less than 60%	24 appeals brought by the Solicitor-General have been heard. 21 appeals (87.5%) have been decided in favour of the Solicitor-General (2008: 88.5%)
Compliance with court procedures and requirements of the judiciary as specified in the Court of Appeal and Supreme Court Practice Notes	No complaints have been received by Crown Law for non-compliance with court procedures and practice notes
The hearing of sentence appeals to be undertaken in accordance with the schedule of sitting days which are agreed by the court one month in advance	The hearing of appeals was undertaken in accordance with the timetable set by the court
Decisions to appeal by the Crown are taken in accordance with the statutory deadlines. Written submissions are filed within the timeframe stipulated in the practice notes prepared for the guidance of counsel in the Court of Appeal and Supreme Court	The Crown filed written submissions within the timeframe stipulated in the <i>Court of Appeal Practice Note – Criminal Appeals</i>

OUTPUT EXPENSE: LEGAL ADVICE AND REPRESENTATION

OBJECTIVE

To provide legal advice and representation services to central government departments and agencies with special emphasis on matters of public and administrative law, including Treaty of Waitangi and revenue issues.

The legal advice and representation services provided are to take into account the responsibility of the Government to conduct its affairs in accordance with the law and the underlying obligation (to discharge their responsibilities) of the Attorney-General and Solicitor-General by acting in the public interest.

OUTCOME

Crown Law contributes to the outcomes of its clients and the wider public sector by protecting the Crown's legal interests and supporting the responsibilities of the Crown, so that the Government is able to lawfully implement its chosen policies and Executive Government is conducted lawfully. This, in turn, contributes to the outcome of democratic government under law and in the public interest.

By meeting the Crown's objectives as a model litigant Crown Law contributes to the Justice sector outcome of a trusted Justice system by upholding public interest factors in the application of the law, including trial by process and fair results.

FINANCIAL PERFORMANCE

(Figures are GST exclusive)

2008 Actual		2009 Actual	2009 Main Estimates	2009 Supp Estimates
\$000		\$000	\$000	\$000
20,469	Revenue – Department	21,368	21,110	22,900
19,599	Expenditure	20,409	21,110	22,900
870	Net surplus / (deficit)	959	-	-

EXPLANATION OF MAJOR VARIATIONS:

The increase in revenue is influenced by the number and complexity of the instructions received, and worked on during the year.

The Government's state sector pay expectations impacted on personnel costs.

Crown Law takes a long-run perspective to fee setting and cost recovery, see financial note 21 Memorandum Account – Legal Advice and Representation.

OUTPUT EXPENSE: LEGAL ADVICE AND REPRESENTATION - CONTINUED

SERVICE PERFORMANCE

QUANTITY

2008 Actual	Measures	2009 Actual	2009 Forecast
333	Number of new instructions for legal advice	468	450 – 550
781	Average number of requests for legal advice in progress during the year	793	750 – 850
511	Number of new instructions in respect of litigation matters	654	600 – 650
2,677	Average number of litigation matters in progress during the year	2,773	2,400 – 2,600

EXPLANATION OF MAJOR VARIATIONS:

There has been an increase in the number of new instructions. There is no single factor that has brought about this increase.

QUALITY AND TIMELINESS

Measures	Performance
Legal advice, including opinions and representation services, will be provided in accordance with Crown Law's Professional Standards: Crown Law Advice and Conduct of Litigation, respectively	Quality assurance review processes have been implemented to ensure compliance with the standards established for legal advice and representation services

OUTPUT EXPENSE: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS

OBJECTIVE

To provide a national Crown prosecution service to undertake criminal trials on indictment, and related appeals, the supervision of the network of Crown Solicitors who deliver the prosecution services and the provision of advice on criminal law matters.

This output class comprises three outputs:

- *Crown Prosecution Services* – The provision of a national Crown prosecution service to undertake criminal trials on indictment, including appeals against conviction and sentence arising from summary prosecutions, for all regions in New Zealand.
- *Supervision of the Crown Solicitor Network* – Includes administering the Crown Solicitors Regulations 1994, and in particular the classification of counsel, approval of special fees and approval of additional counsel for lengthy or complex trials.
- *Criminal Law Advice and Services* – The provision of advice in relation to criminal law and undertaking work in the following areas: proceeds of crime, mutual assistance, blood sampling for DNA, requests for Crown appeals, consents to prosecute, applications for stays and immunity from prosecution, and ministerials in relation to criminal matters.

OUTCOME

Crown Law is responsible for prosecuting indictable crime throughout New Zealand, and contributes to effective Crown Prosecution Services and the Justice sector outcome for safer communities that require that offenders be held to account. By its conduct of Crown prosecutions Crown Law also contributes to the outcome of a trusted Justice system in which civil and democratic rights and obligations are enjoyed.

FINANCIAL PERFORMANCE

(Figures are GST exclusive)

2008 Actual		2009 Actual	2009 Main Estimates	2009 Supp Estimates
\$000		\$000	\$000	\$000
34,514	Revenue – Crown	36,492	35,742	36,492
34,683	Expenditure	37,048	35,742	36,492
(169)	Net surplus / (deficit)	(556)	-	-

EXPLANATION OF MAJOR VARIATIONS:

Criminal prosecution costs continue to increase. Although the number of criminal trials is similar, complexity issues together with defence strategies are adding to the costs.

There is an increase in the number of guilty pleas, sentencing, bail and appeal matters.

OUTPUT EXPENSE: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS - CONTINUED

SERVICE PERFORMANCE – OUTPUT: CROWN PROSECUTION SERVICES

QUANTITY

2008 Actual	Measures	2009 Actual	2009 Forecast
	Number of trials for indictable crime:		
1,563	• District Court	1,567	1,900 – 2,100
212	• High Court	202	200 – 240
	Number of high cost trials for indictable crime*		
51	• District Court	47	150 – 200
58	• High Court	60	100 – 140
	Number of other criminal matters conducted by the Crown Solicitors:		
1,373	• Bail applications and appeals	1,568	1,500 – 1,600
2,989	• Guilty pleas / lower band and middle band sentencing	3,327	2,700 – 2,800
555	• Appeals relating to summary prosecutions	588	700 – 800

QUALITY AND TIMELINESS

Measures	Performance
Prosecution services to be provided in accordance with prosecution guidelines and case management practices developed by the Solicitor-General and judiciary, respectively	There have been no complaints received where the Solicitor-General thought they had any merit or warranted further action. The Solicitor-General was satisfied that the Crown solicitor staff in question had acted entirely properly.
Review of each Crown Solicitor practice on a cyclical basis	No Crown Solicitor practices were planned for review this year.

