

ANNUAL REPORT

CROWN LAW
For the Year Ended 30 June 2011

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

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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 2011.

This past financial year has been challenging for Crown Law. We have continued to respond on behalf of the Crown to a demanding and diverse range of litigation and advice work. I am proud of our ability to deliver high-quality service to our clients at a level of professionalism comparable to the best private law firms.

In addition we have had a significant role to play in the Canterbury earthquake and Pike River disasters.

This year we have made a concerted effort to make a greater contribution within the Justice sector as it tackles the issues of sustainability and simplification in an increasingly constrained fiscal environment.

We have progressed the work of the Government Legal Services project, and expect to see substantial results in the next fiscal year, now that we have a dedicated manager leading the programme.

A number of reviews are underway which will affect our longer-term strategies. The Prosecution review commenced towards the end of the fiscal year. The results of this review will be very important in assisting Crown Law to manage the prosecution of crime within our appropriation.

A Performance Improvement Framework (PIF) review of Crown Law has been conducted. The draft report received from the PIF review team has confirmed that we are well placed to deliver our core business to a high standard and has clarified our thinking around a number of areas where we will focus our attention in this coming year.

I am grateful to the management group and all staff for their professionalism, commitment and continued efforts throughout the year.



Dr David Collins QC
Solicitor-General & Chief Executive

30 September 2011

THE WORK OF CROWN LAW

During the year Crown Law provided legal advice to, and legal representation for, the Crown. Support was provided to the Law Officers, the Attorney-General and the Solicitor-General, as they undertook their constitutional duties. The provision of these services has enabled Crown Law to contribute to the effective and lawful functioning of the New Zealand Government and making neighbourhoods safer for New Zealand families.

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 take a whole-of-government approach with emphasis upon consideration of the public interest. This duty is unique to Crown Law and forms the basis of our purpose to:

“Provide legal advice and representation so as to ensure the Government does and can act lawfully in achieving its objectives”¹

The provision of independent services with a whole-of-government approach and consideration of the public interest is fundamental to the management of the Crown’s risks for the operation of Government departments and legal policy development.

Two main functions undertaken by Crown Law:

Legal advice and representation

Crown Law provided legal advice and representation to the Crown, government departments and government agencies in accordance with the Cabinet Directions² for the Conduct of Crown Legal Business 1993. The Cabinet Directions provide for two categories of legal work:

- › Category 1: Must be referred to the Solicitor-General.
- › Category 2: Departments and government agencies may choose other legal advisors to assist them to resolve Category 2 matters.

¹ The purpose and vision are currently being refreshed. This was Crown Law’s purpose as at 30 June 2011.

² As stated in “Cabinet Directions for the Conduct of Crown Legal Business 1993”, Appendix C, Cabinet Office Manual, 2008.

Public sector clients are charged for legal services provided in either Category 1 or 2 work according to the guidelines set out in the Cabinet Directions.

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

Crown Law has no specific responsibility for policy formation or for the development of legislation. However, when requested, Crown Law provides legal input and advice on policy issues. For example, for the Criminal Procedure (Simplification) project, Crown Law, as a key stakeholder, participated in the steering group to ensure that the implications for criminal prosecutions and appeals were considered and practical expertise about criminal procedure in operation was considered.

In providing legal services, Crown Law has sought to support the Government to fulfil its democratic duties under law and in the public interest.

The Performance Improvement Framework (PIF) Report notes Crown Law’s performance of this objective as a significant strength. The PIF Report states, “the whole-of-government approach it brings to its work, in particularly Category 1, is important in managing legal risk and providing value-for-money solutions to the Crown rather than ad hoc responses”.

The Chief Executive’s overview on page 13 provides specific examples of cases that demonstrate how Crown Law has achieved this objective.

Supporting the principal Law Officers

Crown Law has supported 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 services include the supervision of charitable trusts, interventions taken in the public interest, vexatious litigant

proceedings, consideration of Bills for Bill of Rights Act consistency (vetting), conduct of criminal appeals, extraditions, mutual assistance, legal advice on criminal matters and the supervision and conduct of Crown prosecutions involving Crown Solicitor services.

Crown Solicitors are appointed under warrant of the Governor-General and undertake the prosecution of indictable crime in their regions. Crown Law has administered the Crown Solicitors' network, provided guidance and shared prosecution practice and knowledge. We conducted all criminal appeals heard by the Court of Appeal and the Supreme Court, and provided oversight of the prosecution work undertaken by the Serious Fraud Office.

The Conduct of Criminal Appeals and Exercise of Principal Law Officer functions were given a "strong" effectiveness rating with both outputs receiving "well placed" for efficiency.

Crown Law's achievement in these services is further affirmed by the two points noted as successes in the PIF Report which stated:

- › "it has achieved a high level of performance, in terms of efficiency and effectiveness in the execution of the principal Law Officers' functions providing legal and administrative services for the Attorney-General and Solicitor-General"; and
- › "the conduct of appeals which arise from criminal trials and from Crown appeals is widely recognised as being consistently performed to a high standard and reasonably efficiently".

Appropriations³

Crown Law administers four appropriations:

- › Conducting appeals arising from criminal trials on indictment, and from Crown appeals (**\$3.329 million**).
- › Providing legal advice and representation services to central government departments and crown agencies (**\$22.900 million**).
- › The provision of a national Crown prosecution service that undertakes criminal trials on indictment and appeals to the High Court; the supervision of the network of Crown Solicitors

who deliver the prosecution service; and the provision of advice on criminal law matters to other government agencies and Crown Solicitors (**\$36.742 million**).

- › Providing legal advice, representation services and administrative services to the Attorney-General and Solicitor-General to assist them in the exercise of their Principal Law Officer functions and the provision of legal and constitutional advice to the Government, Ministers and the judiciary (**\$2.948 million**).

Statistics for decisions given for criminal appeals

Supreme Court (criminal appeals)	Numbers
Application for leave to appeal	64
Refused	50
Granted	14
Application for leave to appeal granted, substantive hearing held	16
Allowed	7
Dismissed	6

Court of Appeal (criminal appeals)	Numbers
Solicitor-General appeals filed	33
Pre-trial	12
Sentence	16
Case stated	5
Solicitor-General appeals heard	29
Allowed	16
Dismissed	13
Abandoned	6
Criminal appeals filed (includes Solicitor-General appeals)	584
Determined after hearing	447
Abandoned	73
Total of appeals disposed of	520

³ These figures for each appropriation were approved in the budget for 2010/11 financial year. See page 52 for changes during the year.

The diagram below shows the relationship between outputs, impacts, Crown Law’s objectives and the environment we operate in.

Crown Law’s performance

GOVERNMENT PRIORITIES

- › Better public services
- › Addressing the drivers of crime
- › Making neighbourhoods safer for New Zealand families

CROWN LAW OBJECTIVES

- › The Government is supported to fulfil its democratic duties under law and in the public interest
- › Leadership of high-quality, effective government legal services is provided
- › The principal Law Officers perform their constitutional duties to the highest standard

IMPACTS

- › The Crown’s responsibilities are lawfully carried out
- › The Crown’s interests are protected
- › The Crown’s risks for the operation of government departments and legal policy development are well managed

OUTPUTS

1. Conduct of Criminal Appeals	2. Legal Advice and Representation	3. Supervision and Conduct of Crown Prosecutions	4. The Exercise of Principal Law Officer Functions
<i>Services</i> <ul style="list-style-type: none"> › Crown appeals › Accused appeals › Other appeals 	<i>Services</i> <ul style="list-style-type: none"> › Instructions for legal advice › Instructions for litigation matters › Development of legal capability of government lawyers › Judicial reviews 	<i>Services</i> <ul style="list-style-type: none"> › Trials for indictable crime › Criminal matters conducted by CS › Review of CS’ practices › Mutual assistance › Applications from CS for special fees, approval of extra counsel and classification of counsel › Legal advice/applications received on criminal matters › Processing of Expert Witness applications › Ministerial and Parliamentary questions, OIA requests › Extraditions 	<i>Services</i> <ul style="list-style-type: none"> › Applications or requests for advice received on behalf of the AG › Stakeholder management – support and advice to AG, CEs and Chief Legal Advisors › Interventions by AG in the public interest › Charitable Trust investigations › Vetting of bills for BORA consistency › Vexatious litigant proceedings › Ministerial and Parliamentary questions, OIA requests

OVERALL JUSTICE SECTOR OUTCOME – A SAFE AND JUST SOCIETY

Justice Sector Agency Outcomes

<ul style="list-style-type: none"> › Impact of crime reduced › Internationally connected <p>Crown Law had no direct impact</p>	<ul style="list-style-type: none"> › Accessible justice services › Durable settlements of Treaty claims › Effective constitutional arrangements <p>Crown Law had a low-level direct impact</p>	<ul style="list-style-type: none"> › Offenders held to account – Outputs 1, 2 and 3 › Trusted justice system – Outputs 3 and 4 › Crime reduced – Outputs 1 and 3 <p>Crown Law had mid-level impact</p>
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Contribution to the justice sector

Crown Law has supported the overall justice sector outcome of a safe and just society by conducting criminal appeals, the supervision of criminal prosecutions and the exercise of the constitutional Law Officers' functions. Crown Law has had limited direct impact on the Justice Sector Agency Outcomes except for the following:

- › “Offenders held to account” which has a medium-term priority of “improving the functioning and efficiency of the criminal court processes”. Crown Law has contributed to this priority by the efficient resolution of criminal cases and ensuring appropriate sanctions are sought.
- › “Trusted justice system” which has a medium-term priority of “improved satisfaction with justice sector services”. This priority has been supported by:
 - › Crown Law lawyers acting as a model litigant when conducting criminal appeals;
 - › exercising the principal Law Officers' functions effectively and efficiently; and
 - › the provision of services that ensure those in positions of power act lawfully and in the public interest.
- › “Crime reduced” which has a medium-term priority of “improving public safety” is supported by the appropriate conduct of criminal appeals and Crown prosecutions.

Reviews of criminal justice system

The environment in which Crown Law operates has undergone significant change. The need to improve justice sector performance has resulted in a requirement of all justice agencies to work collectively to meet government expectations. A number of projects and reviews have been undertaken across the justice sector and within Crown Law. Some are still underway. These are:

- › a review of the administration and management of Crown Solicitors which was undertaken by an independent reviewer, John Isles, on behalf of Crown Law;
- › the Prosecution Review is still in progress. The review is being undertaken by an independent reviewer, John Spencer, on behalf of the Attorney-General in collaboration with other justice sector Ministers;
- › the Criminal Procedures Simplification Project which was established jointly by the Law Commission and Ministry of Justice in 2008 to review and implement improvements to criminal procedures in the summary and indictable jurisdiction;
- › the Criminal Procedure (Reform & Modernisation) Bill Implementation project initiated to implement changes identified in the Criminal Procedures Simplification project has begun with the planning phase requiring significant input from Deputy Solicitor-General Criminal and Crown Counsel Policy. The implementation stage of this project will require additional resource; and
- › long-term planning for the overall justice sector performance has been underway since November 2010 and incorporates a number of different work streams aimed at improving accountability and identifying savings across the justice sector in the medium to long term.

The above reviews and projects have placed significant pressure on Crown Law's capacity to support and respond to requests within required timeframes. This work is recognised as a priority and changes will be made in the 2011–12 financial year to provide greater resource in this area.

