

STATEMENT OF INTENT

CROWN LAW
For the Year Ended 30 June 2011



May 2010

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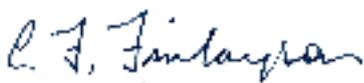
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FOREWORD: ATTORNEY-GENERAL

Government requires high quality legal services to ensure its operations are conducted constitutionally and its chosen policies are implemented lawfully. As the Crown's legal advisor, Crown Law plays an important role across Government. Its whole of government focus provides clarity and guidance for all ministries and departments.

This Statement of Intent outlines the objectives Crown Law has set for the year. As the Responsible Minister, I am satisfied the Statement of Intent is consistent with the policies and performance expectations of the Government.

I look forward to working with Crown Law throughout the year as it continues to provide high quality legal services to Government and support to me in my role as Attorney-General.



Hon Christopher Finlayson
Attorney-General

Ministerial Statement of Responsibility

I am satisfied that the information on the future operating intentions provided by my department in this Statement of Intent is in accordance with sections 38, 40 and 41 of the Public Finance Act 1989 and is consistent with the policies and performance expectations of the Government.



Hon Christopher Finlayson
Attorney-General

INTRODUCTION FROM THE SOLICITOR-GENERAL

Crown Law is a government department, which operates as a legal practice providing legal advice to the Government and representation in the courts. Crown Law also gives advice to and supports the Attorney-General and the Solicitor-General in the exercise of their statutory and other functions, taking a whole of government view while working in the public interest.

Crown Law employs 102 counsel and 91 support and corporate staff. Each year we receive more than 500 new instructions for advice and over 600 new instructions in respect of litigation. In addition, Crown Law manages more than 550 criminal appeals each year.

Crown Solicitors are appointed to prosecute indictable crimes on behalf of the Crown. Each year, they handle more than 2,000 trials for indictable crime and 4,500 other criminal matters, including bail applications and appeals relating to summary prosecutions, on behalf of the Solicitor-General.

Crown Law works with the justice sector agencies to support the Government's policy priorities of better public services, addressing the drivers of crime and making neighbourhoods safer for New Zealand families. The prosecution and appeals of indictable crime are two Crown Law functions that have a significant impact on the justice sector and its overall outcome "A safe and just society". Crown Law will continue its involvement in the various justice sector projects and wider Government initiatives such as the review of the prosecution service, and review of the law of contempt of court.

In 2010/11 counsel and other staff in Crown Law will continue to manage a challenging and interesting portfolio of legal work. Crown Law regularly receives instructions to provide advice and/or to represent the Government in circumstances which present unique and professionally rewarding challenges.



Dr David Collins QC
Solicitor-General

Chief Executive Statement of Responsibility

In signing this statement, I acknowledge that I am responsible for the information contained in the Statement of Intent for Crown Law. This information has been prepared in accordance with the Public Finance Act 1989. It is also consistent with the proposed appropriations set out in the Appropriations (2010/11 Estimates) Bill, as presented to the House of Representatives in accordance with section 13 of the Public Finance Act 1989, and with the existing appropriations and financial authorities.



Dr David Collins QC
Solicitor-General

Date: May 2010



Chris Walker
Chief Financial Officer

NATURE AND SCOPE OF FUNCTIONS

Crown Law provides legal advice to, and legal representation for the Crown. We support the Law Officers, the Attorney-General and the Solicitor-General, to undertake their constitutional duties. In providing these services, Crown Law contributes to the effective and lawful functioning of the New Zealand Government and making neighbourhoods safer for New Zealand families.

