

# Crown Law

## Annual Report for the year ended 30 June 2013

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# Introduction from the Solicitor-General

This year has been a busy one.

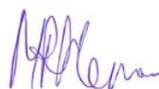
I joined Crown Law as Solicitor-General in September 2012 and I feel hugely privileged to have joined this office. From March to September 2012, Cheryl Gwyn led Crown Law as Acting Solicitor-General, and I wish to express my appreciation for the guidance and stability Cheryl and the rest of the Management Board provided during this period.

Over the last year, we have made impressive progress in improving what Crown Law does and how it is done. We revised our purpose, vision, values and guiding principles, which set out how we want to work as an organisation. We strengthened our focus on core Crown legal work, in accordance with the revised Cabinet Directions for the Conduct of Legal Business. We implemented a new structure for our strategy and corporate functions, and our legal and support functions. We relocated our Wellington office, and we established an office in Auckland on a pilot basis. Along with our new surroundings we implemented new technology, to support a more modern and mobile way of working. We developed and implemented an interim funding solution for the Crown Solicitors Network, as well as a long-term funding model. We have also made significant progress, particularly over this past year, in strengthening the Government Legal Network.

Alongside these changes, we also managed a significant and challenging workload. During 2012/13, we worked on a wide range of cases that included responding to the Christchurch earthquakes, the Pike River Royal Commission, the grounding of the MV Rena, Dotcom litigation and the continued increase in mutual assistance and extradition cases, along with the Lundy appeal to the Privy Council.

The excellent efforts of everyone across the organisation, and what we've collectively accomplished, makes us proud. I want to thank all staff at Crown Law for their support and continued professionalism during the year. It is a reflection of the staff here that throughout the significant change programme, our clients maintained their confidence in us.

Crown Law is on an exciting course and 2013/14 will be another big year, as we implement our new ways of working and continue to deliver core Crown legal work. Our focus, our passion and our technical excellence will continue. Our independence, our dedication to service of the Crown and to the rule of law, will remain as strong as ever.

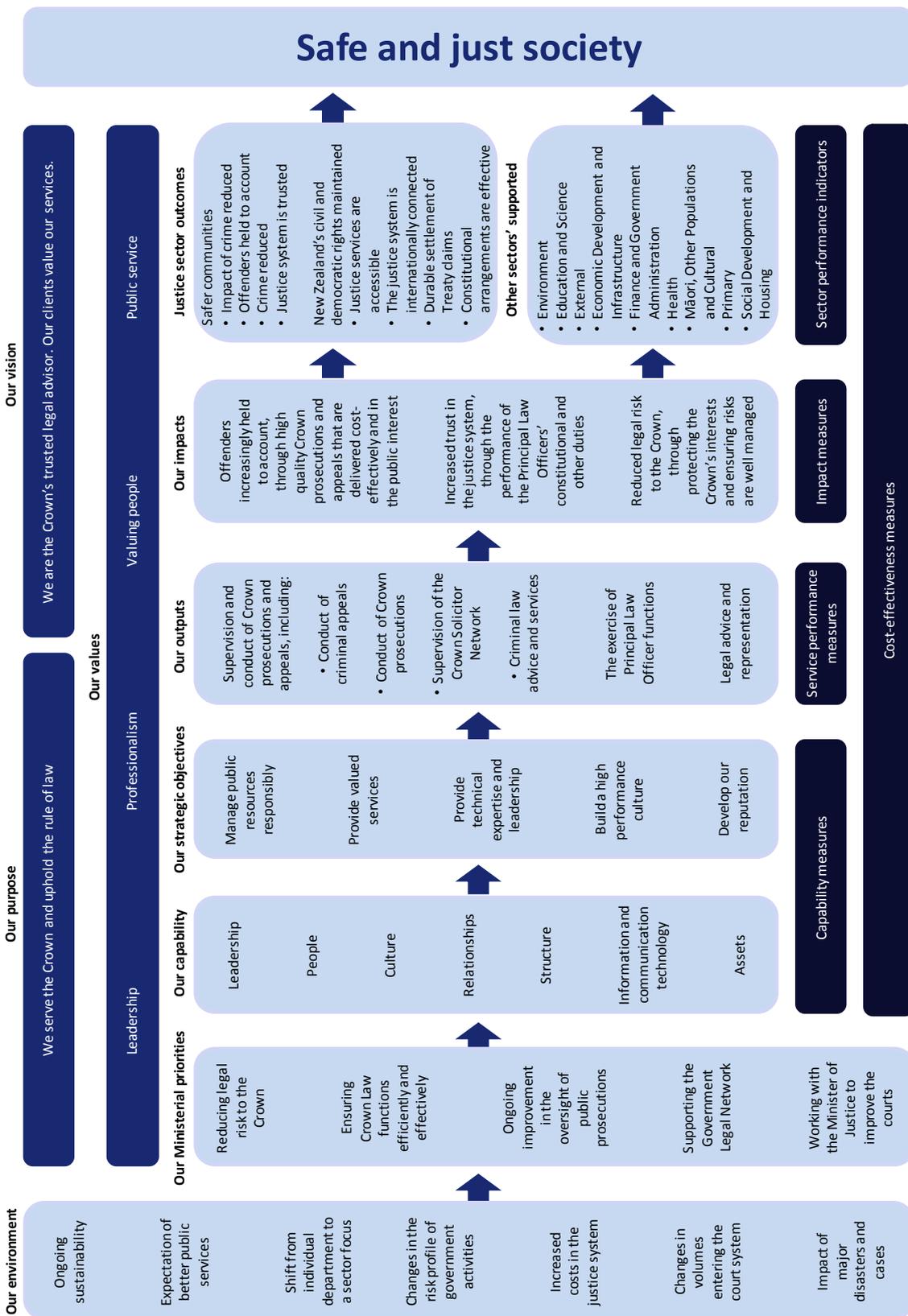


Michael Heron

**Solicitor-General and Chief Executive**

# Our performance framework

Crown Law’s performance framework, as below, was updated in 2012/13. The framework sets out why we exist, what we do, how we do it, and how we impact on New Zealand. It also references the performance measures that we monitor to ensure that we are as efficient and effective as possible.



# Who we are

## Our purpose



Crown Law is a government department that provides legal advice and representation to the government, particularly in the areas of criminal, public and administrative law. Crown Law supports both the Attorney-General and the Solicitor-General. We serve the Crown and uphold the rule of law.

### THE PRINCIPAL LAW OFFICERS

The Attorney-General is the senior Law Officer of the Crown, with principal responsibility for the Government’s administration of the law. The Attorney-General is also a Minister of the Crown, with ministerial responsibility for Crown Law.

The Solicitor-General is the junior Law Officer, and is the government’s chief legal adviser and advocate in the courts. The Solicitor-General holds office as an official of government and is also the Chief Executive of Crown Law.

Our focus is on core Crown legal work. This includes issues that, because of their nature, have such significance for the Crown that they should be undertaken under the supervision of the Law Officers. It equates to the core legal work for which the Law Officers are constitutionally responsible.

The Cabinet Directions for the Conduct of Crown Legal Business 2012<sup>2</sup> set out particular legal issues that must be referred to the Solicitor-General. These include:

- representation or advice in relation to actual or imminent litigation to which the Government or a government agency is or may become a party

- legal services involving questions of the lawfulness of the exercise of government power
- constitutional questions including Treaty of Waitangi issues
- legal issues relating to the protection of revenue.

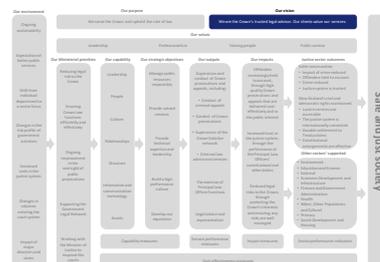
### OUR EXPERTISE

Crown Law supports the Crown in many unique and varied legal matters in areas such as the New Zealand Bill of Rights Act 1990, human rights, land and environment interests, social services, employment law, citizenship, cultural issues, protection of revenue, international obligations, and the Treaty of Waitangi.

We participate in crucial all-of-government responses to national disasters and inquiries, such as the MV Rena maritime disaster and the Christchurch earthquake recovery.

We are also responsible for managing and supervising the Crown Solicitors Network in their work conducting Crown prosecutions.

## Our vision



Crown Law’s vision is that we are the Crown’s trusted legal advisor and that our clients value our services. We are the first choice for Ministers, Chief Executives and Chief Legal Advisors for core Crown legal advice and litigation. We are highly respected as the leading administrative and public law experts. The Government knows that it is meeting its legal obligations and is able to make decisions to advance its policy programme.

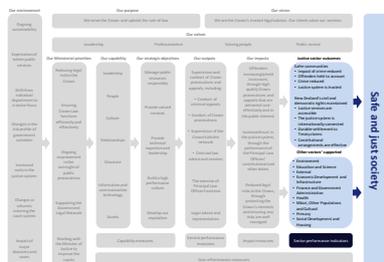
We achieve this by being clear about our focus, passionate about what we do, rigorous in enforcing high standards of technical ability, and by being focused on providing excellent client services. We work collaboratively to meet client needs, professionally and cost-effectively, while also helping to manage legal risk across government.

1 These images show how the section relates to Crown Law’s overall performance framework.

2 “Cabinet Directions for the Conduct of Crown Legal Business 2012”, Appendix C, Cabinet Office Manual, 2012.

# What difference we made

## Our contribution to government goals



## Our contribution to, and impact on, the justice sector

The Ministry of Justice is the lead agency in the justice sector, which also includes Crown Law, the New Zealand Police, Department of Corrections, Serious Fraud Office, and the Ministry of Social Development (for youth justice).

During 2012/13, Crown Law increased its engagement with central agencies and its involvement in the justice sector. Crown Law is involved actively and collaboratively in the justice sector, through participation in justice sector fora and reforms.

While not a lead agency, Crown Law also supports its sector colleagues in delivering better public services for Result Area 7: Reduce the rates of total crime, violent crime and youth crime, and Result Area 8: Reduce reoffending. Crown Law supports progress in these two result areas through Crown prosecutions and appeals work.

Crown Law also participates in sector governance and management processes. For example, the four year planning for Crown Law and Vote Attorney-General is included in the Justice Sector Four Year Plan. Crown Law also contributes to sector quarterly performance reporting and sector-wide resource prioritisation through the Justice Sector Fund.

Justice sector Ministers recognise that achieving the best outcomes for people participating in sector processes requires all agencies to be working towards the same goals. The ultimate justice sector outcome is a “safe and just society”, which is achieved through eight shared outcomes, as shown below.

## JUSTICE SECTOR OUTCOMES



The outcomes that Crown Law has a direct impact on are in bold dark blue. Those we have an indirect impact on are in light blue.

The way in which Crown Law contributes to the justice sector outcomes, or the impacts as a result of Crown Law’s work, are:

- offenders are held to account, through high quality Crown and public prosecutions and appeals that are delivered cost-effectively and in the public interest
- there is increased trust in the justice system, through the performance of the Principal Law Officers’ constitutional and other duties
- there is reduced legal risk to the Crown, through protecting the Crown’s interests and ensuring risks are well managed.

**Offenders are held to account, through high quality Crown prosecutions and appeals that are delivered cost-effectively and in the public interest**

Individuals, who are identified, apprehended and found guilty of committing crimes, are held to account for their offending. An offender will only be held to account if the crime is investigated and resolved, and the offender, if guilty, is either charged or sanctioned in some way. High quality public prosecutions and appeals, delivered cost-effectively and free from political interference, are crucial to holding offenders to account.

In 2012/13, Crown Law developed a new reporting framework for Crown prosecutions. The framework includes monitoring of the work undertaken by Crown Solicitors, such as the number of cases disposed of and the mix of those cases, and assessment of the quality of work undertaken by Crown Solicitors.

From 2011/12 to 2012/13, there was no significant change in the number of prosecutions and appeals disposed of by Crown Solicitors.

**Increased trust in the justice system, through the performance of the Principal Law Officers' constitutional and other duties**

As chief legal advisors to the Government and chief advocate for the Government in the courts, the Principal Law Officers ensure that the Government is not prevented through legal process from lawfully implementing its chosen policies and discharging its governmental responsibilities.

The rule of law is the underlying framework of rules and rights that make prosperous and fair societies possible. The rule of law is a system in which no one is above the law; where laws protect fundamental rights; and where justice is accessible to all, including for the government.

Crown Law assists the Law Officers to act as independent legal advisors to the Crown, free from political influence. This independence is critical in maintaining the integrity of the rule of law and is instrumental in minimising the risk of the Government acting unlawfully.

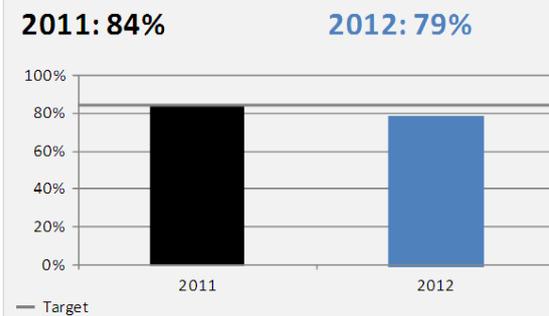
An effective criminal justice system is a key aspect of the rule of law, as it constitutes the natural mechanism to redress grievances and bring action against individuals for offences against society. An effective criminal justice system is capable of investigating and adjudicating criminal offences

effectively, impartially, and without improper influence, while ensuring that the rights of suspects and victims are protected.

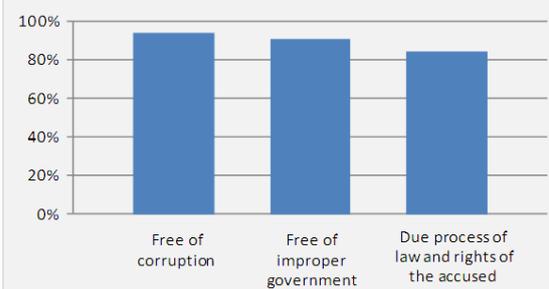
Corruption prevention looks at the means by which the state and society prevent public servants and politicians from accepting bribes, and the mechanisms that are in place to guarantee officeholder integrity. Legal, political and public integrity mechanisms should effectively prevent abuse or corruption.

The World Justice Project Rule of Law Index measures a range of elements that contribute to the rule of law, including the effectiveness of criminal justice systems. In 2012, the perceived effectiveness of New Zealand's criminal justice system declined (see Figure 1). However, the sub-factors that contribute to the effectiveness of the criminal justice systems and that relate to Crown Law's work (whether the system is free of corruption, free of improper government influence, and whether there is due process of law and rights of the accused) were rated highly, with New Zealand being ranked second, fifth and eighth respectively, out of 97 countries (see Figure 2).

**Figure 1: Perceived effectiveness of the criminal justice system**



**Figure 2: Perceived effectiveness of elements of the criminal justice system**

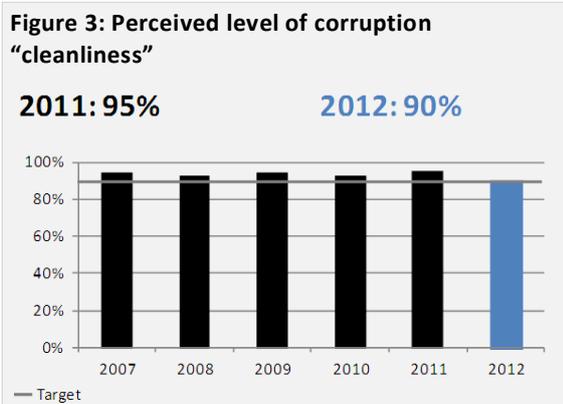


The World Bank Institute Worldwide Governance Indicators also rate New Zealand's rule of law favourably, with New Zealand ranking fourth out of 214 countries in 2011. These indicators also measure how well New Zealand controls for

corruption. New Zealand rated even higher in this area, ranking first out of 212 countries.

These findings are supported by the Bertelsmann Foundation Sustainable Governance Indicators Status Index. In 2011, New Zealand was rated as having effective corruption prevention and strong adherence to the rule of law. While the effectiveness of judicial appointments rated lower, it was noted that there is widespread belief that the system has worked exceptionally well.

The Transparency International Corruptions Perception Index specifically measures the perceived level of corruption in the public sector. In 2012/13, the perceived level of corruption in New Zealand’s public sector remained low (see Figure 3). New Zealand’s public sector is perceived as “very clean”, ranking first equal out of 176 countries and territories.



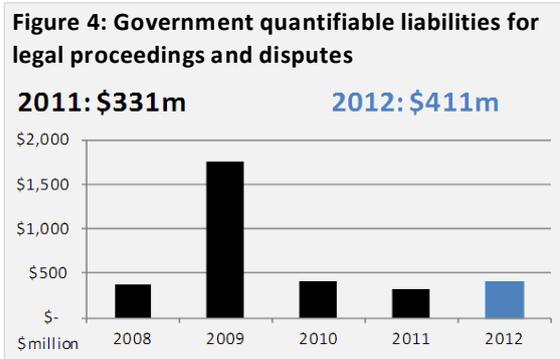
**Reduced legal risk to the Crown, through protecting the Crown’s interests and ensuring risks are well managed**

The work undertaken by Crown Law in supporting the Law Officers and providing legal advice and representation to government departments ensures the Crown’s legal risks are well managed and its interests are protected.

We take a “one Crown” approach to protect the Crown’s legal interests. In looking after the Crown’s legal interests we look beyond the interests of a specific department, even when that department is the client initiating the work. This approach in particular provides assurance to the Attorney-General and Solicitor-General that the Crown’s legal risks are being identified early and are well managed.

One of the ways in which we know whether Crown legal risks are being effectively managed is through monitoring the Government’s quantifiable contingent liabilities for legal proceedings and

disputes. From 30 June 2011 to 30 June 2012, the liabilities for legal proceedings and disputes increased (see Figure 4). This was driven by an increase in tax-related proceedings and disputes, which increased from \$281 million in 2011 to \$365 million in 2012.



A well-functioning democracy benefits from predictable, legally enforceable standards of government behaviour. The Bertelsmann Foundation Sustainable Governance Indicators Status Index measures the extent to which government actions are predictable and in accordance with the law, and the strength of scrutiny given by the courts to the government’s actions. We would expect that if the government acts in accordance with the law, and if there is scrutiny and sanctions for when this is not the case, government agencies and officials would be more likely to be lawful, thereby reducing legal risks. In 2011, New Zealand scored highly for both its legal certainty and judicial review mechanisms, ranking first out of 31 countries.

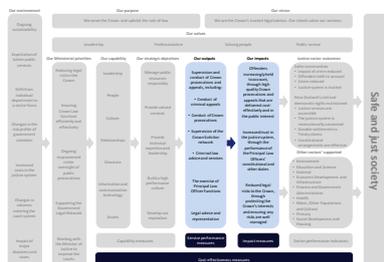
In addition, in a survey conducted in July 2013, the Attorney-General rated Crown Law’s effectiveness in reducing legal risk to the Crown as “Excellent” for 2012/13.

**Our contribution to other government sectors**

The work Crown Law does contributes to all sectors of government. While our home is within the justice sector, our outputs, particularly legal advice and representation services and the exercise of the Principal Law Officer functions, support agencies in other government sectors in managing their legal risks and obligations. This ensures that other agencies can deliver on their responsibilities and achieve their outcomes.

# What we did

## Our outputs we delivered



### Offenders increasingly held to account, through high quality Crown prosecutions and appeals that are delivered cost-effectively and in the public interest

Crown Law’s activities in supervising and conducting Crown prosecutions and appeals are crucial for holding offenders to account. The Solicitor-General is responsible for oversight of Crown and public prosecutions, Crown representation in criminal appeals and a number of specific statutory duties in relation to administration of the criminal justice system. Crown Law and Crown Solicitors support the Solicitor-General to fulfil these responsibilities.

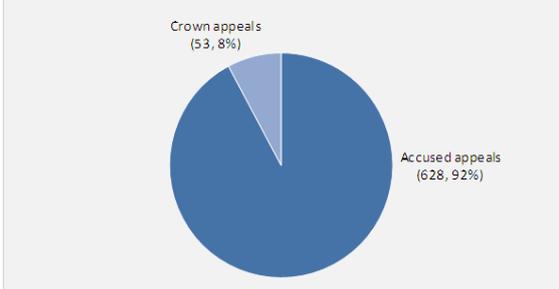
Crown Law’s activities are funded through the multi-class output appropriation for the Supervision and Conduct of Crown Prosecutions and Appeals. This includes funding specifically for the Conduct of Criminal Appeals, the Conduct of Crown Prosecutions, Supervision of the Crown Solicitor Network, and Criminal Law Advice and Services.