Relationship between services, Crown Law’s objectives and justice sector goals

Service (output)	Results of our services	Contributes to
Appropriation: Conduct of Criminal Appeals		
Conduct criminal appeals	<ul style="list-style-type: none"> › Efficient and effective appeals › Clarification of points of criminal law 	<ul style="list-style-type: none"> › Justice sector goals: Offenders are held to account, Public safety, Trusted justice system › Crown Law Objective 3: The principal Law Officers perform their constitutional duties to the highest standard
Appropriation: Supervision and Conduct of Crown Prosecutions		
Delivery of Crown prosecution service	<ul style="list-style-type: none"> › High-quality and effective Crown prosecutions 	<ul style="list-style-type: none"> › Justice sector goals: Offenders are held to account, Public safety, Trusted justice system › Crown Law Objective 3: The principal Law Officers perform their constitutional duties to the highest standard
Administration of Crown Solicitor Network and review of Crown Solicitor practices	<ul style="list-style-type: none"> › Crown Solicitors operate efficiently within regulations and provide high-quality services 	<ul style="list-style-type: none"> › Justice sector goal: Trusted justice system › Crown Law Objective 2: Leadership of high-quality, effective government legal services is provided › Crown Law Objective 3: The principal Law Officers perform their constitutional duties to the highest standard
Delivery of criminal law advice and services including extradition and mutual assistance	<ul style="list-style-type: none"> › Users receive high-quality criminal advice and services › The integrity of the rule of law is maintained › International justice services are supported to achieve their outcomes within established protocols 	<ul style="list-style-type: none"> › Justice sector goals: Offenders are held to account, Public safety, Trusted justice system › Crown Law Objective 2: Leadership of high-quality, effective government legal services is provided › Crown Law Objective 3: The principal Law Officers perform their constitutional duties to the highest standard
Appropriation: The Exercise of Principal Law Officer Functions		
Provision of legal and administrative services to Law Officers	<ul style="list-style-type: none"> › Law Officers provide consistently high-quality advice and representation › The Attorney-General is kept informed of legal development and issues regarding the Government’s legal business › The Attorney-General and Solicitor-General are supported in their duty to ensure the Government acts lawfully 	<ul style="list-style-type: none"> › Justice sector goals: Trusted justice system, Effective constitutional arrangements › All three Crown Law objectives
Interventions by the Attorney-General in the public interest	<ul style="list-style-type: none"> › Interventions clarify a point of law to ensure government interests are not in conflict with the public interest 	<ul style="list-style-type: none"> › Justice sector goal: Trusted justice system › All three Crown Law objectives
Charitable Trust investigations and variations	<ul style="list-style-type: none"> › Charitable Trusts work within the Charitable Trusts Act 1957 	<ul style="list-style-type: none"> › Justice sector goal: Effective constitutional arrangements › Crown Law Objective 1: The Government is supported to fulfil its democratic duties under law and in the public interest › Crown Law Objective 3: The principal Law Officers perform their constitutional duties to the highest standard

Service (output)	Results of our services	Contributes to
Appropriation: Legal Advice and Representation		
Provision of legal advice and representation	<ul style="list-style-type: none"> › Government agencies are efficiently and effectively advised and legally represented › Coherent, strategic and consistent legal services provided with a whole-of-government view and in the public interest › Crown agencies are supported to meet their legal responsibilities › The Crown’s legal risk is effectively managed 	<ul style="list-style-type: none"> › Justice sector goals: Offenders are held to account, Public safety › All three Crown Law objectives
Development of legal capability of government lawyers	<ul style="list-style-type: none"> › High-quality, effective legal services are provided to government agencies 	<ul style="list-style-type: none"> › Justice sector goals: Offenders are held to account, Public safety › Crown Law Objective 2: Leadership of high-quality, effective government legal services is provided
Conduct of judicial reviews	<ul style="list-style-type: none"> › Government agencies operate within the law › Public concerns regarding the equity and quality of government decision-making processes are dealt with to ensure the processes were fair and lawful 	<ul style="list-style-type: none"> › Justice sector goals: Trusted justice system, Public safety › All three Crown Law objectives

STRATEGIC DIRECTION – FIRST CHOICE PUBLIC SECTOR LAWYER

Overview

Crown Law’s strategic direction has been influenced by:

- › Government’s priorities to implement its chosen policies legally, with a whole-of-Government focus and in the public interest;
- › Crown Law’s operating environment;
- › justice sector outcomes; and
- › Crown Law’s objectives and purpose.

Vision

Crown Law’s vision is “being the first choice public sector lawyer”⁴. This vision has focused Crown Law on providing high-quality service that reinforces Crown Law’s role as a trusted legal advisor, a role that is critical for Crown Law to achieve its purpose and three objectives. The following four strategic priorities have been the focus over the last two years and this focus has supported progress towards this vision. The strategic priorities have also supported improvements in the achievement of our services and three objectives. Work on these priorities is critical for Crown Law’s sustained high performance.

Strategic priorities

Top four initiatives for 2009–11

Initiative 1 – “ensuring awareness of the role of Crown Law and the Law Officers” has supported:

- › the development of clients’ understanding and support for a whole-of-government view, acting in the public interest;
- › an improved understanding of the leadership role of lawyers in government for clients and stakeholders;
- › the Law Officers in the performance of their constitutional duties through the increased understanding of clients and stakeholders; and
- › an improved understanding of the rationale for interventions by the Law Officers and the value the interventions provide.

⁴ This was our vision as at 30 June 2011. Crown Law’s new vision is “to be the Government’s trusted provider of legal advice and representation”.

- › This initiative directly supported Objective 3, the principal Law Officers perform their constitutional duties to the highest standard, by increasing awareness and consequently support of the Law Officers’ duties.

Initiative 2 – “demonstrating to staff that they are truly valued; developing roles and structures that support the development of all staff that will attract the best lawyers from all sectors” has supported:

- › staff engagement and commitment both of which are critical to support the retention of a high level of expertise;
- › the ongoing development of professional expertise which is crucial to our role as the Crown’s trusted advisor;
- › Crown Law’s collegial working culture through strengthening corporate/legal relationships and improved communication across Crown Law; and
- › all three objectives through the recruitment and retention of a high level of professional expertise across Crown Law.

Initiative 3 – “measuring the effectiveness of client services, acting on feedback and continuously improving client relationship management (CRM)” ensures that Crown Law has satisfied clients. This initiative has supported:

- › improvements in our client relationships and CRM processes;
- › a better understanding of clients’ needs;
- › the ongoing delivery of high-quality and timely services; and
- › all three Crown Law objectives because strong client relationships form the foundation of all that we do.

Initiative 4 – “facilitating the establishment of a Government Legal Service (GLS)” directly supports Crown Law’s vision and the achievement of all three of Crown Law’s objectives through its primary focus on strengthening the quality of legal services provided to Government. Work towards setting up the GLS service is now well underway with the appointment of the GLS Programme Director.

Crown Law’s strategic direction

PURPOSE

Provide legal advice and representation so as to ensure the Government can and does act lawfully in achieving its objectives

VISION – Being the first choice public sector lawyer

KEY CHARACTERISTICS OF THE VISION

All staff know they are truly valued	We know the needs of and respond appropriately to our clients	We have simple and easily understood systems and structures	An enhanced understanding of the role of the Law Officers and the role of lawyers in government is development and maintained	Our staff have high levels of professional expertise and are people of the highest calibre; that expertise and calibre is development and maintained	Our alumni are positive and supportive of us and we demonstrate our commitment and loyalty to our alumni	We continue to enjoy the respect of the judiciary
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FOUR TOP INITIATIVES FOR 2009–11

Ensuring the awareness of the role of Crown Law and the Law Officers	Demonstrating to staff that they are truly valued; developing roles and structures that support the development of all staff that will attract the best lawyers from all sectors	Measuring the effectiveness of client services and then acting on feedback to improve CRM at Crown Law	Facilitating the establishment of a Government Legal Service
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OBJECTIVES

- › The Government is supported to fulfil its democratic duties under law and in the public interest
- › Leadership of high-quality, effective government legal services is provided
- › The principal Law Officers perform their constitutional duties to the highest standard

CHIEF EXECUTIVE'S OVERVIEW

Tangible evidence of Crown Law's commitment to the priorities and objectives I have described, and the pursuit of its strategic direction, can be seen in the advice given and representation provided to the Crown over the last 12 months.

Each of the three practice groups in the office has undertaken a wide variety of complex, high-profile, and often urgent legal work for government departments and agencies. The following are some examples that illustrate the work Crown Law does.

Public Law Group

Tax

Westpac & Ors v CIR – Supreme Court

New Zealand banks issue “bank cheques” (cheques drawn by banks on themselves), and “foreign currency drafts” (cheques drawn by banks on foreign banks), to their customers. Money is payable under these drafts and cheques, but in some cases the bank is never called upon to make payment. The Supreme Court held that, after the passage of six years, the money payable under such cheques and drafts is unclaimed money under the Unclaimed Money Act 1971. Accordingly, New Zealand banks will have to account for that money to the Commissioner of Inland Revenue (as custodian of the money pending any claim by the owner).

Contract Pacific v Commissioner of Inland Revenue – Supreme Court

Until the Goods and Services Tax Act 1985 was amended in 1999 to make the position clear, there was an issue as to whether GST was payable on supplies made to overseas wholesalers. Contract Pacific, an inbound tour operator, concluded that it had unnecessarily accounted for GST between July 1993 and April 1999, and filed a GST return seeking a refund of the GST it had paid during that period.

Under the Act a refund must be paid within 15 working days of receipt of the return unless within that time the Commissioner has either given notice of his intention to investigate the return or requested further information of the taxpayer.

In this case, the Commissioner gave notice of an intention to investigate the return and some months later requested further information from Contract Pacific about its claim. In February 2001, the Commissioner by mistake sent Contract Pacific a cheque for the refund which had been claimed (approximately \$7 million). This cheque was cancelled before it was presented.

Contract Pacific argued that the request for further information was invalid and also sought to sue on the mistaken refund cheque. The Court held that the Commissioner's request for information was valid and once that process had started, the refund could not be payable until the Commissioner had concluded that a refund was payable, which never happened.

Krukziener v CIR – High Court

In a number of proceedings Crown Law has advanced the argument that it is the underlying economics of any arrangement that will determine whether or not it is tax avoidance.

A common tax avoidance measure undertaken by the owners of trading trusts is to take loans from the trust rather than income. In this case, as is typical of such arrangements, the loans had no repayment terms.

The High Court upheld the argument that the loans were substitutes for income and therefore tax avoidance.

Financial markets/securities

R v Steigrad – Court of Appeal

A director of the failed finance company Bridgecorp was discharged from counts alleging offending against the Securities Act 1978 because the High Court ruled that he could not be liable for any untruths in a prospectus if they were true at the time the document was published and had only subsequently become untrue. The Crown appealed.

The Court of Appeal accepted the Crown's arguments, holding that a director can be liable for the distribution of untrue statements in offer documents, even though those statements might have been true at the time of initial distribution.

Financial Markets Authority (formerly the Securities Commission) v Hotchin & Ors – High Court

This was the first use made by New Zealand’s financial markets regulator (now FMA) of the asset preservation powers under the Securities Act 1978. The Authority is investigating potential breaches of the Securities Act by Mark Hotchin and other directors and promoters of the failed Hanover Group finance companies. In December 2010, the Authority obtained interim ex parte preservation and disclosure orders over all New Zealand assets of Mr Hotchin and several closely associated trusts. In May 2011, the High Court rejected Mr Hotchin’s application to vary or discharge the orders. The Court went on to set aside the preservation orders against the trusts, but imposed alternative interim orders over one significant trust asset (the Paritai Drive development). The proceeding was a test case of the regulator’s ability to achieve meaningful protection for investors who lost funds in the recent collapses within New Zealand’s “finance company” sector.

Commerce Act 1986

Commerce Commission v Telecom (0867 Case) – Supreme Court

The Commerce Commission alleged that Telecom had used its dominant position, when introducing the so-called 0867 package in 1999, a package that was designed to encourage residential customers and ISPs on Clear’s network to switch to Telecom.

There was no doubt that Telecom had a dominant position in the market. The case was about whether it had used that dominant position. The Privy Council had held that it was necessary to compare the company’s actions with those of a hypothetical company in the same position but without dominance. Following a request from the Ministry of Economic Development, the Attorney-General intervened to support the Commerce Commission’s submissions that a more flexible approach to the interpretation of “use” was consistent not only with Parliament’s original intention but also Closer Economic Relations. The Supreme Court dismissed the appeal but addressed in detail the proper approach to the issue of use of a dominant position.

Historic claims against the Crown

The management of historic claims in the Wellington High Court brought against the Crown

for alleged abuse and mistreatment in former Social Welfare homes and psychiatric hospitals continues to be a significant area of work for Crown Law. The claims are old, with the majority of them being from the 1960s and 1970s. There are approximately 290 Social Welfare claims and approximately 220 claims from former psychiatric hospital patients.

The numbers of new claims have reduced considerably. Claimants face legal and funding difficulties in the wake of the Crown’s success defending these matters in the High Court (in particular, the flagship *White* decision (2007)), and challenging claimants’ applications for leave under the Limitation Act 1987. Significant progress has been made with informal resolution of claimant grievances outside of the Court process.

These cases are significant because of the large contingent liability they represent for the Crown.

Judicial Reviews of public law decisions

The Office defends Ministers and other administrative law decision-makers when challenged by way of review in the High Court. In all of these cases, the Government is supported to fulfil its democratic duties under law and the public interest. Cases in the period of this report include:

Miller and Carroll v NZ Parole Board Attorney-General and Ors – Court of Appeal

The Court of Appeal upheld the High Court’s judgment in the Crown’s favour against the appellants’ challenge that the New Zealand Parole Board was not the independent tribunal it is required to be by law and that the Department of Corrections had failed properly to administer the appellants’ sentences in prison. This case was significant for its confirmation that the New Zealand Parole Board and the Department of Corrections are administering preventive detention sentences lawfully and consistent with human rights obligations.

Wilson v Attorney-General and the Judicial Conduct Commissioner – High Court

Former Justice Wilson challenged the Judicial Conduct Commissioner’s recommendation that the complaints against him be considered by an inquiry under the Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004. This was the first case under the 2004 legislation. The Court set the Commissioner’s decision aside for want of adequate explanation of the complaints that were to be

forwarded to an Inquiry and directed him on a fresh decision. That reconsideration was never completed as Justice Wilson resigned from office.

Leaky buildings

Defective Schools – High Court

More than 20 High Court proceedings have been filed on behalf of the Crown in respect of defective building work in schools. Many of the proceedings have been filed to protect against the expiry of the relevant limitation periods, and then stayed by agreement to allow the parties to explore settlement.