The Crown is subject to the rule of law and has an obligation to ascertain what the law is, comply with it and enforce it. When providing advice and representation, Crown Law will act as a model litigant representing the whole of government view and act in the public interest. This approach is unique to Crown Law and forms the basis of our purpose to:

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

There are two main functions undertaken by Crown Law:

Legal Advice and Representation

Crown Law provides legal advice and representation to the Crown, government departments and government agencies in accordance with the Cabinet Directions¹ for the Conduct of Crown Legal Business 1993. The Cabinet Directions provide for two categories of legal work:

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

Category 1 work includes:

- › Representation or advice in relation to actual or imminent litigation to which the government or 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.
- › Issues relating to the enforcement of the criminal law.
- › Legal issues relating to the protection of the revenue.

When providing legal services in either Category 1 or 2, Crown Law charges clients for the service. The Cabinet Directions provide guidelines on who is responsible for paying for services when more than one department is involved or when the Attorney-General or Solicitor-General have directed the service be provided because of whole of government and/or public interest factors.

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

Supporting the Principal Law Officers

Crown Law supports the Law Officers of the Crown, the Attorney-General and the Solicitor-General, by providing legal advice and assisting them in the performance of their statutory and constitutional functions. Specific activities include the supervision of charitable trusts, representation of the public interest, vexatious litigant proceedings, consideration of Bills for Bill of Rights Act consistency (vetting), extraditions, conduct of criminal appeals and the supervision and conduct of Crown prosecutions.

¹ As stated in “Cabinet Directions for the Conduct of Crown Legal Business 1993”, Appendix C, Cabinet Office Manual, 2008.

Crown Solicitors are appointed under warrant of the Governor-General and undertake work for the Solicitor-General who has responsibility for prosecuting indictable crime. Crown Law administers the Crown Solicitors' network, guiding and sharing prosecution practice and knowledge, and reviewing practices to ensure high quality, value for money services are provided. We conduct all criminal appeals heard by the Court of Appeal and the Supreme Court, and oversee the prosecution work of the Serious Fraud Office.

Appropriations

Crown Law administers 4 appropriations:

- › The conduct of all appeals which arise from criminal trials on indictment, and from Crown appeals (**\$3.329 million**).
- › Legal advice and representation services to the Crown (**\$22.900 million**).
- › Supervision and conduct of the national Crown prosecution service that undertakes criminal trials on indictment and related appeals arising out of summary prosecutions (**\$36.742 million**).
- › The execution of the principal Law Officers' functions providing legal and administrative services for the Attorney-General and Solicitor-General (**\$2.948 million**).

Crown Law's Performance

Crown Law operates within the justice sector supporting the Sector's overall outcome of a safe and just society. Crown Law has limited direct impact on the Justice Sector Agency Outcomes except for the following:

- › "Offenders held to account" which has a medium term priority of "improving the functioning and efficiency of the criminal court processes". Crown Law contributes directly to this priority by resolving criminal cases and seeking the imposition of appropriate sanctions.
- › "Trusted Justice System" which has a medium term priority of "improved satisfaction with justice sector services". Acting as a model litigant when conducting criminal appeals and exercising the principal Law Officers' functions effectively and efficiently will support this priority, as will ensuring those in positions of power act lawfully and in the public interest.
- › "Crime reduced" which has a medium term priority of "improving public safety" is supported by the appropriate conduct of criminal appeals and Crown prosecutions.

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

Crown Law's Performance

GOVERNMENT PRIORITIES

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

CROWN LAW OBJECTIVES

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

IMPACTS

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

OUTPUTS

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

OVERALL JUSTICE SECTOR OUTCOME – A SAFE AND JUST SOCIETY

Justice Sector Agency Outcomes

<ul style="list-style-type: none"> › Impact of crime reduced › Internationally connected <p>Crown Law has no direct impact</p>	<ul style="list-style-type: none"> › Accessible justice services › Durable settlements of Treaty claims › Effective constitutional arrangements <p>Crown Law has a low level direct impact</p>	<ul style="list-style-type: none"> › Offenders held to account – Output 1, 2 & 3 › Trusted justice system – Output 3 & 4 › Crime reduced – Output 1 & 3 <p>Crown Law has mid level impact</p>
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The ability to measure and anticipate the level of Crown Law's performance is constrained by the reactive nature of our services. For example, Crown Law has no control over:

- › the number of appeals on indictable crimes;
- › the number of committals or scheduling of criminal trials; or
- › the extent of legal advice and representation sought by the Crown and government departments.