#### Conduct of criminal appeals

##### What we did

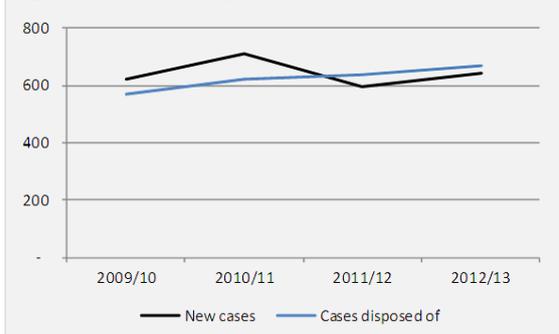
Crown Law conducts criminal appeals primarily in the Court of Appeal and Supreme Court. We bring Crown appeals against, for example, sentences imposed by the courts that are considered to be manifestly inadequate or wrong in principle. In addition to appeals that have been brought by the Crown, we also defend criminal appeals that have been brought by the accused (see Figure 5).

**Figure 5: Criminal appeals in progress at 30 June 2013**



From 2011/12 to 2012/13, there was an increase in the number of new criminal appeals (see Figure 6). The criminal appeals workload was driven by changes in appeals brought by the accused. The increase in appeals brought by the accused reflects an increase in convicted persons filing appeals. There was also an increase in new appeals brought by the Crown. In addition, in 2012/13, there was an increase in the number of cases disposed of<sup>3</sup>. This increase in disposals occurred across all areas of Crown Law’s work, due to an internal project to complete case closure documentation, allowing the files to be archived. This was driven by the relocation of Crown Law’s Wellington office.

**Figure 6: Criminal appeals workload**



Over the last year, Crown Law has undertaken a wide variety of complex and high profile appeals. The following are some examples that illustrate the work that Crown Law does in conducting criminal appeals.

<sup>3</sup> A case is considered to be “disposed of” when the case has been completed (for example, the advice has been sent to the client, or the trial or appeal has been heard), and all case documentation and administration has been completed.

### ***United States of America v Dotcom***

This was an appeal brought by the Crown on behalf of the United States of America (the “USA”) from a decision of the High Court dismissing the USA’s application for judicial review of orders for disclosure made in the District Court in the context of extradition proceedings. The Court of Appeal was required to consider the extent of disclosure that a court may order a requesting country to provide in advance of an eligibility hearing.

The USA, as an “exempted country” under Part 3 of the Extradition Act 1999, was required to produce only a summary of the evidence acquired and “other relevant documents, including photographs and copies of documents” when it applied for the extradition of a person in New Zealand.

The Court of Appeal held that “other relevant documents” referred to relevant documents that could not easily be summarised. The Court held that the Criminal Disclosure Act 2008 did not apply to extradition proceedings, and that there is no right to pre-hearing disclosure before an eligibility hearing. The Supreme Court has heard the application of Mr Dotcom and his co-defendants for disclosure, and the Court’s decision is reserved.

### ***Siemer v the Solicitor-General***

By majority the Supreme Court confirmed that the courts in New Zealand have the inherent power to suppress judgments and make other suppression orders. Where a person wishes to act in a manner contrary to the suppression order, he or she may apply to the court for review of that order. Provided the court has the power to make the order, it will not generally be open to a person facing contempt proceedings to defend them on the basis that the order should not have been made. There are very limited exceptions to the general rule where necessary in order to ensure that there is a meaningful and practically available opportunity for those subject to court orders to challenge them.

### ***Signer & Ors v R***

The applicants were convicted on firearms offences following the “Operation 8” police inquiry into apparent quasi-military training in the Ureweras. The Supreme Court dismissed the applications for leave to appeal against the Court of Appeal decision upholding their convictions on the basis that none of the matters raised were of general or public importance. Of note, the Court accepted that the question of whether the trial Judge had properly dealt with the reverse onus of

proof in s 45(2) of the Arms Act 1983 when directing the jury on the applicants’ potential liability as secondary parties was potentially important. However, the question did not meet the criteria for leave because it was inconceivable that any of the applicants were found guilty solely as an assister or encourager. The pattern of the jury’s verdicts supported this view.

### ***Hannigan v R***

The issue in this Supreme Court case was when the Evidence Act 2006 permits a witness to be contradicted by the party who calls him or her by referring to a previous statement made by the witness that is inconsistent with the evidence he or she has given in court. The Supreme Court’s decision canvasses the interplay between ss 89 (leading questions) and 94 (cross-examination of own witness) of the Evidence Act and the operation of the veracity rules under that Act.

Of note, the majority considered that the Court does not have to determine that a witness is hostile before exercising its discretion to allow the party who called him or her to ask leading questions. The majority also considered that the exclusionary veracity provisions in the Evidence Act do not apply to evidence that is directly relevant to the facts in issue in a trial.

### ***Hamidzadeh v R***

This case addressed the issue of how provocation might be taken into account in sentencing for murder following the repeal of the partial defence. Read together, the judgment of the Court of Appeal and the judgment of the Supreme Court declining leave to appeal appear to settle when and how provocation factors may be relevant to sentencing for murder. The overarching point is that ss 102 and 104 of the Sentencing Act 2002 require a manifest injustice before either the presumption of life imprisonment or the presumption of a 17 year minimum period of imprisonment may be departed from. There may be circumstances in which provocation provides a basis for such departures, but such cases will be exceptional.

### ***R v Y***

In this successful Solicitor-General appeal against a decision to discharge Y under s 347 of the Crimes Act 1961, the Court of Appeal held that an indecent act can be done by a person who does not physically participate in the act, but watches another perform it. What is required is a contextual consideration of the preposition “with” in s 2(1B) of the Crimes Act 1961, which provides

that an indecent act is done by a person if he or she induces or permits another to do an indecent act “with or on” him or her. The Court found that the intention of the defendant is an important focus, and that an intention which can be proved beyond reasonable doubt can bring a qualitative change to what might otherwise be mere presence. Where Y had intended, by his presence, to encourage the young complainants to masturbate while he watched, his presence satisfied the preposition of “with” in s 2(1B). The Supreme Court has granted leave for a further appeal.

### **Z v R**

This decision of a permanent bench of the Court of Appeal clarifies the law on discharge without conviction pursuant to ss 106 and 107 of the Sentencing Act 2002. Post *Blythe v R*, there was confusion over the role personal mitigating factors played in the assessment of whether a conviction would be out of all proportion to the gravity of the offending pursuant to s 107.

The Court held that when considering the gravity of the offence, the Court should consider all the aggravating and mitigating factors relating to the offending and the offender. It would be wrong in principle to leave personal aggravating and mitigating factors out of the s 107 analysis and address them only in the context of the residual discretion to discharge an offender under s 106.

### **R v Taniwha**

This was a Solicitor-General’s appeal against a pre-trial decision ruling the convictions of T’s alleged co-offenders inadmissible against T at trial. The Court of Appeal’s decision canvasses the interplay between ss 7, 8 and 49 of the Evidence Act 2006 and brings clarity to an area of evidence law that had been the subject of conflicting High Court decisions.

In allowing the appeal, the Court held that the convictions were relevant and probative as circumstantial evidence and that any risk of “guilt by association” reasoning could be adequately dealt with by way of a jury direction (as envisioned in the minority judgment of the Supreme Court in *Mahomed v R*).

### **Solicitor-General v Dougherty**

The issue in this case was whether s 4 of the Criminal Procedure (Mentally Impaired Persons) Act 2003 (the “CPMIP Act”) imports a requirement for “decisional competence” into the test for fitness to stand trial. That is, the idea that not only

must an accused person be able to communicate and instruct counsel, but in so doing, he or she must also be able to rationally assess what defence is in his or her best interests, and be able to choose that defence.

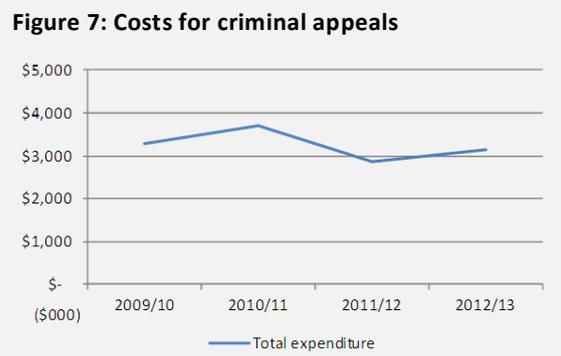
In ruling that there is no such requirement in s 4 of the Act, the Court of Appeal emphasised the importance of a defendant’s personal autonomy.

### **R v Thomas**

This appeal by the Solicitor-General resulted in the defendant’s sentence being increased after he failed to give evidence against his co-defendants, contrary to an agreement to do so for which he had been afforded a discount at sentencing. It is the first case in which *R v Hadfield* has been applied to increase a sentence for failure by a defendant to deliver on promised assistance to the authorities and it contains a helpful review of the applicable principles.

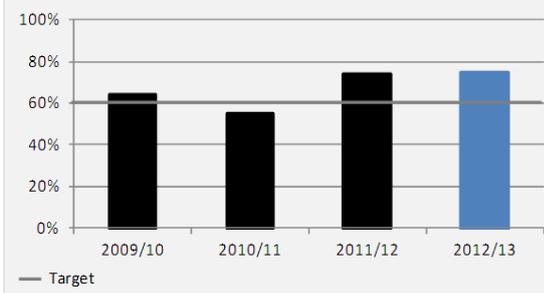
### **How well we did**

In 2012/13, there was an increase in costs for criminal appeals. While there was no significant change in the costs of appeals brought by the accused, there was an increase in costs for appeals that were brought by the Crown (see Figure 7).



Crown Law’s main measure for monitoring the effectiveness of its criminal appeals work is the percentage of appeals that are brought by the Crown and are concluded in favour of the Crown. From 2011/12 to 2012/13, Crown Law maintained its high success rate, with there being no significant change in the percentage of Crown appeals concluded in favour of the Crown (see Figure 8).

**Figure 8: Success rate for appeals brought by the Crown**



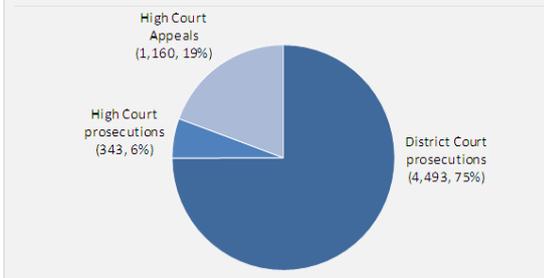
In 2012/13, Crown Law conducted a survey to assess the Attorney-General’s satisfaction with the services and outputs provided. The Attorney-General rated his satisfaction with the supervision and conduct of Crown prosecutions and appeals, generally, as “Excellent”.

**Conduct of criminal prosecutions**

**What we did**

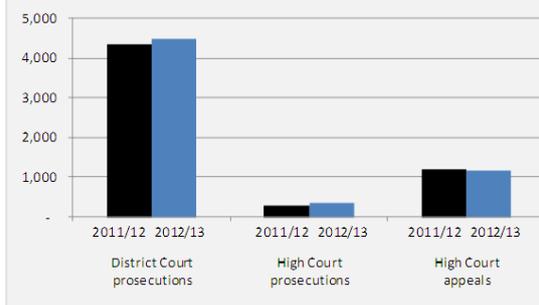
Crown prosecutions are primarily conducted by Crown Solicitors. Crown Solicitors are appointed under warrant of the Governor-General and they undertake work under the supervision of the Solicitor-General. Crown prosecutions include trials conducted in both the District Court and the High Court, as well as appeals to the High Court (see Figure 9).

**Figure 9: Crown prosecutions disposed of in 2012/13**



From 2011/12 to 2012/13, there was no significant change in the number of prosecutions and appeals disposed of (see Figure 10). While there were small increases in District Court and High Court prosecutions, this was offset by a small decrease in the number of High Court appeals disposed of.

**Figure 10: Crown prosecutions workload**



During 2012/13, Crown Law implemented changes to give effect to the Criminal Procedure Act 2011. This Act came into force on 1 July 2013. This is an important reform and will affect all users of the criminal justice system, including prosecutors. Crown Law worked with the justice sector, Crown Solicitors and departmental prosecutors on the Act’s implementation to ensure that the Act will achieve its anticipated benefits.

In particular, Crown Law led development of the Crown Prosecution Regulations, which identify which prosecutions are Crown prosecutions, and the stage or time at which the Crown assumes responsibility for those prosecutions. The Crown will continue to prosecute most offences that were previously purely indictable and will conduct all jury trials and High Court trials. The Crown is generally to assume responsibility for prosecutions earlier than previously.

To support the Regulations, Crown Law revised the Solicitor-General’s Prosecution Guidelines and developed a Prosecutors’ Handbook providing practical advice to prosecutors on applying the Act. Crown Law is also working with the Ministry of Justice and other sector agencies to ensure effective monitoring of the impact of the Act across the justice sector.

Another substantial programme of work aims to improve the Solicitor-General’s oversight of public prosecutions. This work will address recommendations made in the Review of Public Prosecution Services, such as implementing monitoring and reporting on prosecutions conducted by all prosecuting departments.

**How well we did**

From 2011/12 to 2012/13, there was a decrease in costs for Crown prosecutions (see Figure 11), as the level of funding for this output class has decreased. A long-term funding model was developed for 2013/14 onwards, with an interim funding solution being in place for 2012/13. In 2012/13, Crown Solicitors managed within the reduced interim funding solution.

**Figure 11: Costs for Crown prosecutions**



### Supervision of the Crown Solicitor Network

#### What we did

Crown Law administers the Crown Solicitor Network. This includes monitoring Crown Solicitor warrants and funding, guiding and sharing prosecution practice and knowledge, and reviewing practices to ensure high quality, value for money services are provided.

Our Public Prosecutions Unit is responsible for the effective management of the relationship between Crown Law and the Crown Solicitor Network and government prosecutors. The Unit also coordinates the development and implementation of new policy and operational processes, with the aim of delivering efficiencies and enhancing service delivery.

The Crown Solicitors Funding Project, and implementation of changes as a result of the project, was led by the Public Prosecutions Unit. This project developed an interim funding solution to ensure that Crown Solicitor services would be delivered within a reduced level of funding in 2012/13.

The project also developed a long-term funding model. Development of the long-term funding model is now complete and all Crown Solicitors have been advised of the projected annual fees for their warrant for 2013/14. Crown Solicitors participated fully in the project, providing detailed and valuable comment throughout.

As part of the funding model, Cabinet agreed that the Crown Solicitors Regulations 1994 would be revoked as they were no longer necessary and hampered fiscal management. Instead, from 1 July 2013, the Solicitor-General, on behalf of the Crown, will set the terms of office for Crown Solicitors. The Solicitor-General will also determine the fee arrangements for work carried out by Crown Solicitors on Crown and departmental prosecutions and related work.

This programme of work also included the development of a new reporting framework for Crown Solicitors. The framework includes, for example, assessment of the quality of work undertaken by Crown Solicitors. As part of the framework, Crown Law is reviewing how Crown Solicitors' practices will be assessed. The previous model for reviewing Crown Solicitors' practices is on hold while the new framework is being developed. As such, in 2012/13, only one review was completed and another was initiated.

#### How well we did

From 2011/12 to 2012/13, the cost of supervising the Crown Solicitor Network increased (see Figure 12), as the new Public Prosecutions Unit was established.

**Figure 12: Costs for the Supervision of the Crown Solicitor Network**

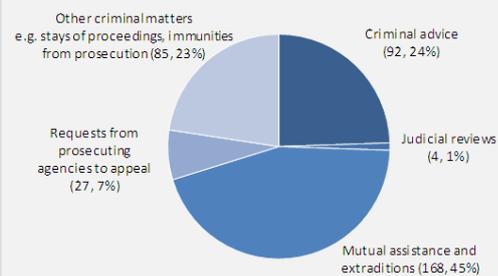


### Criminal law advice and services

#### What we did

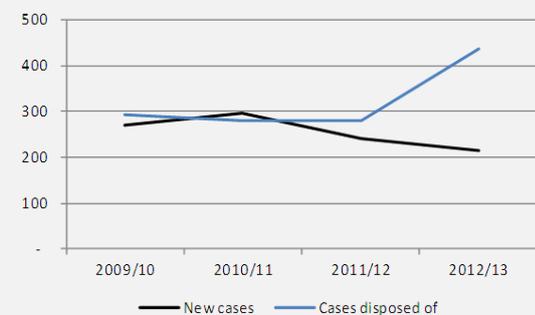
Crown Law provides legal advice and responds to applications on criminal law issues. We provide advice to the Solicitor-General and Deputy Solicitors-General on requests for Crown appeals, judicial reviews, stays of prosecution, consents to prosecute, alleged contempt of court, and breaches of name suppression (see Figure 13). We also make decisions on appeal and judicial review requests from prosecuting agencies, and we oversee the prosecution work of the Serious Fraud Office. We assist in international criminal investigations, proceedings, and extradition requests.

**Figure 13: Criminal law advice and services in progress at 30 June 2013**



In 2012/13, there was an increase in the number of cases disposed of (see Figure 14). As noted earlier, this was due to an internal project to complete case closure documentation, allowing the files to be archived.

**Figure 14: Criminal law advice and services workload**



#### How well we did

From 2011/12 to 2012/13, expenditure on criminal law advice and services continued to increase (see Figure 15). This was driven by an increase in costs for mutual assistance and extradition cases, which primarily related to the Dotcom case. There were also small increases in costs for requests from prosecuting agencies to appeal, and other criminal cases.

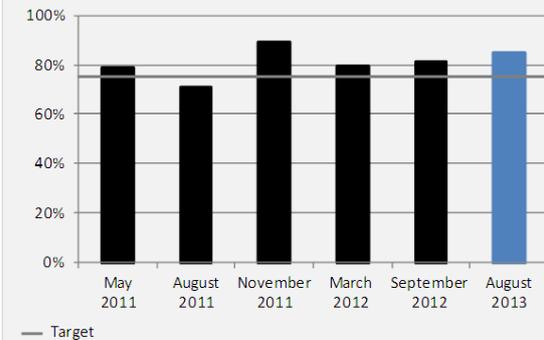
**Figure 15: Costs for criminal law advice and services**



Crown Law conducts a client satisfaction survey of New Zealand government departments, as they are the primary clients of Crown Law. This survey was last run in August 2013 and it included the New Zealand Police and the Serious Fraud Office,

who are significant clients for criminal law advice and services. Overall, client satisfaction increased from September 2012 to August 2013 (see Figure 16), with 85% of clients rating Crown Law's performance, on average across all questions, as "Good" or "Excellent". This is higher than the targeted 75%.

**Figure 16: Overall client satisfaction**



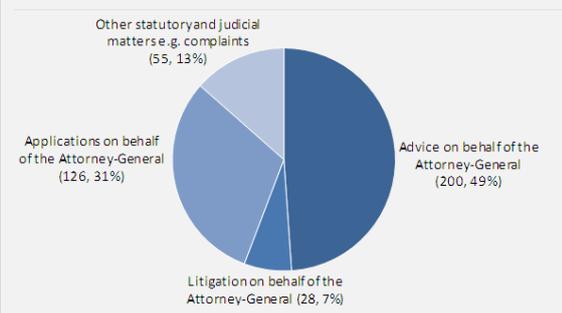
### Increased trust in the justice system, through the performance of the Principal Law Officers' constitutional and other duties

#### What we did

Crown Law supports the Attorney-General and the Solicitor-General in performing their roles as Principal Law Officers. In addition to supporting the conduct of Crown prosecutions and appeals, Crown Law also provides legal advice and other assistance to the Law Officers in the following areas (see Figure 17):

- supporting appointments of Queen's Counsel, and Judges to the higher courts
- informing the House whether any provision in a Bill introduced to the House is inconsistent with the New Zealand Bill of Rights Act 1990
- supporting the supervision of charitable trusts
- managing vexatious litigant proceedings
- processing applications for the discharge of adoption orders
- processing requests for second coronial inquiries
- managing special patient reclassifications
- providing legal advice and representation on intervention in respect of alleged contempt of court and breaches of name suppression
- providing advice on the legal and constitutional implications of policy proposals.

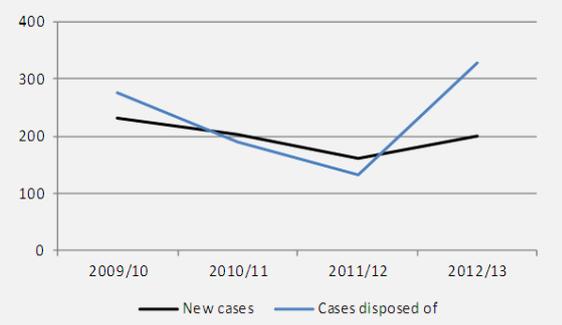
**Figure 17: Exercise of Principal Law Officer functions cases in progress at 30 June 2013**



These activities are funded through the appropriation for the Exercise of Principal Law Officer Functions.

