

Statement on the Inquiry into the Use of External Security Consultants

The Independent Inquiry into the Use of External Security Consultants has found Crown Law in breach of the Code of Conduct for the State Services. The Solicitor-General told the Inquiry the conduct at issue fell short of her expectations; she intends to put in place guidelines to meet the concerns expressed by the Inquiry.

The findings rest on an assessment that instructions to an investigating firm to assist in trial preparation in 2007 over historic abuse claims were overly broad. Those findings have been referred to the Attorney General who will work through them with the Solicitor-General.

Crown Law had instructed a private investigation firm to assist in a range of tasks, including witness location and briefing in preparation for the 2007 trial. The Inquiry was unable to make definitive findings of close observation or surveillance by investigators acting for the Crown. But the Inquiry found the Crown's instructions to those investigators overly broad. This breadth of instruction failed to provide sufficient oversight to ensure the privacy interests of individuals were carefully balanced, and risked harming the reputation of the Crown.

The Solicitor-General considers the use of private investigators is acceptable in some circumstances. But here there was a shortfall.

The Solicitor-General Una Jagose QC says, "The Independent Inquiry has properly held the Crown to high standards in the conduct of this sensitive litigation and the broad terms of our instructions to a private investigation firm fell short. I regret that. I will take steps to ensure that for the future we have an effective framework in place to guide any instruction to investigators in information gathering for civil litigation."

Background

Crown Law notes it was requested by the State Services Commission Inquiry into the Use of External Security Consultants to provide information relating to its use of external security consultants between 2008 and 2018. Following a review of its files Crown Law sent responses to the Inquiry on 28 August 2018 and 11 September 2018. These responses are uploaded here along with the initial letter from the Inquiry.

Subsequently, Crown Law was requested to provide information relating to a specific allegation of surveillance. This was in its use of external security consultants before 2008 to support the defence of a civil claim brought by two brothers who alleged they were abused in State care (*White and Another v Attorney-General* High Court, (28 November 2007, CIV-1999-485-85, CIV-2001-485-864, Miller J) and Court of Appeal ([2010] NZCA 139)). That is the 2007 conduct to which this note relates and which the Inquiry found did not meet the Code.