The demand for legal services in these areas is unpredictable and outside the control of Crown Law. In addition these demands are a poor measure of high performance. The number of appeals in any one year is related to judicial decisions, which in turn reflect the unique circumstances of each case. The tight fiscal environment only adds to the challenge of predicting demand and measuring our performance.

Despite the reactive and therefore unpredictable nature of our role, the following factors are seen as critical to the success of our work:

- › We deliver high quality services which minimise the length and amount of litigation required to be undertaken by Government and the amount of advice needed.
- › We deliver timely services which minimise the cost of each service.
- › We deliver services which support the statutory guidelines for the conduct of Crown legal business, to minimise the potential risk (and subsequent cost) of unlawful actions by Government.

For external monitoring, we are reliant on client feedback and repeat business for contestable work. We participate in an annual independent commercial survey. This gives us an external view of both our quality and cost effectiveness compared across New Zealand's legal sector.

STRATEGIC DIRECTION – FIRST CHOICE PUBLIC SECTOR LAWYER

Overview

Crown Law’s strategic direction is influenced by:

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

Vision

Crown Law’s vision is “being the first choice public sector lawyer”. This vision focuses Crown Law on providing high quality service that reinforces Crown Law’s role as clients’ trusted legal advisor in Category 1 work and ensures clients choose to use Crown Law for the discretionary Category 2 work. This in turn will maintain Crown Law’s foundation/core business and grow the amount of contestable work undertaken by Crown Law in competition with private sector law firms. The strategic priorities for this vision are fundamental to our sustained high performance.

Strategic Priorities

Top four initiatives for 2009–11

Initiative 1 – “ensuring awareness of the role of Crown Law and the Law Officers” which will support:

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

Initiative 2 – “demonstrating to staff that they are truly valued; developing roles and structures that support the development of all staff that will attract the best lawyers from all sectors” sets the foundation for high staff engagement and commitment. These two factors have been identified in research to be critical to support the retention of a high level of expertise.

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

- › continuous improvement in client relationships;
- › the Government’s priority of better public services;
- › a better understanding of clients’ needs; and
- › delivery of high quality and timely services.

Initiative 4 – “facilitating the establishment of a Government Legal Service (GLS)” directly supports the achievement of all three of our objectives through its primary focus on strengthening the legal services provided to Government. This project was commenced in 2008, when the Attorney-General requested a review of the delivery of Government legal services.

Crown Law’s Strategic Direction

PURPOSE

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

VISION – Being the first choice public sector lawyer

KEY CHARACTERISTICS OF THE VISION

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

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

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

OPERATING INTENTIONS

The following impacts lead to the achievement of the three Crown Law objectives:

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

Objective 1: The Government is supported to fulfil its democratic duties under law, in the public interest

This objective is fundamental. As the Government’s lawyer, Crown Law must take into account the Crown’s legal obligations and protect its interests along with the public interest when providing legal advice.

What we will do to achieve this

Chart 1: Services provided to achieve Objective 1: The Government is supported to fulfil its democratic duties under law and in the public interest.

Service	Demonstrating success	Service impacts
Output – Legal Advice and Representation		
<ul style="list-style-type: none"> › Providing legal advice and representation to the Crown and government departments from a whole of Government view and acting in the public interest. › Developing the legal capability of government lawyers. › Participating as required in judicial reviews that involve the executive, Parliament and the judiciary. 	<ul style="list-style-type: none"> › The number of instructions for advice or litigation received meets or exceeds that received last year. › All activities conform with the quality assurance guidelines that support the application of Crown Law’s professional standards. › All opinions or advice conform to Crown Law’s professional standards. › Litigation management plans are completed for litigation matters in accordance with Crown Law’s professional standards. › All advice and litigation matters are completed within appropriate timeframes. › No complaints are received in relation to non-compliance with Crown Law’s professional standards. 	<ul style="list-style-type: none"> › The Government is able to achieve its objectives lawfully with a whole of government approach and in the public interest. › Government departments’ in-house affairs are conducted lawfully to minimise the risk of illegal operation of government. › The public has the opportunity to question government practice if it is considered unlawful.