From 2011/12 to 2012/13, there was an increase in new cases relating to the exercise of Principal Law Officer functions (see Figure 18), which was primarily driven by an increase in advice on behalf of the Attorney-General, as well as smaller increases in litigation and applications on behalf of the Attorney-General. There was also an increase in the number of cases disposed of, consistent with the increase across the office as a result of an internal project to complete case closure documentation.

**Figure 18: Workload for cases related to the exercise of Principal Law Officer functions**



Over the last year, Crown Law has undertaken a wide variety of cases relating to the exercise of Principal Law Officer functions. The following is an example of the work that Crown Law does in supporting the Principal Law Officers to carry out their roles.

### ***U v Attorney-General***

This appeal sought recognition of a Philippines court order obtained by a New Zealand resident in the Philippines for the adoption of a child resident there. Counsel for the Attorney-General opposed recognition on the basis that the order had been made in breach of the safeguards provided in the Hague Convention on Intercountry Adoption, to which both countries are parties, and without the

necessary approvals of New Zealand authorities. The Court of Appeal, following the Court below, upheld the Attorney-General's position that the Hague Convention scheme, as implemented by the Adoption (Intercountry) Act 1997 is comprehensive and mandatory. The Court rejected contentions that the Convention scheme could be disapplied under the common law, by reference to the Convention on the Rights of the Child or otherwise.

The Court's decision serves to emphasise that the Hague Convention safeguards must be met before an intercountry adoption takes place, removes any doubt or possible incentive over recourse to irregular procedures, and ensures that New Zealand complies with its obligations under the Hague Convention. Compliance with the Convention also precludes recourse to irregular procedures as a way of circumventing immigration requirements.

### **How well we did**

From 2011/12 to 2012/13, expenditure on cases related to the exercise of Principal Law Officer functions continued to decrease (see Figure 19). This was driven by decreases in costs for litigation on behalf of the Attorney-General, and other statutory and judicial matters.

**Figure 19: Costs for cases related to the exercise of Principal Law Officer functions**



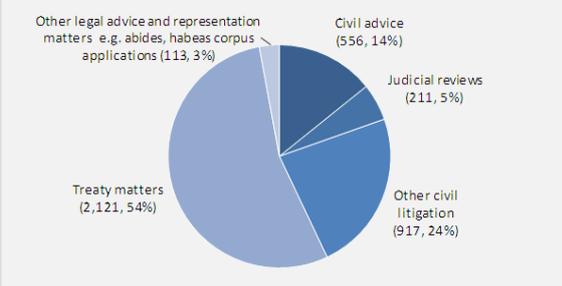
The main client for work relating to the exercise of Principal Law Officer functions is the Attorney-General. The Attorney-General's satisfaction with legal and constitutional advice, representation services and administrative services to assist the Attorney-General in the exercise of his Principal Law Officer functions, was rated "Excellent" for 2012/13.

## Reduced legal risk to the Crown, through protecting the Crown’s interests and ensuring risks are well managed

### What we did

Crown Law is responsible for advising and providing representation to other government departments, including for issues relating to the protection of revenue, and representing departments in judicial reviews and other civil litigation (see Figure 20). Our activities are funded through the Legal Advice and Representation appropriation.

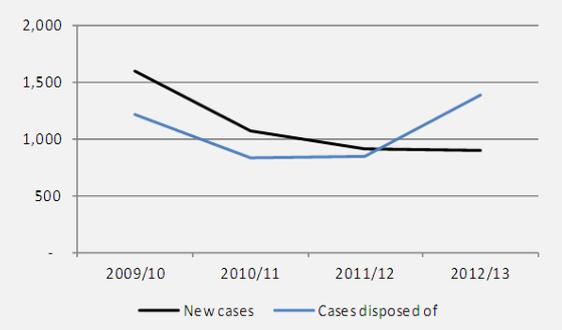
**Figure 20: Legal advice and representation cases in progress at 30 June 2013**



In 2012/13, there was a small decrease in the number of new legal advice and representation cases (see Figure 21). An increase in the number of new civil advice and judicial review cases was offset by a decrease in the number of other civil litigation cases. This may be related to Crown Law’s increased focus on core Crown legal work, with less non-core Crown legal work being undertaken.

In addition, in 2012/13, there were more cases disposed of than there were new cases received, which was the first year in recent times that this was the case. As noted earlier, this increase in the number of cases disposed of was due to an internal project to complete case closure documentation.

**Figure 21: Legal advice and representation workload**



Over the last year, Crown Law has undertaken a wide variety of complex, high profile and often urgent legal work. The following are some examples that illustrate the range of work that Crown Law does in providing legal advice and representation to other government agencies.

### Public law related cases

#### **Board of Trustees of Salisbury Residential School v Attorney-General**

Salisbury School, a residential special school providing for girls with special education needs, challenged the Minister of Education’s decision to close it by way of judicial review. The Minister had decided to close the school on the basis that sufficient provision of special education services for Salisbury girls would be provided by other special education services – namely, the Intensive Wraparound Service (which the government was in the process of expanding), and Halswell School (a residential special school for boys which the Minister intended to make co-educational).

The Court found that the Minister’s decision was unlawful for two reasons. First, the Minister was wrong to assume that she could send any girl who needed to attend a special residential school to Halswell, prior to it becoming co-educational. Secondly, the Court found that the Minister’s decision failed to give sufficient consideration to the potential safety risks to girls at Halswell. For these reasons, the Minister had erred in concluding that other special education services provided sufficiently for the special education needs of Salisbury girls. The Minister’s decision to close the school was quashed.

#### **Liu v Chief Executive, Department of Labour**

The High Court held that an immigration officer’s “absolute discretion” under s 177(3) of the Immigration Act 2009 to cancel a deportation order required the officer to consider Articles 9(1) and 10 of the United Convention on the Rights of the Child (UNCROC). The High Court relied on an earlier High Court decision in *Ewebiyi v Parr* and distinguished contrary decisions of the High Court, Court of Appeal and Supreme Court, and competing international authority. Article 9(1) imposes a positive duty on States not to separate a child from his/her parent(s) unless it is in the child’s best interests to do so and has been interpreted as applying only to domestic family contexts (such as domestic violence), not to immigration matters. The Crown is appealing the High Court’s decision to the Court of Appeal given the significant implications for immigration

decision-making involving deportation of migrants with resident or New Zealand citizen children.

### ***Minister of Immigration v Jooste***

The Minister has sought leave to appeal on a question of law a decision of the Immigration and Protection Tribunal finding that there were exceptional circumstances of a humanitarian nature that would make it unjust or unduly harsh to deport Mr Jooste, a resident convicted of serious criminal offences involving fraud. This is the first Crown application for leave to appeal a decision of the Tribunal under the Immigration Act 2009. It is important because in its decision the Tribunal has, the Minister argues, set a lower threshold for deportation of criminal offenders holding residence visas to establish “exceptional circumstances” than s 207 of the Immigration Act 2009 contemplates. Section 207 is substantially similar to the former s 47 of the Immigration Act 1987, which established a very narrow exception for overstayers seeking to avoid removal from New Zealand. The Minister argues that residents are to be held to the same high threshold as s 47 previously imposed. The leave decision of the High Court is reserved.

### ***A v Attorney-General and Rebstock***

The applicant sought judicial review of a draft of Paula Rebstock’s report into the apparent leak of Cabinet papers and other documents relating to the Ministry of Foreign Affairs and Trade change process. He claimed Ms Rebstock had no probative evidence for her conclusions, and that the conclusions were outside of her terms of reference because they are not “facts”, but rather “suspicions”. The applicant also claimed that certain documents should have been provided to the applicant for comment, as a matter of natural justice.

The High Court dismissed the application for review. It said that the suggested limitation to “facts” only would be artificial, and Ms Rebstock had sufficient information available to her to draw the conclusions that she did. The Court also found that the disclosure was adequate for natural justice purposes, on the assumption that the intended audience for the disclosure was the State Services Commissioner, but not if the report was to be made public.

An appeal from this decision was dismissed on 8 July 2013. The Court of Appeal also upheld the respondent’s cross appeal, confirming that natural justice required the applicant to be told of the evidence against him so that he could respond, but

did not require the wider disclosure ordered by the High Court on the basis that natural justice was done, and disclosure does not need to be provided so that a party can second-guess the investigation.

### ***Independent Fisheries Ltd & Clearwater Land Holdings Ltd v Minister for Canterbury Earthquake Recovery***

In the High Court, property developer applicants successfully challenged the Minister for Canterbury Earthquake Recovery’s use of the Canterbury Earthquake Recovery Act 2011 to amend the Canterbury Regional Policy Statement. On appeal the Court of Appeal overturned the majority of the High Court’s findings and held the Minister had used his powers for a proper purpose under the Canterbury Earthquake Recovery Act to achieve planning certainty and the consequences of his decisions did not amount to an unlawful denial of access to the Environment Court. The Court of Appeal still considered the Minister’s decision to be invalid, however, because it determined he had not considered whether the changes should have been made by way of a Recovery Strategy and Recovery Plans under the Canterbury Earthquake Recovery Act.

Notwithstanding the Court of Appeal decision, two of the successful applicants sought the Supreme Court’s leave to appeal aspects of the Court of Appeal’s judgment which overturned the High Court’s determination in their favour on those points. The Supreme Court dismissed the leave application, noting that the applicants were in effect seeking an advisory opinion on the Minister’s powers, which the Court did not have jurisdiction to do and which would have been “inappropriate” in any event.

### ***Back Country Helicopters v Minister of Conservation***

This judicial review proceeding challenged decisions by the then Associate Minister of Conservation, Hon Peter Dunne, on concessions for “aerially assisted trophy hunting.” That activity involves hunters being dropped near the target animal by helicopter, and the helicopter hovering a distance behind the animal to encourage it to move towards the hunter. The Associate Minister granted concessions, but for a period of two years rather than the ten years that the applicants sought, and subject to conditions restricting shooting from helicopters, preventing chasing of animals, and restricting herding of animals.

The applicants relied in large part on allegations of bias or predetermination against the applicants.

The Associate Minister had campaigned for legislation restricting or banning “heli-hunting”, and had obtained government support for this legislation in a confidence and supply agreement. The applicants said that the two year term was intended to ensure that the concessions expired at about the time when the new legislation was passed. The Associate Minister had also made various public statements that were critical of “heli-hunting”. The High Court focussed on the various aspects of “aerially assisted trophy hunting” and “heli-hunting” to identify the activities of which the Associate Minister had in fact been critical. The Court distinguished between the role of the Associate Minister as decision-maker and his involvement in the law reform debate, saying that his statements on the issue did not mean that he could not approach the applications with an open mind. The applicants have appealed to the Court of Appeal.

#### **Revenue related cases**

##### ***Simpson v Commissioner of Inland Revenue***

The Court found that costs incurred in mortgagee sale by a mortgagee company in receivership had to be paid from the proceeds of the mortgagee sale in preference to the secured creditor (who had appointed the receivers). This is notwithstanding the Commissioner having arguably no priority (unless the GST is paid). The decision in essence gave effect to the English Court of Appeal decision in *Sargent v Customs and Excise Commissioners* that held VAT in such circumstances must be paid first on public policy grounds.

With receiverships or liquidations the receiver or liquidator is usually personally liable for costs incurred in the receivership or liquidation. However upon payment they have a prior claim against the assets of the company. The importance of the case is that even where the receiver or liquidator is not personally liable, they may still have an obligation to pay those costs first out of the available assets. This is the first decision in New Zealand to confirm this principle.

##### ***Stiassny v Commissioner of Inland Revenue***

The case concerned a \$127 million GST obligation that a partnership paid to the Commissioner of Inland Revenue. Both partner companies were in receivership and the secured creditors claimed they had a prior claim to the funds. The secured creditors did have priority but the Commissioner was entitled to keep the funds. The first significant principle is that s 95 of the Personal Property

Securities Act 1999 gives an ordinary creditor priority in the funds paid to him if he receives payment from a debtor, notwithstanding the secured creditor. This provision is necessary as it allows companies in receivership to trade. No trade would be possible without payment to third parties.

The case also confirmed that where funds are paid by a debtor to a creditor in satisfaction of debt, the debtor gives good consideration (the discharge of the debt) and there can be no claim based on restitutionary principles.

##### ***Sovereign v Commissioner of Inland Revenue***

The case concerns the deductibility of significant sums incurred under reinsurance arrangements. The case found that even though a financing arrangement is bolted onto a mortality risk reinsurance arrangement the accrual rules apply. Under both the accrual rules and ordinary concepts the principal portion of the financing is not deductible.

The case is of particular significance in determining how the accrual rules interact with other parts of the Income Tax legislation. The Court confirming that to the extent that the arrangement (or part of the arrangement) is financing the accrual rules are determinative. The case is on appeal to the Court of Appeal.

##### ***Comptroller of Customs v Terminals (NZ) Limited***

The Court of Appeal allowed the Comptroller’s appeal from the High Court’s judgment on judicial review. The proceedings were directed at stopping the Comptroller from issuing assessments for excise duty on the basis Terminals’ blending of locally procured butane with imported petrol amounted to manufacturing for the purposes of the Customs and Excise Act 1996. The Court accepted the blending process amounted to manufacturing and that the resulting blend should be taxed at the petrol rate on the full volume removed from Terminals’ plant for home consumption. It dismissed Terminals’ cross appeal that the Comptroller was nevertheless estopped from collecting the outstanding duty because of a substantive legitimate expectation. The Supreme Court heard Terminals’ appeal in early August and has reserved its decision.

### ***Commissioner of Inland Revenue v Chesterfields Preschools Limited***

The Court of Appeal allowed in part the Crown's appeal from a High Court judgment declining to strike out a claim alleging misfeasance in public office against the Attorney-General, the Commissioner, 20 Inland Revenue employees and a solicitor who has acted for Inland Revenue in various civil debt recovery proceedings. The Court clarified the scope of the tort of misfeasance by confirming that the knowledge and acts of officers acting under delegated powers cannot be attributed to a public office holder as principal to create a form of corporate liability. On this point the Court overturned its earlier judgment in *Reid v CIR*. The Court also confirmed that a private legal practitioner in a solicitor/client relationship with a public office holder does not thereby hold "public office" for the purpose of the tort. The Court struck out the claims against the Commissioner and the solicitor, and the claims against the Attorney-General or the Inland Revenue employees may only proceed with leave.

### ***Alesco New Zealand Limited v Commissioner of Inland Revenue***

The Court of Appeal upheld the High Court's decision that optional convertible notes ("OCNs") were part of a tax avoidance arrangement. Alesco New Zealand issued OCNs to its Australian parent in return for advances of \$78 million. These advances were used by Alesco NZ to finance its acquisition of New Zealand businesses. Despite no interest being payable under the terms of the OCNs, Alesco New Zealand claimed an interest deduction under the financial arrangement rules, including determination G22. The Court of Appeal held that because Alesco New Zealand did not suffer an economic cost commensurate to the deemed interest deductions claimed, Alesco New Zealand's use of the financial arrangement rules and determination G22 was not within Parliament's contemplation. The Court of Appeal further held the "abusive tax position" shortfall penalties were correctly imposed. The Supreme Court has granted Alesco New Zealand leave to appeal.

### ***Commissioner of Inland Revenue v Redcliffe Forestry Venture Limited***

The taxpayers had applied to the High Court to have the Supreme Court's judgment in *Ben Nevis Forestry Ventures Limited v Commissioner of Inland Revenue* set aside on the basis that the Commissioner had fraudulently concealed from the Court in those earlier proceedings the

existence of an applicable legislative provision. The Commissioner successfully relied on HCR 5.49 in the High Court and the application was dismissed on the basis that the High Court was *functus officio* once the proceeding had been the subject of appellate decisions. The taxpayer appealed. The Court of Appeal took a narrow view of HCR 5.49 and agreed with the taxpayer that the Commissioner should have applied under HCR 15 to strike out the proceeding, and not HCR.5.49, and as a consequence the taxpayer's appeal was allowed and the High Court's order dismissing the proceeding was quashed.

The Commissioner appealed to the Supreme Court. The Supreme Court held that the Commissioner's challenge to the proceeding was correctly brought under HCR 5.49 and did not agree with the Court of Appeal's restrictive approach to the scope of that rule. It also held that the taxpayer had not raised a tenable case involving the required fraud exception to the principle of finality in litigation, as the alleged fraud (i.e. that the Commissioner had knowingly failed to apply the correct legislative provision) was in fact a claim of legal error and the High Court had no power to recall or set aside judgments on questions of law that have been the subject of appellate decision. Accordingly, the Commissioner's appeal was allowed and judgment of the High Court dismissing the proceeding was restored.

### ***Accent Management and Ors v Commissioner of Inland Revenue***

The Court of Appeal dismissed an appeal against the High Court's decision dismissing applications made by the appellant taxpayers for orders that Crown Law be debarred from acting for the Commissioner of Inland Revenue in various proceedings to which the taxpayers and the Commissioner are parties.

The Court considered the effect of the Protocol between the Solicitor-General and the Commissioner. It concluded that there was nothing in the Protocol that raised a risk that Crown lawyers would not be able to discharge their professional obligations in the relevant proceedings. The Court said that this appeal was a further step in the appellants' gaming behaviour in trying to avoid their tax obligations as settled by the Supreme Court in *Ben Nevis Forestry Ventures Ltd v Commissioner of Inland Revenue*. Indemnity costs were awarded.

## ***Treaty of Waitangi related cases***

### ***New Zealand Māori Council v Attorney-General***

The New Zealand Māori Council and a number of iwi/hapu groups challenged the Crown's planned sale of a minority shareholding in Mighty River Power. The litigation commenced with an urgent inquiry by the Waitangi Tribunal. The question for the Tribunal was whether the Crown's planned initial public offering would compromise Crown capacity to recognise claimed rights and interests in the freshwater resource, in breach of principles of the Treaty of Waitangi.

Having implemented the Tribunal recommendation for further consultation over a "shares plus" arrangement, the Crown proceeded to sale. Litigation ensued. The Crown was ultimately successful in the courts. The Supreme Court judgment acknowledged a range of Crown conduct since the seminal *Lands* case of 1987, which accommodated iwi-Māori rights and interests and confirmed that the share sale did not compromise the Crown's capacity to recognise claims to water. The next step is the Waitangi Tribunal's further inquiry into the nature of iwi/hapu rights and interests in the water resource.

### ***Proprietors of Wakatu Incorporation v Attorney-General***

The High Court dismissed a complex claim by the Wakatu Incorporation that argued justiciable rights to remedy outside the historical Treaty claims' negotiation process. The claim relates to the implementation of a scheme of land allocation around Nelson in the mid-19th century, initially by the New Zealand Company and then the Crown. The Wakatu Incorporation was dissatisfied with the Crown's negotiations with iwi over the land issues, which negotiations have now produced Treaty settlements for those iwi. The Incorporation sought a discrete settlement with the Crown. The litigation is significant, then, in challenging the Crown-iwi settlement framework; the Incorporation's challenge develops Canadian jurisprudence to argue an enforceable trust obligation. The case is on appeal to the Court of Appeal.

### ***Tūhoe Settlement***

This year, Ngai Tūhoe and the Crown entered into a final deed to settle the longstanding grievances of Ngai Tūhoe relating to historical injustices perpetrated by the Crown.

Crown Law advised on novel aspect of redress, including the treatment of Te Urewera, with Te Urewera being removed from the National Parks Act 1980, to be recognised and managed under its own legislation, jointly by iwi and the Crown.

A number of urgent applications were made to the Waitangi Tribunal seeking to prevent the execution of the deed in June 2013 by groups who claimed their interests had been subordinated to those of Ngai Tūhoe. The Crown successfully explained to the Tribunal that that was not the case, which cleared the way for the signing of the deed.

### ***Paki v Attorney-General***

The Crown successfully argued in the High Court and Court of Appeal against a claim made by Māori descendants of 19th century title holders of land adjacent to the Waikato River. Earlier in 2013, the appeal to the Supreme Court was argued and judgment is pending.

The claim is that the Crown now owns a section of the Waikato riverbed on trust for the descendants, who could call for the return of the bed and for compensation. The trust is said to emerge from the relationship between the original owners and the Crown as purchaser and deficiencies in the Crown's approach to the purchase; arguments range through fiduciary obligations, direct enforceability in the Courts of the Treaty of Waitangi, and a justiciable duty of good faith owed by the Crown to Māori (a concept floated but not developed in the Court of Appeal judgment).