* Cost greater than \$20,000. 2008 figures have been restated for comparison purpose.

OUTPUT EXPENSE: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS - CONTINUED

SERVICE PERFORMANCE – OUTPUT: SUPERVISION OF CROWN SOLICITOR NETWORK

QUANTITY

2008 Actual		2009 Actual	2009 Forecast
3	Number of Crown Solicitors' practices to be reviewed	–	1 – 2
390	Number of new applications from Crown Solicitors for special fees, classification of counsel and approval of additional counsel	417	350 – 450

QUALITY AND TIMELINESS

Measures	Performance
Applications by Crown Solicitors for special fees, classification of counsel and approval of additional counsel to be considered in accordance with the Crown Solicitors Regulations 1994 and Crown Law's protocols which support the application of the Regulations. The protocols describe the processes to be followed, the quality standards relating to the process and the content and justification required for the applications	All applications made by Crown Solicitors were considered in accordance with the Crown Solicitors Regulations 1994, and Crown Law's protocols, which support the application of the Regulations. Notification of approval and feedback on the applications was formally advised to the Crown Solicitor within the agreed timeframe

OUTPUT EXPENSE: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS - CONTINUED

SERVICE PERFORMANCE – OUTPUT: SUPERVISION OF CROWN SOLICITOR NETWORK - CONTINUED

QUALITY AND TIMELINESS - CONTINUED

Measures	Performance
<p>The provision of prosecution services by Crown Solicitors is to be reviewed by an independent review panel with reference to a range of quality standards which include:</p> <ul style="list-style-type: none"> • compliance with professional standards of conduct; • application of the Solicitor-General’s prosecution guidelines; • compliance with court procedures and the requirements of the judiciary and clients in the management of cases; • compliance with the Crown Solicitors Regulations 1994 and, in particular, the charging for services rendered; and • compliance with the protocols and financial guidelines developed by Crown Law to support the application of the Regulations 	<p>No reviews of Crown Solicitor practices were planned.</p>

CROWN SOLICITOR PRACTICE REVIEW PROCESS

The Crown Solicitor Practice Review process has been established to ensure that Crown Solicitors meet certain quality standards in undertaking Crown prosecutions. These standards are described in the above table. It is aimed to review all Crown Solicitor practices at least once in each four- to five-year period. The number of reviews undertaken in any year will depend upon the size of the practice to be reviewed, the resources available to undertake the reviews and the operational efficiencies derived from reviewing practices in close geographic proximity.

CROWN SOLICITOR APPOINTMENT PROCESS

The Solicitor-General is responsible for the process of appointment of Crown Solicitors. The process, which includes extensive consultation and inquiry to determine the suitability of candidates to undertake the role of Crown Solicitor, results in a recommendation to the Attorney-General and, in turn, to the Governor-General for the issuing of the Crown Solicitor warrant.

OUTPUT EXPENSE: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS - CONTINUED

SERVICE PERFORMANCE – OUTPUT: CRIMINAL LAW ADVICE AND SERVICES

QUANTITY

2008 Actual	Measures	2009 Actual	2009 Forecast
251	Number of new requests for legal advice or determination of applications received in relation to criminal law issues	288	350 – 450
490	Average number of requests for legal advice or determination of applications in relation to criminal law in process during the year	645	450 – 500
35	Number of new ministerials and parliamentary questions received	40	30 – 40

QUALITY AND TIMELINESS

Measures	Performance
Legal advice, including opinions, and representation services to be provided in accordance with Crown Law’s Professional Standards: Crown Law Advice and Conduct of Litigation, respectively	Quality assurance review processes have been implemented to ensure compliance with the standards established for legal advice and representation services
Ministerial correspondence and parliamentary questions to be responded to within the following timeframes: <ul style="list-style-type: none"> • Replies to ministerial correspondence will be completed within 20 working days of receipt in 90% of cases • All responses to parliamentary questions will be provided within the required deadlines 	<ul style="list-style-type: none"> • Replies to ministerial correspondence were provided within the required timeframe in 79% of cases (2008: 83%) • Responses to parliamentary questions were provided within the required time deadlines (2008: 100%)

OUTPUT EXPENSE: THE EXERCISE OF PRINCIPAL LAW OFFICER FUNCTIONS

OBJECTIVE

This output class covers the provision of legal and administrative services to the Attorney-General and Solicitor-General to assist them in the exercise of their Principal Law Officer functions, the provision of legal advice to government and Ministers of the Crown including advice on constitutional and governance-related issues and advice to the judiciary regarding legal processes.

The particular services provided include monitoring the enforcement and application of the law, supervision of charities, representation of the public interest, relator proceedings, vexatious litigant proceedings and the exercise of a variety of powers, duties and authorities arising from statutory requirements and constitutional conventions. This output class also involves the review of legislation for compliance with the New Zealand Bill of Rights Act 1990 and advice on the appointment processes for Judges and Queen's Counsel and participation in PILON.

OUTCOME

By supporting the Law Officers, who have a constitutional role in the lawful conduct of Executive Government, Crown Law contributes to democratic government under the law and in the public interest, and to the Justice sector outcome of effective constitutional arrangements.

FINANCIAL PERFORMANCE

(Figures are GST exclusive)

2008 Actual \$000		2009 Actual \$000	2009 Main Estimates \$000	2009 Supp Estimates \$000
	Revenue:			
3,178	– Crown	2,928	3,178	2,928
55	– Other	54	-	50
<u>3,233</u>		<u>2,982</u>	<u>3,178</u>	<u>2,978</u>
1,740	Expenditure	2,516	3,178	2,978
<u>1,493</u>	Net surplus / (deficit)	<u>466</u>	<u>-</u>	<u>-</u>

EXPLANATION OF MAJOR VARIATIONS:

The unexpected surplus is due to the nature of the instructions received that resulted in less work required to be briefed to independent counsel.