Service	Demonstrating success	Service impacts
Output – Exercise of Principal Law Officers’ Functions		
<ul style="list-style-type: none"> › Advising the Attorney-General and Solicitor-General on constitutional issues and Law Officer functions. › Intervening in the public interest. › Vetting of bills for Bill of Rights Act consistency. › Receiving and responding to applications for advice on behalf of the Attorney-General. › Supporting and advising Ministers, Chief Executives and Chief Legal Advisors of departments. 	<ul style="list-style-type: none"> › The number of applications or requests for advice on behalf of the Attorney-General and Solicitor-General meets or exceeds the last financial year. › All opinions or advice conform to Crown Law’s professional standards for Crown Law advice. › No complaints are received in relation to non-compliance with Crown Law’s professional standards. › The Attorney-General is kept informed of significant legal matters affecting the Crown and the Solicitor-General receives no complaints from the Attorney-General in relation to lack of briefing. › Weekly written briefings are provided to the Attorney-General. › 90% of applications for interventions in litigation by the Attorney-General or Solicitor-General in the public interest are successful. › Extradition matters are dealt with in accordance with Crown Law’s professional standards and meet all stipulated deadlines. 	<ul style="list-style-type: none"> › Law Officers provide consistently high quality advice and representation. › Legal affairs of the Government are conducted in the public interest. › Bills passed by Parliament are consistent with BORA legislation to the extent possible. › The Government operates lawfully. › Senior government officials operate within the law when undertaking their duties.

The achievement of Objective 1 is also supported by the delivery of **Initiatives 1**, “ensuring awareness of the role of Crown Law and the Law Officers”, **3**, “measuring the effectiveness of client services and then

act on feedback to improve client relationship management (CRM) at Crown Law” and **4** “facilitating the establishment of a Government Legal Service (GLS)” described at page 8.

Objective 2: Leadership to support high quality, effective government legal services is provided

The constitutional duty of the Solicitor-General is to ensure high quality, effective legal services are provided to Government. The Solicitor-General is accordingly accountable to the Attorney-General and Parliament for developing capability within the Government legal services and thereby minimising mistakes being made. Such errors

carry a high level of risk to the effective functioning of Government and its ability to meet its democratic duties.

This objective seeks to reduce the risk of avoidable mistakes by providing leadership and support to all lawyers in the government legal services in the areas of:

- › best practice legal process;
- › developing trends in the law; and
- › developing capability.

What we will do to achieve this

Chart 2: Services provided to achieve Objective 2: Leadership to support high quality, effective government legal services is provided.

Service	Demonstrating success	Service impacts
Output – Legal Advice and Representation		
Development of legal capability of government lawyers through: <ul style="list-style-type: none"> › presentation of seminars related to current legal process and issues; › oversight of the Public Law Conference for government lawyers; › support of fora for Chief Legal Advisors in government departments and Crown Entities; › distribution of newsletters on employment and criminal matters; and › oversight and update of PS Law website. 	<ul style="list-style-type: none"> › There will be few or no requests from the Attorney-General to the Solicitor-General regarding explanations of mistakes made by government lawyers. › Positive feedback will be received from Chief Legal Advisors and Chief Executives on their legal teams’ ability to deliver consistently high quality service. › The Crown’s interests are protected. › The Crown’s risks for the operation of government departments and legal policy development are well managed. › The Crown’s responsibilities are lawfully carried out. 	Government lawyers are kept up to date with <ul style="list-style-type: none"> › developing trends in the law; › best practice legal process; › relevant topics for their area of practice; and › developments in the Government legal scene. Networking opportunities are provided to Government lawyers. High quality legal advice and representation is provided to the Crown.
Output – Supervision & Conduct of Crown Prosecutions		
<ul style="list-style-type: none"> › Review of Crown Solicitor practices. › Provide legal advice on criminal matters. › Provide fora to support Crown Solicitors’ development. › Approval of staff classifications for prosecution staff. 	<ul style="list-style-type: none"> › Practice reviews reveal evidence of compliance with Prosecution Guidelines and best practice. 	<ul style="list-style-type: none"> › Crown Solicitors are supported to provide high quality, efficient services. › Crown Solicitors are kept up to date with relevant legal matters and developments in the law.

