



13 November 2024



Official information request: Solicitor-General's Prosecution Guidelines
Our Ref: OIA353/1

1. This is in response to your official information request submitted on Tuesday 15 October 2024 seeking information about the revised Solicitor-General's Prosecution Guidelines "the guidelines").

2. You asked the following:

Please release an itemised breakdown of the costs incurred in producing the 2024 Solicitor-General's Prosecution Guidelines.

Please release all instructions (including terms of reference) provided to the Solicitor-General / Crown Law from the current or any former Attorney-General in preparing the Guidelines.

Did the Solicitor-General / Crown Law ever alter its draft Guidelines in light of CO (24) 5, being the 13 September 2024 Cabinet Office Circular prioritising need, not race? If so, please release the most recent draft Guidelines prepared prior to 13 September 2024.

What are the Solicitor-General's qualifications for her role?

3. The Solicitor-General issues the guidelines as part of her role as Law Officer under s 185 of the Criminal Procedure Act 2011. The Ombudsman has previously stated that information related to Solicitor-General's role as Law Officer is not "official information" within the meaning of the Official Information Act 1982 (OIA).¹ For this reason, your request is formally refused on the basis that the OIA does not apply to the information sought.

4. However, and without prejudice to the above, we have decided it is in the public interest to provide you with the information below.

5. The Solicitor-General is currently reviewing the guidelines and introduction for clarity and consistency. The press release announcing this is available on the front page of our website at www.crownlaw.govt.nz.

The purpose of the guidelines

6. At present, over forty agencies conduct public prosecutions in New Zealand. These include the Police, Crown Solicitors, and other government agencies who have a

¹ See, for example, Case Note W44280 of the Office of the Ombudsman.

prosecution function as part of their role, such as Corrections and the Ministry for Primary Industries.

7. The guidelines are used to help prosecutors make fair and consistent decisions in the prosecution process.

The roles of the Attorney-General and Solicitor-General

8. The Guidelines are issued by the Solicitor-General in their role as Law Officer. New Zealand has two Law Officers: the Attorney-General and the Solicitor-General. You can read more about these roles on the Crown Law website at www.crownlaw.govt.nz/about-us/law-officers.
9. The present Attorney-General and her predecessor were briefed on the review, but the guidelines are issued by the Solicitor-General on their own authority pursuant to s 185 of the Criminal Procedure Act 2011.

Costs of reviewing the guidelines

10. Most of the work done to review the guidelines was conducted by staff of Crown Law. Crown Law staff are salaried workers and do not present invoices for their work. As for other expenses, our records indicate that the total expenditure for the review of the guidelines since 2021 was \$757,449.73. This includes the cost of hosting stakeholder wānanga and hui, IT costs and the cost of hiring contractors to assist with the review over a four-year period.

Qualifications of Solicitor-General

11. The current Solicitor-General, Una Jagose KC was appointed as Solicitor-General in 2016 by then Governor-General Sir Jerry Mateparae and took up the role in 2016.
12. There are no eligibility criteria, but by convention the Solicitor-General has always been a practising lawyer with at least seven years' experience. Ms Jagose KC had approximately 25 years' experience as a lawyer when she was appointed, almost all of which has been accumulated in public service as well as serving as Acting Director of the Government Communications Security Bureau (GCSB).

Proactive release

13. Please note that we may publish this response (with your personal details redacted), and any related documents, on Crown Law's website if we decide proactive release of this information is or may be in the public interest. If you have any concerns about this, please let us know within 10 working days of the date of this letter.
14. You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Naku noa, nā
Crown Law