As with the Wakatu proceeding, the litigation cuts across the Crown-iwi approach to the negotiated settlement of historical Treaty claims, and deploys trust arguments not previously tested in New Zealand.

## ***Constitutional and human rights related cases***

### ***Criminal Bar Association v Attorney-General***

The Criminal Bar Association appealed a High Court decision dismissing its initial judicial review application challenging aspects of the "Criminal Fixed Fee and Complex Cases" policy introduced in 2012 to govern criminal legal aid applications. The Court of Appeal allowed the appeal in part, finding the policy was unlawful in two respects. First, it effectively dictated to the Legal Services Commissioner how his independent functions under the Legal Services Act 2011 regarding determining legal aid should be exercised. Second, the policy was also too rigid, wrongfully

circumscribing the Commissioner's discretion when exercising those functions.

However, the Court rejected the Association's arguments that the policy was unlawful in other respects. It held that cutting the cost of legal services – as a reason for implementing the policy – was consistent with the Legal Services Act. The Secretary for Justice was also entitled to delegate his functions under the Act to the Legal Services Commissioner; this would not compromise the Commissioner in exercising his independent functions. Further, the policy was otherwise reasonable (in the *Wednesbury* sense) and the Secretary had properly considered defendants' rights under the New Zealand Bill of Rights Act 1990 when devising it.

### ***Utumapu v Bull***

This case has important implications for the powers of workplace safety investigators under the Health and Safety in Employment Act 1992 (HSA). An investigation had been instigated by Ms Utumapu (the appellant) against Messrs Bull and Speedy (the respondents). Ms Utumapu had insisted on a statutory right to require Bull and Speedy to answer questions, while the latter insisted that this interpretation of the Act was impermissible when ss 23(4) and 25(d) (on the right to silence) were taken into account. They demanded a written explanation of what questions they would face and declined to be interviewed when what they received was, in their view, insufficient.

While Bull and Speedy were initially successful in judicially reviewing Ms Utumapu's decision-making process, this was decisively overturned on appeal. The Court of Appeal found the provisions of the HSA were clear and expressly authorised Ms Utumapu's right to compel Bull and Speedy to answer questions – subject to another provision in the HSA codifying their right to silence in appropriate circumstances. This interpretation was consistent with the purpose of the HSA to prevent harm to persons at work and encourage compliance with New Zealand's international obligations regarding workplace safety.

### ***Taylor v Manager of Auckland Prison***

In this proceeding Mr Taylor, a non-smoking inmate at Auckland Prison, applied for judicial review of the Manager of Auckland Prison's decision to make a rule banning smoking in all areas of the prison. The Manager had been directed to make the rule by the Chief Executive of the Department of Corrections, who had also put

forward a draft text. The main issues were whether the rule fell within the Manager's delegated authority under s 33 Corrections Act 2004, and if so, whether the Manager acted reasonably.

The High Court allowed the application and quashed the rule on both grounds. First, the Court emphasised that the rule was inconsistent with s 6A of the Smoke-free Environments Act 2003 (envisaging prisoners being able to smoke in cells) and the Corrections Regulations 2005 (stating prisoners may retain tobacco products while in prison), and was also inconsistent with the purposes of the Corrections Act – so was *ultra vires*. Second, the Manager had simply followed the Chief Executive's direction without exercising his own discretion and so had acted unreasonably. Despite the applicant being a non-smoker, due to the large number of prisoners affected by the rule, declaratory relief was granted without any further delay.

An appeal was filed but the Department of Corrections, assisted by Crown Law and the Ministry of Health, also took urgent steps to put the smoke-free prisons policy before Parliament. Before any steps were taken in the appeal, the Corrections Amendment Act 2013 repealed s 6A of the Smoke-free Environments Act and prohibited the possession and use of tobacco in New Zealand Prisons.

### ***Whanganui District Council v New Zealand Parole Board***

The Whanganui District Council brought judicial proceedings against the Parole Board regarding the placement of serious sexual offender Stewart Murray Wilson on a house on prison property near Whanganui city. The Board had made its decision on parole conditions relying upon advice provided by the Department of Corrections. The High Court rejected arguments that Corrections' report to the Board had overemphasised the need for Wilson to avoid contact with former victims, and thus did not prioritise the safety of the community (as required by s 7 of the Parole Act 2000). Corrections' decision-making process had been sound. Consequently, the Board, in relying on Corrections' report, had considered all relevant considerations when determining release conditions, and had correctly prioritised the safety of the community in making its decision.

Separately, the case also addressed the complex issue of standing to bring applications for judicial review of Parole Board decisions (and all decisions where the public's right to participate in the

decision-making process is restricted by statute). The Court upheld the Council's right to bring proceedings in this case as grounded in the public interest, but emphasised similar challenges in the future would be rare and must focus strictly on the lawfulness of the Board's decision-making process.

**Re: Greenpeace New Zealand**

This case concerned the intersection of charity and politics. After the Charities Act 2005 was enacted, Greenpeace had applied for charitable status to the Charities Commission. Its application was declined because its objects of promoting peace and "disarmament" were held to be primary purposes that were political and therefore not charitable. Greenpeace appealed (unsuccessfully) to the High Court, and then to the Court of Appeal. At the Court of Appeal hearing Greenpeace agreed it would amend its objects. In particular, promoting "disarmament" was to be changed to promoting "nuclear disarmament and the elimination of all weapons of mass destruction"

The Court of Appeal held this newly-framed purpose was "of general benefit to the community" and therefore charitable. Promoting nuclear disarmament and the elimination of all weapons of mass destruction was now so uncontroversial in New Zealand as not to be a political issue. The Court made clear, however, that when considering the lawfulness of a charity's objects, the Charities Registration Board (which had assumed responsibility for charities' registration from the Commission) must look not only at an organisation's stated purposes, but also its activities. If either are primarily political (or are illegal), they are not charitable. The case was remitted to the Board on that basis. An appeal against the Court of Appeal's decision was heard by the Supreme Court on 1 August 2013 and a decision is awaited.

**Police v Teddy**

This Crown appeal challenged the dismissal of charges under the Maritime Transport Act 1994, which had been made on the basis that that Act had no application beyond New Zealand's territorial sea. The charges in question arose over allegedly unsafe navigation by a vessel protesting against oil exploration in the Raukumara Basin. The dismissal of charges by the District Court had the effect of leaving navigation by New Zealand vessels beyond the territorial sea largely unregulated.

The High Court, upholding the Crown appeal, found that the Act necessarily applied on board

New Zealand vessels wherever located. The Court in part relied upon New Zealand's obligations to exercise control over its vessels when on the high seas. The Court also upheld the use of Police powers of arrest incidental to the application of the Act. The Court granted the respondent leave to appeal to the Court of Appeal.

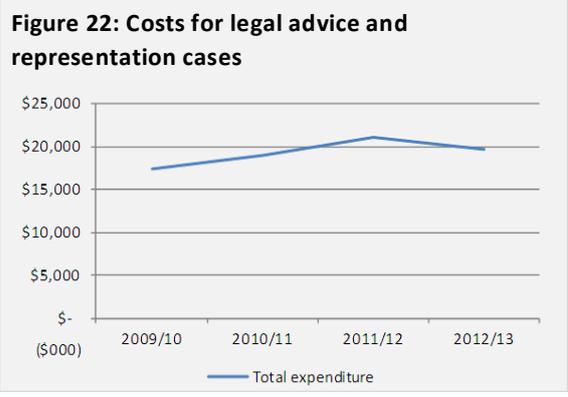
**Supporting the Government Legal Network**

As part of our role in promoting a one Crown approach to the management of legal risk, Crown Law also actively supports and participates in the Government Legal Network. The network, which is comprised of all government lawyers, is an initiative designed to strengthen the delivery of legal advice and services to core government agencies, resulting in more effective management of the Crown's legal risk.

In 2012/13, the network was reviewed and changes were endorsed by Cabinet to strengthen the Crown's systemic framework for the prevention, identification, reduction and management of legal risk, and to support the efficient delivery of quality legal advice. The Government Legal Network will enable an all-of-government approach to be implemented. It will include more tangible recognition of the constitutional and professional leadership role of the Solicitor-General across the sector, and expansion of the Government Legal Network dedicated resource.

**How well we did**

From 2011/12 to 2012/13, there was a decrease in total expenditure for legal advice and representation cases, which was driven by a decrease in costs for civil advice and Treaty-related cases (see Figure 22).



While total costs decreased, there was not an associated decrease in the average hourly rate, or cost for time spent on client services. The average hourly rate increased from \$161 in 2011/12 to \$196 in 2012/13. As a result of the strategy and

corporate, and legal and support restructures that were implemented in 2012/13, there was an increase in counsel time spent on administrative matters and a one-off decrease in chargeable hours. The decrease in time spent on client services resulted in a higher average hourly rate.

Crown Law conducts a client satisfaction survey of New Zealand government departments, as they are the primary clients of Crown Law's services. This survey was last run in August 2013 and it included the Ministry of Justice and the Ministry of Business, Innovation and Employment, who, among others, are significant clients for legal advice and representation cases. Overall, client satisfaction increased from September 2012 to August 2013 (see Figure 16, on page 15), with 85% of clients rating Crown Law's performance, on average across all questions, as "Good" or "Excellent".

Crown Law also conducted a Ministerial satisfaction survey for 2012/13. The Attorney-General's satisfaction with legal advice and representation services in particular were rated as "Satisfactory". This was not rated higher due to issues with legal advice across the Crown.

# How we worked

## Our changing operating environment



Crown Law is committed to improving its performance and capability. In 2011/12, we were the subject of three external reviews: the Review of Public Prosecution Services, a Performance Improvement Framework review, and the Review of the Role and Functions of the Solicitor-General and the Crown Law Office. In 2012/13, we were also subject to a follow-up Performance Improvement Framework review.

In response to these reviews and the challenges Crown Law was facing, a significant change programme was initiated. Through this programme, many of the recommendations from the reviews have been implemented.

In 2012/13, one of Crown Law's strategic focus areas was to confirm our role. Over the last year, we reviewed and revised our purpose statement and vision, which set out why Crown Law exists. We also reviewed what constitutes our core work and what our work programme should look like in the future. The Legal Issues Project defined what should be Crown Law's core work and services, and revised the Cabinet Directions for the Conduct of Crown Legal Business, which were approved by Cabinet in December 2012. In addition to reviewing *what* work we do, we also developed new organisational values and guiding principles, which set out the expectations for *how* we do our work.

A significant part of our change programme was the Legal Capability and Structure Project. This project was established to ensure that Crown Law has optimal resources, organised in the most appropriate way, to fulfil our purpose and to continue to deliver core Crown legal work. This included looking at the number of legal teams or groups, reporting lines, the level and mix of legal roles, and how legal roles are defined. The new groups were designed to focus on the services that

the Government buys from Crown Law and the structure of the Office's appropriations. Following staff consultation, a new legal and legal support structure was implemented on 29 April 2013.

In addition to reviewing the structure of our legal and legal support structures, in 2012/13 we also reviewed the structure of our strategy and corporate functions. The Structural and Operational Project provided an opportunity to update and modernise Crown Law's corporate structure to improve alignment and reduce duplication. The new structure and operating model also allows us to have a greater external focus. Following staff consultation, a new strategy and corporate structure was implemented on 1 October 2012.

Another aspect of our change programme has been our Accommodation Project and associated ICT Relocation and Enablement Programme. Crown Law's Wellington office was relocated to new premises from 1 July 2013. The relocation provided an opportunity to consider new ways of working and, in particular, to seek ongoing efficiencies and identify new ways to improve our long-term financial sustainability. The new office, which is co-located with the Ministry of Justice, has better utilisation of space and use of newer technologies, with a focus on mobile ways of working (this is discussed in more detail in the technology and information management section, below). As part of the relocation, we also reduced the space used for our onsite records and relocated our data centre to an offsite hosted solution, thereby reducing our property footprint.

In 2012/13, we also established a modest Auckland Office on a pilot basis, which is co-located with the Serious Fraud Office. This office will enable Crown Law to better meet the demand for core Crown legal work in the Auckland region. Many of our clients have offices in Auckland and a growing proportion of Crown litigation is done in the Auckland courts. The pilot will be funded through Crown Law's current baseline and staffing levels. The demand for, and effectiveness of, the pilot will be assessed in 2014.

Another significant programme of work has focused on improving the oversight and management of Crown prosecutions and the Crown Solicitor Network. This included the development and implementation of the interim

funding solution and the long-term funding model for Crown Solicitors. Crown Solicitor fees were managed within the available funding for the 2012/13 year. This work also included the Crown Solicitors Regulations 1994 being revoked with effect from 1 July 2013, and a new reporting framework being developed. This framework will ensure adequate resource is being applied to provide expected levels and quality of service.

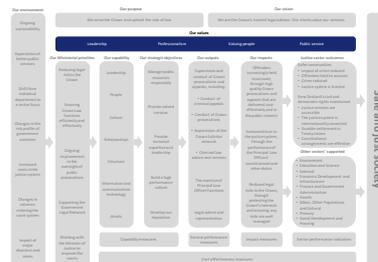
Reflecting the significant changes that were made in 2012/13, the follow-up Performance Improvement Framework review noted that Crown Law has made commendable progress since the original Performance Improvement Framework review in 2011. The review acknowledged the many changes that have been implemented over the last year and noted that Crown Law is in a stronger position now compared to when the original review was conducted. The review also noted that external stakeholders remain confident in the ability of Crown Law to deliver legal services, while also addressing the challenges the organisation faces.

## Our leadership and governance

Crown Law's Management Board recognises that enhanced collective leadership and management capability is essential for our success. In 2012/13, to respond to the external reviews of Crown Law, one of our strategic focus areas was to develop our strategic leadership focus.

Our leadership and governance will be strengthened by our new governance framework. This framework distinguishes between strategic leadership and operational management. It aims to direct the right capability to the right level of governance, to maximise the use of our resources without jeopardising the appropriate level of oversight, management and monitoring. The main governance bodies, such as the Management Board and Operational Management Committee, are strengthened by a range of supporting groups and committees, such as Project Steering Committees and a Professional Standards Committee. The new internal governance structure was implemented in May 2013.

## Our workforce and culture

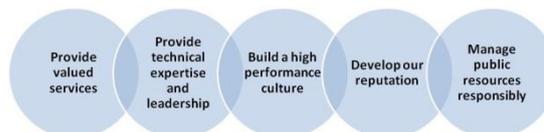


To achieve our vision of being the Government's trusted legal advisor, we need to be passionate about what we do and our employees need to be engaged in the organisation. A high level of staff engagement is a priority for the Management Board, which was reflected in our strategic focus area for 2012/13 of fully engaging staff.

We undertook our first staff engagement survey in March 2012. Crown Law's overall employee engagement index was 70.8%. This was lower than the legal sector benchmark of 75.3%, but higher than the justice sector benchmark of 67.8%. Crown Law's next employee engagement survey will be conducted in 2013/14.

The employee engagement survey identified specific staff concerns around remuneration and performance management. As a result of this feedback and the findings of the Performance Improvement Framework review, Crown Law is reviewing its performance management framework, to ensure that it is clearly linked to the purpose, vision and strategic direction of the organisation. The framework will be simple, transparent and consistently applied across the organisation. Once the new framework has been implemented, Crown Law will be able to monitor how performance plans and reviews are completed, and directly impact on the success of the organisation.

As part of this framework, in 2012/13, Crown Law agreed its strategic performance objectives for the organisation. These objectives are:



Crown Law's people strategy and associated human resources frameworks are underpinned by Crown Law's new values. In 2012/13, a group of staff led the development of these values, to provide clarity around how we work.

Our values are:

- Leadership
- Professionalism
- Valuing people
- Public service

To support the change programme and new way of working, guiding principles were also developed in 2012/13, to set out what Crown Law expects of its staff and people managers in terms of how they behave and work together. Our guiding principles for all staff are:

- Be connected
- Be passionate
- Be valuable
- Be resilient
- Be professional

Our additional leadership principles are:

- Lead the way
- Manage performance
- Empower
- Make decisions
- Develop
- Invest in relationships

Crown Law's governance structure continues to include a dedicated Professional Standards Committee and an Education Group. Following the review of Crown Law's governance arrangements, the groups met with their new membership in 2012/13.

The Professional Standards Committee develops and maintains our professional legal standards. The committee ensures that Crown Law's policies and standards are appropriate.

The Education Group contributes to the continuing legal education needs of counsel with a focus on Crown practice, through the management of seminars and other strategic initiatives. The group ensures that Crown Law's training programme meets the development needs of counsel.

Another key piece of work over the last year was the initiation of collective bargaining. The collective agreement between Crown Law and the

Public Service Association had a term of 22 April 2010 to 22 April 2012, and was rolled over for 12 months to 22 April 2013.

One of the measures that Crown Law applies to monitor its workforce and staff retention is staff turnover. This includes both unplanned turnover, such as staff resignations, and planned turnover, such as retirements or redundancies. Crown Law's turnover rate increased from 9.42% in 2011/12 to 37.9% in 2012/13. This increase was a result of the restructuring of the organisation, across both the corporate and legal functions, and the associated decrease in non-core Crown legal work. It is anticipated that in 2013/14 the turnover rate will decrease to around the same level as 2011/12.

As a public sector employer, Crown Law continues to provide equal employment opportunities in line with current government requirements.

## Our sustainability

Crown Law is committed to living within its baseline, which was reflected in the strategic focus area for 2012/13 of being efficient and sustainable.

Considerable effort has been put in to better understanding Crown Law's funding model and cost pressures and identifying options for how these pressures may be addressed. Our cost pressures were addressed in 2012/13 through the initiatives that were implemented as part of our change programme. This included the restructuring of the strategy and corporate, and legal and support functions, the relocation of the Wellington office, and the development of a long-term funding model for Crown Solicitors. In 2012/13, Crown Law managed within its appropriations.

To ensure that Crown Law is able to operate within its baseline in future, a new financial management framework is being developed. The framework will be comprehensive, covering the organisation's financial policies and guidelines, cost structure, staff capability, information systems, training and support, governance and risk assurance, and business processes.

In 2012/13, the focus was on building financial capability and strengthening financial processes. This included reviewing our cost recovery or fees model, our overhead allocation model, developing new Management Board reporting, and reviewing foundation policies such as the delegations and sensitive expenditure policies. Quick reference guides were developed, to ensure that staff and

managers are able to quickly and easily find their financial and time management responsibilities.

Another important part of sustainably managing Crown Law is our continuing participation in justice sector processes. In 2012/13, Crown Law participated in and contributed to the Justice Sector Fund and Sustainability Programme, and the sector Four Year Plan and quarterly performance reporting.

Crown Law is committed to delivering better public services, in collaboration with the justice sector and other government departments. This includes participating in all-of-government contracts and other initiatives. We are currently participating in several all-of-government contracts for our Information and Communications Technology, such as for our desktop and laptop computers, print devices, Microsoft software licensing, mobile voice and data services, and Infrastructure as a Service. Other areas where we are also participating in all-of-government contracts are our office consumables, rental vehicles, air travel, and recruitment services.

## **Our technology and information management**

Crown Law's Information and Communication Technology (ICT) goal is to provide ICT services that enable and underpin Crown Law's strategic direction and, at the same time, align with the New Zealand Government ICT Strategy and Action Plan, taking advantage of appropriate all-of-government services.

Crown Law's office relocation presented a significant change in business requirements and the opportunity to address end-of-life ICT services and infrastructure. At the same time, we commenced an assessment of our cyber security and began implementing new measures to enhance our security posture, bringing Crown Law into alignment with the New Zealand Information Security Manual.

In 2012/13, the ICT programme consisted of seven relocation and enabling projects. This included an upgrade to our telephony and integrated communications system, migration to an all-of-government Infrastructure-as-a-Service solution, and enhancing business continuity and disaster recovery.

The programme also introduced innovative technologies and tools that enable secure mobile working, an approach that was crucial to supporting the new, open-plan workspace and the

pilot Auckland Office. This allows our workforce to fulfil their roles more flexibly, without restrictions of physical location or reliance on carrying around vast volumes of printed documents.

To effectively support the department, more needed to be done than just introducing new technology and migrating to a hosted infrastructure. Our approach to information management seeks to support and enable a swift transition to new ways of working for Crown Law and through identifying ways of improving business processes where ICT plays a major role.

Following the relocation, our focus has shifted to making sure we make best use of the technology changes and that we maximise value for money from our ICT investments. This includes providing training and support to ensure users understand how to get the most from their ICT.

In 2012/13, we also developed our longer term ICT Strategy. The ICT Strategy for Crown Law seeks to ensure that there is a strong and clear relationship between ICT investment decisions, Crown Law's strategic objectives, and the role of ICT as an enabler across the wider justice sector. It seeks to respond to a number of challenges facing Crown Law, including the need to drive cost efficiencies while successfully delivering to increasing demands and expectations for our workforce to be able to work from anywhere, at any time.