Initiative 1 “Ensuring the awareness of the role of Crown Law and the Law Officers” and **4** “facilitating the establishment of a GLS” support the achievement of Objective 2.

Objective 3: The principal Law Officers perform their constitutional duties to the highest standard

It is the function of Crown Law to support the office of both the Attorney-General and the Solicitor-General in the role of chief legal adviser to the Government and chief advocate for the Government in the courts. As Law Officers, the Attorney-General and the Solicitor-General are the principal legal advisers to the Government and are responsible for:

- › ensuring that government is conducted according to the law;
 - › the relationship of the executive government with the judiciary;
 - › the appointment of members of the higher judiciary;
 - › protecting the judiciary from improper and unfair public criticism;
 - › the Government's role in the administration of criminal justice, including responsibility for prosecution of serious crime, the power to terminate prosecution, and the power to give any witness at a trial immunity from prosecution;²
- › acting on behalf of the government in its civil litigation;
 - › informing the House whether any provision in a Bill introduced to the House is inconsistent with the New Zealand Bill of Rights Act 1990;
 - › ensuring the criminal law is enforced in a just and fair manner. The Law Officers have ultimate control of all prosecutions undertaken by the Crown. The Crown Solicitor network acts on behalf of the Solicitor-General to undertake this work;
 - › Crown representation in criminal appeals³ including appeals against sentence after conviction on indictment;
 - › giving consent to:
 - › appeal against sentence after conviction on summary charges;
 - › stay of prosecutions;
 - › prosecutions in certain instances defined in the relevant statute;
 - › bringing proceedings on behalf of the community to enforce the law.

² The practice in New Zealand is that the Solicitor-General rather than the Attorney-General has charge of the prosecution of serious crime after committal for trial. Indeed, the practice has become a convention, built on the perception that it is undesirable for there to be even an appearance of political decision-making in relation to public prosecutions.

³ Under s 390 of the Crimes Act 1961, the Solicitor-General (not the Attorney-General) is made responsible for Crown representation in criminal appeals.

What we will do to achieve this

Chart 3: Services provided to achieve Objective 3: The principal Law Officers perform their constitutional duties to the highest standard.

Service	Demonstrating success	Service impacts
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Output – Conduct of Criminal Appeals

<ul style="list-style-type: none"> › Crown Appeals. › Accused Appeals. › Other Appeals. 	<ul style="list-style-type: none"> › The number of appeals undertaken. › The success rate of Crown appeals. › Lack of complaints about non-compliance with court procedures and requirements of the judiciary. › Adherence to professional standards for the conduct of criminal appeals. › Adherence to statutory timeframes. 	<ul style="list-style-type: none"> › Effective, efficient criminal appeals that comply with Prosecution Guidelines (January 2010) and meet the needs of the judiciary and the core justice sector agencies.
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Output – Legal Advice and Representation