In *Minister of Education v Glen Innes* the High Court struck out the Crown's claim in negligence against Ahead Buildings, finding there was no relevant duty of care owed to the Crown. The Crown's appeal was heard in the Court of Appeal on 11 May 2011 and the decision is reserved.

Leaky homes

The Chief Executive of the Department of Building and Housing has been named as a respondent in a number of judicial review proceedings challenging "eligibility" decisions made under the Weathertight Homes Resolution Services Act 2002. The Chief Executive, in most cases, has taken an active part in the proceedings but sometimes it is not appropriately a party. For example: on 5 May 2011 the High Court issued its decision in *Auckland Council v Attorney-General (sued as the Department of Building and Housing)* granting the Attorney-General's application to be struck out as a party to the proceedings. The Council is challenging a procedural decision of an adjudicator who was appointed as an independent statutory officer under the Weathertight Homes Resolution Services Act 2002. The High Court agreed that the appropriate respondent was the adjudicator himself. Section 9(4A) Judicature Amendment Act 1972 did not apply as it would if the challenged decision had been made by the Weathertight Homes Tribunal under the Weathertight Homes Resolution Services Act 2006.

Attorney-General v North Shore City Council (The Grange) – Court of Appeal

An apartment block (The Grange) suffered from leaky building syndrome. The body corporate and unit holders sued the Council for failing to take reasonable steps to ensure that the development complied with the Building Code. The Council sought to join the Attorney-General as a third party

alleging that the Crown, as statutory successor to the liabilities of the Building Industry Authority (BIA) was negligent in failing to warn the Council of leaky building syndrome – particularly following a BIA report in 1995.

The Court of Appeal held that the BIA did not owe the Council any duty of care as part of its statutory monitoring function. It found that the alleged scope of liability was too broad and too far removed from the alleged negligent monitoring function to contend that the BIA had assumed responsibility for potential losses and that analogous cases weighed against a duty of care. It also found that policy considerations did not support a duty of care and would have been inconsistent with the statutory scheme of the Building Act 1991.

The Council's appeal from the Court of Appeal decision is being heard by the Supreme Court in November.

International Adoption – High Court

In November 2010, the High Court made a declaration under s 17 of the Adoption Act 1955 that a Pakistani guardianship order has the same effect as an adoption order validly made under the Adoption Act 1955. The Attorney-General was represented and made submissions in an amicus-type capacity with a view to assisting the Court on the application of s 17.

In making its declaration, the High Court was satisfied that the customary adoption had been validated by Court order and that, in combination with the issue of the birth certificate, the applicants had achieved an outcome as close to a New Zealand adoption order as it is possible to achieve in Pakistan. The applicants had obtained a right superior to that of the birth parents in respect of the day-to-day care for the child, the guardianship order was intended to be permanent and exclusive, and nothing more could be done in Pakistan to further formalise the adoption. The Court's recognition of Pakistani customary adoption was particularly significant.

Inquests

The Office has appeared on a number of inquests. For example:

Inquest into the deaths of Chris and Cru Kahui – Coroners Court

Crown Law appeared for the Ministry of Social Development at the inquest into the deaths of the Kahui twins. The Ministry had no involvement with the twins up until their admission to hospital with their fatal injuries but gave evidence about practice and policy issues that the Coroner may wish to consider in determining what, if any, recommendations or public comments he wishes to make with a view to reducing the chances of other deaths in similar circumstances.

Christchurch earthquakes

Crown Law provided advice to Ministers and a large range of agencies following the September 2010 and February 2011 Christchurch earthquakes. Agencies advised included core Ministries and Departments through to Crown entities. Advice likewise covered a wide range of matters including advice to agencies acting under emergency powers, powers to legislate by regulation and assisting in the development of the Canterbury Earthquake Recovery Act 2011.

The depth and range of advice given, and the co-ordination role played, by Crown Law assisted the Crown to respond as quickly as possible to the challenges caused by the earthquakes.

Crown Law ensured that existing legislation was properly, speedily and practically implemented in matters which, without exception, affected the public interest. Not just residents of Christchurch were affected, but also many foreign nationals, whose interests and those of their families had to be looked after. In its coordination role, particularly through the Solicitor-General and Deputy Solicitors-General, Crown Law advised Ministers and participated in The Officials Committee for Domestic and External Security Coordination discussions. Principal Law Officers also ensured that statutory responses to the February 2011 earthquake met the key objectives of the rule of law.

Advice also was given on the design and drafting of the Canterbury Earthquake Recovery Act 2011.

A large number of government agencies were involved, and Crown Law was able to help bring a

whole-of-government perspective to the many policy and legal issues that needed to be considered. The legislation is constitutionally significant, and Crown Law was able to assist the Attorney-General in ensuring that the Government was able to meet its objectives while including appropriate checks and balances to help keep the legislation fair and consistent with the rule of law.

Privacy and Official Information Act

Crown Law provides advice and representation to government departments on a range of matters arising from the Privacy Act 1993 and the Official Information Act 1982. This includes advice to Government following requests from individuals under either or both of these Acts. Crown Law also acts for Government in the Human Rights Review Tribunal (HRRT) and High Court should a Privacy Act complaint escalate to that level. Matters before the HRRT are usually brought by litigants in person but are occasionally pursued by the Director of Human Rights Proceedings. Claims generally relate to an alleged failure to provide an individual with his or her personal information in a timely manner, a refusal to correct personal information, or the release of personal information to a third party.

Employment advice and representation

In addition to providing advice on general employment obligations, including under the Employment Relations Act 2000, Crown Law advises on the particular obligations of State sector employers under the State Sector Act 1988 as well as giving advice to agencies that operate under their own legislation (e.g., the Policing Act 2008, the Defence Act 1990). We advise on and assist with the full range of employment issues and represent clients at all levels of litigation, from the Employment Relations Authority to the Supreme Court. Crown Law provides seminars to clients on topical issues, including seminars held in March on the amendments to the Employment Relations and Holidays Acts.

Idea Services Limited v Dickson – Court of Appeal

This case (known as the “sleepovers” case) involved two issues: first whether caregivers in IHC homes who are required to sleep over in those homes are “working” during the time that they are permitted to sleep, and second, if they are “working”, whether compliance with the Minimum Wage Act 1983 be assessed using an averaging approach. Mr Dickson succeeded on both issues in the Employment Court,

with the Court finding that he was “working” during his sleepovers, and that he was entitled to be paid the minimum hourly rate for each and every hour he worked (no “averaging”). Idea Services Limited appealed to the Court of Appeal and the Solicitor-General appeared for the Attorney-General as intervener in relation to the second issue only. The case has significant fiscal implications for service providers, and also could have wider effects on the labour market. It was for these reasons that the Attorney-General applied to intervene.

Idea Services Limited’s appeal was unsuccessful on both issues and it has appealed to the Supreme Court. Again the Attorney-General is to appear as intervener in relation to the second issue.

Criminal and Human Rights Group

Criminal

Mahomed v R – Supreme Court

In this unsuccessful appeal, the appellants had been convicted of murdering their 11-week-old daughter Tahani. Evidence was led at trial that eight days before Tahani was fatally assaulted, Mr and Mrs Mahomed left her in a van at a shopping centre.

The Supreme Court by majority held that this was inadmissible propensity evidence within the meaning of s 40(1) of the Evidence Act 2006 but, due to the nature of the injuries and other evidence, guilty verdicts were inevitable. The appeal was dismissed.

Hudson v R – Supreme Court

The Supreme Court dismissed a conviction appeal based on the admissibility of, and the Judge’s directions in respect of, two categories of evidence in the appellant’s trial for the murder of Nicholas Pike:

- › admissions allegedly made by the appellant to other prison inmates; and
- › propensity evidence associated with prior violent behaviour by the appellant.

The Court held that while evidence of admissions made by a defendant in prison to prison inmates requires careful scrutiny, it should not be treated as presumptively inadmissible. There may be scope for excluding prison admission evidence under ss 7 and 8 of the Evidence Act 2006, but the legislative scheme as a whole suggests that reliability decisions

ought to be made by a properly cautioned jury. The Court rejected the suggestion there should be a standard form direction on prison admission evidence and approved the Judge’s directions in this case, albeit suggesting they could have been improved by an explicit warning that the jury would need to consider whether the prisoners (or ex-prisoners) concerned might have obtained those details otherwise than via the admissions they attributed to the appellant.

In relation to the propensity evidence, the Court was satisfied that the evidence was highly relevant and that its probative value outweighed the risk of an unfairly prejudicial effect, and that the Judge’s directions were adequate.

Hessell v R – Supreme Court

In this case the Supreme Court modified the Court of Appeal’s prescriptive guidelines for the sentencing discounts that should be given for guilty pleas established in *Hessell v R* (discussed in last year’s Annual Report). The judgment represents a return to a more evaluative assessment of the value of a guilty plea is of great significance to all sentencing decisions.

While the point at which the guilty plea was entered remains important, the sentencing Judge must evaluate all the circumstances in which the plea was entered. The Supreme Court concluded that the reduction for a guilty plea should not exceed 25 percent of the sentence but a further discrete discount can be provided for genuine remorse.

M v R – Court of Appeal

In this case the Court of Appeal approved the admissibility of counter-intuitive expert evidence. Such evidence is intended to explain why children who have been sexually abused might deny that abuse has occurred even when directly asked about it, or delay reporting it, and also why children might continue to display affection for their abusers. The decision outlines the proper approach to counter-intuitive evidence, and sets out the role of the prosecutor and the Judge.

D v R – Court of Appeal

This useful decision of the Court of Appeal clarified the role of expert medical witnesses in cases involving allegations of sexual abuse of young children. D appealed his conviction for raping his eight-year-old daughter (he had been acquitted of

sexually violating the complainant by anal penetration during the same incident). The complainant was medically examined by Dr Herbert four years later.

D appealed on the primary basis that the evidence Dr Herbert gave at trial resulted in a miscarriage of justice in that it was inaccurate, breached the code of conduct for expert witnesses in that it was not given impartially, and was not substantially helpful. A permanent bench of the Court of Appeal dismissed the appeal, finding that Dr Herbert's evidence had been substantially helpful and her comments accurately reflected the established position in the medical literature.

Human rights

Attorney-General v Tamil X – Supreme Court

This was an appeal to the Supreme Court arising from an application for refugee status in New Zealand. The Crown had argued that Tamil X was excluded from applying under article 1F of the Refugee Convention because he had participated in crimes against humanity through his position as Master of a vessel that was transporting armaments and munitions for use by the Liberation Tigers of Tamil Eelam (LTTE), a terrorist organisation in Sri Lanka.

The broader objective of the appeal was to obtain Supreme Court guidance on the principles of joint criminal enterprise liability as a form of responsibility in international criminal law and its application to individuals supporting terrorist organisations involved in committing international crimes. This is a recurring issue in refugee decision-making where exclusion under article 1F is in issue and will become of increasing significance more generally as international criminal law is developed in the various international criminal tribunals.

The Supreme Court adopted the Crown's preferred approach but found that, absent any specific factual finding that Tamil X was involved in smuggling weapons prior to the final voyage, and given the fact that the final voyage never made it to Sri Lanka, the link between Tamil X's conduct on the vessel and the LTTE's international crimes between 1985 and 1996 was "too tenuous" to provide serious reasons for considering he was complicit in that offending.

Ministry of Health v Atkinson and Ors – High Court

Otherwise known as "the family caregivers case", *Atkinson* is a discrimination case taken under Part 1A of the Human Rights Act 1993 in which the claimants allege that the Ministry of Health's policy that parents, spouses and other resident family members cannot be employed to provide Ministry-funded disability support services is discriminatory on grounds of family status. The claimants had been successful at first instance before the HRRT, which issued a declaration that the policy was discriminatory. The Ministry's appeal to the High Court was heard over two weeks in September 2010. The High Court upheld the Tribunal's decision.

Before the High Court, the Crown argued that the policy was not discriminatory and, on a wider level, we argued that any discrimination that might arise was justified on a number of different grounds including that the policy:

- › reflects the implicit social contract under which families take responsibility for each other's care out of love and affection and not for money;
- › better supports the independence of disabled people, including by not providing perverse incentives for family to keep family members dependent; and
- › is fiscally sustainable (funding the paid employment of family members could cost up to an additional \$589 million per year).

The High Court's dismissal of the Ministry of Health's appeal has widespread implications for the way in which government decisions are made, particularly in relation to operational policy issues.

Leave to appeal to the Court of Appeal has been granted, and the appeal will take place over seven days before a Full Court during February 2012.

Morse v Police – Supreme Court

Ms Morse was prosecuted for offensive behaviour after attempting to burn a New Zealand flag during the dawn service at the Wellington Cenotaph on Anzac Day 2008. She was convicted and appealed to the High Court, Court of Appeal and then to the Supreme Court. Leave to appeal to the Supreme Court was granted so that the Court could examine the proper test for offensive behaviour.

The issue in the case was of considerable importance to the Crown given the significance of Anzac Day and the frequency with which the Police are called upon to intervene when disturbances arise during protests.