## **Our client and stakeholder management**

Part of Crown Law's vision is that our clients value our services. Our services should be practical, relevant, solutions focused, on budget and on time. We must ensure that clients' objectives are understood, their business needs are met and that the work done for them is of a high standard. Our continued focus on providing high quality services for our clients and stakeholders was reflected in our strategic focus area to enhance client and stakeholder relationships.

Following the restructuring of our legal and support functions and the introduction of new ways of working, our clients will see a more connected Crown Law. Clients will be served by the lawyers best placed to effectively and efficiently provide the services they need.

In addition to the day-to-day services and communications that counsel provide for our clients, in 2012/13, we continued to provide client seminars and newsletters. We redeveloped our client survey, to provide more regular information

and to ensure that the survey questions relate to our refocused purpose and vision. The revised survey was sent to clients in July 2013.

Overall, client satisfaction increased from September 2012 to August 2013 (see Figure 16, on page 15), with 85% of clients rating Crown Law’s performance, on average across all questions, as “Good” or “Excellent”. Satisfaction with the quality and value for money of Crown Law’s advice and services also improved (from 84% to 87% for quality, and from 82% to 83% for perceived value for money). However, satisfaction with timeliness decreased (from 86% in 2012 to 77% in 2013).

We also developed a new survey to assess the Attorney-General’s satisfaction with the services and support provided to the Minister, as well as satisfaction with the performance of the organisation. This survey was run for the first time in July 2013. The Attorney-General rated Crown Law’s overall services and performance in 2012/13 as “Excellent”. Crown Law’s responsiveness, relevancy, accuracy and robustness, quality, and timeliness of advice and services were also rated “Excellent”.

In 2012/13, we continued to participate in justice sector governance and information sharing forums, such as the Justice Sector Chief Financial Officers Forum, the Deputy Chief Executives Forum and the Chief Executives Forum.

## Our risk management

Crown Law recognises that effective management of our risks is a critical success factor for delivering our outputs and achieving our outcomes.

In 2012/13, our strategic risks related to the substantial change programme that was underway. Our biggest risk was that we were not successful in managing and achieving the change needed. The Performance Improvement Framework follow-up review also identified risks relating to Crown Law having sufficient change management experience, managing multiple change processes, implementing numerous and significant changes, making best use of technology, and managing short-term funding arrangements.

To develop good project management practices and manage the risks relating to our change programme, we established project steering committees to monitor the progress being made across the programme, and to mitigate or resolve any risks and issues as they emerged.

## Our performance management



We understand the importance of monitoring what we deliver and how well we deliver it, so that we can identify further ways to improve our performance.

During 2012/13, Crown Law developed new performance measures and improved its management reporting. These changes will ensure that Crown Law can report more comprehensively on its performance. In particular, new quality and timeliness measures have been developed to support existing workload measures. These include the time taken to dispose of cases, the Attorney-General’s satisfaction with services provided, and client satisfaction with the quality and timeliness of services. New financial and cost-effectiveness measures have also been developed, such as the cost per hour of client services and performance against budget or appropriation. These measures were implemented in 2012/13 and have been incorporated in to Crown Law’s performance reporting, including this Annual Report and a new performance scorecard for the Management Board.

In addition, the Public Prosecutions Unit developed a performance framework for Crown and public prosecutions. The framework was developed in 2012/13 and is being implemented with new reporting from 2013/14.

The Statement of Service Performance, below, provides detailed results for each of Crown Law’s appropriations, including service performance measures for each output.

# Financial statements

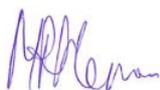
## Statement of Responsibility

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 and Statement of Service Performance, and the judgements made in them.

I have the responsibility for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of the financial reporting.

In my opinion, these Financial Statements and Statement of Service Performance fairly reflect the financial position and operations of Crown Law as at 30 June 2013 and its operations for the year ended on that date.

Signed:



Michael Heron

**Solicitor-General and Chief Executive**

30 September 2013

Countersigned:



Maria Manaton

**Chief Financial Officer**

30 September 2013

## Independent auditor's report



**To the readers of the  
Crown Law Office's  
financial statements and non-financial performance information  
for the year ended 30 June 2013**

The Auditor-General is the auditor of the Crown Law Office (Crown Law). The Auditor-General has appointed me, Stephen Lucy, using the staff and resources of Audit New Zealand, to carry out the audit of the financial statements, and the non-financial performance information of Crown Law on her behalf.

We have audited:

- the financial statements of Crown Law on pages 55 to 82, that comprise the statement of financial position, statement of commitments, statement of departmental contingent liabilities and assets as at 30 June 2013, the statement of comprehensive income, statement of changes in equity, statement of departmental expenses and capital expenditure against appropriations, statement of departmental unappropriated expenditure and capital expenditure, statement of cash flows 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 non-financial performance information of Crown Law that comprises the report about impacts on pages 6 to 23 and the statement of service performance on pages 33 to 54.

### Opinion

In our opinion:

- the financial statements of Crown Law on pages 55 to 82:
  - comply with generally accepted accounting practice in New Zealand; and
  - fairly reflect Crown Law's:
    - financial position as at 30 June 2013;
    - financial performance and cash flows for the year ended on that date;
    - 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 2013;
    - unappropriated expenses and capital expenditure for the year ended 30 June 2013;
    - schedule of trust monies; and.
- the non-financial performance information of Crown Law on pages 6 to 23 and 33 to 54:
  - complies with generally accepted accounting practice in New Zealand; and
  - fairly reflects Crown Law's service performance and impacts for the year ended 30 June 2013, including for each class of outputs:
    - its service performance compared with the forecasts in the statement of forecast service performance at the start of the financial year; and
    - its actual revenue and output expenses compared with the forecasts in the statement of forecast service performance at the start of the financial year.

Our audit was completed on 30 September 2013. 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 Solicitor-General 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, and the non-financial performance information are free from material misstatement.

Material misstatements are differences or omissions of amounts and disclosures that, in our judgement, are likely to influence readers' overall understanding of the financial statements, and the non-financial performance information. 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, and the non-financial performance information. The procedures selected depend on our judgement, including our assessment of risks of material misstatement of the financial statements, and the non-financial performance information, 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, and the non-financial performance information 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 Solicitor-General;
- the appropriateness of the reported non-financial performance information within Crown Law's framework for reporting performance;
- the adequacy of all disclosures in the financial statements, and the non-financial performance information; and
- the overall presentation of the financial statements, and the non-financial performance information.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements, and the non-financial performance information. Also we did not evaluate the security and controls over the electronic publication of the financial statements and the non-financial performance information.

We have obtained all the information and explanations we have required and we believe we have obtained sufficient and appropriate audit evidence to provide a basis for our audit opinion.

## **Responsibilities of the Solicitor-General**

The Solicitor-General is responsible for preparing:

- financial statements and non-financial performance information 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, its unappropriated expenses and capital expenditure, and schedule of trust monies; and
  - fairly reflect its service performance and impacts.

The Solicitor-General is also responsible for such internal control as is determined is necessary to enable the preparation of financial statements, and non-financial performance information that are free from material misstatement, whether due to fraud or error. The Solicitor-General is also responsible for the publication of the financial statements and non-financial performance information, whether in printed or electronic form.

The Solicitor-General'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, and the non-financial performance information, and reporting that opinion to you based on our audit. Our responsibility arises from section 15 of the Public Audit Act 2001 and 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 External Reporting Board.

Crown Law have 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.



S B Lucy  
Audit New Zealand  
On behalf of the Auditor-General  
Wellington, New Zealand

## Statement of Service Performance

For the year ended 30 June 2013

### Output expense: Legal advice and representation

#### Scope

This appropriation is limited to providing legal advice and representation services to central government departments and Crown agencies.

#### Service performance

Legal advice and representation services are primarily delivered to other government departments. To assess how well Crown Law is meeting the needs of these departments, a range of performance measures are used to monitor changes in workload and costs, such as the number of new cases and the number of cases disposed of. During 2012/13, new performance measures and baseline data were developed for monitoring Crown Law's productivity, such as the hours worked per case. Crown Law also monitors the quality and timeliness of services provided, such as the percentage of advice provided on time. A key measure of Crown Law's effectiveness is how satisfied government departments are with the advice and services that have been provided.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
<b>Quantity</b>				
<b>New cases:</b>				
381 <sup>4</sup>	Civil advice	380-430	404	
95	Judicial reviews	75-125	119	
293 <sup>5</sup>	Other civil litigation	300-350	235	The number of new litigation cases has decreased over the last four years, from 395 new cases in 2009/10 to 235 new cases in 2012/13. This continuing decrease has not been reflected in the forecast number of new cases.
61	Treaty issues	New measure	51	From 2011/12 to 2012/13, there was a significant decrease in the number of new cases relating to claims before the Waitangi Tribunal.
77	Other legal advice and representation <sup>6</sup>	New measure	87	The number of new cases reflects an increase in non-chargeable files, such as the provision of advice for matters such the High Court Rules Working Party and advice on Cabinet Paper parameters.

4 The 2011/12 actual differs from that reported in the Annual Report for the year ended 30 June 2012, as this category previously included extradition surrender matters, which are now included as other legal advice and representation.

5 The 2011/12 actual differs from that reported in the Annual Report for the year ended 30 June 2012, as this category previously included abides, which are now included as other legal advice and representation, and litigation on behalf of the Attorney-General, which is reported under the appropriation for the exercise of Principal Law Officer functions.

6 This includes abides, extradition surrender matters, and habeas corpus applications.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
<b>Cases in progress<sup>7</sup>:</b>				
794	Civil advice	550-600	556	
237	Judicial reviews	175-225	211	
1,109	Other civil litigation	660-800	914	Although higher than forecast, the number of cases in progress decreased from 2011/12 to 2012/13 due to the increased number of cases disposed.
2,177	Treaty issues	New measure	2,121	
94	Other legal advice and representation	New measure	113	The increase in cases in progress from 2011/12 to 2012/13 was due to the high number of new cases, despite there also being a high number of disposals.
<b>Cases disposed of<sup>8</sup>:</b>				
358	Civil advice	380-430	642	The number of cases disposed was higher than in previous years, due to an internal project to complete case closure documentation, allowing the files to be archived. This was driven by the relocation to the new office accommodation <sup>9</sup> .
120	Judicial reviews	75-125	145	
326	Other civil litigation	300-350	430	
29	Treaty issues	New measure	107	
10	Other legal advice and representation	New measure	68	
<b>Productivity</b>				
<b>Clearance rate (ratio of disposed cases to new cases):</b>				
0.94	Civil advice	New measure	1.59	Data included to provide a baseline for future forecasting and reporting.
1.26	Judicial reviews	New measure	1.22	
1.11	Other civil litigation	New measure	1.83	
0.48	Treaty issues	New measure	2.10	
0.13	Other legal advice and representation	New measure	0.78	
<b>Average hours worked per disposed case:</b>				
71	Civil advice	New measure	56	Data included to provide a baseline for future forecasting and reporting.
135	Judicial reviews	New measure	75	
137	Other civil litigation	New measure	160	
172	Treaty issues	New measure	291	
8	Other legal advice and representation	New measure	49	

7 Due to the nature of the case management system and data, this measure has been redefined from 2011/12, to measure the number of matters in progress at a point in time (at 30 June), rather than an average of matters in progress across the year. This also applies to the cases in progress reported for Crown Law's other appropriations.

8 A case is considered to be "disposed of" when the case has been completed (for example, the advice has been sent to the client, or the trial or appeal has been heard), and all case documentation and administration has been completed. This also applies to the cases in progress reported for Crown Law's other appropriations.

9 As the increase in case disposals was due to internal, administrative changes, this increase is not likely to continue in 2013/14. It is anticipated that in 2013/14 the number of cases disposed of, and the associated productivity measures such as the ratio of disposed cases to new cases, will return to levels consistent with 2011/12. This also applies to the cases in progress reported for Crown Law's other appropriations.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
<b>Quality</b>				
75%	Percentage of written opinions / advice that comply with Crown Law's quality assurance process of peer review <sup>10</sup>	75% <sup>11</sup>	62% <sup>12</sup>	In 2012/13, a smaller percentage of advice had a peer review process completed. However, clients were satisfied with the quality of the opinions and advice received (as below). In 2013/14, Crown Law will review its peer review policies, including how compliance with requirements is measured, and how compliance can be improved.
New measure	Percentage of responses to the client survey that consider Crown Law's responsiveness, relevancy, accuracy, and clarity of advice are either good or excellent	New measure	August 2013: 87%	
Quality standards for Litigation Management Plans were met	Percentage of Litigation Management Plans that comply with Crown Law's quality assurance processes	75%	Measure withdrawn	This measure has been replaced with the measure "Percentage of Litigation Management Plans completed by the due date" as this is considered more specific and meaningful.
New measure	Percentage of responses to annual survey of judiciary in the Supreme Court, Court of Appeal and the executive judges of the High Court and Environment Court in Wellington that consider the quality of Crown Law's submissions are either good or excellent	75%	Measure withdrawn	As Crown Law appears in front of the Courts as a litigant, a satisfaction survey is not supported by the judiciary.
<b>Timeliness</b>				
71%	Percentage of written opinions / advice completed by the due date	75%	83%	
30%	Percentage of Litigation Management Plans completed by the due date	New measure	34%	The percentage of Litigation Management Plans that were completed on time increased from 2011/12 to 2012/13, though performance was below target. However, clients were generally satisfied with the timeliness of Crown Law's services (as below). In 2013/14, Crown Law will review its Litigation Management Plan policies, including how compliance with requirements is measured, and how compliance can be improved.

10 This measures whether the opinion or advice has been through the peer review process, as opposed to measuring the outcome of the review process or a reflection of the quality of the opinion or advice itself.

11 The target of 75% reflects that some opinions or advice may not be required to go through the peer review process, such as where the advice is given orally or is required under extreme urgency.

12 The results reflect that an undeterminable portion relates to opinions or advice that may not be required to go through the peer review process, such as where the advice is given orally or is required under extreme urgency.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
New measure	Percentage of responses to the client survey that consider Crown Law's timeliness in responding to requests is either good or excellent	New measure	August 2013: 77%	
<b>Cost-effectiveness</b>				
Managed within appropriation	Legal advice and representation is managed within appropriation	Managed within appropriation	Managed within appropriation	
\$161	Cost per hour of client services (i.e. average fee rate across all levels of counsel, clients and types of work)	New measure	\$196	As a result of the strategy and corporate, and legal and support restructures that were implemented in 2012/13, there was an increase in counsel time spent on administrative matters and a one-off decrease in chargeable hours. The decrease in time spent on client services resulted in a higher average hourly rate.
New measure	Percentage of responses to the client survey that consider the service clients receive from Crown Law represents value for money is either good or excellent	New measure	August 2013: 83%	
<b>Effectiveness</b>				
New measure	Percentage of responses to the client survey that consider the service clients receive from Crown Law is either good or excellent	75%	Measure withdrawn	This measure has been replaced with the measure "Percentage of responses to the client survey that consider Crown Law's overall advice and services to be either good or excellent" as this directly measures clients' overall satisfaction.
New measure	Percentage of responses to the client survey that consider Crown Law's overall advice and services to be either good or excellent	New measure	August 2013: 87%	

### Financial performance

Actual 2012 \$000		Actual 2013 \$000	Main Estimates 2013 \$000	Supp Estimates 2013 \$000
<b>Revenue</b>				
-	Crown	1,059	-	1,059
22,629	Department	16,812	22,406	22,406
<b>22,629</b>	<b>Total revenue</b>	<b>17,871</b>	<b>22,406</b>	<b>23,465</b>
<b>Expenditure</b>				
<b>21,091</b>	<b>Expenditure</b>	<b>19,794</b>	<b>22,406</b>	<b>23,465</b>
<b>1,538</b>	<b>Net surplus/(deficit)</b>	<b>(1,923)</b>	-	-

Figures are GST exclusive.

## Multi-class output appropriation: Supervision and conduct of Crown prosecutions and appeals

### Multi-class output appropriation summary

#### Scope

##### *Conduct of criminal appeals*

This output class is limited to conducting appeals in the High Court, the Court of Appeal and the Supreme Court arising from criminal trials on indictment, including Crown appeals.

##### *Conduct of Crown prosecutions*

This output class is limited to the provision of a national Crown prosecution service that undertakes criminal trials on indictment.

##### *Criminal law advice and services*

This output class is limited to the provision of advice on criminal law, mutual assistance and extradition cases to other government agencies and to Crown Solicitors.

##### *Supervision of the Crown Solicitor Network*

This output class is limited to the supervision of the network of Crown Solicitors who deliver prosecution services.

#### Financial performance (MCOA Summary)

Actual 2012 \$000		Actual 2013 \$000	Main Estimates 2013 \$000	Supp Estimates 2013 \$000
<b>Revenue</b>				
48,709	Crown	47,648	43,188	47,648
14	Other	34	-	-
<b>48,723</b>	<b>Total revenue</b>	<b>47,682</b>	<b>43,188</b>	<b>47,648</b>
<b>Expenditure</b>				
<b>48,503</b>	<b>Expenditure</b>	<b>46,081</b>	<b>43,188</b>	<b>47,648</b>
<b>220</b>	<b>Net surplus/(deficit)</b>	<b>1,601</b>	<b>-</b>	<b>-</b>

Figures are GST exclusive.

This is a newly established multi-class output appropriation, effective from 1 July 2012. The actual 2012 figures consolidate two 2011/12 output expenses together: the Conduct of Criminal Appeals, and Supervision and Conduct of Crown Prosecutions.

## Output class: Conduct of criminal appeals

### Scope

This output class is limited to conducting appeals in the High Court, the Court of Appeal and the Supreme Court arising from criminal trials on indictment, including Crown appeals.

### Service performance

Crown Law conducts criminal appeals primarily in the Court of Appeal and Supreme Court. To assess how well Crown Law is managing criminal appeals, a range of performance measures are used to monitor changes in workload and costs, such as the number of new cases and the number of cases disposed of. During 2012/13, new performance measures and baseline data were developed for monitoring Crown Law's productivity, such as the hours worked per case. A key measure of Crown Law's effectiveness is the percentage of appeals that are concluded in favour of the Crown, when the appeal has been brought by the Crown.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
<b>Quantity</b>				
<b>New cases:</b>				
23	Crown appeals (Court of Appeal and Supreme Court)	30-35	41	In 2012/13, there was an increase in Crown appeals. Crown Law's standard for approving Crown appeals has not changed. One High Court decision under Crown appeal resulted in 20 separate Solicitor-General appeals being filed.
508	Accused appeals (Court of Appeal and Supreme Court)	450-550	603	While the number of new appeals brought by an accused in 2012/13 was higher than forecast, it was not significantly higher than the number of new cases in 2011/12.
<b>Cases in progress:</b>				
66	Crown appeals (Court of Appeal and Supreme Court)	75-125	53	The number of appeals brought by the Crown has decreased over the last four years, from 224 appeals in progress at 30 June 2010 to 55 at 30 June 2013. This continuing decrease has not been reflected in the forecast number of appeals in progress.
641	Accused appeals (Court of Appeal and Supreme Court)	540-600	628	The number of appeals brought by an accused has not varied significantly over the last three years, ranging from 619 appeals in progress at 30 June 2011 to 626 at 30 June 2013. This level has not been reflected in the forecast number of appeals in progress.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
<b>Cases disposed of:</b>				
87	Crown appeals (Court of Appeal and Supreme Court)	30-35	53	The number of appeals brought by the Crown that were disposed of in 2012/13 was lower than the number disposed of in 2011/12, due to the continuing decrease in the number of appeals in progress. The number of cases disposed of in previous years has not been reflected in the forecast number of cases disposed.
550	Accused appeals (Court of Appeal and Supreme Court)	450-550	617	The number of cases disposed was higher than in previous years, due to an internal project to complete case closure documentation, allowing the files to be archived. This was driven by the relocation to the new office accommodation.
<b>Productivity</b>				
<b>Clearance rate (ratio of disposed cases to new cases):</b>				
2.02	Crown appeals (Court of Appeal and Supreme Court)	New measure	1.26	Data included to provide a baseline for future forecasting and reporting.
0.83	Accused appeals (Court of Appeal and Supreme Court)	New measure	1.02	
<b>Average hours worked per disposed case:</b>				
43	Crown appeals (Court of Appeal and Supreme Court)	New measure	68	Data included to provide a baseline for future forecasting and reporting.
29	Accused appeals (Court of Appeal and Supreme Court)	New measure	28	
<b>Quality</b>				
New measure	Percentage of responses to a survey of the judiciary in the Court of Appeal and Supreme Court that consider the quality of Crown Law submissions is either good or excellent	75%	Measure withdrawn	As Crown Law appears in front of the Courts as a litigant, a satisfaction survey is not supported by the judiciary.
<b>Timeliness</b>				
New measure	Percentage of responses to a survey of the judiciary in the Court of Appeal and Supreme Court that consider the timeliness of the submissions received from Crown Law is either good or excellent	75%	Measure withdrawn	As Crown Law appears in front of the Courts as a litigant, a satisfaction survey is not supported by the judiciary.
<b>Cost-effectiveness</b>				
Managed within appropriation	Criminal appeals are managed within appropriation	Managed within appropriation	Managed within appropriation	In 2012/13, the Conduct of Criminal Appeals output class was overspent by \$0.298 million. This output class was managed within the Supervision and Conduct of Crown Prosecutions and Appeals multi-class output appropriation.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
<b>Effectiveness</b>				
74%	Percentage of Crown appeals concluded in favour of the Crown, or success rate (Court of Appeal and Supreme Court)	60% <sup>13</sup>	75%	

### Financial performance

Actual 2012 \$000		Actual 2013 \$000	Main Estimates 2013 \$000	Supp Estimates 2013 \$000
<b>Revenue</b>				
N/A	Crown	2,862	3,295	2,862
<b>Expenditure</b>				
N/A	Expenditure	3,170	3,295	2,862
N/A	Net surplus/(deficit)	(308)	-	-

Figures are GST exclusive.