OUTPUT EXPENSE: THE EXERCISE OF PRINCIPAL LAW OFFICER FUNCTIONS - CONTINUED

SERVICE PERFORMANCE

QUANTITY

2008 Actual	Measures	2009 Actual	2009 Forecast
145	Number of new applications or requests for advice received for action on behalf of the Attorney-General and Solicitor-General	236	200 – 220
393	Average number of applications or requests for legal advice in progress during the year	527	350 – 400
273	Number of new ministerials and parliamentary questions received	175	240 – 260

QUALITY AND TIMELINESS

Measures	Performance
Legal advice, including opinions, and representation services to be provided in accordance with Crown Law's Professional Standards: Crown Law Advice and Conduct of Litigation, respectively	Quality assurance review processes have been implemented to ensure compliance with the standards established for legal advice and representation services.
Brief the Attorney-General in a timely and relevant way on significant legal matters affecting the Crown	A weekly report is provided to the Attorney-General advising on significant legal matters involving the Crown
Ministerial correspondence and parliamentary questions to be responded to within the following timeframes: <ul style="list-style-type: none"> • Replies to ministerial correspondence will be completed within 20 working days of receipt in 90% of cases • All responses to parliamentary questions will be provided within the required deadlines 	<ul style="list-style-type: none"> • Replies to ministerial correspondence were provided within the required timeframe in 83% of cases (2008: 89%) • Responses to parliamentary questions were provided within the required deadlines (2008: 100%)

INCOME STATEMENT

FOR THE YEAR ENDED 30 JUNE 2009

2008 Actual		Note	2009 Actual	2009 Main Estimates	2009 Supp Estimates
\$000			\$000	\$000	\$000
Revenue					
40,812	Crown		42,864	42,214	42,864
20,524	Other	2	21,422	21,110	22,950
61,336	Total revenue		64,286	63,324	65,814
Expenditure					
16,839	Personnel costs	3	18,623	18,990	18,064
40,781	Operating costs	4	43,522	43,167	46,577
844	Depreciation	5	1,009	1,022	1,018
97	Capital charge	6	186	145	155
58,561	Total expenses		63,340	63,324	65,814
2,775	Net operating surplus/(deficit)		946	-	-

The accompanying notes form part of these financial statements.

STATEMENT OF MOVEMENTS IN TAXPAYERS' FUNDS FOR THE YEAR ENDED 30 JUNE 2009

2008 Actual		2009 Actual	2009 Main Estimates	2009 Supp Estimates
\$000		\$000	\$000	\$000
1,424	Taxpayers' funds as at 1 July	2,063	1,936	2,063
2,755	Net surplus/(deficit) for the year	946	-	-
639	Capital contribution	-	-	-
-	Retain part of 2007/08 surplus	870	-	870
-	Movements in revaluation reserve	-	-	-
(2,755)	Provision for repayment of surplus	(946)	-	-
639	Movements in equity for the year	870	-	870
2,063	Taxpayers' funds as at 30 June	2,933	1,936	2,933

The accompanying notes form part of these financial statements.

BALANCE SHEET

AS AT 30 JUNE 2009

2008 Actual		Note	2009 Actual	2009 Main Estimates	2009 Supp Estimates
\$000			\$000	\$000	\$000
2,063	Taxpayer's funds	13	2,933	1,936	2,933
	Represented by:				
	Current assets				
7,260	Cash and cash equivalents		6,476	3,970	4,058
205	Prepayments		275	200	216
4,350	Debtors and receivables	7	4,286	3,175	3,800
11,815	Total current assets		11,037	7,345	8,074
	Non-current assets				
2,654	Property, plant and equipment	8	2,281	2,188	2,509
49	Intangible assets	9	919	612	1,580
2,703	Total non-current assets		3,200	2,800	4,089
14,518	Total assets		14,237	10,145	12,163
	Current liabilities				
8,328	Creditors and payables	10	8,830	6,962	7,991
1,090	Employee entitlements	11	1,344	980	986
2,775	Repayment of surplus	12	946	-	-
12,193	Total current liabilities		11,120	7,942	8,977
	Non-current liabilities				
262	Employee entitlements	11	184	267	253
262	Total non-current liabilities		184	267	253
12,455	Total liabilities		11,304	8,209	9,230
2,063	Net assets		2,933	1,936	2,933

The accompanying notes form part of these financial statements.

STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED 30 JUNE 2009

2008 Actual		2009 Actual	2009 Main Estimates	2009 Supp Estimates
\$000	Note	\$000	\$000	\$000
Cash flows – operating activities				
<i>Cash was provided from: Supply of outputs to</i>				
40,812	– Crown	42,864	42,214	42,864
20,694	– Other	21,486	21,110	23,500
61,506		64,350	63,324	66,364
<i>Cash was applied to: Produce outputs</i>				
16,840	– Personnel	18,223	19,099	17,627
38,605	– Operating	40,596	40,224	44,757
2,387	– Net GST paid/(received)	2,716	2,716	2,716
97	– Capital charge	186	145	155
-	– Other	-	-	-
57,929		61,721	62,184	65,255
3,577	Net cash inflow from operating activities	2,629	1,140	1,109
Cash flows – investing activities				
<i>Cash was provided from:</i>				
<i>Cash was disbursed for:</i>				
339	– Purchase of fixed assets	535	397	735
2	– Purchase of intangible assets	972	570	1,670
341		1,507	967	2,405
(341)	Net cash outflow from investing activities	(1,507)	(967)	(2,405)
Cash flows – financing activities				
<i>Cash was provided from:</i>				
639	– Capital contributions	-	-	-
<i>Cash was disbursed for:</i>				
361	– Repayment of surplus	1,906	-	1,906
278	Net cash outflow from financing activities	(1,906)	-	(1,906)
3,514	Net increase in cash	(784)	173	(3,202)
3,746	Cash at the beginning of the year	7,260	3,797	7,260
7,260	Cash at the end of the year	6,476	3,970	4,058

The accompanying notes form part of these financial statements.

STATEMENT OF COMMITMENTS

AS AT 30 JUNE 2009

Crown Law leased office premises in Wellington as from 1 April 2004. The term of the lease is for an initial period of nine years expiring on 31 March 2013. Annual lease payments are subject to three-yearly reviews.

On 11 August 2008 additional office premises at 50 The Terrace were leased for an initial 12 month period with a further one year right of renewal to 10 August 2010.