The Court confirmed that the test for offensive behaviour was, as previous authority suggested, whether it was capable of arousing feelings of real anger, resentment, disgust or outrage but that it must also impact on, or give rise to disturbance of, public order. The District Court had applied the wrong test so the appeal was allowed and the conviction quashed. Given that the charge was not a serious one and there had been a significant lapse of time, no new trial was ordered.

Commerce Commission v Air New Zealand – Court of Appeal

This case concerned the impact of the New Zealand Bill of Rights Act 1990 on the scope of the Commerce Commission's powers under the Commerce Act 1986 and, in particular, the power to require that a person interviewed in the course of an investigation not communicate with other persons. The Attorney-General intervened in the public interest and to address the Court on issues relating to the Bill of Rights Act 1990, including the scope of the rights affirmed in s 14 (freedom of expression) and s 27 (right to justice), and the interpretative issues arising when those rights may operate to limit a broadly expressed statutory power or discretion.

Taylor v Chief Executive of the Department of Corrections – Court of Appeal

This case dealt with the jurisdiction and discretionary factors affecting the granting of mandatory interim orders, particularly in the context of the prison system. The Court resolved the longstanding question of whether there was jurisdiction to make orders directing positive action under s 8 of the Judicature Amendment Act 1972, holding that such orders or declarations were available. The Court, however, confirmed that there are strong policy reasons to decline to make interim orders which would have the effect of overriding the judgement of the Prison Manager on matters of public safety and security and good order in the prison, or which may affect the allocation of resources. This is a significant recognition of the objectives and operational imperatives of the corrections system, and also will assist in ensuring that future challenges to such decisions do not

unnecessarily affect the ongoing management of prisons prior to their final determination.

IDEA Services Limited v Attorney-General on behalf of the Ministry of Health – Human Rights Review Tribunal

This case concerns the provision of day services for intellectually disabled people, which the Ministry of Social Development (MSD) primarily funds for service users until they turn 65 and for which Ministry of Health had, for a while, funded once those service users were no longer eligible for MSD-funded services because of their age. Where the Ministry of Health is responsible for day services it funds those services irrespective of service users' age.

IDEA Services did not challenge the MSD decision to cut off funds when the user turned 65 but argued before the HRRT that the decision of the Ministry of Health to stop these services for this group was discriminatory. The HRRT upheld IDEA Services' challenge

The Tribunal's decision will have a wide impact on the contracting structure for disability support services. The Attorney-General is appealing the decision to the High Court.

Constitutional Group

Treaty and International Team

Ko Aotearoa Tenei/This is New Zealand – A report into Claims concerning New Zealand Law and Policy affecting Māori Culture and Identity – Waitangi Tribunal

In this report the Waitangi Tribunal examined the Crown-Māori relationship across a wide area of government policy affecting Māori culture and identity. Crown Law represented the Crown before the Tribunal. In the course of the inquiry the Tribunal heard evidence from officials from a number of government agencies. The recommendations made in the report have a correspondingly broad coverage. The report outlines Crown Treaty obligations based on the principle of partnership, noting that the principle of partnership provides the only context within which the principles of kawanatanga and rangatiratanga can be understood.

The report is significant because it provides guidance to government on the manner in which Treaty principles apply across a range of government policy areas.

Haronga v Waitangi Tribunal and Ors – Supreme Court

The case concerns the jurisdiction of the Waitangi Tribunal and its power to issue binding recommendations for the return to Māori ownership of Crown Forest Licensed land (CFL land). The case arose in the context of Treaty settlement negotiations with Turanga iwi/hāpu for settlement of Turanga iwi's historical Treaty of Waitangi grievances. Part of the proposed settlement redress included the vesting of CFL land in the Turanga iwi post-settlement governance entity. The Mangatu Incorporation applied to the Waitangi Tribunal for an urgent hearing to address their claim to the CFL land which had been included as redress in the Turanga settlement. The Tribunal declined to grant an urgent hearing. After failing to overturn this decision by judicial review in the High Court and on appeal in the Court of Appeal, the Incorporation succeeded in the Supreme Court. The Supreme Court decided the Tribunal must proceed to hold a hearing to consider whether or not to issue a binding recommendation for the return of licensed CFL land to Mangatu Incorporation. The issues are highly relevant to the Crown's ongoing policy approach to Treaty settlements.

Jessop v New Zealand – United Nations Human Rights Committee

This case, a communication under the First Optional Protocol to the International Covenant on Civil and Political Rights, alleged a range of breaches of Covenant rights in Mr Jessop's arrest, trial, imprisonment and appeals. Most prominently, the communication sought to revisit the decision of the Privy Council in *R v Taito*, which had invalidated the ex parte procedure applied by the Court of Appeal in the cases of approximately 1,500 criminal appellants but which had declined to quash the convictions of those affected. The New Zealand Government's response, which was prepared by Crown Law on instructions from the Ministry of Justice and in consultation with the Ministry of Foreign Affairs and Trade, contested the admissibility under the Protocol of much of the communication and also comprehensively addressed the substance of allegations made. In an extremely thorough and unanimous decision, the Committee found 21 of the 24 separate allegations of breach of

Covenant rights to be inadmissible under the Protocol and the remainder, though admissible, to be without merit.

The Committee's decision followed the approach recommended in the Crown's submissions and met the Government's continued commitment to robust engagement with the United Nations Treaty process.

Natural Resources

Marlborough Aquaculture and others v Chief Executive of the Ministry of Fisheries – High Court

Crown Law represented the Chief Executive of the Ministry of Fisheries in appeal and judicial review proceedings challenging the Chief Executive's decisions to approve and decline various aquaculture management areas (AMAs) in Golden and Tasman Bays. The key issues were:

- › How much space should be allocated for mussel farming, given the impact on the scallop fishery in that area?
- › Within that limit, which AMAs (and so which marine farmers) should be allowed to proceed?

The High Court upheld the Chief Executive's decision in relation to the total area that should be allowed for mussel farming, but has required reconsideration of the decision about which AMAs should proceed. This case has provided useful guidance on resolving the competition between fishers and marine farmers for space in the coastal marine area.

Auckland Hebrew Congregation Trust Board & Wellington Jewish Community Centre v Minister of Agriculture – High Court

This was a judicial review application challenging the issue of a new Code of Welfare that required pre-slaughter stunning of animals. The applicants claimed that this would be contrary to the requirements of the Jewish practice of shechita, rendering them unable to access domestically slaughtered kosher meat. There was a high level of public and international interest in this case, as other jurisdictions grapple with the balance between the human rights affirmed in the New Zealand Bill of Rights Act 1990 and other important social values such as animal welfare. The substantive case was ultimately settled, but the interlocutory stage provided a useful opportunity for the Court to

confirm the limits on cross-examination of Government Ministers.

Te Whānau o Rangiwahakaahu Hapū Charitable Trust and Friends of Matapouri v Department of Conservation, Chief Executive of Land Information New Zealand and Attorney-General – High Court

The local hapū and a residents' association proceeded against the Department of Conservation and Land Information New Zealand in judicial review and damages (originally \$11 million reduced to \$1 million) claims. The subject was the Otito Scenic Reserve at Matapouri Bay (near Whangarei). The complaint was that an incorrect approval of a survey plan by the Chief Surveyor had reduced the size of a scenic beach front reserve by about 1.1 hectares. One of the causes of action raised a Treaty of Waitangi issue which, if successful, would have had profound and costly implications for the Crown. The plaintiffs' claims for damages for breach of contract and breach of duties in the nature of a trust were rejected but the Chief Surveyor was held to have applied an insufficiently stringent test when initially approving the relevant survey plan. The Crown has appealed that portion of the judgment. The plaintiffs have cross-appealed on a range of other points.

Law Officer Team

During the year ending 30 June 2011, Crown Law appeared for the Charities Commission in various High Court appeals against Commission decisions.

The cases have been the subject of numerous articles on what constitutes a charitable purpose under the Charities Act 2005. The principles explored in these cases include the following:

Re the Grand Lodge of Ancient Free and Accepted Masons in New Zealand – High Court

The Grand Lodge is an umbrella organisation that administers Freemasonry in New Zealand. The High Court held that the non-charitable activities of the Grand Lodge were not ancillary to its charitable activities because they were independent activities. Any indirect benefit to society from promoting Freemasonry in general was too remote. The Court therefore upheld the Commission decision that the Society's purposes were not exclusively charitable.

In Re New Zealand Computer Society Inc – High Court

The Court concluded the New Zealand Computer Society's objects included both "learned society" functions and "professional society" functions. The latter functions were non-charitable purposes aimed at benefiting the profession. They were not ancillary to the purpose of advancing information technology as a discipline and the Court held that the Society's purposes were not exclusively charitable.

Re Greenpeace Inc – High Court

New Zealand and English courts have previously held that advocacy is not charitable in itself, but can be pursued in an ancillary way in support of a charity's purposes.

In this appeal from the Charities Commission to the High Court the Court confirmed that advocacy is not charitable, and then analysed whether Greenpeace's advocacy was ancillary to other charitable purposes. It concluded that the advocacy was not necessary to the philosophy behind Greenpeace, and that it was clear from the Greenpeace website that it saw itself as an advocate rather than an educator.

The High Court dismissed Greenpeace's appeal. Greenpeace now is appealing that decision to the Court of Appeal.

Liberty Trust v Charities Commission – High Court

Liberty Trust runs a scheme where individuals contribute financially over a period of a few years, and then receive an interest-free mortgage. Liberty argued that this was advancing religion and therefore charitable.

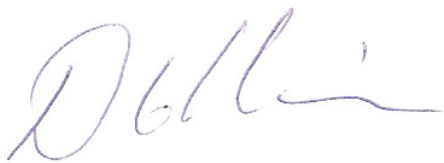
The High Court noted that a mortgage scheme was "not an obvious candidate" for advancing religion, but found that Liberty Trust was in fact teaching religion through its mortgage scheme. This was because "the overwhelming message promoted by Liberty Trust is a religious one" and "participants in the scheme would struggle not to notice the constant religious message Liberty Trust promotes".

The Court also rejected arguments that a mortgage scheme fails the public benefit test because it creates private benefits for members. It found that the benefits are public, because the scheme is open to the general public to join, and the private benefit to those who receive a mortgage is "part and parcel of Christian living (as propagated by Liberty Trust)".

***Re Queenstown Lakes Community Housing Trust
– High Court***

The Queenstown Lakes Community Trust argued that its Shared Ownership Programme (SOP), whereby it buys a part share in houses in the Queenstown area and the beneficiary buys the remaining share, was relieving poverty, or alternatively that it was charitable under the fourth head of charity (other purposes beneficial to the community).

The High Court rejected both arguments. On the first argument it held the Commission was right to conclude that the Trust's purposes were not charitable under the relief of poverty head, holding that the consequences for the community were not a relevant factor in assessing whether the assistance provided by the Trust addressed the needs of individuals in a way which amounts to the relief of poverty.



Dr David Collins QC
Solicitor-General and Chief Executive

ORGANISATIONAL 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	Social Services and Employment Team Tax and Commercial Team
Criminal Law and Human Rights Group	Criminal Law Team and Crown Solicitors Human Rights Team
Constitutional Law Group	Law Officer Team Natural Resources Team Treaty Issues and International Law Team

The Practice Manager is responsible for the leadership and management of Corporate Services. 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

Management Board:

Dr David Collins QC – Solicitor General

Cheryl Gwyn – Deputy Solicitor-General (Constitutional Law Group)

Cameron Mander – Deputy Solicitor-General (Criminal Law and Human Rights Group)

Dr Matthew Palmer – Deputy Solicitor-General (Public Law Group)

Diana Pryde – Practice Manager

Legal Team Leaders:

Bronwyn Arthur – Team Leader, Natural Resources

Maria Deligiannis – Team Leader, Tax 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

Austin Powell – Team Leader, Human Rights

Corporate Managers:

Donna Cassidy – Support Services Manager

Nud Davidson – Information Technology Manager

Amelia De Lorenzo – Library Services Manager

Judyne Howell – Senior Advisor Organisational Development

Steve O’Hagan – Knowledge Services Manager

Daphne Rowland – Litigation Services Manager

Chris Walker – Chief Financial Officer

Bruce Wall – Human Resources Manager

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 that 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.

Our people capability

Staff numbers to June 2011

	30 June 2011	30 June 2010
Solicitor-General, Deputy Solicitors-General and Practice Manager	5	5
Counsel (including Legal Advisors)	103	100
Legal Support	22	24
Secretarial and Word Processing	32	32
Corporate Services Group	41	37
Total number of employees	203	198

(Part-time arrangements are included in these numbers.)

As with previous years, a significant focus of the Human Resources Team at Crown Law has been on the recruitment and retention of highly qualified and skilled staff.

While facing difficult financial times, we continue to attract good numbers of high-quality applicants for roles that become available.

Crown Law also continues to instil a healthy work/life balance across the organisation to ensure that our staff know they are valued and have the flexibility to meet family and other commitments.