This is a newly established multi-class output appropriation, effective from 1 July 2012. Actual 2012 figures are included in the multi-class output appropriation summary.

13 Crown Law's forecast success rate is set at 60% to set an appropriate tension between the taking of an appeal because the decision is considered to be wrong and the need to take an appeal to clarify a point of law in the public interest. 60% is the accepted minimum to take into account this tension.

## Output class: Conduct of Crown prosecutions

### Scope

This output class is limited to the provision of a national Crown prosecution service that undertakes criminal trials on indictment.

### Service performance

In addition to the expertise provided by its client service teams, Crown Law also has access to a network of Crown Solicitors. Crown Solicitors are private legal practitioners appointed on the recommendation of the Attorney-General and by warrant of the Governor-General. Crown Solicitors are responsible for the conduct of prosecutions on behalf of the Crown.

To strengthen the management of the Crown Solicitor Network, a dedicated Public Prosecutions Unit was established within Crown Law in 2012. In 2012/13, the Public Prosecutions Unit developed a new reporting framework for Crown Solicitors. Reporting requirements have been finalised following a consultative process, with the new reporting to be implemented in 2013/14.

The Ministry of Justice has provided courts data to enable Crown Law to establish its systems and analytical processes to support the new reporting framework. Crown Law was able to develop baseline data on the number of cases that were disposed of, to support the development of the long-term funding model for Crown Solicitors. However, in the 2012/13 year, data was not collected from Crown Solicitors, meaning that the data cannot be verified or used to calculate other performance results.

In 2013/14, Crown Law will collect information from both the Ministry of Justice and Crown Solicitors, which will enable the verification of data and the development of new performance measures.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
<b>Quantity</b>				
<b>New trials:</b>				
1,531	Standard trials for indictable crime conducted in the District Court	1,650-1,850	Measure in development	In 2012/13, Crown Law worked with Crown Solicitors to develop a long-term funding model, which will be supported by a new reporting framework. The reporting framework has been developed and will be reported on in future years. In the interim, for 2012/13, the primary measure for monitoring Crown prosecutions was the total number of cases that were disposed of, as this is one of the factors driving funding allocations.
100	Standard trials for indictable crime conducted in the High Court	130-180	Measure in development	
711	Appeals to the High Court conducted by Crown Solicitors	550-650	Measure in development	
36	Complex trials <sup>14</sup> for indictable crime conducted in the District Court	40-80	Measure in development	
49	Complex trials for indictable crime conducted in the High Court	50-90	Measure in development	
<b>Trials in progress:</b>				
Measure in development	Standard trials for indictable crime conducted in the District Court	2,000-2,500	Measure in development	In 2012/13, Crown Law worked with Crown Solicitors to develop a long-term funding model, which will be supported by a new reporting framework. The reporting framework has been developed and will be reported on in future years. In the interim, for 2012/13, the primary measure for
Measure in development	Standard trials for indictable crime conducted in the High Court	180-200	Measure in development	
Measure in development	Appeals to the High Court conducted by Crown Solicitors	650-750	Measure in development	

14 Complex cases are those cases where the total cost is equal to or exceeds \$20,000. A standard case can become a complex case once its total cost exceeds \$20,000.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
Measure in development	Complex trials for indictable crime conducted in the District Court	100-140	Measure in development	monitoring Crown prosecutions was the total number of cases that were disposed of, as this is one of the factors driving funding allocations.
Measure in development	Complex trials for indictable crime conducted in the High Court	120-160	Measure in development	
<b>Trials disposed of:</b>				
4,359 <sup>15</sup>	Standard trials for indictable crime conducted in the District Court	1,700-1,900	4,493	In 2012/13, Crown Law developed new reporting based on data provided from the Ministry of Justice. This provides a complete dataset of Crown prosecutions, including those conducted by Crown Solicitors. The previous forecasts do not reflect the actual level of work as captured in the new dataset.
303 <sup>15</sup>	Standard trials for indictable crime conducted in the High Court	130-180	343	
1,204 <sup>15</sup>	Appeals to the High Court conducted by Crown Solicitors	550-650	1,160	
Measure in development	Complex trials for indictable crime conducted in the District Court	40-80	Measure in development	In 2012/13, Crown Law worked with Crown Solicitors to develop a long-term funding model, which will be supported by a new reporting framework. The reporting framework has been developed and will be reported on in future years. In the interim, for 2012/13, the primary measure for monitoring Crown prosecutions was the total number of cases that were disposed of, as this is one of the factors driving funding allocations.
Measure in development	Complex trials for indictable crime conducted in the High Court	50-90	Measure in development	
<b>Other new criminal cases conducted by Crown Solicitors:</b>				
3,047	Bail application and appeals	2,200-2,400	Measure in development	In 2012/13, Crown Law worked with Crown Solicitors to develop a long-term funding model, which will be supported by a new reporting framework. The reporting framework has been developed and will be reported on in future years. In the interim, for 2012/13, the primary measure for monitoring Crown prosecutions was the total number of cases that were disposed of, as this is one of the factors driving funding allocations.
3,626	Guilty pleas	500-600	Measure in development	

15 The 2011/12 actual differs from that reported in the Annual Report for the year ended 30 June 2012, as the information is now calculated from the Ministry of Justice dataset, which may not match the data previously used.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
<b>Cost-effectiveness</b>				
N/A	Crown Law's supervision and conduct of Crown prosecutions is managed within appropriation	Expenditure on Crown prosecutions does not exceed appropriations	Managed within appropriation	In 2012/13, the Conduct of Crown Prosecutions output class was underspent by \$2.097 million. A large portion of this underspend was the reduction in the work-in-progress liability between 30 June 2012 and 30 June 2013. This output class was managed within the Supervision and Conduct of Crown Prosecutions and Appeals multi-class output appropriation.
Measure in development	Average cost to Crown Law for cases by category grouping and District Court / High Court	The average cost of criminal prosecutions in the District Court and High Court is maintained or lower when compared to the previous year	Measure in development	In 2012/13, Crown Law worked with Crown Solicitors to develop a long-term funding model, which will be supported by a new reporting framework. The reporting framework has been developed and will be reported on in future years. In the interim, for 2012/13, the primary measure for monitoring Crown prosecutions was the total number of cases that were disposed of, as this is one of the factors driving funding allocations.
<b>Effectiveness</b>				
Measure in development	Percentage of prosecution/informant appeals conducted by Crown Solicitors concluded in favour of the Crown	60% <sup>16</sup>	Measure in development	In 2012/13, Crown Law worked with Crown Solicitors to develop a long-term funding model, which will be supported by a new reporting framework. We are unable to report on this measure for 2012/13, however the reporting framework has been developed and will be reported on in future years. In the interim, for 2012/13, the primary measure for monitoring Crown prosecutions was the total number of cases that were disposed of, as this is one of the factors driving funding allocations.

16 Crown Law's forecast success rate is set at 60% to set an appropriate tension between the taking of an appeal because the decision is considered to be wrong and the need to take an appeal to clarify a point of law in the public interest. 60% is the accepted minimum to take into account this tension.

## Financial performance

Actual 2012 \$000		Actual 2013 \$000	Main Estimates 2013 \$000	Supp Estimates 2013 \$000
<b>Revenue</b>				
N/A	Crown	39,723	37,161	39,723
<b>Expenditure</b>				
N/A	Expenditure	37,626	37,161	39,723
N/A	Net surplus/(deficit)	2,097	-	-

Figures are GST exclusive.

This is a newly established multi-class output appropriation, effective from 1 July 2012. Actual 2012 figures are included in the multi-class output appropriation summary.

Approval was obtained in April 2013 for an in-principal expense transfer of up to \$1.3 million from 2012/13 to 2013/14 in this output class.

## Output class: Criminal law advice and services

### Scope

This output class is limited to the provision of advice on criminal law, mutual assistance and extradition cases to other government agencies and to Crown Solicitors.

### Service performance

Crown Law provides criminal law advice and services to other government departments, including international agencies, and to Crown Solicitors. To assess how well Crown Law is meeting the needs of these agencies, a range of performance measures are used to monitor changes in workload and costs, such as the number of new cases and the number of cases disposed of. During 2012/13, new performance measures and baseline data were developed for monitoring Crown Law's productivity, such as the hours worked per case. Crown Law also monitors the number of official information and correspondence requests that are received regarding criminal matters, and whether these requests are responded to on time.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
<b>Quantity</b>				
<b>New cases:</b>				
New measure	Other Law Officer requests regarding criminal cases	140-170	Measure withdrawn	This measure has been broken down in to criminal prosecution advice, Judicial Reviews, mutual assistance and extraditions, and other criminal cases.
55	Criminal advice	New measure	25	The number of new criminal advice cases decreased from 2011/12 to 2012/13. This was due to a change in how consents to prosecute were categorised, with these cases being included as other criminal cases in 2012/13. Overall, the total number of criminal advice and consents to prosecute did not change significantly from 2011/12 (60 cases total) to 2012/13 (58 cases total).
4	Judicial Reviews	New measure	5	
81	Mutual assistance and extraditions <sup>17</sup>	New measure	57	From 2011/12 to 2012/13, there was a decrease in both the number of new mutual assistance cases and new extradition eligibility cases. However, multiple new supplementary requests were made for some cases, and these were included under the existing file. For example, one mutual assistance case had 12 supplementary requests, and this would be counted as one case. These may have previously been counted as multiple cases.

<sup>17</sup> This includes eligibility for extradition, and mutual assistance matters.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
33	Other criminal cases <sup>18</sup>	New measure	50	From 2011/12 to 2012/13, the increase in new cases was due to the recategorisation of consents to criminal prosecution.
69	Requests for prosecution appeals and judicial reviews for High Court, Court of Appeal and Supreme Court	60-90	79	
<b>Cases in progress:</b>				
New measure	Other Law Officer requests regarding criminal cases	350-400	Measure withdrawn	This measure has been broken down in to criminal advice, Judicial Reviews, mutual assistance and extraditions, and other criminal cases.
194	Criminal advice	New measure	92	The number of cases in progress decreased from 2011/12 to 2012/13 due to the increased number of cases disposed.
13	Judicial Reviews	New measure	4	
174	Mutual assistance and extraditions	New measure	168	Although there was a small decrease over 2012/13, the number of cases in progress has remained high over the last four years, ranging from 160 cases (26% of the output class) at 30 June 2010 to 168 cases (45% of the output class) at 30 June 2013. As noted above, the decrease may reflect a change in how supplementary requests are categorised.
166	Other criminal cases	New measure	85	The number of cases in progress decreased from 2011/12 to 2012/13 due to the increased number of cases disposed.
50	Requests for prosecution appeals and judicial reviews for High Court, Court of Appeal and Supreme Court	50-70	27	
<b>Cases disposed of:</b>				
New measure	Other Law Officer requests regarding criminal cases	140-170	Measure withdrawn	This measure has been broken down in to criminal advice, Judicial Reviews, mutual assistance and extraditions, and other criminal cases.

18 This includes consents to criminal prosecution (included in 2012/13 only), immunities from prosecution requests, proceeds of crime, stays of prosecution requests, and Serious Fraud Office prosecutions.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
57	Criminal advice	New measure	127	The number of cases disposed was higher than in previous years, due to an internal project to complete case closure documentation, allowing the files to be archived. This was driven by the relocation to the new office accommodation.
6	Judicial Reviews	New measure	14	
101	Mutual assistance and extraditions	New measure	63	From 2011/12 to 2012/13, there was a decrease in the number of cases disposed, which may reflect the small decrease in the number of cases in progress. As noted above, the decrease may also reflect a change in how supplementary requests are categorised.
44	Other criminal cases	New measure	131	The number of cases disposed was higher than in previous years, due to an internal project to complete case closure documentation, allowing the files to be archived. This was driven by the relocation to the new office accommodation.
71	Requests for prosecution appeals and judicial reviews for High Court, Court of Appeal and Supreme Court	60-90	102	
53	Number of Ministerial letters and Parliamentary Questions regarding criminal cases received	30-40	56	A higher number of requests were received than anticipated. This likely reflects that Crown Law was involved in a number of high profile cases during 2012/13.
New measure	Number of Official Information Act 1982 and Privacy Act requests regarding criminal cases received	15-25	35	
<b>Productivity</b>				
<b>Clearance rate (ratio of disposed cases to new cases):</b>				
1.04	Criminal advice	New measure	5.08	Data included to provide a baseline for future forecasting and reporting.
1.50	Judicial Reviews	New measure	2.80	
1.25	Mutual assistance and extraditions	New measure	1.11	
1.33	Other criminal cases	New measure	2.62	
1.03	Requests for prosecution appeals and judicial reviews for High Court, Court of Appeal and Supreme Court	New measure	1.29	
<b>Average hours worked per disposed case:</b>				
24	Criminal advice	New measure	22	Data included to provide a baseline for future forecasting and reporting.
50	Judicial Reviews	New measure	50	
43	Mutual assistance and extraditions	New measure	36	
26	Other criminal cases	New measure	21	
18	Requests for prosecution appeals and judicial reviews for High Court, Court of Appeal and Supreme Court	New measure	18	Data included to provide a baseline for future forecasting and reporting.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
<b>Timeliness</b>				
94% for Ministerial letters and 100% for Parliamentary Questions	Percentage of responses to Ministerial letters and Parliamentary Questions regarding criminal cases provided within required timeframes	90%	98% for Ministerial letters and 100% for Parliamentary Questions	
New measure	Percentage of Official Information Act 1982 and Privacy Act requests regarding criminal cases responded to within required timeframes	90%	100%	
<b>Cost-effectiveness</b>				
N/A New multi-class appropriation established in 2012/13	Criminal law advice and services are managed within appropriation	Managed within appropriation	Managed within appropriation	In 2012/13, the Criminal Law Advice and Services output class was overspent by \$0.186 million. The main driver of this output class is the increase in mutual assistance and extradition cases. This output class was managed within the Supervision and Conduct of Crown Prosecutions and Appeals multi-class output appropriation.

#### Financial performance

Actual 2012 \$000		Actual 2013 \$000	Main Estimates 2013 \$000	Supp Estimates 2013 \$000
<b>Revenue</b>				
N/A	Crown	4,363	1,892	4,363
N/A	Other	34	-	-
<b>N/A</b>	<b>Total revenue</b>	<b>4,397</b>	<b>1,892</b>	<b>4,363</b>
<b>Expenditure</b>				
<b>N/A</b>	<b>Expenditure</b>	<b>4,562</b>	<b>1,892</b>	<b>4,363</b>
<b>N/A</b>	<b>Net surplus/(deficit)</b>	<b>(165)</b>	<b>-</b>	<b>-</b>

Figures are GST exclusive.

This is a newly established multi-class output appropriation, effective from 1 July 2012. Actual 2012 figures are included in the multi-class output appropriation summary.

## Output class: Supervision of the Crown Solicitor Network

### Scope

This output class is limited to the supervision of the network of Crown Solicitors who deliver prosecution services.

### Service performance

Crown Law supervises the network of Crown Solicitors. The Crown Solicitor Network currently consists of 16 Crown Solicitor warrants, which are held by partners in private law firms throughout New Zealand.

To strengthen the management of the network, a dedicated Public Prosecutions Unit was established within Crown Law in 2012. The Public Prosecutions Unit has a number of initiatives planned and underway to improve the supervision and the effectiveness of this network. In 2012/13, Crown Law worked with Crown Solicitors to develop a long-term funding model, to ensure that the network and the conduct of Crown prosecutions are managed within appropriations.

Crown Law has also reviewed how it monitors the quality and effectiveness of Crown Solicitors' practices. The previous reviews process was resource and time intensive, with, on average, only one warrant being reviewed per year. A new two tier review process has been proposed, using online surveys in addition to interview based reviews. This would allow up to five warrants to be reviewed in a year. Crown Solicitors will be consulted on the proposal, and the new process implemented, in 2013/14.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
<b>Quantity</b>				
0	Number of reviews of Crown Solicitors' practices completed	3	1 completed and 1 underway	In 2012/13, Crown Law worked with Crown Solicitors to develop a long-term funding model, which will be supported by a new reporting framework. As part of the new framework, Crown Law is reviewing how Crown Solicitors' practices will be assessed. As the independent reviews process may change, Crown Law is not presently initiating any further reviews.
582	Number of technical applications under Crown Solicitor regulations received <sup>19</sup>	850-1,000	611	The number of technical applications was less than forecast, due to the implementation of capped funding for Crown Solicitors. Once the funding caps were reached, Crown Solicitors did not send through technical applications.

<sup>19</sup> This includes applications for classification of counsel, processing of expert witnesses, special fees and approval of additional counsel.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
<b>Quality</b>				
N/A	Percentage of recommendations from reviews of Crown Solicitors' practices that are put into action	100%	N/A	In 2012/13, Crown Law worked with Crown Solicitors to develop a long-term funding model, which will be supported by a new reporting framework. As part of the new framework, Crown Law is reviewing how Crown Solicitors' practices will be assessed. As the independent reviews process may change, Crown Law is not presently initiating any further reviews or following up completed reviews.
<b>Cost-effectiveness</b>				
N/A	Crown Law's supervision and conduct of Crown prosecutions is managed within appropriation	Expenditure on Crown prosecutions does not exceed appropriations	Managed within appropriation	In 2012/13, the Conduct of Crown Prosecutions output class was underspent by \$2.097 million. A large portion of this underspend was the reduction in the work-in-progress liability between 30 June 2012 and 30 June 2013. This output class was managed within the Supervision and Conduct of Crown Prosecutions and Appeals multi-class output appropriation.
N/A	Supervision of the Crown Solicitor Network is managed within appropriation	Managed within appropriation	Managed within appropriation	In 2012/13, the Supervision of the Crown Solicitor Network output class was overspent by \$0.023 million. This output class was managed within the Supervision and Conduct of Crown Prosecutions and Appeals multi-class output appropriation.

### Financial performance

Actual 2012 \$000		Actual 2013 \$000	Main Estimates 2013 \$000	Supp Estimates 2013 \$000
<b>Revenue</b>				
N/A	Crown	700	840	700
<b>Expenditure</b>				
N/A	Expenditure	723	840	700
N/A	Net surplus/(deficit)	(23)	-	-

Figures are GST exclusive.

This is a newly established multi-class output appropriation, effective from 1 July 2012. Actual 2012 figures are included in the multi-class output appropriation summary.

## Output expense: The exercise of Principal Law Officer functions

### Scope

This appropriation is limited to 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.