<ul style="list-style-type: none"> › Providing legal advice and representation to the Crown and government departments from a whole of Government view and acting in the public interest. › Developing the legal capability of government lawyers. › Conducting judicial reviews that involve the executive, Parliament and the judiciary. 	<ul style="list-style-type: none"> › The number of instructions dealt with. › Adherence to Crown Law's professional standards for the conduct of litigation and provision of advice. › Adherence to timeframes. › Completion of peer review process. › Completion of litigation management planning process. › Lack of complaints. 	<ul style="list-style-type: none"> › The Government operates lawfully with a whole of government approach and in the public interest. › Government department's in-house affairs are conducted lawfully to minimise the risk of illegal operation of Government. › The public has the opportunity to question Government practice if it is considered unlawful.
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Output – Supervision & Conduct of Crown Prosecutions

<ul style="list-style-type: none"> › Prosecution of criminal trials on indictment. › Conduct of other criminal matters by Crown Solicitors (CS). › Review of CS's practices. › Mutual Assistance. › Process applications from CS for special fees, classification of counsel and approval of additional counsel. › Provide legal advice or respond to applications on criminal law issues. › Process expert witness applications. › Extraditions. 	<ul style="list-style-type: none"> › The number of trials conducted. › The lack of complaints received in relations to compliance with prosecution guidelines and case management practices. › The lack of complaints received from the judiciary involved in the Crown prosecution process. › The number of bail applications processed, number of guilty pleas and middle band sentencing processed and the number of appeals relating to summary prosecutions conducted. 	<ul style="list-style-type: none"> › Crown Solicitors comply with Crown Solicitors' Regulations 1984. › Crown prosecutions are conducted effectively and efficiently, in accordance with Prosecution Guidelines (January 2010) and case management practices developed by the Solicitor-General and judiciary respectively.
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Service	Demonstrating success	Service impacts
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Output – Supervision & Conduct of Crown Prosecutions (*continued*)

	<ul style="list-style-type: none"> › The number of Crown Solicitor practices reviewed. › The number of mutual assistance matters dealt with within Crown Law’s professional standards. › The lack of complaints received in relation to the standard of translation for mutual assistance matters. › Ensuring all timeframes are met in relation to our services. › Extraditions are dealt with within timeframes in accordance with professional standards and represent the Crown’s interests. 	
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Output – Exercise of the Principal Law Officers’ Functions

<ul style="list-style-type: none"> › Representation of the public interest. › Monitoring the enforcement and application of the law. › Supervision of charities. › Vetting Bills for compliance with BORA. › Vexatious litigant proceedings. › Advising the Attorney-General and Solicitor-General on constitutional issues and Law Officer functions. › Receiving and responding to applications for advice on behalf of the Attorney-General. 	<ul style="list-style-type: none"> › The number of requests for advice received. › Briefings provided are to the satisfaction of the Attorney-General. › Ensuring all requested timeframes are met. › No complaints are received. › 90% of applications for Attorney-General intervention in litigation are successful. 	<ul style="list-style-type: none"> › The duties of the Attorney-General and Solicitor-General are undertaken in accordance with the constitutional framework.
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COST EFFECTIVENESS

Crown Law monitors cost effectiveness by assessing the cost per hour of client services, and predicts demand by analysis of cost drivers.

Indicators such as the number of trials and the cost of trials are not a useful measure of cost effectiveness. This is because Crown Law is required to be reactive and has no control over the number or complexity of these undertakings. The implementation of revised court practice notes and changes in the criminal process means cost comparisons over time are not meaningful.

MANAGING IN A CHANGEABLE OPERATING ENVIRONMENT

Key Trends and Issues

The significant trends that will continue to influence our strategic direction and delivery of services for 2010–2013 are:

- › **Increase in Crown prosecution costs:** Crown Law is experiencing a significant and unanticipated increase in the cost of Crown prosecutions. This cost increase is attributable to two major factors that are beyond the control of Crown Law:
 - › Ministry of Justice (MoJ) 2009 initiative – Mitigating Court Waiting Times in the Criminal Courts in Auckland which has led to increased capacity in the Auckland and Manukau District Courts and appointment of eight Community Magistrates to address the growing volume of criminal summary cases. Three extra jury-capable courts are planned; one has been operating since October 2009, one is due to open in mid March and the third is to open in October 2010.
 - › Judicial Practice notes and the implementation of revised MoJ Criminal policy has led to more work for Crown Solicitors, an increase in the number of committals and therefore the number of jury trial cases.
- › **Increasing demands on the justice system:** The justice sector faces the challenge of providing efficient and effective services in an environment of increasing demand. The growing demand results from increased public expectations on the justice sector, the effects of population growth, changes to the geographic and age distribution of the population and an increase in the seriousness of prosecutions – involving more complex and lengthy cases for the courts with limited additional resources to Crown Law.
- › **More courts to cover with the same amount of resource:** Due to increased demand and changes to the law, the MoJ has built one new court house and updated several existing court houses to include jury capable courtrooms.
- › **Inability to predict scheduling of criminal cases:** The courts have jurisdiction over the scheduling of criminal appeals and cases. Cases can be scheduled at any time and are often high profile and require significant legal resources. As the Crown has a legal requirement to respond, forecasting, budgeting and allocating scarce resources within appropriations is difficult. We expect this pressure to continue in the foreseeable future.
- › **Tight fiscal environment:** the effects of the adverse economic environment in the public sector will continue into the foreseeable future. In particular:
 - › **Retention of high expertise:** Due to budget constraints last year, modest pay increases mainly went to new or junior staff. Retaining a high level of expertise is critical for Crown Law to achieve its objectives and move towards its vision. The challenge will be to retain the high level of expertise required when there will be no increase in appropriations.
 - › **Contestable legal services:** In a tight fiscal environment and an adverse economic outlook we have experienced increased competition from private law firms for public sector legal work. The maintenance of a high quality service providing value for money will be critical to Crown Law gaining a greater share of the government's total contestable legal business.
 - › **Crown Solicitor fees** are set in accordance with the Crown Solicitors' Regulations 1984. There has been no increase in Crown Solicitors' rates since 2006.
 - › **Reluctance of clients to pay for litigation or advice taken because of 'whole of government' or 'public interest' issues:** With very tight budgets, there is an increasing reluctance on behalf of clients to pay for advice and/or litigation that the Attorney-General or Solicitor-General have directed should be taken because of whole of government or public interest factors.

Internal Risks

These are risks that arise from a shortcoming or failure in capability (i.e. people, resources, systems and structures). This could lead to an inability to respond to requests for legal advice and representation in a timely way, and in accordance with appropriate quality standards.

Retaining the right people doing the right things is fundamental to the quality of the legal advice and representation and services offered by Crown Law.

New structures are being implemented which will assist in reducing the loss of institutional and legal knowledge that is critical to the performance of Crown Law.

External Risks

The following risks might arise:

- › the Government is not able to achieve a public sector-wide understanding of the role of Crown Law and the Law Officers, or co-ordinate and manage the legal outcome of policy and operational activities;
- › legislative changes directly impact on the costs associated with Crown Law's output expenses (e.g. preparation and trial time in Crown prosecutions) and have the potential to expand legal activity in response to certain issues;
- › new legislation is introduced or judicial decisions are made during the year e.g. judicial practice notes which establish requirements for which Crown Law has insufficient appropriation;
- › the Solicitor-General is consulted in his capacity as Law Officer with increased frequency, to the point where chargeable work is replaced significantly by non-chargeable work, putting unsustainable pressure on the appropriation;
- › in the current economic environment, there is a risk that the funding received from departments paying for services will not be sufficient to cover Crown Law's direct operating costs.

ORGANISATIONAL HEALTH AND CAPABILITY

Overview

Crown Law’s strategy relies upon having: capable people, leadership, positive culture, good relationships, Information

and Communications Technologies (ICT), sufficient assets and adequate structures. Chart 4 below provides information on each one of these dimensions.