Other leases are subject to a range of review periods. The amounts disclosed below as future commitments are based on the current rental rates.

2008		2009
Actual		Actual
\$000		\$000
	Capital commitments	
-	There were no capital commitments as at 30 June 2009	-
	Non-cancellable operating lease commitments	
1,674	Not later than one year	1,776
6,272	Later than one year and not later than five years	4,654
-	Later than five years	-
7,946	Total non-cancellable operating lease commitments	6,430
7,946	Total commitments	6,430

STATEMENT OF DEPARTMENTAL CONTINGENT LIABILITIES

AS AT 30 JUNE 2009

There were no departmental contingent liabilities as at 30 June 2009 (2008: Nil).

The accompanying notes form part of these financial statements.

STATEMENT OF UNAPPROPRIATED EXPENDITURE AND CAPITAL EXPENDITURE

FOR THE YEAR ENDED 30 JUNE 2009

2008 Unappropriated Expenditure \$000		2009 Actual \$000	2009 Appropriation Voted \$000	2009 Unappropriated Expenditure \$000
168	Output expense – Supervision and Conduct of Crown Prosecutions	37,048	36,492	556

Expenses approved under s 26B of the Public Finance Act 1989

Crown Law incurs costs in relation to the national Crown prosecution service to undertake criminal trials, on indictment, including appeals against convictions and sentence arising from summary prosecutions. The unexpected increase in Crown Solicitor time, during June, resulted in actual costs exceeding those appropriated by \$556,000.

This unappropriated expenditure has been approved by the Minister of Finance in terms of s 26B of the Public Finance Act 1989.

The accompanying notes form part of these financial statements.

STATEMENT OF DEPARTMENTAL EXPENDITURE AND APPROPRIATIONS

FOR THE YEAR ENDED 30 JUNE 2009

2008 Actual Expend		2009 Actual Expend	2009 Main Estimates	2009 Supp Estimates	2009 Section 26B	2009 Total
\$000		\$000	\$000	\$000	\$000	\$000
	VOTE: Attorney-General Appropriations for classes of outputs					
2,539	Conduct of Criminal Appeals	3,367	3,294	3,444	-	3,444
19,599	Legal Advice and Representation	20,409	21,110	22,900	-	22,900
34,683	Supervision and Conduct of Crown Prosecutions	37,048	35,742	36,492	556	37,048
1,740	The Exercise of Principal Law Officer Functions	2,516	3,178	2,978	-	2,978
58,561	Total appropriations for classes of outputs	63,340	63,324	65,814	556	66,370
	Appropriations for capital contribution					
341	Capital investment	1,507	967	2,405	-	2,405
58,902	Total appropriations	64,847	64,291	68,219	-	2,405

As per requirement of s 2 and s 4 of the Public Finance Act 1989, expenditure reported should exclude remeasurements from appropriation. There have been no remeasurements identified during 2008 and 2009 financial year, which implies that the actual expenditures incurred are equal to the expenditures after remeasurement.

The accompanying notes form part of these financial statements.

SCHEDULE OF TRUST MONIES

FOR THE YEAR ENDED 30 JUNE 2009

2008 Actual \$000		2009 Actual \$000
	Crown Law Office Legal Claims Trust Account	
65	Balance at 1 July	120
2,986	Contributions	1,096
(2,933)	Distributions	(710)
2	Revenue	3
-	Expenditure	(11)
120	Balance at 30 June	498

This interest bearing account is operated to receive and pay legal claims and settlements on behalf of clients of Crown Law. In accordance with the Public Finance Act 1989 the interest income is payable to the Crown.

The accompanying notes form part of these financial statements.

NOTES TO THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2009

NOTE 1: STATEMENT OF ACCOUNTING POLICIES

Reporting entity

Crown Law is a government department as defined by s 2 of the Public Finance Act 1989 and is domiciled in New Zealand.

In addition, Crown Law has reported on Crown activities and trust monies which it administers.

The primary objective of Crown Law is to provide services to the public rather than making a financial return. Accordingly, Crown Law has designated itself as a public benefit entity for the purposes of New Zealand equivalents to International Financial Reporting Standards (NZ IFRS).

The financial statements of Crown Law are for the year ended 30 June 2009. The financial statements were authorised for issue by the Chief Executive of Crown Law on 30 September 2009.

Basis of preparation

The financial statements of Crown Law have been prepared in accordance with the requirements of the Public Finance Act 1989, which includes the requirement to comply with New Zealand generally accepted accounting practices (NZ GAAP).

These financial statements have been prepared in accordance with, and comply with, NZ IFRS as appropriate for public benefit entities.

The accounting policies set out below have been applied consistently to all periods presented in these financial statements. The financial statements have been prepared on a historical cost basis.

The financial statements are presented in New Zealand dollars and all values are rounded to the nearest thousand dollars (\$000). The functional currency of Crown Law is New Zealand dollars.

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

Standards, amendments and interpretations issued but not yet effective that have not been early adopted, and which are relevant to Crown Law include:

- NZ IAS 1 *Presentation of Financial Statements (revised 2007)* replaces NZ IAS 1 *Presentation of Financial Statements (issued 2004)* and is effective for reporting periods beginning on or after 1 January 2009. The revised standard requires information in financial statements to be aggregated on the basis of shared characteristics and to introduce a statement of comprehensive income. This will enable readers to analyse changes in equity resulting from transactions with the Crown in its capacity as “owner” separately from “non-owner” changes. The revised standard gives Crown Law the option of presenting items of income and expense and components of other comprehensive income either in a single statement of comprehensive income with subtotals, or in two separate statements (a separate income statement followed by a statement of comprehensive income). Crown Law expects it will apply the revised standard for the first time for the year ended 30 June 2010, and is yet to decide whether it will prepare a single statement of comprehensive income or a separate income statement followed by a statement of comprehensive income.

Revenue

Revenue is measured at the fair value of consideration received.

Revenue Crown and Revenue Other

Crown Law derives revenue through the provision of outputs to the Crown and for services to third parties. Such revenue is recognised when earned and is reported in the financial period to which it relates.

Capital charge

The capital charge is recognised as an expense in the period to which the charge relates.

Leases

Operating leases

An operating lease is a lease that does not transfer substantially all the risks and rewards incidental to ownership of an asset. Lease payments under an operating lease are recognised as an expense on a straight-line basis over the lease term.