Electronic litigation support in Crown Law

During 2010/11 electronic litigation has been expanded to support and be ready for the introduction of the draft High Court Rules in February 2012. To follow on from this, expansion of the e-Court functionality of Crown Law in an effort to reduce Court hearing times for large matters has been a priority. Three large litigation matters were heard using e-Court functionality saving an average of 25 percent court time in each case.

Knowledge services

The Electronic Data and Records Management System Project was completed in May 2011, and supported Crown Law's objective of providing leadership in the provision of high-quality, effective government legal services. The key benefits of this implementation include enhanced email management, improved efficiency for core record-keeping tasks and the creation of a sound platform for compliance with the Public Records Act 2005. Email-based records, which today are the most prevalent form of business record, are now saved into the Document Management System via a simple drag and drop process, and are easily retrievable.

Information systems management

The significant project for 2010/11 in ICT was Puutake. The successful implementation of email management was welcomed by Counsel as an efficient and effective improvement to record-keeping processes. There has been an increased focus on shared government IT initiatives and ICT has benefited from cost savings in procurement. Ongoing engagement in these initiatives as they are rolled out will provide further benefits and support for Crown Law's ICT strategy.

Organisational development

The focus of 2010/11 has continued to be on development of professional expertise for both legal and technical staff. This has been through in-house seminars using internal and external presenters.

With support from central agencies, there has been a greater focus on accountability and organisational performance measures. Work has been underway to develop stronger performance measures for all outputs utilising existing capability within 3E. Work on this area continues.

Facilities management

Maintaining a healthy, safe working environment is fundamental for high performance. 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 small team of staff are located in an adjacent building, 50 The Terrace. The lease on these premises expires on 10 August 2012.

Security systems and processes have been updated. New facilities that enable secure storage of all levels of sensitive matter have been created.

Staff publications and presentations during the year

Numerous presentations were given and seminars conducted by staff for clients and stakeholders at training courses and conferences. A sample of papers presented are listed below:

Mathew Downs

“Propensity Evidence”, October 2010, to New Zealand Law Society Criminal Law Symposium.

“Evidence Law Developments”, May 2011, to Meredith Connell.

“Evidence Law Developments”, June 2011, to Public Defence Service.

Annabel Markham and Madeleine Laracy

“Expert Evidence”, November 2010, DSAC National Medical Forensic Update and Case/Practise Review.

Stephanie Edwards

“May it Please the Court: assisting judicial decision-making as an expert witness”, 15 September 2010, to Department of Corrections Psychological Services, National Training Event.

Kate Bicknell

“Counter-Intuitive Expert Evidence”, February 2011, to Meredith Connell.

Kate Bicknell and Megan Inwood

“Information Law”, October 2010, to Institute of Environment Service and Research Limited (ESR).

Joanna Holden and Antoinette Russell

“Employment Law Updates”, 22 & 23 March, to Ministry of Education; 25 March, to NZ Police.

Una Jagose

“Updates on the Law of Judicial Review”, to Ministry for Environment, Department of Conservation National Conference for Internal Lawyers, Immigration Protection Tribunal, Crown Law client seminar, Securities Commission.

Sally McKechnie

“Lawful Decision-making Process, Avoiding Judicial Review”, May 2011, to Education Review Office.

Roanna Chan

“Briefing Witnesses”, September 2010, to Ministry of Social Development.

Anthea Williams and Roanna Chan

“Limitation Act 2010”, 23 September 2010, to Ministry of Social Development; 30 June 2011, to Ministry of Education.

David Lemmon

“A Crown Law View on Recent Tax Avoidance Cases”, September 2010, to Inland Revenue Technical Leaders Conference.

Jane Norris and David Lemmon

“Lessons from Large Scale Litigation”, September 2010, to Commerce Commission.

David Lemmon and Judy Cheng

“Recent Tax Avoidance Cases and Privilege Issues”, November 2010, to Inland Revenue, Legal and Technical Assurance Seminar.

Jessica Gorman

“Judicial Review in the Commercial Context”, April 2011, to Legal Research Foundation’s Conference on Judicial Review.

Jessica Kerr

“Life as a Public Sector Lawyer”, March 2011, to VUW Careers in Focus Seminar Series.

“Academic Life in the US”, June 2011, to Fulbright NZ Orientation Programme.

Pauline Courtney

“Discovery Seminar”, September 2010, to Securities Commission.

“Current Issues in Debt Enforcement / Creditors Remedies”, March 2011, to Inland Revenue Debt Special Interest Group; and June 2011 to Inland Revenue Technical Leaders Conference.

Harry Ebersohn

“Form and Substance”, March 2011, to International Fiscal Association Conference, Wellington.

“Tax Avoidance and the Rule of Law – A view from Crown Law and other Perspectives”, April 2011, to Legal Research Foundation Symposium, Auckland.

Gregor Allen

“Criminal Procedure”, July 2010, to Securities Commission.

“Prosecution Guidelines, Media Protocol and Fair Trial Rights”, August 2010, to Securities Commission.

“Anti-Money Laundering and Counter Financing of Terrorism”, 14-18 March 2011, to Asia-Pacific Group Assessor Training Course, Australian Attorney-General’s Offices, Canberra.

“Framing Regulatory Offence Provisions”, April 2011, to Ministry of Economic Development.

“Judicial Review & BORA Implications for Regulators”, April 2011, to Financial Markets Authority.

The Prosecution Brief: On “Asset Preservation Powers under the Securities Act 1978”, March 2011; “APG Mutual Evaluation Report on Anti-Money Laundering and Combating the Financing of Terrorism: Nepal”, August 2011.

Matthew Palmer and Edrick Child

“Ministers, Departments and Crown Entities”, September 2010, to Ministry for the Environment.

Matthew Palmer

“Constitutional Realism about the Treaty of Waitangi”, October 2010, to Waikato University.

“The Role and Structure of Crown Law”, February 2011, to Treasury.

“The Role and Structure of Crown Law”, February 2011, to Ministry of Economic Development.

“The Role of Crown Law in Tax Avoidance Disputes”, April 2011, to Legal Research Foundation Symposium, Auckland.

“Government Lawyers and Select Committees”, April 2011, to Lawyers in Government Conference, Wellington.

“The Role and Structure of Crown Law”, May 2011, to Ministry of Social Development.

Damen Ward

“The ‘New Zealand’s Lost Cases’ Project”, 25 January 2011, to Australasian Judges’ Conference, Wellington (co-presented with Geoff McLay, New Zealand Law Commission).

Ben Keith

“The Promise and Limits of International Law in New Zealand Practice”, June 2011, to 19th Conference of the Australia and New Zealand Society of International Law, Canberra.

Mark Hickford

“Lords of the Land: Indigenous Property Rights in the Jurisprudence of Empire”, Oxford University Press, 2011.

Charlotte Griffin and Austin Powell

“Summary of Significant Bill of Rights Decisions”, April 2011, to Lawyers in Government Conference.

Austin Powell

“The Bill of Rights Act and Social Policy”, June 2011, to Ministry of Social Development.

Greg Robins

“Opening Address”, 2-3 September 2010, to Reconstituting the Constitution Conference (Parliament, Wellington).

Cheryl Gwyn

“Legislation Advisory Committee Guidelines” – Application issues discussing DIA examples (with Hon Sir Bruce Robertson and Associate Professor Andrew Geddis), August 2010, to Department of Internal Affairs.

“GLS Programme”, November 2010, to PCO Senior Management Team.

STATEMENT OF RESPONSIBILITY

for the year ended 30 June 2011

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.

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 2011

Countersigned by:



Chris Walker
Chief Financial Officer

30 September 2011



Diana Pryde
Practice Manager

30 September 2011

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 2011.

INDEPENDENT AUDITOR'S REPORT

TO THE READERS OF CROWN LAW OFFICE'S FINANCIAL STATEMENTS, STATEMENT OF SERVICE PERFORMANCE AND SCHEDULES OF NON-DEPARTMENTAL ACTIVITIES for the year ended 30 June 2011

The Auditor-General is the auditor of Crown Law Office (Crown Law). The Auditor-General has appointed me, John O'Connell, using the staff and resources of Audit New Zealand, to carry out the audit of the financial statements, the statement of service performance and the statements and schedules of non-departmental activities of Crown Law on her behalf.

We have audited:

- the financial statements of Crown Law on pages 45 to 72, that comprise the statement of financial position, statement of commitments, statement of contingent liabilities and assets as at 30 June 2011, the statement of comprehensive income, statement of changes in taxpayer's funds, statement of cash flows, statement of unappropriated expenditure and capital expenditure, statement of departmental expenditure and appropriations and schedule of trust monies for the year ended on that date and the notes to the financial statements that include accounting policies and other explanatory information; and
- the statement of objectives and service performance of Crown Law on pages 33 to 44; and
- the schedules of non-departmental activities of Crown Law on pages 73 and 74 that comprise the schedule of non-departmental expenses, statement of non-departmental expenditure against appropriations, for the year ended 30 June 2011.

OPINION

In our opinion:

- The financial statements of Crown Law on pages 45 to 72:
 - comply with generally accepted accounting practice in New Zealand; and
 - fairly reflect Crown Law's:
 - financial position as at 30 June 2011; and
 - financial performance and cash flows for the year ended on that date; and

- expenses and capital expenditure incurred against each appropriation administered by Crown Law and each class of outputs included in each output expense appropriation for the year ended 30 June 2011; and
 - unappropriated expenses and capital expenditure for the year ended 30 June 2011; and
- the statement of service performance of Crown Law on pages 33 to 44:
 - complies with generally accepted accounting practice in New Zealand; and
 - fairly reflects for each class of outputs for the year ended 30 June 2011 Crown Law's:
 - service performance compared with the forecasts in the statement of forecast service performance at the start of the financial year; and
 - actual revenue and output expenses compared with the forecasts in the statement of forecast service performance at the start of the financial year.
 - the schedules of non-departmental activities of Crown Law on pages 73 and 74, fairly reflect:
 - the expenses, and expenditure against appropriations for the year ended on that date managed by Crown Law on behalf of the Crown.

Our audit was completed on 30 September 2011. This 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 Chief Executive and our responsibilities, and we explain our independence.

BASIS OF OPINION

We carried out our audit in accordance with the Auditor-General's Auditing Standards, which incorporate the International Standards on Auditing (New Zealand). Those standards require that we comply with ethical requirements and plan and carry out our audit to obtain reasonable assurance about whether the financial statements, the statement of service performance and the schedules of non-departmental activities are free from material misstatement.

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

An audit involves carrying out procedures to obtain audit evidence about the amounts and disclosures in the financial statements, the statement of service performance and the schedules of non-departmental activities. The procedures selected depend on our judgement, including our assessment of risks of material misstatement of the financial statements, the statement of service performance and the schedules of non-departmental activities, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to Crown Law's preparation of the financial statements, the statement of service performance and the schedules of non-departmental activities that fairly reflect the matters to which they relate. We consider internal control in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of Crown Law's internal control.

An audit also involves evaluating:

- the appropriateness of accounting policies used and whether they have been consistently applied;
- the reasonableness of the significant accounting estimates and judgements made by the Chief Executive;
- the adequacy of all disclosures in the financial statements, the statement of service performance and the schedules of non-departmental activities; and
- the overall presentation of the financial statements, the statement of service performance and the schedules of non-departmental activities

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements, the statement of service performance and the schedules of non-departmental activities. We have obtained all the information and explanations we have required and we believe we have obtained sufficient and appropriate audit evidence provide a basis for our audit opinion.

RESPONSIBILITIES OF THE CHIEF EXECUTIVE

The Chief Executive is responsible for preparing:

- financial statements and a statement of service performance that:
 - comply with generally accepted accounting practice in New Zealand;
 - fairly reflect Crown Law's financial position, financial performance, cash flows, expenses and capital expenditure incurred against each appropriation and its unappropriated expenses and capital expenditure; and
 - fairly reflects its service performance; and
- schedules of non-departmental activities, in accordance with the Treasury Instructions 2010 that fairly reflect those activities managed by Crown Law on behalf of the Crown.

The Chief Executive is also responsible for such internal control as is determined is necessary to enable the preparation of the financial statements, and a statement of service performance and schedules of non-departmental activities that are free from material misstatement, whether due to fraud or error.

The Chief Executive's responsibilities arise from the Public Finance Act 1989.

RESPONSIBILITIES OF THE AUDITOR

We are responsible for expressing an independent opinion on the financial statements, statement of service performance and the schedules of non-departmental activities and reporting that opinion to you based on our audit. Our responsibility arises from section 15 of the Public Audit Act 2001 and 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 New Zealand Institute of Chartered Accountants.

Crown Law has provided legal services to the Office of the Auditor-General. Other than the audit and this work, we have no relationship with or interests in Crown Law.



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, statement of service performance and schedules of non-departmental activities

This audit report relates to the financial statements, statement of service performance and schedules of non-departmental activities of Crown Law Office for the year ended 30 June 2011 included on 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 Crown Law Office's website. We accept no responsibility for any changes that may have occurred to the financial statements, statement of service performance and schedules of non-departmental activities since they were initially presented on the website.