### Service performance

Crown Law provides advice, representation and administrative services to the Principal Law Officers. To assess how well Crown Law is meeting the needs of the Principal Law Officers, a range of performance measures are used to monitor changes in workload and costs, such as the number of new cases and the number of cases disposed of. During 2012/13, new performance measures and baseline data were developed for monitoring Crown Law's productivity, such as the hours worked per case. A key measure of Crown Law's effectiveness is how satisfied the Attorney-General is with the advice and services that have been provided. Crown Law also monitors the number of official information and correspondence requests that are received regarding non-criminal matters, and whether these requests are responded to on time.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
<b>Quantity</b>				
<b>New cases:</b>				
43	Applications processed on behalf of the Attorney-General <sup>20</sup>	35-45	54	From 2011/12 to 2012/13, there was an increase in the number of new trust investigation and vexatious litigant cases.
170	Legal opinions / advice cases provided on behalf of the Attorney-General	50-80	126	From 2011/12 to 2012/13, there was an increase in new advice on behalf of the Attorney-General. This included large increases in constitutional and human rights related cases, and public law cases.
7	Litigation cases taken on behalf of the Attorney-General	5-10	15	From 2011/12 to 2012/13, there was an increase in new litigation cases on behalf of the Attorney-General. This included increases in constitutional and human rights related cases, criminal related cases, and public law cases.
9	Other statutory and judicial matters	New measure	6	
<b>Cases in progress:</b>				
177	Applications processed on behalf of the Attorney-General	50-60	125	There was a decrease in the number of cases in progress at 30 June 2013, due to the high number of disposals in 2012/13. For the three years prior, the number of applications in progress increased from 147 at 30 June 2010 to 177 at 30 June 2012. This level has not been reflected in the forecast number of cases in progress.

<sup>20</sup> These include applications for second coronial inquiries, special patient reclassification, discharge of adoption orders, trust variations, interventions in respect of alleged contempt and breaches of name suppression.

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
261	Legal opinions / advice cases provided on behalf of the Attorney-General	150-180	202	There was a decrease in the number of cases in progress at 30 June 2013, due to the high number of disposals in 2012/13. For the three years prior, the number of applications in progress varied from 245 to 261 cases. This level has not been reflected in the forecast number of cases in progress.
26	Litigation cases taken on behalf of the Attorney-General	10-15	28	The number of litigation cases in progress has increased over the last four years, from 18 cases in progress at 30 June 2010 to 28 cases in progress at 30 June 2013. This level has not been reflected in the forecast number of cases in progress.
73	Other statutory and judicial matters	New measure	55	There was a decrease in the number of cases in progress at 30 June 2013, due to the high number of disposals in 2012/13.
<b>Cases disposed of:</b>				
34	Applications processed on behalf of the Attorney-General	35-45	106	The number of cases disposed was higher than in previous years, due to an internal project to complete case closure documentation, allowing the files to be archived. This was driven by the relocation to the new office accommodation.
86	Legal opinions / advice cases provided on behalf of the Attorney-General	50-80	185	
6	Litigation cases taken on behalf of the Attorney-General	5-10	13	
7	Other statutory and judicial matters	New measure	24	
49	Number of weekly written briefings provided to the Attorney-General	47	48	
170	Number of Ministerial letters and Parliamentary Questions regarding non-criminal matters received	130-180	150	
New measure	Number of Official Information Act 1982 and Privacy Act 1993 requests regarding non-criminal matters responded to	175-200	53	A lower number of requests were received than anticipated.
<b>Productivity</b>				
<b>Clearance rate (ratio of disposed cases to new cases):</b>				
0.79	Applications processed on behalf of the Attorney-General	New measure	1.96	Data included to provide a baseline for future forecasting and reporting.
0.85	Legal opinions / advice cases provided on behalf of the Attorney-General	New measure	1.47	

Actual 2011/12	Performance measure	Forecast 2012/13	Actual 2012/13	Variance explanation
0.86	Litigation cases taken on behalf of the Attorney-General	New measure	0.87	Data included to provide a baseline for future forecasting and reporting.
0.78	Other statutory and judicial matters	New measure	4.00	
<b>Average hours worked per disposed case:</b>				
37	Applications processed on behalf of the Attorney-General	New measure	80	Data included to provide a baseline for future forecasting and reporting.
60	Legal opinions / advice cases provided on behalf of the Attorney-General	New measure	78	
35	Litigation cases taken on behalf of the Attorney-General	New measure	50	
106	Other statutory and judicial matters	New measure	67	
<b>Quality</b>				
New measure	Percentage of responses to a questionnaire to the Attorney-General that consider the service provided by Crown Law is either good or excellent	75%	92%	
<b>Timeliness</b>				
95% for Ministerial letters and 100% for Parliamentary Questions	Percentage of responses to Ministerial letters and Parliamentary Questions regarding non-criminal matters provided within required timeframes	90%	96% for Ministerial letters and 100% for Parliamentary Questions	
New measure	Percentage of Official Information Act 1982 and Privacy Act 1993 requests regarding non-criminal matters responded to within required timeframes	90%	92%	
<b>Cost-effectiveness</b>				
Managed within appropriation	The exercise of Principal Law Officer functions is managed within appropriation	Managed within appropriation	Managed within appropriation	In 2012/13, the Exercise of Principal Law Officer Functions was underspent by \$0.401 million.

## Financial performance

Actual 2012 \$000		Actual 2013 \$000	Main Estimates 2013 \$000	Supp Estimates 2013 \$000
<b>Revenue</b>				
2,432	Crown	2,241	2,874	2,241
82	Other	66	10	50
<b>2,514</b>	<b>Total revenue</b>	<b>2,307</b>	<b>2,884</b>	<b>2,291</b>
<b>Expenditure</b>				
<b>2,264</b>	<b>Expenditure</b>	<b>1,897</b>	<b>2,884</b>	<b>2,291</b>
<b>250</b>	<b>Net surplus/(deficit)</b>	<b>410</b>	<b>-</b>	<b>-</b>

Figures are GST exclusive.

## Statement of Comprehensive Income

For the year ended 30 June 2013

Actual 2012 \$000		Notes	Actual 2013 \$000	Main Estimates 2013 \$000	Supp Estimates 2013 \$000
<b>Income</b>					
51,141	Crown		50,948	46,062	50,948
22,725	Other revenue	2	16,912	22,416	22,456
<b>73,866</b>	<b>Total income</b>		<b>67,860</b>	<b>68,478</b>	<b>73,404</b>
<b>Expenditure</b>					
19,789	Personnel costs	3	19,774	21,712	19,645
1,004	Depreciation and amortisation expense	4	720	1,095	795
165	Capital charge	5	109	165	109
599	Restructuring costs		1,175	-	1,574
42,473	Crown Solicitors' fees		38,055	37,561	40,123
7,828	Other operating expenses	6	7,939	7,945	11,158
<b>71,858</b>	<b>Total expenditure</b>		<b>67,772</b>	<b>68,478</b>	<b>73,404</b>
2,008	Net operating surplus/(deficit)		88	-	-
<b>2,008</b>	<b>Total comprehensive income</b>		<b>88</b>	<b>-</b>	<b>-</b>

Explanations for major variances against budget are provided in Note 25.

The accompanying notes form part of these financial statements.

## Statement of Financial Position

As at 30 June 2013

Actual 2012 \$000		Notes	Actual 2013 \$000	Main Estimates 2013 \$000	Supp Estimates 2013 \$000
<b>Assets</b>					
<b>Current assets</b>					
13,997	Cash and cash equivalents		7,212	8,954	5,691
714	Prepayments		380	350	350
3,760	Debtors and other receivables	7	4,355	3,800	3,800
1,213	Debtor Crown	8	4,174	1,174	4,174
-	GST Receivable		951	-	-
<b>19,684</b>	<b>Total current assets</b>		<b>17,072</b>	<b>14,278</b>	<b>14,015</b>
<b>Non-current assets</b>					
630	Property, plant and equipment	9	3,436	968	4,393
334	Intangible assets	10	160	600	276
<b>964</b>	<b>Total non-current assets</b>		<b>3,596</b>	<b>1,568</b>	<b>4,669</b>
<b>20,648</b>	<b>Total assets</b>		<b>20,668</b>	<b>15,846</b>	<b>18,684</b>
<b>Liabilities</b>					
<b>Current liabilities</b>					
10,006	Creditors and other payables	11	10,683	8,415	9,315
2,108	Employee entitlements	12	2,153	1,300	1,700
446	Provisions	13	156	-	-
470	Return of operating surplus	14	1,990	-	-
<b>13,030</b>	<b>Total current liabilities</b>		<b>14,982</b>	<b>9,715</b>	<b>11,015</b>
<b>Non-current liabilities</b>					
149	Employee entitlements	12	119	200	200
<b>149</b>	<b>Total non-current liabilities</b>		<b>119</b>	<b>200</b>	<b>200</b>
<b>13,179</b>	<b>Total liabilities</b>		<b>15,101</b>	<b>9,915</b>	<b>11,215</b>
<b>Equity</b>					
1,767	Taxpayers' funds	15	1,767	1,767	1,767
5,406	Memorandum account: Legal advice and representation	21	3,222	3,868	5,406
-	Memorandum account: Government Legal Network	22	261	-	-
-	Memorandum account: Processing of Queen's Counsel applications	23	21	-	-
296	Revaluation reserve	15	296	296	296
<b>7,469</b>	<b>Total equity</b>	15	<b>5,567</b>	<b>5,931</b>	<b>7,469</b>

Explanations for major variances against budget are provided in Note 25.

The accompanying notes form part of these financial statements.

## Statement of Changes in Equity

For the year ended 30 June 2013

Actual 2012 \$000		Notes	Actual 2013 \$000	Main Estimates 2013 \$000	Supp Estimates 2013 \$000
4,757	<b>Balance at 1 July</b>		7,469	5,931	7,469
2,008	Surplus/(deficit) for the year		88	-	-
1,174	Capital injection for memorandum account opening balance		-	-	-
-	- Other capital injection		-	-	-
-	- Movements in revaluation reserve		-	-	-
(470)	Return of operating surplus to the Crown	14	(1,990)	-	-
<b>2,712</b>	<b>Movements for the year</b>		<b>(1,902)</b>	-	-
<b>7,469</b>	<b>Balance at 30 June</b>	15	<b>5,567</b>	<b>5,931</b>	<b>7,469</b>

The accompanying notes form part of these financial statements.

## Statement of Cash Flows

For the year ended 30 June 2013

Actual 2012 \$000		Notes	Actual 2013 \$000	Main Estimates 2013 \$000	Supp Estimates 2013 \$000
<b>Cash flows from operating activities</b>					
<b>Cash was provided from:</b>					
51,102	Receipts from Crown		47,948	46,062	47,987
22,781	Receipts from clients		16,373	22,416	22,416
73,883			64,321	68,478	70,403
<b>Cash was applied to:</b>					
19,615	Payments to employees		21,224	21,458	19,460
49,815	Payments to suppliers		45,339	46,147	53,508
755	Net Goods and Services Tax paid/(received)		612	612	612
165	Payment for capital charge		109	165	109
70,350			67,284	68,382	73,689
<b>3,533</b>	<b>Net cash inflow from operating activities</b>	16	<b>(2,963)</b>	<b>96</b>	<b>(3,286)</b>
<b>Cash flows from investing activities</b>					
<b>Cash was provided from:</b>					
-	Sale of property, plant and equipment		-	-	-
<b>Cash was disbursed for:</b>					
29	Purchase of property, plant and equipment		3,341	555	4,358
24	Purchase of intangible assets		11	260	192
53			3,352	815	4,550
<b>(53)</b>	<b>Net cash outflow from investing activities</b>		<b>(3,352)</b>	<b>(815)</b>	<b>(4,550)</b>
<b>Cash flows from financing activities</b>					
<b>Cash was provided from:</b>					
-	Capital injection		-	-	-
<b>Cash was disbursed for:</b>					
2,878	Repayment of operating surplus		470	-	470
<b>(2,878)</b>	<b>Net cash outflow from financing activities</b>		<b>(470)</b>	<b>-</b>	<b>(470)</b>
<b>602</b>	<b>Net (decrease)/increase in cash</b>		<b>(6,785)</b>	<b>(719)</b>	<b>(8,306)</b>
13,395	Cash at the beginning of the year		13,997	9,673	13,997
<b>13,997</b>	<b>Cash at the end of the year</b>		<b>7,212</b>	<b>8,954</b>	<b>5,691</b>

Explanations for major variances against budget are provided in Note 25.

The accompanying notes form part of these financial statements.

## Statement of Commitments

As at 30 June 2013

### Non-cancellable operating lease commitments

Crown Law's office lease at 56 The Terrace expired on 31 March 2013. A temporary renewal of the lease to 30 June 2013 was agreed. The new office lease begins from 1 July 2013, and is a sub-lease from Ministry of Justice. The minimum term of the lease is for a period of six and a half years expiring on 31 December 2019.

Crown Law also pays rent to Serious Fraud Office for a pilot office in Auckland from 1 January 2013. The minimum term of the lease is for a period of eighteen months expiring on 30 June 2014.

The amounts disclosed below as future commitments are based on the current rental rates.

Actual 2012 \$000		Actual 2013 \$000
<b>Capital commitments</b>		
- There were no capital commitments as at 30 June		-
<b>Non-cancellable operating lease commitments (Inter-Entity)</b>		
1,257	Not later than one year	1,061
	- Later than one year and not later than five years	4,203
	- Later than five years	1,576
<b>1,257</b>	<b>Total non-cancellable operating lease commitments (Inter-Entity)</b>	<b>6,840</b>
<b>1,257</b>	<b>Total commitments</b>	<b>6,840</b>

### Other non-cancellable commitments

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

The accompanying notes form part of these financial statements.

## Statement of Departmental Contingent Liabilities and Assets

As at 30 June 2013

### **Unquantifiable contingent liabilities**

Crown Law has no unquantifiable contingent liabilities (2012: Nil).

### **Quantifiable contingent liabilities**

Crown Law has no quantifiable contingent liabilities (2012: Nil).

### **Contingent assets**

Crown Law has no contingent assets (2012: Nil).

The accompanying notes form part of these financial statements.

## Statement of Departmental Unappropriated Expenditure and Capital Expenditure

For the year ended 30 June 2013

There was no unappropriated expenditure (2012: Nil).

The accompanying notes form part of these financial statements.

## Statement of Departmental Expenses and Capital Expenditure against Appropriations

For the year ended 30 June 2013

Actual 2012 \$000		Actual 2013 \$000	Main Estimates 2013 \$000	Supp Estimates 2013 \$000	Section 26A 2013 \$000	Section 26C 2013 \$000	Total 2013 \$000	In principal transfer 2013 \$000
<b>Vote Attorney-General</b>								
<b>Appropriations for output expenses</b>								
21,091	Legal advice and representation	19,794	22,406	23,465	-	-	23,465	-
48,503	Supervision and conduct of Crown prosecutions and appeals MCOA	46,081	43,188	47,648	-	-	47,648	1,300
2,264	The exercise of Principal Law Officer functions	1,897	2,884	2,291	-	-	2,291	-
<b>71,858</b>	<b>Total appropriations for output expenses</b>	<b>67,772</b>	<b>68,478</b>	<b>73,404</b>	<b>-</b>	<b>-</b>	<b>73,404</b>	<b>1,300</b>
<b>Appropriations for capital expenditure</b>								
53	Capital investment	3,352	815	4,550	-	-	4,550	-
<b>71,911</b>	<b>Total appropriations</b>	<b>71,124</b>	<b>69,293</b>	<b>77,954</b>	<b>-</b>	<b>-</b>	<b>77,954</b>	<b>1,300</b>

As per 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 2012/13 financial year, which implies that the actual expenditure incurred was equal to the expenditure after remeasurement.

The accompanying notes form part of these financial statements.

## Schedule of Trust Monies

For the year ended 30 June 2013

Actual 2012 \$000		Actual 2013 \$000
<b>Crown Law Office Legal Claims Trust Account</b>		
<b>310</b>	<b>Balance at 1 July</b>	<b>276</b>
1,347	Contributions	401
(1,397)	Distributions	(470)
16	Revenue	4
-	- Expenditure	(5)
<b>276</b>	<b>Balance at 30 June</b>	<b>206</b>

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 2013

## 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 2013. The financial statements were authorised for issue by the Chief Executive of Crown Law on 30 September 2013.

### Basis of preparation

#### **Statement of compliance**

The financial statements of Crown Law have been prepared in accordance with the requirements of the Public Finance Act 1989, which include 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 NZ GAAP as appropriate for public benefit entities and they comply with NZ IFRS.

#### **Measurement base**

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.

#### **Functional and presentation currency**

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.

#### *Standards, amendments, and interpretations issued that are not yet effective and have not been early adopted*

There is one standard, amendment, or interpretation issued but not yet effective that has not been early adopted, and that is relevant to Crown Law. 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/deficit. The new standard is required to be adopted for the year ended 30 June 2016. However, as a new Accounting Standards Framework will apply before this date, there is no certainty when an equivalent standard to NZ IFRS 9 will be applied by public benefit entities.

## Note 1: Statement of accounting policies (continued)

The Minister of Commerce has approved a new Accounting Standards Framework (incorporating a Tier Strategy) developed by the External Reporting Board (XRB). Under this Accounting Standards Framework, the Office will be required to apply the Public Benefit Entity (Tier 1 reporting entity) of the public sector Public Benefit Entity Accounting Standards. The effective date for the new standards for public sector entities is for reporting periods beginning on or after 1 July 2014. Therefore, Crown Law will transition to the new standards in preparing its 30 June 2015 financial statements. Crown Law has not assessed the implications of the new Accounting Standards Framework at this time.

Due to the change in the Accounting Standards Framework for public benefit entities, it is expected that all new NZ IFRS and amendments to existing NZ IFRS will not be applicable to public benefit entities. Therefore, the XRB has effectively frozen the financial reporting requirements for public benefit entities up until the new Accounting Standard Framework is effective. Accordingly, no disclosure has been made about new or amended NZ IFRS that exclude public benefit entities from their scope.

The following significant accounting policies, which materially affect the measurement of financial results and financial position, have been applied consistently to all periods presented in these financial statements.

### Significant accounting policies

#### **Revenue**

Revenue is measured at the fair value of consideration received or receivable.

##### *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's office lease at 56 The Terrace expired on 30 June 2013. The new office lease is a sub-lease with the Ministry of Justice from 1 July 2013. The term of the lease is for an initial period of six and a half years expiring on 31 December 2019. Annual lease payments are subject to three-yearly reviews.

Crown Law also leased a pilot office with Serious Fraud Office in Auckland from 1 January 2013. The minimum term of the lease is for a period of eighteen months expiring on 30 June 2014.

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.

#### **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 surplus or deficit, in which case the transaction costs are recognised in the Statement of Comprehensive Income.

#### **Cash and cash equivalents**

Cash includes cash on hand, deposits held at call with banks, and other short-term highly liquid investments with original maturities of three months or less.

#### **Debtors and other receivables**

Short-term debtors and other receivables are recorded at their face value, less any provision for impairment.

## Note 1: Statement of accounting policies (continued)

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. Significant financial difficulties of the debtor, probability that the debtor will enter into bankruptcy, receivership or liquidation, and default in payments are considered indicators that the debtor is impaired. 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 a provision for impairment account, and the amount of the loss is recognised in the surplus or deficit. Overdue receivables that are renegotiated are reclassified as current (that is, 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 fittings, office equipment and library.

Property, plant and equipment is measured 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 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.

Work in progress is recognised at cost less impairment and is not depreciated.

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

### *Disposals*

Gains and losses on disposals are determined by comparing the proceeds with the carrying amount of the asset. Gains and losses on disposals are included in the Statement of Comprehensive Income. When a revalued asset is sold, the amount included in the property, plant and equipment revaluation reserve in respect of the disposed asset is transferred to taxpayers' 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.

## Note 1: Statement of accounting policies (continued)

### *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	up to 6.5 years	(15.4%)
Computer hardware	2 to 5 years	(20% - 50%)
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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### ***Impairment of property, plant and equipment and intangible 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 benefits expected 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 eight staff.

## Note 1: Statement of accounting policies (continued)

### *Long-term employee entitlements*

Employee benefits that are due to be settled beyond 12 months after the end of the reporting period in which the employee renders the related service, such as long service leave and retiring leave, are calculated on an actuarial basis. The calculations are based on:

- likely future entitlements accruing to staff, based on years of service, years to entitlement, the likelihood that staff will reach the point of entitlement and contractual entitlement information; and
- the present value of the estimated future cash flows.

Expected future payments are discounted using market yields on government bonds at balance date with terms to maturity that match, as closely as possible, the estimated future cash outflows for entitlements. The inflation factor is based on the expected long-term increase in remuneration for employees.

### *Presentation of employee entitlements*

Annual leave, vested long service leave and non-vested long service leave and retirement gratuities expected to be settled within 12 months of balance date are classified as a current liability. All other employee entitlements are classified as a non-current liability.

### **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.

### **Provisions**

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

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

### **Equity**

Equity is the Crown's investment in Crown Law and is measured as the difference between total assets and total liabilities. Equity is disaggregated and classified as taxpayers' funds, memorandum accounts and revaluation reserves.

#### *Memorandum accounts*

Memorandum accounts reflect the cumulative surplus/(deficit) on those departmental services provided that are intended to be fully cost recovered from third parties through fees, levies or charges.