Crown Law leased office premises in Wellington as from 1 April 2004. The term of the lease is for an initial period of nine years expiring on 31 March 2013. Annual lease payments are subject to three-yearly reviews.

Other leases are subject to a range of review periods. The amounts disclosed below as future commitments are based on the current rental rates.

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

Financial instruments

Financial assets and financial liabilities are initially measured at the fair value plus transaction costs unless they are carried at fair value through profit or loss in which case the transaction costs are recognised in the statement of financial performance.

Cash and cash equivalents

Cash includes cash on hand and funds on deposit with maturities of less than three months with the Government Branch, Westpac Banking Corporation.

Debtors and other receivables

Debtors and other receivables are initially measured at fair value and subsequently measured at amortised cost using the effective interest rate, less impairment changes. The carrying value of debtors and other receivables approximate their fair value.

Impairment of a receivable is established when there is objective evidence that Crown Law will not be able to collect amounts due according to the original terms of the receivable. The amount of the impairment is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted using the original effective interest rate. The carrying amount of the asset is reduced through the use of an allowance account, and the amount of the loss is recognised in the statement of financial performance. Overdue receivables that are renegotiated are reclassified as current (i.e. not past due).

Debtors work in progress

Work in progress is determined as unbilled time and disbursement that can be recovered from clients, and are measured at the lower of cost or net realisable value.

The write-down from cost to current net realisable value is recognised in the statement of financial performance in the period when the write-down occurs.

Property, plant and equipment

Property, plant and equipment consists of leasehold improvements, computer hardware, furniture and office equipment.

Property, plant and equipment is shown at cost or valuation, less accumulated depreciation and impairment losses.

Individual assets, or group of assets, are capitalised if their cost is greater than \$1,000. The value of an individual asset that is less than \$1,000 and is part of a group of similar assets is capitalised.

Additions

The cost of an item of property, plant and equipment is recognised as an asset if, and only if, it is probable that future economic benefits or service potential associated with the item will flow to Crown Law and the cost of the item can be measured reliably.

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

In most instances, an item of property, plant and equipment is recognised at its cost. Where an asset is acquired at no cost, or for a nominal cost, it is recognised at fair value as at the date of acquisition.

Disposals

Gains and losses on disposals are determined by comparing the proceeds with the carrying amount of the asset. Gains and losses on disposals are included in the statement of financial performance. When revalued assets are sold, the amounts included in the property, plant and equipment revaluation reserves in respect of those assets are transferred to general funds.

Subsequent costs

Costs incurred subsequent to initial acquisition are capitalised only when it is probable that future economic benefits or service potential associated with the item will flow to Crown Law and the cost of the item can be measured reliably.

Depreciation

Depreciation is provided on a straight-line basis on all property, plant and equipment, at rates that will write off the cost (or valuation) of the assets to their estimated residual values over their useful lives. The useful lives and associated depreciation rates of major classes of assets have been estimated as follows:

Leasehold improvements	9 years	(11.1%)
Computer hardware	3 years	(33.3%)
Furniture and fittings	5 years	(20%)
Office equipment	5 years	(20%)
Library	10 years	(10%)

Leasehold improvements are depreciated over the unexpired period of the lease or the estimated remaining useful lives of the improvements, whichever is the shorter.

The residual value and useful life of an asset is reviewed, and adjusted if applicable, at each financial year-end.

Intangible assets

Software acquisition and development

Acquired computer software licences are capitalised on the basis of the costs incurred to acquire and bring to use the specific software.

Costs associated with maintaining computer software are recognised as an expense when incurred.

Staff training costs are recognised as an expense when incurred.

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

Amortisation

The carrying value of an intangible asset with a finite life is amortised on a straight-line basis over its useful life. Amortisation begins when the asset is available for use and ceases at the date that the asset is derecognised. The amortisation charge for each period is recognised in the statement of financial performance.

The useful lives and associated amortisation rates of major classes of intangible assets have been estimated as follows:

Acquired computer software	3 years	(33.3%)
----------------------------	---------	---------

Impairment of non-financial assets

Property, plant and equipment and intangible assets that have a finite useful life are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable.

Creditors and other payables

Creditors and other payables are initially measured at fair value and subsequently measured at amortised cost using the effective interest method.

Employee entitlements

Short-term employee entitlements

Employee entitlements Crown Law expects to be settled within 12 months of balance date are measured at nominal values based on accrued entitlements at current rates of remuneration.

These include salaries and wages accrued up to balance date, annual leave earned but not yet taken at balance date, retiring and long service leave entitlements expected to be settled within 12 months.

Note that retirement and long service leave from an old expired contract are maintained for 15 staff.

Long-term employee entitlements

Entitlements that are payable beyond 12 months, such as long service leave and retirement leave, have been calculated on an actuarial basis. The calculations are based on:

- likely future entitlements based on years of service, years to entitlement and the likelihood that staff will reach the point of entitlement and contractual entitlements information; and
- the present value of the estimated future cash flows. See note 11 for details of discount rate and salary inflation factor.

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

Superannuation schemes

Defined contribution schemes

Obligations for contributions to the State Sector Retirement Savings Scheme, KiwiSaver and the Government Superannuation Fund are accounted for as defined contribution schemes and are recognised as an expense in the statement of financial performance as incurred.

Crown Law recovers the contribution costs for the State Sector Retirement Savings Scheme and KiwiSaver from the State Services Commission. This recovery is accrued and recognised as Departmental revenue in the statement of financial performance.

Provisions

Crown Law recognises a provision for future expenditure of uncertain amount or timing when there is a present obligation (either legal or constructive) as a result of a past event, it is probable that an outflow of future economic benefits will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation. Provisions are not recognised for future operating losses.

Provisions are measured at the present value of the expenditures expected to be required to settle the obligation using a pre-tax discount rate that reflects current market assessments of the time value of money and the risks specific to the obligation. The increase in the provision due to the passage of time is recognised as a finance cost.

Taxpayers' funds

Taxpayers' funds is the Crown's investment in Crown Law and is measured as the difference between total assets and total liabilities. Taxpayers' funds is disaggregated and classified as general funds and property, plant and equipment revaluation reserves.