Chart 4: Organisation health and capability dimensions

What is needed and capability initiatives	Capability Measures and Standards
Leadership	
<p>The role of Crown Law in taking a whole of government approach and considering the public interest in all Government legal activities requires leadership skills at all levels of Crown Law and particularly at the senior level.</p> <p>Initiatives: Leadership and management development.</p>	<p>To ensure we have this in 2010/11 we will:</p> <ul style="list-style-type: none"> › undertake 360 degree reviews of all members of the Management Group; › evaluate our Future Leaders Programme; and › purchase the survey of our key stakeholders which is undertaken annually by an external provider.
People	
<p>To deliver its objectives, Crown Law needs people with a high level of expertise in their chosen area and a strong commitment to deliver a high quality service within the public sector environment.</p> <p>Initiatives: Our people must have the required skills to perform. This focuses on implementing good practice standards for:</p> <ul style="list-style-type: none"> › recruitment; › performance appraisal; › the sharing of expertise amongst staff; and › secondments in and out of Crown Law. 	<ul style="list-style-type: none"> › Standardised recruitment guidelines. › Evaluation of As and When process. › Secondments are undertaken within the policy guidelines. › Presentations and publications of articles are supported in accordance with policy guidelines.
Culture	
<p>Crown Law needs a high performance, development focused culture that successfully integrates the efficiencies of a private legal firm with the public sector ethos.</p> <p>Initiatives:</p> <ul style="list-style-type: none"> › The As and When process. › The Workplace Respect and Dignity programme. › Initiative 2, “demonstrate to staff that they are truly valued” has identified three themes: <ul style="list-style-type: none"> › improved communications; › improved relationships between corporate and legal staff; and › equality of access to pastoral care for all staff. 	<ul style="list-style-type: none"> › Periodic surveys of staff feeling valued. › Evaluation of the Workplace Respect and Dignity activities. › Measuring compliance with professional standards which support the delivery of high quality, timely services.

What is needed and capability initiatives	Capability Measures and Standards
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Relationships

<p>Crown Law takes a leadership role in the public sector to protect the legal interests of the government. This role demands strong working relationships with the executive, Parliament, government departments and agencies and the judiciary.</p> <p>Initiatives:</p> <ul style="list-style-type: none"> › Client Relationship Management good practice protocols; › enhanced client reporting; › client seminars and newsletters; › secondments; › external peer networking groups; and › active involvement in the Justice Sector Agencies Group. 	<ul style="list-style-type: none"> › Evaluation and feedback from clients. › Complaints from clients.
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ICT

<p>Crown Law needs good quality information and communication systems to achieve its objectives.</p> <p>Initiatives:</p> <ul style="list-style-type: none"> › complete implementation and full integration of our IT systems; › development of external links to clients and key stakeholders; and › website redesign. 	<ul style="list-style-type: none"> › Monitoring of progress against milestones in the IT strategy.
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Equal Employment Opportunities

Crown Law is an equal opportunity employer. Crown Law participated in the Pay and Employment Equity Review for women in the second half of the 2007/08 financial year. The main results of this review were:

- › that Crown Law has a very high percentage of women in senior and other management roles;
- › the high level of access and availability to parental and care-giving leave;
- › the high level of satisfaction in the way staff are treated by managers; and
- › the pay gap is reducing at a greater rate than that for the public sector as a whole.

Progress on Implementation of Pay and Employment Equity Response Plan

- › Organisational pay gap is now captured and monitored on a quarterly basis using the updated Payroll/HRIS.
- › Monitoring of the pay gaps in specific remuneration groups is now underway using the new payroll system.
- › Counsel promotion process was reviewed in early 2009.
- › One initiative of the respect and dignity plan remains outstanding and is to be completed by the end of 2010.
- › Communication and transparency about identified policy, systems and procedures has begun.
- › HR record keeping improvements have commenced with further work to be undertaken once the implementation of the new payroll system has been completed.
- › Exit interviews and reporting to Management Board and relevant managers are underway.