The audit report refers only to the financial statements, statement of service performance and schedules of non-departmental activities named above. It does not provide an opinion on any other information which may have been hyperlinked to or from the financial statements, statement of service performance and schedules of non-departmental activities. 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, statement of service performance and schedules of non-departmental activities as well as the related audit report dated 30 September 2011 to confirm the information included in the audited financial statements, statement of service performance and schedules of non-departmental activities 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 2011

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)

2010 Actual \$000		2011 Actual \$000	2011 Main Estimates \$000	2011 Supp Estimates \$000
3,329	Revenue – Crown	3,329	3,329	3,329
3,286	Expenditure	3,715	3,329	3,329
43	Net surplus / (deficit)	(386)	-	-

Explanation of major variations:

The number of appeals filed by the accused and the courts' scheduling and disposal are beyond Crown Law's control.

Some of the significant appeals to the Court of Appeal or Supreme Court are discussed in the Chief Executive's Criminal and Human Rights Group overview on page 17.

Approval in accordance with s 26A of the Public Finance Act 1989 was obtained for a fiscally neutral transfer of \$166,000 to this output expense. Refer to the Statement of Unappropriated Expenditure on page 51.

Output Expense: Conduct of Criminal Appeals (continued)

Service performance

Quantity

2010 Actual	Measures	2011 Actual	2011 Forecast
	Number of appeals disposed by the Court of Appeal / Supreme Court / Privy Council arising out of criminal trials on indictment, brought by:		
47	> the Crown; and	29	30-35
491	> accused	495	500-550
	Decisions made on requests for the Solicitor-General to take Crown appeals in relation to:		
18	> sentence; and	N/A*	15-30
21	> case stated or other appeals	N/A*	25-30

Quality and timeliness

Measures	Performance
Success rate for sentence appeals brought by the Solicitor-General to be not less than 60%.	29 appeals brought by the Solicitor-General have been heard. 16 appeals (55%) have been decided in favour of the Solicitor-General (2010: 64%).
No complaints to be received by Crown Law for non-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 Crown seeks no requests for adjournment.	The hearing of appeals was undertaken in accordance with the timetable set by the court. The Crown sought no requests for adjournment.
Key stakeholders are kept informed of all significant legal impacts of judgments received.	Communication of significant decisions is done by: <ul style="list-style-type: none"> > posting short summary on Crown Solicitors intranet; > sending a letter or email from DSG Criminal with detailed summary of case and DSG view of the effect that decision will have on the conduct of cases; and > providing a summary every quarter of most significant decisions in "Prosecution Brief" an electronic newsletter that goes to all prosecutors, NZ Police Headquarters and Attorney-General's office.

* Crown Law no longer gathers this information.

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)

2010 Actual \$000		2011 Actual \$000	2011 Main Estimates \$000	2011 Supp Estimates \$000
18,262	Revenue – Department	20,154	21,984	22,900
17,384	Expenditure	18,980	22,900	22,900
878	Net surplus / (deficit)	1,174	(916)	-

Explanation of major variations:

Revenue and expenditure are influenced by the number and complexity of the instructions received, and worked on during the year.

Crown Law takes a long-run perspective to fee setting and cost recovery (refer financial note 20 Memorandum Account – Legal Advice and Representation). Saving in direct matter related costs and administration costs resulted in the surplus of \$1.174 million.

Some of the significant matters are discussed in the Chief Executive's overview on pages 13 to 16 and pages 19 to 21.

Output Expense: Legal Advice and Representation (continued)

Service performance

Quantity

2010 Actual	Measures	2011 Actual	2011 Forecast
378	Number of new instructions for legal advice	494	400-450
630	Average number of requests for legal advice in progress during the year	593	550-600
530	Number of new instructions in respect of litigation matters	372	520-570
1,169	Average number of litigation matters in progress during the year	922	1,400-1,500

Explanation of major variations:

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

The reduction in the average number of matters in progress is due to a project on closing matter files. As at 30 June 2011 there were 556 legal advice and 675 litigation matters in progress.

Quality and timeliness

Measures	Performance
Percentages of written opinions/advice are peer reviewed in accordance with professional standards to be not less than 90%. Conformity with quality assurance guidelines which support the application of Crown Law's professional standards.	All written opinion/advice are signed off by senior counsel once adherence to professional standards has been checked.
Percentage of litigation management plans (LMPs) are completed for litigation matters in accordance with professional standards to be not less than 90%.	All LMPs are signed off by senior counsel once adherence to professional standards has been checked.
Percentage of all responses from government lawyers surveyed about Crown Law legal seminars and conferences that rate as "meets expectation" or better to be not less than 90%.	The overall satisfaction rate of all sessions presented at the Lawyers in Government Conference where the participants gave a rating of "meets expectation" or better was 97%.
All advice and litigation matters are completed within appropriate timeframes or justified reason is recorded.	76% of advice was given on time. 31% of litigation plans were completed on time.

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)

2010 Actual \$000		2011 Actual \$000	2011 Main Estimates \$000	2011 Supp Estimates \$000
39,542	Revenue – Crown	47,441	36,742	47,441
42,378	Expenditure	45,377	36,742	47,441
(2,836)	Net surplus / (deficit)	2,064	-	-

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 has been an increase in the value of progress payments made to Crown Solicitors for criminal matters in progress and the accrual of unbilled fees.

Initiatives to improve the efficiency of the criminal justice system which were outside Crown Law's control have impacted on the demand for criminal services provided by the Crown Solicitor network. The overall level of demand was significantly greater than was envisaged at the time of preparing the Supplementary Estimates.

There is an increase in the number of bail and appeal matters.

The Canterbury earthquake on 22 February 2011 impacted on the conduct of jury trials. Some jury matters were rescheduled to be heard at courts outside of Christchurch.

Output Expense: Supervision and Conduct of Crown Prosecutions (continued)

Service performance – Output: Crown Prosecution Services

Quantity

2010 Actual	Measures	2011 Actual	2011 Forecast
1,785	Number of trials for indictable crime:		
	› District Court	1,671	1,700-1,900
158	› High Court	133	200-240
	Number of high-cost trials for indictable crime, where the complexity of the case requires a significant amount of preparation and court appearance time*		
42	› District Court	42	130-160
48	› High Court	53	80-120
	Number of other criminal matters conducted by the Crown Solicitors:		
2,081	› Bail applications and appeals	2,589	1,700-1,800
3,811	› Guilty pleas/lower band and middle band sentencing	3,552	3,500-3,700
691	› Appeals relating to summary prosecutions	594	700-800

Explanation of major variations:

There has been a decrease in the number of trial matters for indictable crime compared to the forecast. There is no single factor that has brought about this decrease.

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.	Three complaints were received. The Solicitor-General's investigation determined that they did not warrant 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 to determine conformity to guidelines and practices as described in Supervision of Crown Solicitor Network.	No Crown Solicitor reviews were completed to date because resources were reprioritised for the Prosecution Review, justice sector sustainability and Criminal Procedure Reform and Modernisation Bill.

* Cost greater than \$20,000.

Output Expense: Supervision and Conduct of Crown Prosecutions (continued)

Service performance – Output: Supervision of Crown Solicitor Network

Quantity

2010 Actual	Measures	2011 Actual	2011 Forecast
5	Number of Crown Solicitors’ practices to be reviewed	0	1-2
496	Number of new applications from Crown Solicitors for special fees, classification of counsel and approval of additional counsel	709	400-500

Explanation of major variations:

There has been an increase in requests for a special fee to be paid in accordance with clause 12 of the Crown Solicitors Regulations 1994. These matters have required the Crown Solicitor to spend more time than the prescribed limits.

Quality and timeliness

Measures	Performance
<p>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.</p> <p>Conformity of applications with the Crown Solicitors Regulations 1994, and Crown Law's protocols, which support the application of the regulations, will be assessed at the time the applications are considered. Feedback will be formally communicated to Crown Solicitors as appropriate.</p>	<p>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.</p>

Output Expense: Supervision and Conduct of Crown Prosecutions (continued)

Service performance – Output: Supervision of Crown Solicitor Network

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 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>A review of the performance of the Crown Solicitors will be undertaken on a cyclical basis by a review panel. The panel will address two main issues:</p> <ul style="list-style-type: none"> › case processing efficiency using a questionnaire and interview approach with the judiciary, clients and profession; and › practice management case allocation, “good employee” responsibilities, financial reporting on cases and compliance with the Regulations and the supporting protocols. <p>A report is to be prepared for the Solicitor-General by each review panel containing documentary evidence of the review process, including the use of checklists and questionnaires with assessments and conclusions.</p>	<p>No Crown Solicitor reviews were completed to date because resources were reprioritised for the Prosecution Review, justice sector sustainability and Criminal Procedure Reform and Modernisation.</p>

Output Expense: Supervision and Conduct of Crown Prosecutions (continued)

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.

Service performance – Output: Criminal Law Advice and Services

Quantity

2010 Actual	Measures	2011 Actual	2011 Forecast
242	Number of new requests for legal advice or determination of applications received in relation to criminal law issues	246	300-350
785	Average number of requests for legal advice or determination of applications in relation to criminal law in process during the year	485	450-500
41	Number of new ministerial and parliamentary questions received	55*	30-40

Quality and timeliness

Measures	Performance
<p>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.</p> <p>Conformity with the guidelines set down in the standards as determined by the quality assurance review processes that have been developed to support the application of the standards.</p>	<p>Quality assurance review processes have been implemented to ensure compliance with the standards established for legal advice and representation services.</p>

* 53 ministerial correspondence and 2 parliamentary questions.

Output Expense: Supervision and Conduct of Crown Prosecutions (continued)

Service performance – Output: Criminal Law Advice and Services (continued)

Quality and timeliness

Measures	Performance
<p>Ministerial correspondence and parliamentary questions to be responded to within the following timeframes:</p> <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">› All replies to ministerial correspondence were provided within the required timeframe (2010: 90%).› All responses to parliamentary questions were provided within the required time deadlines (2010: 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 the Pacific Islands Law Officers' Network.

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)

2010 Actual \$000		2011 Actual \$000	2011 Main Estimates \$000	2011 Supp Estimates \$000
3,228	Revenue:	2,952	2,928	2,952
192	> Crown	7	20	20
	> Other			
3,854	> Expenditure	2,933	2,948	2,972
(434)	> Net surplus / (deficit)	26	-	-

Explanation of major variations:

The reduced expenditure is due to a reduction in time-based matter related costs and reduced administration costs.

Approval in accordance with s 26A of the Public Finance Act 1989 was obtained for a fiscally neutral transfer of \$147,000 to this output expense. Ultimately this transfer was not required.

Some of the significant matters are discussed in the Chief Executive's overview on pages 21 to 22.

Output Expense: The Exercise of Principal Law Officer Functions (continued)

Service performance

Quantity

2010 Actual	Measures	2011 Actual	2011 Forecast
256	Number of new applications or requests for advice received for action on behalf of the Attorney-General and Solicitor-General	214	170-190
284	Average number of applications or requests for legal advice in progress during the year	210	350-400
269	Number of new ministerial and parliamentary questions received	231	240-260

Quality and timeliness

Measures	Performance
<p>Brief the Attorney-General in a timely and relevant way on significant legal matters affecting the Crown:</p> <ul style="list-style-type: none"> › Weekly written briefings are provided to the Attorney-General regarding significant legal matters affecting the Crown. 	<p>A weekly report is provided to the Attorney-General advising on significant legal matters involving the Crown.</p>
<p>Ministerial correspondence and parliamentary questions to be responded to within the following timeframes:</p> <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 91% of cases (2010: 87%). › All responses to parliamentary questions were provided within the required time deadlines (2010: 100%).
<p>Percentages of written opinions/advice are peer reviewed in accordance with professional standards to be not less than 90%.</p>	<p>All written opinions/advice are signed off by senior counsel once adherence to professional standards has been checked.</p>

STATEMENT OF COMPREHENSIVE INCOME

for the year ended 30 June 2011

2010 Actual \$000		Note	2011 Actual \$000	2011 Main Estimates \$000	2011 Supp Estimates \$000
	Income				
46,099	Crown		53,722	42,999	53,722
18,454	Other revenue	2	20,161	22,004	22,920
64,553	Total income		73,883	65,003	76,642
	Expenditure				
18,623	Personnel costs	3	19,787	19,637	19,637
47,011	Other operating expenses	4	49,990	44,724	55,809
1,071	Depreciation and amortisation expense	5	1,113	1,335	1,138
197	Capital charge	6	115	223	58
66,902	Total expenditure		71,005	65,919	76,642
(2,349)	Net operating surplus / (deficit)		2,878	(916)	-
(2,349)	Total comprehensive income		2,878	(916)	-

The accompanying notes form part of these financial statements.