Commitments

Expenses yet to be incurred on non-cancellable contracts that have been entered into on or before balance date are disclosed as commitments to the extent that there are equally unperformed obligations.

Goods and Services Tax (GST)

All items in the financial statements, including appropriation statements, are stated exclusive of GST, except for receivables and payables, which are stated on a GST inclusive basis. Where GST is not recoverable as input tax, then it is recognised as part of the related asset or expense.

The net amount of GST recoverable from, or payable to, the Inland Revenue Department (IRD) is included as part of receivables or payables in the statement of financial position.

The net GST paid to, or received from, the IRD, including the GST relating to investing and financing activities, is classified as an operating cash flow in the statement of cash flows.

Commitments and contingencies are disclosed exclusive of GST.

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

The GST (net) component has been presented on a net basis, as the gross amounts do not provide meaningful information for financial statement purposes.

Income taxation

Government departments are exempt from income tax as public authorities. Accordingly, no charge for income tax has been provided for.

Budget figures

The budget figures are those included in Crown Law's Information Supporting the Estimates for the year ending 30 June 2009, which are consistent with the financial information in the Main Estimates. In addition, the financial statements also present the updated budget information from the Supplementary Estimates.

Statement of cost accounting policies

Crown Law has determined the cost of outputs using the cost allocation system outlined below.

Direct costs are those costs directly attributed to an output. Indirect costs are those costs that cannot be identified in an economically feasible manner, with a specific output.

Direct costs are charged directly to outputs. Indirect costs are charged to outputs based on cost drivers and related activity/usage information. Depreciation and capital charge are charged on the basis of asset utilisation. Personnel costs are charged on the basis of actual time incurred. Other indirect costs are assigned to outputs based on the proportion of direct staff costs for each output.

There have been no changes in cost accounting policies since the date of the last audited financial statements.

Critical accounting estimates and assumptions

In preparing these financial statements Crown Law has made estimates and assumptions concerning the future. These estimates and assumptions may differ from the subsequent actual results. Estimates and judgements are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances. The estimates and assumptions that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year are discussed below:

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

NOTE 2: OTHER REVENUE

2008 Actual \$000		2009 Actual \$000
	Legal fees and disbursements received from:	
20,469	- Government departments / other government agencies	21,368
55	- Other clients	54
20,524	Total other revenue	21,422

Fees recovered from Government Departments includes the recovery of subsidised superannuation costs from the State Services Commission. See note 2.

NOTE 3: PERSONNEL COSTS

2008 Actual \$000		2009 Actual \$000
16,285	Salaries and wages	18,033
	Employer contributions to subsidised	
506	Superannuation scheme	555
48	Movement in retirement and long service leave	35
16,839	Total personnel costs	18,623

Employer contributions to the subsidised superannuation schemes: State Sector Retirement Savings Scheme and Kiwisaver are recovered from the State Services Commission.

NOTE 4: OPERATING COSTS

2008 Actual \$000		2009 Actual \$000
43	Audit fees for audit of the financial statements	45
8	Audit fees for NZ IFRS audit	-
-	Bad debts written off	-
-	Increase (decrease) provision for doubtful debts	(1)
(16)	Increase (decrease) impairment for doubtful work in progress	(42)
310	Consultancy costs	426
33,321	Crown Solicitors' fees	35,510
1,784	Operating lease costs	1,789
5,331	Other operating costs	5,795
40,781	Total operating costs	43,522

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

NOTE 5: DEPRECIATION / AMORTISATION

2008 Actual \$000		2009 Actual \$000
	PPE:	
55	- Office equipment	43
132	- Computer equipment	240
302	- Leasehold improvements	331
207	- Furniture and fittings	211
76	- Library	83
	Intangibles:	
72	- Computer software	101
844		1,009

NOTE 6: CAPITAL CHARGE

Crown Law pays a capital charge to the Crown on its taxpayers' funds as at 30 June and 31 December each year. The capital charge rate for the year ended 30 June 2009 was 7.5% (2008: 7.5%).

NOTE 7: DEBTORS AND RECEIVABLES

2008 Actual \$000		2009 Actual \$000
2,016	Trade debtors	2,227
-	Less provision for doubtful debts	(1)
2,350	Work in progress	1,964
(16)	Less impairment for doubtful work in progress	(42)
	Sundry debtors	138
4,350	Total debtors and receivables	4,286

The carrying value of debtors and other receivables approximate their fair value.

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

As at 30 June 2009 and 2008, all overdue trade debtors have been assessed for impairment and the appropriate provision applied, as detailed below:

\$000	2008			2009		
	Gross \$000	Impairment \$000	Net \$000	Gross \$000	Impairment \$000	Net \$000
Not past due	1,625	-	1,625	1,859	-	1,859
Past due 1 - 30 days	182	-	182	150	-	150
Past due 31 - 60 days	132	(16)	116	71	-	71
Past due 61 - 90 days	11	-	11	63	-	63
Past due > 90 days	66	-	66	84	(1)	83
Total	2,016	(16)	1,999	2,227	(1)	2,226

The provision for impairment has been calculated based on expected losses following an analysis of the past due accounts.

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

NOTE 8: PROPERTY, PLANT AND EQUIPMENT

	Leasehold Improve- ments \$000	Office Equipment \$000	Library \$000	Furniture & Fittings \$000	Computer Equipment \$000	Total \$000
Cost						
Balance at 1 July 2007	2,704	569	815	1,077	1,016	6,181
Additions	-	4	-	19	316	339
Disposals	-	-	-	-	-	-
Balance at 30 June 2008	2,704	573	815	1,096	1,332	6,520
Balance at 1 July 2008	2,704	573	815	1,096	1,332	6,520
Additions	211	27	-	65	232	535
Disposals	-	-	-	-	(144)	(144)
Balance at 30 June 2009	2,915	600	815	1,161	1,420	6,911
Accumulated depreciation and impairment losses						
Balance at 1 July 2007	849	402	443	645	755	3,094
Additions	302	55	76	207	132	772
Disposals	-	-	-	-	-	-
Balance at 30 June 2008	1,151	457	519	852	887	3,866
Balance at 1 July 2008	1,151	457	519	852	887	3,866
Additions	331	43	83	211	240	908
Disposals	-	-	-	-	(144)	(144)
Balance at 30 June 2009	1,482	500	602	1,063	983	4,630
Carry amount						
At 1 July 2007	1,855	167	372	432	261	3,087
At 30 June and 1 July 2008	1,553	116	296	244	445	2,654
At 30 June 2009	1,433	100	213	98	437	2,281