The balance of each memorandum account is expected to trend toward zero over time.

#### *Revaluation reserves*

These reserves relate to the revaluation of library to fair value.

### **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.

## Note 1: Statement of accounting policies (continued)

### **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, 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.

### **Income tax**

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 2013, 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. The budget figures have been prepared in accordance with NZ GAAP, using accounting policies that are consistent with those adopted in preparing these financial statements.

### **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 output expenses. Indirect costs are charged to outputs based on cost drivers and related activity or usage information. Personnel costs are charged on the basis of actual time incurred. Depreciation, capital charge and other indirect costs are assigned to outputs based on the proportion of direct staff costs for each output.

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

### **Critical accounting estimates and assumptions**

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

#### *Retirement and long service leave*

An analysis of the exposure in relation to estimates and uncertainties surrounding retirement and long service leave liabilities is disclosed in Note 12.

## Note 2: Other revenue

Actual 2012 \$000		Actual 2013 \$000
Legal fees and disbursements received from:		
22,627	Government departments / other government entities	16,798
2	Other clients	59
96	Court awarded costs	55
<b>22,725</b>	<b>Total other revenue</b>	<b>16,912</b>

## Note 3: Personnel costs

Actual 2012 \$000		Actual 2013 \$000
19,077	Salaries and wages	19,244
666	Employer contributions to subsidised superannuation schemes	657
46	Movement in retirement and long service leave	(127)
<b>19,789</b>	<b>Total personnel costs</b>	<b>19,774</b>

## Note 4: Depreciation and amortisation expenses

Actual 2012 \$000		Actual 2013 \$000
<b>Depreciation of property, plant and equipment</b>		
17	Office equipment	9
127	Computer equipment	102
359	Leasehold improvements	380
28	Furniture and fittings	33
13	Library	11
<b>Amortisation of intangibles</b>		
460	Computer software	185
<b>1,004</b>	<b>Total depreciation and amortisation expenses</b>	<b>720</b>

## Note 5: Capital charge

Crown Law pays a capital charge to the Crown on its taxpayers' funds, exclusive of the balance of the Memorandum Accounts, as at 30 June and 31 December each year. The capital charge rate for the year ended 30 June 2013 was 8% (2012: 8%).

## Note 6: Other operating expenses

Actual 2012 \$000		Actual 2013 \$000
49	Audit fees for audit of the financial statements	52
	- Bad debts written off	-
	- Increase/(decrease) provision for doubtful debts	-
(14)	Increase/(decrease) impairment for doubtful work in progress	(60)
766	Consultancy	1,585
1,844	Operating lease expenses	1,805
5,183	Other operating expenses	4,557
<b>7,828</b>	<b>Total other operating expenses</b>	<b>7,939</b>

## Note 7: Debtors and other receivables

Actual 2012 \$000		Actual 2013 \$000
1,911	Trade debtors	2,645
	- Less provision for doubtful debts	-
<b>1,911</b>	<b>Net trade debtors</b>	<b>2,645</b>
1,903	Work in progress	1,710
(67)	Less impairment for doubtful work in progress	(7)
<b>1,836</b>	<b>Net work in progress</b>	<b>1,703</b>
13	Sundry debtors	7
<b>3,760</b>	<b>Total debtors and other receivables</b>	<b>4,355</b>

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

The ageing profile of receivables at year end is detailed as follows:

	2012			2013		
	Gross \$000	Impairment \$000	Net \$000	Gross \$000	Impairment \$000	Net \$000
Not past due	1,657	-	1,657	1,603	-	1,603
Past due 1-30 days	138	-	138	303	-	303
Past due 31-60 days	30	-	30	125	-	125
Past due 61-90 days	5	-	5	108	-	108
Past due >90 days	81	-	81	506	-	506
<b>Total</b>	<b>1,911</b>	<b>-</b>	<b>1,911</b>	<b>2,645</b>	<b>-</b>	<b>2,645</b>

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 2013 fees and disbursements.

## Note 7: Debtors and other receivables (continued)

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

Actual 2012 \$000	Actual 2013 \$000
<b>81 Balance at 1 July</b>	<b>67</b>
(14) Additional provisions made (Note 6)	(60)
- Work in progress written off	-
<b>67 Balance at 30 June</b>	<b>7</b>

## Note 8: Debtor Crown

Actual 2012 \$000	Actual 2013 \$000
- Balance at 1 July	<b>1,213</b>
1,174 Return of 2010/11 Memorandum Account Surplus	-
39 Debtor Crown: Conduct of Crown Prosecution	2,961
<b>1,213 Balance at 30 June</b>	<b>4,174</b>

## Note 9: Property, plant and equipment

	Leasehold improvements \$000	Office equipment \$000	Library \$000	Furniture and fittings \$000	Computer equipment \$000	Total \$000
<b>Cost</b>						
<b>Balance at 1 July 2011</b>	2,938	608	815	1,195	1,439	6,995
Additions	-	-	-	2	27	29
Disposals	-	-	-	-	-	-
<b>Balance at 30 June 2012</b>	<b>2,938</b>	<b>608</b>	<b>815</b>	<b>1,197</b>	<b>1,466</b>	<b>7,024</b>
<b>Balance at 1 July 2012</b>	2,938	608	815	1,197	1,466	7,024
Additions	1,426	363	-	1,211	341	3,341
Disposals	(2,938)	(481)	-	(976)	(606)	(5,001)
<b>Balance at 30 June 2013</b>	<b>1,426</b>	<b>490</b>	<b>815</b>	<b>1,432</b>	<b>1,201</b>	<b>5,364</b>
<b>Accumulated depreciation and impairment losses</b>						
<b>Balance at 1 July 2011</b>	2,200	541	769	1,123	1,217	5,850
Depreciation expense	359	17	13	28	127	544
Elimination on disposal	-	-	-	-	-	-
<b>Balance at 30 June 2012</b>	<b>2,559</b>	<b>558</b>	<b>782</b>	<b>1,151</b>	<b>1,344</b>	<b>6,394</b>
<b>Balance at 1 July 2012</b>	2,559	558	782	1,151	1,344	6,394
Depreciation expense	380	9	11	33	102	535
Elimination on disposal	(2,938)	(481)	-	(976)	(606)	(5,001)
<b>Balance at 30 June 2013</b>	<b>1</b>	<b>86</b>	<b>793</b>	<b>208</b>	<b>840</b>	<b>1,928</b>
<b>Net carrying amount</b>						
At 30 June and 1 July 2011	738	67	46	72	222	1,145
At 30 June 2012	379	50	33	46	122	630
<b>At 30 June 2013</b>	<b>1,425</b>	<b>404</b>	<b>22</b>	<b>1,224</b>	<b>361</b>	<b>3,436</b>

## Note 10: Intangible assets

	Acquired software \$000
<b>Cost</b>	
<b>Balance at 1 July 2011</b>	2,293
Additions	24
Disposals	-
<b>Balance at 30 June 2012</b>	<b>2,317</b>
<b>Balance at 1 July 2012</b>	2,317
Additions	11
Disposals	(295)
<b>Balance at 30 June 2013</b>	<b>2,033</b>
<b>Accumulated amortisation and impairment losses</b>	
<b>Balance at 1 July 2011</b>	1,523
Amortisation expense	460
Elimination on disposal	-
<b>Balance at 30 June 2012</b>	<b>1,983</b>
<b>Balance at 1 July 2012</b>	1,983
Amortisation expense	185
Elimination on disposal	(295)
<b>Balance at 30 June 2013</b>	<b>1,873</b>
<b>Net carrying amount</b>	
At 30 June and 1 July 2011	770
At 30 June 2012	334
<b>At 30 June 2013</b>	<b>160</b>

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

## Note 11: Creditors and other payables

Actual 2012 \$000		Actual 2013 \$000
5,403	Trade creditors – Crown Solicitors' fees	7,112
902	Trade creditors – Other	2,982
3,372	Accrued – Unbilled Crown Solicitors' fees	-
481	Other accrued expenses – Unbilled Crown Solicitors' fees	311
187	Other accrued expenses	278
(339)	GST payable/(receivable)	-
<b>10,006</b>	<b>Total creditors and other payables</b>	<b>10,683</b>

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 12: Employee entitlements

Actual 2012 \$000		Actual 2013 \$000
<b>Current liabilities</b>		
643	Personnel accruals	773
1,301	Annual leave	1,313
164	Retirement and long service leave	67
<b>2,108</b>	<b>Total current portion</b>	<b>2,153</b>
<b>Non-current liabilities</b>		
149	Retirement and long service leave	119
<b>149</b>	<b>Total non-current portion</b>	<b>119</b>
<b>2,257</b>	<b>Total employee entitlements</b>	<b>2,272</b>

Annual leave and vested long service leave are calculated using the number of days owing as at 30 June 2013.

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 2013.

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 measurement 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.

The Treasury advised that the discount rates in year 1 of 2.71%, year 2 of 3.14% and year 3 and beyond of 5.5%, and a long-term salary inflation factor of 3.5% were used. The inflation factor is based on the expected long-term increase in remuneration for employees. Any changes in these assumptions will affect the carrying amount of the liability.

### Note 13: Provisions

Actual 2012 \$000		Actual 2013 \$000
	Current portion	
446	Restructuring	156
<b>446</b>	<b>Total provision</b>	<b>156</b>

	Restructuring \$000
<b>Balance at 1 July 2012</b>	<b>446</b>
Additional provisions made	156
Amounts used	(446)
Unused amounts reversed	-
<b>Balance at 30 June 2013</b>	<b>156</b>

The restructuring provision arises from the office restructuring project and relates to the cost of expected redundancies. Management anticipate the restructuring provision will be paid out within six months of balance date and the amount of the liability is considered reasonably certain.

### Note 14: Return of operating surplus

Actual 2012 \$000		Actual 2013 \$000
2,008	Surplus from Statement of Comprehensive Income	88
(1,538)	Transfer loss to taxpayer funds Memorandum Account: Legal advice and representation	2,069
	- Transfer surplus to taxpayer funds Memorandum Account: Government Legal Network	(146)
	- Transfer surplus to taxpayer funds Memorandum Account: Processing of Queen's Counsel Applications	(21)
<b>470</b>	<b>Provision for repayment of surplus to the Crown</b>	<b>1,990</b>

Approval was obtained in April 2013 for an in-principal expense transfer of up to \$1.3 million from 2012/13 to 2013/14 for the output class: Conduct of Crown Prosecutions.

The repayment of surplus is required to be paid by 31 October of each year.

## Note 15: Equity

Actual 2012 \$000		Actual 2013 \$000
<b>Taxpayers' funds</b>		
4,461	<b>Balance at 1 July</b>	1,767
2,008	Net surplus/(deficit)	88
	- Capital contribution	-
	- Retained surplus	-
(2,694)	Transfer to memorandum account	-
(1,538)	Transfer to memorandum accounts	1,902
(470)	Return of operating surplus to the Crown	(1,990)
<b>1,767</b>	<b>Balance at 30 June</b>	<b>1,767</b>
<b>Memorandum account: Legal advice and representation</b>		
	- <b>Balance at 1 July</b>	5,406
2,694	Transfer from taxpayers' funds	-
1,174	Capital injection for memorandum account surpluses previously repaid to the Crown	-
	- Transfer to Memorandum Account: Government Legal Network	(115)
<b>3,868</b>	<b>Adjusted opening balance at 1 July</b>	<b>5,291</b>
1,538	Net memorandum account surpluses/(deficits) for the year	(2,069)
	- Return of surplus to the Crown	-
<b>5,406</b>	<b>Balance at 30 June</b>	<b>3,222</b>
<b>Memorandum account: Government Legal Network</b>		
	- <b>Balance at 1 July</b>	-
	- Transfer from Memorandum Account: Legal advice and representation	115
	- <b>Adjusted opening balance at 1 July</b>	<b>115</b>
	- Net memorandum account surpluses/(deficits) for the year	146
	- Return of surplus to the Crown	-
	- <b>Balance at 30 June</b>	<b>261</b>
<b>Memorandum account: Processing of Queen's Counsel applications</b>		
	- <b>Balance at 1 July</b>	-
	- Net memorandum account surpluses/(deficits) for the year	21
	- Return of surplus to the Crown	-
	- <b>Balance at 30 June</b>	<b>21</b>
<b>Revaluation reserves</b>		
296	<b>Balance at 1 July</b>	296
<b>296</b>	<b>Balance at 30 June</b>	<b>296</b>
<b>7,469</b>	<b>Total equity as at 30 June</b>	<b>5,567</b>

## Note 16: Reconciliation of net surplus/deficit to new cash flow from operating activities

Actual 2012 \$000	Actual 2013 \$000
<b>2,008</b> Net operating surplus/(deficit)	<b>88</b>
1,004 Depreciation and amortisation expense	720
<b>1,004</b> Total non-cash items	<b>720</b>
<b>Working capital movements</b>	
17 (Increase)/decrease in debtors and receivables	(4,507)
(342) (Increase)/decrease in prepayments	334
73 Increase/(decrease) in creditors and payables	677
302 Increase/(decrease) in employee entitlements	45
446 Increase/(decrease) in provision	(290)
<b>496</b> Working capital movements – net	<b>(3,741)</b>
<b>Movements in non-current liabilities</b>	
25 Increase/(decrease) in employee entitlements	(30)
<b>25</b> Movements in non-current liabilities	<b>(30)</b>
<b>Add/(less) investing activity items</b>	
- Net (gain)/loss on disposal of property, plant and equipment	-
- Total investing activity items	-
<b>3,533</b> Net cash flow from operating activities	<b>(2,963)</b>

## Note 17: Financial instrument risks

Crown Law's activities expose it to a variety of financial instrument risks, 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.

#### *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 credit rating of Standard & Poors AA-, Fitch AA-, and Moody's Aa3.

## Note 17: Financial instrument risks (continued)

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 (refer 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.

	Notes	Less than 6 months \$000	Between 6 months and 1 year \$000	Between 1 and 5 years \$000	Over 5 years \$000
<b>2012</b>					
Creditors and other payables	11	10,006	-	-	-
Derivative financial instrument liabilities		-	-	-	-
Finance leases		-	-	-	-
<b>2013</b>					
Creditors and other payables	11	10,683	-	-	-
Derivative financial instrument liabilities		-	-	-	-
Finance leases		-	-	-	-

## Note 18: Financial instruments

The carrying amounts of financial assets and financial liabilities in each of the NZ IAS 39 categories are as follows:

Actual 2012 \$000		Actual 2013 \$000
<b>Cash and receivables</b>		
13,997	Cash and cash equivalents	7,212
3,760	Debtors and other receivables	4,355
-	- GST receivable	951
<b>17,757</b>	<b>Total cash and receivables</b>	<b>12,518</b>
<i>Financial liabilities measured at amortised cost</i>		
10,006	Creditors and other payables	10,683
<b>10,006</b>	<b>Total creditors and other payables</b>	<b>10,683</b>

## Note 19: 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 \$50.948 million (2012: \$51.141 million) to provide legal services to the Crown for the year ended 30 June 2013.

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

The Cabinet Directions for the Conduct of Crown Legal Business 2012 (Cabinet Manual Appendix C) set out the requirements for chief executives of departments to refer specified legal work to Crown Law. During the year ended 30 June 2013, Crown Law has provided legal services to departments and government entities in the amount of \$16.798 million (2012: \$22.627 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 2013 totalled \$0.475 million (2012: \$0.417 million). These purchases included the purchase of electricity from Genesis, air travel from Air New Zealand, court filing fees from Ministry of Justice, postal and courier services from New Zealand Post, office lease from Serious Fraud Office, and other services from land information New Zealand, Department of Internal Affairs, Ministry of Business Innovation and Employment, State Service Commission.

Crown Law provided legal services to the Office of the Auditor-General totalling \$405 for the year ended 30 June 2013 (2012: \$4,392).

### Transactions with key management personnel

#### Key management personnel compensation

Actual 2012 \$000	Actual 2013 \$000
1,906 Salaries and other short-term employee benefits	1,768
121 Post-employment benefits	60
- Other long-term benefits	-
- Termination benefits	-
<b>2,027 Total salaries and other short-term employee benefits</b>	<b>1,828</b>

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

#### Note 19: Related party information (continued)

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

Post-employment benefits are employer contributions for either State Sector Retirement Savings Scheme or KiwiSaver.

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.

### Note 20: Capital management

Crown Law's capital is its equity (or taxpayers' funds), which comprises 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 21: Memorandum account: Legal advice and representation

Actual 2012 \$000	Actual 2013 \$000
3,868	5,406
Opening balance at 1 July	
-	(115)
Transfer to Memorandum Account: Government Legal Network	
<b>3,868</b>	<b>5,291</b>
<b>Adjusted opening balance at 1 July</b>	
22,629	17,489
Revenue	
(21,091)	(19,558)
Less expenses	
1,538	(2,069)
Surplus/(deficit) for the year	
<b>5,406</b>	<b>3,222</b>
<b>Closing balance at 30 June</b>	

The opening balance of \$5.406 million is the retention of 2007/08 surplus (\$870,000), 2008/09 surplus (\$946,000), 2009/10 surplus (\$878,000), 2010/11 surplus (\$1.174 million), and 2011/12 surplus (\$1.538 million) arising from legal advice and representation services. The account made a deficit of \$2.069 million in 2012/13.

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 by Crown Law.

These transactions are included as part of Crown Law's operating income and expenses in the surplus/deficit, however, effective 1 July 2011, these transactions will be excluded from the calculation of Crown Law's return of operating surplus (refer Note 14). The cumulative balance of the surplus/(deficit) of the memorandum accounts is recognised as a component of equity (refer Note 15).

The balance of the memorandum account is expected to trend toward zero over a reasonable period of time, with interim deficits being met either from cash from Crown Law's Statement of Financial Position or by seeking approval for a capital injection from the Crown. Capital injections will be repaid to the Crown by way of cash payments throughout the memorandum account cycle.

#### Action taken to address surpluses and deficits

A revised fee strategy is currently being developed to ensure that the fee structure and associated revenues are in line with the forecast activities.

## Note 22: Memorandum account: Government Legal Network

Actual 2012 \$000	Actual 2013 \$000
- Opening balance at 1 July	-
- Transfer from Memorandum Account: Legal advice and representation	115
- <b>Adjusted opening balance at 1 July</b>	<b>115</b>
- Revenue	382
- Less expenses	(236)
- Surplus/(deficit) for the year	146
- <b>Closing balance at 30 June</b>	<b>261</b>

This memorandum account was established during 2012/13.

The 2012/13 surplus of \$146,000 comprises:

- net surplus arising from the Government Legal Services Project \$142,419 (2012: \$7,631); and
- net surplus arising from the 2013 Lawyers in Government Conference \$3,080 (2012: \$3,851).

## Note 23: Memorandum account: Processing of Queen's Counsel applications

Actual 2012 \$000	Actual 2013 \$000
- Opening balance at 1 July	-
- Revenue	45
- Less expenses	(24)
- Surplus/(deficit) for the year	21
- <b>Closing balance at 30 June</b>	<b>21</b>

This memorandum account was established during 2012/13.

## Note 24: Events after balance date

There have been no events after balance date.

## Note 25: 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

#### *Personnel costs*

Personnel costs were less than budgeted by \$1.938 million because of decreased staff numbers and remuneration changes as a result of the organisation restructure project.

The cost for the restructure project was \$1.175 million.

#### *Income from the Crown*

Income from the Crown was greater than budgeted by \$4.886 million, due to:

- a \$3.312 million in-principal transfer was made from 2011/12 to 2012/13; and
- \$1.574 million was obtained from the Justice Sector Fund to fund the organisation restructure project.

### Statement of Financial Position

#### *Cash and cash equivalents*

Cash and cash equivalents were below budget by \$1.742 million as the decision to relocate the Wellington office was made after the budget was prepared. Payments were made in May and June 2013 for office relocation projects.

#### *Property, plant and equipment*

Property, plant and equipment was above budget by \$2.468 million, mainly because the Wellington office relocation decision was made after the budget was prepared. The associated costs for the relocation were not included in the budget.

#### *Creditors and other payables*

Creditors and other payables are greater than budgeted by \$2.268 million because approximately \$3 million worth of Crown Solicitors' work in progress invoices were included in the June 2013 accounts. The payments were made on 19 July 2013.

### Statement of Cash Flows

#### *Receipts from the Crown*

Receipts from the Crown were greater than budgeted by \$1.886 million, primarily because \$1.574 million was received from Justice Sector Fund to fund the organisation restructure project.

#### *Purchase of property, plant and equipment*

Purchase of property, plant and equipment was \$2.786 million greater than budgeted, because the Wellington office relocation decision was not made until after the budget was prepared. The associated costs for the relocation were not included in the budget.

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