STATEMENT OF CHANGES IN TAXPAYERS' FUNDS for the year ended 30 June 2011

2010 Actual \$000		2011 Actual \$000	2011 Main Estimates \$000	2011 Supp Estimates \$000
2,933	Taxpayers' funds as at 1 July	1,530	2,979	1,530
(2,349)	Net surplus / (deficit) for the year	2,878	(916)	-
-	Capital injection	3,227	-	3,227
946	Retained surplus	-	-	-
-	Movements in revaluation reserve	-	-	-
-	Return of operating surplus to the Crown	(2,878)	-	-
(1,403)	Movements in taxpayers' funds for the year	3,227	(916)	3,227
1,530	Taxpayers' funds as at 30 June	4,757	2,063	4,757

The accompanying notes form part of these financial statements.

STATEMENT OF FINANCIAL POSITION

as at 30 June 2011

2010 Actual		Note	2011 Actual	2011 Main Estimates	2011 Supp Estimates
\$000			\$000	\$000	\$000
1,530	Taxpayers' funds	13	4,757	2,063	4,757
	Represented by:				
	Current assets				
6,391	Cash and cash equivalents		13,395	3,975	9,573
345	Prepayments		372	200	216
3,063	Debtors and receivables	7	3,816	3,800	3,800
9,799	Total current assets		17,583	7,975	13,589
	Non-current assets				
1,755	Property, plant and equipment	8	1,145	1,860	1,250
1,046	Intangible assets	9	770	1,021	827
2,801	Total non-current assets		1,915	2,881	2,077
12,600	Total assets		19,498	10,856	15,666
	Current liabilities				
8,938	Creditors and payables	10	9,933	7,333	9,222
1,910	Employee entitlements	11	1,806	1,080	1,200
-	Return of operating surplus	12	2,878	-	-
10,848	Total current liabilities		14,617	8,413	10,422
	Non-current liabilities				
222	Employee entitlements	11	124	380	487
222	Total non-current liabilities		124	380	487
11,070	Total liabilities		14,741	8,793	10,909
1,530	Net assets		4,757	2,063	4,757

The accompanying notes form part of these financial statements.

STATEMENT OF CASH FLOWS

for the year ended 30 June 2011

2010 Actual		Note	2011 Actual	2011 Main Estimates	2011 Supp Estimates
\$000			\$000	\$000	\$000
	Cash flows from operating activities				
	<i>Cash was provided from:</i>				
46,099	Receipts from Crown		53,722	42,999	53,722
19,677	Receipts from clients		19,411	21,804	23,406
65,776			73,133	64,803	77,128
	<i>Cash was applied to:</i>				
18,259	Payments to employees		19,471	19,584	19,588
44,457	Payments to suppliers		46,348	42,091	53,918
2,276	Net Goods and Services Tax paid		3,195	3,195	3,195
197	Payment for capital charge		115	223	58
65,189			69,129	65,093	76,759
587	Net cash inflow from operating activities	18	4,004	(290)	369
	Cash flows from investing activities				
	<i>Cash was provided from:</i>				
-	Sale of property, plant and equipment		-	-	-
	<i>Cash was disbursed for:</i>				
200	Purchase of property, plant and equipment		123	631	250
472	Purchase of intangible assets		104	260	164
672			227	891	414
(672)	Net cash outflow from investing activities		(227)	(891)	(414)
	Cash flows from financing activities				
	<i>Cash was provided from:</i>				
-	Capital injection		3,227	-	3,227
	<i>Cash was disbursed for:</i>				
-	Repayment of operating surplus		-	-	-
-	Net cash outflow from financing activities		3,227	-	3,227
(85)	Net (decrease)/increase in cash		7,004	(1,181)	3,182
6,476	Cash at the beginning of the year		6,391	5,156	6,391
6,391	Cash at the end of the year		13,395	3,975	9,573

The accompanying notes form part of these financial statements.

STATEMENT OF COMMITMENTS

as at 30 June 2011

Non-cancellable operating lease commitments

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. Crown Law has renewed the lease for a further 12 months to 10 August 2012.

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

Other non-cancellable commitments

Crown Law did not enter into any other non-cancellable commitments.

2010 Actual \$000		2011 Actual \$000
-	Capital commitments There were no capital commitments as at 30 June	-
	Non-cancellable operating lease commitments	
1,774	Not later than one year	1,795
2,947	Later than one year and not later than five years	1,295
-	Later than five years	-
4,721	Total non-cancellable operating lease commitments	3,090
4,721	Total commitments	3,090

The accompanying notes form part of these financial statements.

STATEMENT OF DEPARTMENTAL CONTINGENT LIABILITIES AND ASSETS

as at 30 June 2011

Crown Law has no unquantifiable contingent liabilities (2010: Nil).

Quantifiable contingent liabilities

2010 Actual \$000		2011 Actual \$000
650	Legal proceedings and disputes	400
0	Personal grievances	30
650	Total quantifiable contingent liabilities	430

Legal proceedings and disputes

Legal proceedings and disputes represent the amount claimed by a plaintiff in relation to Counsel raising their concerns regarding the client's staff in certain litigation matters. Crown Law disputes this claim.

Personal grievances

Personal grievances represent an amount claimed by an employee for a personal grievance case, which related to an alleged breach of the employee's employment contract.

Contingent assets

Crown Law has no contingent assets (2010: Nil).

The accompanying notes form part of these financial statements

STATEMENT OF UNAPPROPRIATED EXPENDITURE AND CAPITAL EXPENDITURE

for the year ended 30 June 2011

2010 Unappropriated Expenditure \$000		2011 Actual \$000	2011 Appropriation Voted \$000	2011 Unappropriated Expenditure \$000
	Vote Attorney-General			
-	Conduct of Criminal Appeals	3,715	3,495	220
1,691	Supervision and Conduct of Crown Prosecutions	45,377	47,275	-
442	The Exercise of Principal Law Officer Functions	2,933	2,972	-
2,133	Total			220

Expenses to be approved under s 26C of the Public Finance Act 1989

Vote Attorney-General has incurred unappropriated expenditure for the financial year ended 30 June 2011, in the appropriation Conduct of Criminal Appeals \$220,000.

The significant factors contributing to the increase in expenditure and the resultant unappropriated expenditure are:

- › The demand for services and cost of undertaking this work has increased. A number of the appeals have more complex legal issues which have required more preparation time.
- › The greater level of public interest and the complexity of some matters required a greater input of senior legal expertise.
- › The increased cost was not envisaged at the time of preparing the Supplementary Estimates.

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

The Supplementary Estimates for Conduct of Criminal Appeals amounts to \$3,329,000 and a s 26A approval has been obtained for the \$166,000 transfer from Supervision and Conduct of Crown Prosecutions to this output class within the vote.

The Supplementary Estimates for the Exercise of the Principal Law Officer Function amounts to \$2,972,000 and a s 26A approval has been obtained for the \$147,000 transfer from Supervision and Conduct of Crown Prosecutions to this output class within the vote.

The accompanying notes form part of these financial statements.

STATEMENT OF DEPARTMENTAL EXPENDITURE AND APPROPRIATIONS

for the year ended 30 June 2011

2010 Actual Expend \$000		2011 Actual Expend \$000	2011 Main Estimates \$000	2011 Supp Estimate \$000	2011 Section 26A \$000	2011 Section 26C \$000	2011 Total \$000
	Vote Attorney-General Appropriation for outputs/expenses						
3,286	Conduct of Criminal Appeals	3,715	3,329	3,329	166	220	3,715
17,384	Legal Advice and Representation	18,980	22,900	22,900	-	-	22,900
42,378	Supervision and Conduct of Crown Prosecutions	45,377	36,742	47,441	(313)	-	47,128
3,854	The Exercise of Principal Law Officer Functions	2,933	2,948	2,972	147	-	3,119
66,902	Total appropriations for classes of outputs	71,005	65,919	76,642	-	220	76,862
	Appropriations for capital contribution						
672	Capital investment	227	891	414	-	-	414
67,574	Total appropriations	71,232	66,810	77,056	-	220	77,276

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 the 2010/11 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 2011

2010 Actual \$000		2011 Actual \$000
	Crown Law Office Legal Claims Trust Account	
499	Balance at 1 July	67
989	Contributions	1,298
(1,424)	Distributions	(1,058)
3	Revenue	3
-	Expenditure	-
67	Balance at 30 June	310

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 2011

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 2011. The financial statements were authorised for issue by the Chief Executive of Crown Law on 30 September 2011.

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) and Treasury instructions.

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.

Changes in accounting policies

There have been no changes in accounting policies during the financial year.

Crown Law has early adopted NZ IAS 24 *Related Party Disclosures* (Revised 2009). The effect of early adopting the revised NZ IAS 24 is:

- › more information is required to be disclosed about transactions between Crown Law and entities controlled, jointly controlled or significantly influenced by the Crown;
- › commitments with related parties require disclosure; and
- › information is required to be disclosed about any related party transactions with Ministers of the Crown with portfolio responsibility for Crown Law. An exemption is provided from reporting transactions with other Ministers of the Crown.

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 are:

- › NZ IFRS 9 *Financial Instruments* will eventually replace NZ IAS 39 *Financial Instruments: Recognition and Measurement*. NZ IAS 39 is being replaced through the following three main phases: Phase 1 Classification and Measurement; Phase 2 Impairment Methodology; and Phase 3 Hedge Accounting. Phase 1 has been completed and has been published in the new financial instrument standard NZ IFRS 9. NZ IFRS 9 uses a single approach to determine whether a financial asset is measured at amortised cost or fair value, replacing the many different rules in NZ IAS 39. The approach in NZ IFRS 9 is based on how an entity manages its financial assets (its business model) and the contractual cash flow characteristics of the financial assets. The financial liability requirements are the same as those of NZ IAS 39, except for when an entity elects to designate a financial liability at fair value through the surplus or deficit. The new standard is required to be adopted for the year ended 30 June 2014. Crown Law has not yet assessed the effect of the new standard and expects it will not be early adopted.
- › FRS-44 *New Zealand Additional Disclosures and Amendments to NZ IFRS to harmonise with IFRS and Australian Accounting Standards (Harmonisation Amendments)* – These were issued in May 2011 with the purpose of harmonising Australia and New Zealand’s accounting standards with source IFRS and to eliminate many of the differences between the accounting standards in each jurisdiction. The amendments must first be adopted for the year ended 30 June 2012. Crown Law has not yet assessed the effects of FRS-44 and the Harmonisation Amendments.

As the External Reporting Board is to decide on a new accounting standards framework for public benefit entities, it is expected that all new NZ IFRS and amendments to existing NZ IFRS with a mandatory effective date for annual reporting periods commencing on or after 1 January 2012 will not be applicable to public benefit entities. This means that the financial reporting requirements for public benefit entities are expected to be effectively frozen in the short term. Accordingly, no disclosure has been made about new or amended NZ IFRS that exclude public benefit entities from their scope.

Revenue

Revenue is measured at the fair value of consideration received.

Revenue Crown and other revenue

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 in the statement of commitments 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 comprehensive income.

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 charges. 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 comprehensive income. Overdue receivables that are renegotiated are reclassified as current (i.e., not past due).

Work in progress

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

The write-down from cost to current net realisable value is recognised in the statement of comprehensive income 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.

Property, plant and equipment in development

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.

Notes to the Financial Statements – continued

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 comprehensive income. 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.

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 comprehensive income.

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%)
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Notes to the Financial Statements – continued

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 14 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.

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 comprehensive income 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 comprehensive income.

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

Notes to the Financial Statements – continued

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.

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 2011, 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.

Notes to the Financial Statements – continued

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.

Note 2: Other revenue

2010 Actual \$000		2011 Actual \$000
18,429	Legal fees and disbursements received from:	20,149
25	› Government departments / other government entities	12
18,454	› Other clients	20,161
	Total other revenue	

Fees recovered from government departments include the recovery of subsidised superannuation costs from the State Services Commission. See note 3.

Note 3: Personnel costs

2010 Actual \$000		2011 Actual \$000
17,952	Salaries and wages	19,436
556	Employer contributions to subsidised superannuation scheme	551
115	Movement in retirement and long service leave	(200)
18,623	Total personnel costs	19,787

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

Two employees retired during the year and in accordance with their employment contract received retirement payments.

Notes to the Financial Statements – continued

Note 4: Other operating expenses

2010 Actual \$000		2011 Actual \$000
50	Audit fees for audit of the financial statements	47
-	Bad debts written off	-
-	Increase/(decrease) provision for doubtful debts	-
42	Increase/(decrease) impairment for doubtful work in progress	39
267	Consultancy	411
40,760	Crown Solicitors' fees	43,403
1,785	Operating lease expenses	1,841
4,107	Other operating expenses	4,249
47,011	Total other operating expenses	49,990

Note 5: Depreciation and amortisation expense

2010 Actual \$000		2011 Actual \$000
	Depreciation of property, plant and equipment:	
22	› Office equipment	21
231	› Computer equipment	240
358	› Leasehold improvements	360
31	› Furniture and fittings	29
84	› Library	83
	Amortisation of intangibles:	
345	› Computer software	380
1,071	Total depreciation and amortisation expenses	1,113

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 2011 was 7.5% (2010: 7.5%).