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

NOTE 9: INTANGIBLE ASSETS

	Acquired Software \$000
Cost	
Balance at 1 July 2007	744
Additions	2
Disposals	-
Balance at 30 June 2008	746
Balance at 1 July 2008	746
Additions	971
Disposals	-
Balance at 30 June 2009	1,717
Accumulated depreciation and impairment losses	
Balance at 1 July 2007	625
Additions	72
Disposals	-
Balance at 30 June 2008	697
Balance at 1 July 2008	697
Additions	101
Disposals	-
Balance at 30 June 2009	798
Carry amount	
At 1 July 2007	119
At 30 June and 1 July 2008	49
At 30 June 2009	919

There are no restrictions over the title of Crown Law's intangible assets, nor are any intangible assets pledged as security for liabilities.

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

NOTE 10: CREDITORS AND PAYABLES

2008		2009
Actual		Actual
\$000		\$000
4,558	Trade creditors	4,896
3,090	Accrued work in progress – Crown Solicitors' fees	2,925
276	Other accrued expenses	806
404	GST payable	203
<u>8,328</u>	Total creditors and payables	<u>8,830</u>

Trade creditors and other payables are non-interest bearing and are normally settled on 30-day terms, therefore, the carrying value of creditors and other payables approximates their fair value.

Trade creditors and other payables are non-interest bearing and are normally settled on a 30 day basis. Therefore, the carrying value of trade creditors and other payables approximate their fair value.

NOTE 11: EMPLOYEE ENTITLEMENTS

2008		2009
Actual		Actual
\$000		\$000
	Current liabilities	
-	Personnel accruals	
1,036	Annual leave	1,177
54	Retirement and long service leave	167
<u>1,090</u>	Total current portion	<u>1,344</u>
	Non-current liabilities	
262	Retirement and long service leave	184
<u>262</u>	Total non-current portion	<u>184</u>
<u>1,352</u>	Total employee entitlements	<u>1,528</u>

Annual leave and vested long service leave is calculated using the number of days owing as at the 30th June 2009.

Retirement leave that is due or expected to be paid within the next 12 months is based on the days owing as at 30th June 2009.

The present value of the unvested long service leave and retirement obligation depends on a number of factors that are determined on an actuarial basis using a number of assumptions. Two key assumptions used in calculating this liability are the discount rate and salary inflation factor.

A discount rate in year 1 of 3.01%, year 2 of 3.82%, and year 3 and beyond of 5.96%, and a salary inflation factor of 3.5% were used. The inflation factor is based on the expected long-term increase in remuneration for employees. Any changes in these assumptions will impact on the carrying amount.

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

NOTE 12: REPAYMENT OF SURPLUS

2008 Actual \$000		2009 Actual \$000
2,775	Provision for repayment of surplus to the Crown	946
2,775	Total other short-term liabilities	946

The repayment of surplus is required to be paid by 31 October of each year. Crown Law is seeking approval to retain the surplus in output expense legal advice and representation.

NOTE 13: TAXPAYERS' FUNDS

2008 Actual \$000		2009 Actual \$000
	General fund	
1,424	Balance at 1 July	2,063
2,775	Net surplus/(deficit)	946
639	Capital contribution from Crown Law	-
-	Retain part of 2007/08 surplus	870
(2,775)	Provision from repayment of surplus to the Crown	(946)
2,063	General funds at 30 June	2,933

NOTE 14: FINANCIAL INSTRUMENTS

Crown Law's activities expose it to a variety of financial instrument risk, including market risk, credit risk and liquidity risk. Crown Law has a series of policies to manage the risks associated with financial instruments and seeks to minimise exposure from financial instruments. These policies do not allow any transactions that are speculative in nature to be entered into.

Market risk

Currency risk

Currency risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in foreign exchange rates.

Crown Law occasionally purchases goods and services from overseas, such as Australia, but contracts are always signed in New Zealand currency. Therefore, Crown Law has no exposure to currency risk.

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

Interest rate risk

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate due to changes in market interest rates exchange rates.

Crown Law has no interest bearing financial instruments and, accordingly, has no exposure to interest rate risk.

Credit risk

Credit risk is the risk that a third party will default on its obligation to Crown Law, causing Crown Law to incur a loss.

In the normal course of its business, credit risk arises from debtors, deposits with banks and derivative financial instrument assets.

Crown Law is only permitted to deposit funds with Westpac, a registered bank with a high credit rating. Crown Law does not enter into foreign exchange forward contracts.

Crown Law's maximum credit exposure for each class of financial instrument is represented by the total carrying amount of cash and cash equivalents, net debtors (note 7). There is no collateral held as security against these financial instruments, including those instruments that are overdue or impaired.

Liquidity risk

Liquidity risk is the risk that Crown Law will encounter difficulty raising liquid funds to meet commitments as they fall due.

In meeting its liquidity requirements, Crown Law closely monitors its forecast cash requirements with expected cash withdraws from the New Zealand Debt Management Office. Crown Law maintains a target level of available cash to meet liquidity requirements.

The table below analyses Crown Law's financial liabilities that will be settled based on the remaining period at the balance sheet date to the contractual maturity date. The amounts disclosed are the contractual undiscounted cash flows.

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

2008	Less than 6 Months \$000	Between 6 Months and 1 Year \$000	Between 1 and 5 Years \$000	Over 5 Years \$000
Creditors and other payables (note 10)	8,328	Nil	Nil	Nil
Derivative financial instrument				
Liabilities	Nil	Nil	Nil	Nil
Finance leases	Nil	Nil	Nil	Nil
2009				
Creditors and other payables (note 10)	8,830	Nil	Nil	Nil
Derivative financial instrument	Nil	Nil	Nil	Nil
Liabilities				
Finance leases	Nil	Nil	Nil	Nil

NOTE 15: RELATED PARTY INFORMATION

Related party transactions

Crown Law is a wholly owned entity of the Crown. The Government significantly influences the roles of Crown Law as well as being its major source of revenue.

Cabinet Directions for the Conduct of Crown Legal Business 1993 (Cabinet Manual Appendix C) sets out the requirements for chief executives of departments to refer specified legal work to Crown Law.

Crown Law enters into transactions with the Crown, other departments and ministries, Crown entities and state-owned enterprises on an arm's length basis. Those transactions that occur are within the normal legal provider client relationship on terms and conditions no more or less favourable than those reasonably expected that Crown Law would have adopted if dealing with other clients.

The following transactions were carried out with related parties:

During the year Crown Law purchased legal services from 15 Crown Solicitors across the country, mainly in relation to the conduct of criminal prosecutions and criminal appeals. Crown Law has no financial relationship with the Crown Solicitors, but is involved in their appointment and the periodic review of their practices. The value of the services provided cost \$35.510 million (2008: \$33.321 million). There is a balance of \$3.282 million (2008: \$3.090 million) outstanding at year-end.

No provision has been required, nor any expense recognised, for impairment of receivables from related parties.

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

Key management personnel compensation

2008		2009
Actual		Actual
\$000		\$000
1,469	Salaries and other short-term employee benefits	1,692
26	Post-employment benefits	53
–	Other long-term benefits	–
–	Termination benefits	–
1,495	Total creditors and other payables	1,745

Key management personnel include the Solicitor-General and the four members of the senior management team.

The Remuneration Authority determines the Solicitor-General's remuneration annually.

Post-employment benefits being employer subsidised superannuation in either State Sector Retirement Savings Scheme or Kiwisaver are reimbursed for all employees by the State Services Commission. The recovery is classified as other revenue. See note 2.

NOTE 16: CATEGORIES OF FINANCIAL INSTRUMENTS

2008		2009
Actual		Actual
\$000		\$000
7,260	Cash and cash equivalents	6,476
4,350	Debtors and other receivables	4,286
11,610	Total loans and receivables	10,762
	<i>Fair value through profit and loss – held for trading</i>	
-	Derivative financial instrument assets	–
-	Derivative financial instrument liabilities	–
	<i>Financial liabilities measured at amortised cost</i>	
8,328	Creditors and other payables	8,830
8,328	Total creditors and other payables	8,830

NOTE 17: CAPITAL MANAGEMENT

Crown Law's capital is its equity (or taxpayers' funds), which comprise general funds and revaluation reserves. Equity is represented by net assets.

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

Crown Law manages its revenue, expenses, assets, liabilities and general financial dealings prudently. Crown Law's equity is largely managed as a by-product of managing income, expenses, assets, liabilities and compliance with the Government Budget processes and with Treasury Instructions.

The objective of managing Crown Law's equity is to ensure Crown Law effectively achieves its goals and objectives for which it has been established, whilst remaining a going concern.

NOTE 18: RECONCILIATION OF NET SURPLUS/DEFICIT TO NET CASH FLOW FROM OPERATING ACTIVITIES FOR THE YEAR ENDED 30 JUNE 2009

2008 Actual \$000		2009 Actual \$000
2,775	Net operating surplus/(deficit)	946
844	Depreciation and amortisation expense	1,009
844	Total non-cash items	1,009
	Working capital movements	
(471)	(Increase)/decrease in debtors and receivables	64
16	(Increase)/decrease in prepayments	(70)
322	Increase/(decrease) in creditors and payables	493
80	Increase/(decrease) in employee entitlements	265
(53)	Working capital movements – net	752
	Movements in non-current liabilities	
-	Provision for premises make good	-
11	Increase/(decrease) in employee entitlements	(78)
11	Movements in non-current liabilities	(78)
-	Add/(less) investing activity items	-
-	Net (gain)/loss on sale of fixed assets	-
-	Total investing activity items	-
3,577	Net cash flow from operating activities	2,629

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

NOTE 19: MEMORANDUM ACCOUNT – SENIOR COUNSEL APPLICATIONS

2008 Actual \$000		2009 Actual \$000
-	Opening balance at 1 July	-
-	Revenue	42
-	Less expenses	(25)
-	Closing balance at 30 June	17

This account summarises financial information relating to the accumulated surpluses and deficits incurred in processing Senior Counsel applications on a full cost recovery basis. These transactions are included as part of Crown Law's operating income and expenses in the statement of financial performance.

This account enables Crown Law to recover the cost of administering and evaluating the applications for Senior Counsel.

NOTE 20: MEMORANDUM ACCOUNT – LEGAL ADVICE AND REPRESENTATION

2008 Actual \$000		2009 Actual \$000
-	Opening balance at 1 July	870
20,469	Revenue	21,368
(19,599)	Less expenses	(20,409)
870	Closing balance at 30 June	1,829

This account summarises financial information relating to the accumulated surpluses and deficits incurred in the provision of legal advice and representation services to central government departments and Crown agencies on a full cost recovery basis. These transactions are included as part of Crown Law's operating income and expenses in the statement of financial performance.

The opening balance of \$870,000 is the retention of 2007/08 surplus arising from increased demand for legal advice and representation services. It was approved by the Attorney-General and Minister of Finance on 22 September 2008. The surplus for 2008/09 of \$959,000, which is contained in the closing balance, is subject to approval by Joint Ministers.

The account enables Crown Law to take a long-run perspective to fee setting and cost recovery.

NOTE 21: EVENTS AFTER BALANCE DATE

There have been no events after balance date.

DIRECTORY

STREET ADDRESS

Level 10
Unisys House
56 The Terrace
Wellington

POSTAL ADDRESS

DX SP20208 or
PO Box 2858
Wellington 6140

OTHER CONTACT DETAILS

Main telephone number: 64-4-472-1719
Main fax number: 64-4-473-3482

Email address for enquiries:

library@crownlaw.govt.nz (for general information about Crown Law)
hr@crownlaw.govt.nz (for information about employment opportunities)

Website: <http://www.crownlaw.govt.nz>

AUDITOR

Audit New Zealand (on behalf of the Controller and Auditor-General)
Wellington

BANKERS

Westpac Banking Corporation
Government Branch
Wellington

ANNUAL REPORT

ANNUAL REPORT

FURTHER INFORMATION about CROWN LAW can be found by visiting our website at www.crownlaw.govt.nz or by CONTACTING our Human Resources Team by e-mail at hr@crownlaw.govt.nz

This document is available on the Crown Law website at the following address
http://www.crownlaw.govt.nz/artman/docs/cat_index_3.asp