Notes to the Financial Statements – continued

Note 7: Debtors and receivables

2010 Actual \$000		2011 Actual \$000
1,315	Trade debtors	1,703
-	Less provision for doubtful debts	-
1,315	Net trade debtors	1,703
1,790	Work in progress	2,194
(42)	Less impairment for doubtful work in progress	(81)
1,748	Net work in progress	2,113
-	Sundry debtors	-
3,063	Total debtors and receivables	3,816

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

As at 30 June 2011 and 2010, all overdue trade debtors have been assessed for impairment and the appropriate provision applied, as detailed below:

\$000	2010			2011		
	Gross \$000	Impairment \$000	Net \$000	Gross \$000	Impairment \$000	Net \$000
Not past due	1,046	-	1,046	1,206	-	1,206
Past due 1 – 30 days	138	-	138	324	-	324
Past due 31 – 60 days	51	-	51	101	-	101
Past due 61 – 90 days	43	-	43	24	-	24
Past due > 90 days	37	-	37	48	-	48
Total	1,315	-	1,315	1,703	-	1,703

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

Work in progress comprises mainly unbilled June 2011 fees and disbursements.

Movement in the provision for impairment of work in progress is as follows:

2010 Actual \$000		2011 Actual \$000
42	Balance at 1 July	42
-	Additional provisions made (note 4)	39
-	Work in progress written off	-
42	Balance at 30 June	81

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 2009	2,915	600	815	1,161	1,420	6,911
Additions	23	10	-	6	161	200
Disposals	-	(2)	-	-	(64)	(66)
Balance at 30 June 2010	2,938	608	815	1,167	1,517	7,045
Balance at 1 July 2010	2,938	608	815	1,167	1,517	7,045
Additions	-	-	-	28	95	123
Disposals	-	-	-	-	(173)	(173)
Balance at 30 June 2011	2,938	608	815	1,195	1,439	6,995
Accumulated depreciation and impairment losses						
Balance at 1 July 2009	1,482	500	602	1,063	983	4,630
Depreciation expense	358	22	84	31	231	726
Elimination on disposal	-	(2)	-	-	(64)	(66)
Balance at 30 June 2010	1,840	520	686	1,094	1,150	5,290
Balance at 1 July 2010	1,840	520	686	1,094	1,150	5,290
Depreciation expense	360	21	83	29	240	733
Elimination on disposal	-	-	-	-	(173)	(173)
Balance at 30 June 2011	2,200	541	769	1,123	1,217	5,850
Carrying amount						
At 1 July 2009	1,433	100	213	98	437	2,281
At 30 June and 1 July 2010	1,098	88	129	73	367	1,755
At 30 June 2011	738	67	46	72	222	1,145

Notes to the Financial Statements – continued

Note 9: Intangible assets

	Acquired Software \$000
Cost	
Balance at 1 July 2009	1,717
Additions	472*
Disposals	-
Balance at 30 June 2010	2,189
Balance at 1 July 2010	2,189
Additions	104
Disposals	-
Balance at 30 June 2011	2,293
Accumulated depreciation and impairment losses	
Balance at 1 July 2009	798
Amortisation expense	345
Elimination on disposal	-
Balance at 30 June 2010	1,143
Balance at 1 July 2010	1,143
Amortisation expense	380
Elimination on disposal	-
Balance at 30 June 2011	1,523
Carrying amount	
At 1 July 2009	919
At 30 June and 1 July 2010	1,046
At 30 June 2011	770

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

* The \$472,000 new addition includes work in progress to the value of \$345,000 for the electronic data and records management system project. There are no amortisation costs incurred for the year ended 30 June 2010. The project was completed in May 2011.

Notes to the Financial Statements – continued

Note 10: Creditors and other payables

2010 Actual \$000		2011 Actual \$000
4,485	Trade creditors – Crown Solicitors’ fees	4,534
432	Trade creditors – Other	698
3,352	Accrued – Unbilled Crown Solicitors’ fees	3,517
375	Other accrued expenses – Crown Solicitors’ fees	519
160	Other accrued expenses	249
134	GST payable	416
8,938	Total creditors and other payables	9,933

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.

Note 11: Employee entitlements

2010 Actual \$000		2011 Actual \$000
	Current liabilities	
594	Personnel accruals	459
1,071	Annual leave	1,204
245	Retirement and long service leave	143
1,910	Total current portion	1,806
	Non-current liabilities	
222	Retirement and long service leave	124
222	Total non-current portion	124
2,132	Total employee entitlements	1,930

Annual leave and vested long service leave are calculated using the number of days owing as at 30 June 2011.

Retirement leave and long service leave that are due or expected to be paid within the next 12 months are based on the days owing as at 30 June 2011.

The Collective Employment Agreement came into effect from 22 April 2010. The Collective Employment Agreement and individual employment contracts provide for one week’s long service leave after completing 10 years’ service with Crown Law. A small number of staff have grand-parented long service leave arrangements prior to the above agreement.

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.

Notes to the Financial Statements – continued

Treasury advised that the discount rates in year 1 of 2.84%, year 2 of 3.81% and year 3 and beyond of 6.00%, and a long-term salary inflation factor of 3.50% 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.

Note 12: Return of operating surplus

2010 Actual \$000		2011 Actual \$000
-	Provision for repayment of surplus to the Crown	2,878

The repayment of surplus is required to be paid by 31 October of each year. In prior years Crown Law has sought approval and retained the surplus in output expense Legal Advice and Representation.

The 2011 surplus in output expense Legal Advice and Representation of \$1.174 million will be repaid to the Crown. Refer note 20 Memorandum Account – Legal Advice and Representation. A capital injection of \$1.174 million will be sought in a future budget to fund the memorandum account.

Note 13: Taxpayers' funds

2010 Actual \$000		2011 Actual \$000
	General fund	
2,933	Balance at 1 July	1,530
(2,349)	Net surplus/(deficit)	2,878
-	Capital contribution	3,227
946	Retained surplus	-
-	Provision from repayment of surplus to the Crown	(2,878)
1,530	General funds at 30 June	4,757

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 withdrawals 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.

2010	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)	8,938	Nil	Nil	Nil
Derivative financial instrument liabilities	Nil	Nil	Nil	Nil
Finance leases	Nil	Nil	Nil	Nil
2011	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)	9,933	Nil	Nil	Nil
Derivative financial instrument liabilities	Nil	Nil	Nil	Nil
Finance leases	Nil	Nil	Nil	Nil

Notes to the Financial Statements – continued

Note 15: Categories of financial instruments

2010 Actual \$000		2011 Actual \$000
6,391	Cash and cash equivalents	13,395
3,063	Debtors and other receivables	3,816
9,454	Total loans and receivables	17,211
	<i>Financial liabilities measured at amortised cost</i>	
8,938	Creditors and other payables	9,933
8,938	Total creditors and other payables	9,933

Note 16: Related party information

All related party transactions have been entered into on an arm's-length basis.

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.

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.

Significant transactions with government-related entities

Crown Law has received funding from the Crown of \$53.722 million (2010: \$46.099 million) to provide legal services to the Crown for the year ended 30 June 2011.

Collectively, but not individually significant transactions with government-related entities

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. During the year ended 30 June 2011 Crown Law has provided legal services to departments and government entities in the amount of \$20.161 million (2010: \$18.454 million).

In conducting its activities, Crown Law is required to pay various taxes and levies (such as GST, FBT, PAYE and ACC levies) to the Crown and entities related to the Crown. The payment of these taxes and levies, other than income tax, is based on the standard terms and conditions that apply to all tax and levy payers. Crown Law is exempt from paying income tax.

Crown Law also purchases goods and services from entities controlled, significantly influenced or jointly controlled by the Crown. Purchases from these government-related entities for the year ended 30 June 2011 totalled \$0.765 million (2010: \$0.819 million). These purchases included the purchase of electricity from Genesis, air travel from Air New Zealand, court filing fees from Ministry of Justice and postal services from New Zealand Post.

Crown Law provided legal services to the Office of the Auditor-General totalling \$7,840 for the year ended 30 June 2011.

Transactions with Crown Solicitors

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 was \$43.403 million (2010: \$40.760 million). There is a balance of \$4.036 million (2010: \$3.727 million) outstanding at year-end.

Transactions with key management personnel

Key management personnel compensation

2010 Actual \$000		2011 Actual \$000
1,792	Salaries and other short-term employee benefits	1,833
99	Post-employment benefits	38
-	Other long-term benefits	-
-	Termination benefits	-
1,861	Total salaries and other short-term employee benefits	1,871

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).

There are no related party transactions involving key management personnel (or their close family members).

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

Notes to the Financial Statements – continued

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.

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, Treasury Instructions and the Public Finance Act 1989.

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 2011

2010 Actual \$000		2011 Actual \$000
(2,349)	Net operating surplus/(deficit)	2,878
1,071	Depreciation and amortisation expense	1,113
1,071	Total non-cash items	1,113
	Working capital movements	
1,223	(Increase)/decrease in debtors and receivables	(753)
(70)	(Increase)/decrease in prepayments	(27)
652	Increase/(decrease) in creditors and payables	995
22	Increase/(decrease) in employee entitlements	(104)
1,827	Working capital movements – net	111
	Movements in non-current liabilities	
-	Provision for premises make good	-
38	Increase/(decrease) in employee entitlements	(98)
38	Movements in non-current liabilities	(98)
	Add/(less) investing activity items	
-	Net (gain)/loss on disposal of property, plant and equipment	-
-	Total investing activity items	-
587	Net cash flow from operating activities	4,004

Notes to the Financial Statements – continued

Note 19: Memorandum account – Senior Counsel applications

2010 Actual \$000		2011 Actual \$000
17	Opening balance at 1 July	17
-	Revenue	
-	Less expenses (write-off balance)	(17)
17	Closing balance at 30 June	-

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 comprehensive income.

This account enabled Crown Law to recover the cost of administering and evaluating the applications for Senior Counsel. The Senior Counsel process has been closed.

Note 20: Memorandum Account – Legal Advice and Representation

2010 Actual \$000		2011 Actual \$000
1,816	Opening balance at 1 July	2,694
18,262	Revenue	20,154
(17,384)	Less expenses	(18,980)
2,694	Closing balance at 30 June	3,868

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 comprehensive income.

The opening balance of \$2.694 million is the retention of 2007/08 surplus (\$870,000), 2008/09 surplus (\$946,000) and 2009/10 surplus (\$878,000) arising from legal advice and representation services. The 2009/10 surplus was obtained through capital injection. The 2010/11 surplus of \$1.174 million, which is contained in the closing balance, is included in the repayment of the surplus to the Crown (refer note 12).

The 2010/11 surplus comprises:

- › legal fees for services \$1.063 million;
- › contributions received for the funding of the Government Legal Services Project \$107,000; and
- › surplus arising from the 2011 Lawyers in Government Conference \$4,000.

The memorandum 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.

Notes to the Financial Statements – continued

Note 22: Explanation of major variances against budget

Explanations for major variances from Crown Law's budgeted figures in the Information Supporting the Estimates are as follows:

Statement of comprehensive income

Other operating expenses

Other operating expenses were greater than budgeted by \$5.266 million due to increased Crown Solicitor fees.

Income from the Crown

Income from the Crown was greater than budgeted by \$10.723 million because of additional funding received for the Supervision and Conduct of Crown Prosecutions, which was not included in the Information Supporting the Estimates.

Statement of financial position

Cash and cash equivalents

Cash and cash equivalents is above budget by \$9.420 million because of additional funding received for the Supervision and Conduct of Crown Prosecutions.

Statement of cash flows

Receipts from the Crown were greater than budgeted by \$10.723 million because of additional funding received for the Supervision and Conduct of Crown Prosecutions. Consequently, the cash outflows for payments to Crown Solicitors were greater than budgeted.

NON-DEPARTMENTAL STATEMENTS AND SCHEDULES for the year ended 30 June 2011

A non-departmental appropriation was set up by Crown Law in 2009/10 to make a one-off ex gratia payment to Mr and Mrs Berryman on behalf of the Crown. This appropriation has been closed.

STATEMENT OF NON-DEPARTMENTAL EXPENDITURE AGAINST APPROPRIATIONS

for the year ended 30 June 2011

This appropriation was set up by Crown Law for 2009/10 only to make a one-off ex gratia payment to Mr and Mrs Berryman on behalf of the Crown.

2010 Actual		2011 Actual	2011 Main Estimates	2011 Supp Estimates	2011 Total
\$000		\$000	\$000	\$000	\$000
	Vote Attorney-General				
	Appropriation for non-departmental output expenses				
150	Ex gratia payment to Berrymans	-	-	-	-
150	Total non-departmental expenditure	-	-	-	-

SCHEDULE OF NON-DEPARTMENTAL EXPENSES

for the year ended 30 June 2011

2010 Actual		2011 Actual	2011 Main Estimates	2011 Total
\$000		\$000	\$000	\$000
150	Ex gratia payment to Berrymans	-	-	-
150	Total non-departmental expenditure	-	-	-

The accompanying notes form part of these financial statements.

For a full understanding of the Crown's financial position and the results of its operations for the year, refer to the consolidated Financial Statements of the Government for the year ended 30 June 2011.

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