

# STATEMENT OF INTENT

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CROWN LAW  
2012-2015



May 2012



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## FOREWORD: ATTORNEY-GENERAL

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Crown Law provides support to the principal Law Officers in the discharge of their responsibilities, including in relation to legal advice to, and representation of the Crown; conducting appeals for indictable crime; and overseeing the prosecution of serious crime. It needs to combine the attributes of a law firm with the responsibilities of a government department. Crown Law is also part of the wider justice sector and therefore needs to work with other sector agencies to ensure justice services are as accessible and cost effective as possible.

Over the past year three reviews have looked at what Crown Law does. Each review commented on the generally high quality of the services that the Office provides, but each also made recommendations for improvement. I am pleased that Crown Law has already made changes to give effect to these recommendations, including the establishment of a Deputy Chief Executive to improve the Office's strategic leadership and public sector management capability. This work will continue through 2012-15.

This Statement of Intent identifies priorities for the next three years and describes how Crown Law will support the Government to achieve its objectives, both for the justice sector and more widely. It also includes some specific priorities that I, as Attorney-General, have identified for Crown Law for the next three years. These priorities include:

- ensuring the recommendations of the three recent reviews are progressed so that Crown Law is as effective and efficient as it can be;
- enhancing the oversight of public prosecutions, particularly the work of the Crown Solicitors, to ensure high quality and cost effective services are delivered;
- developing the Government Legal Service to contribute to better management of Crown legal risk; and
- in collaboration with the Minister of Justice, working to improve the operation of the courts.

I will be receiving regular reports from Crown Law on its performance against the targets and priorities set out in this Statement of Intent.

### **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

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This Statement of Intent describes the role and functions of Crown Law. It also includes the services we will provide over the next three years in 2012-15 and how they contribute to the objectives the Government is seeking to achieve.

How Crown Law will perform its role and functions in 2012-15 is influenced by significant changes to our operating environment. These changes include the tight financial situation we must operate in and the Government's renewed expectations for public sector agencies, in particular that services are delivered in the most effective and efficient way possible and contribute directly to sector outcomes.

Crown Law has been the subject of three recent external reviews, all of which have made constructive recommendations for how we can improve what we do. These recommendations are welcome, some have already been implemented and others will be an important focus in 2012-15.

As a result of our changing operating environment and in response to the three recent reviews, Crown Law has renewed its strategic focus, with six strategic priorities being identified:

- confirm our role;
- enhance client and stakeholder relationships;
- support justice sector leadership;
- develop our strategic focus;
- be efficient and sustainable; and
- fully engage staff.

There are a series of initiatives under each of these strategic focus areas to drive change throughout the organisation.

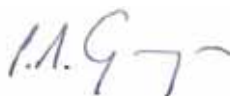
In addition, we have put in place a new performance framework. It is intended to show, in one place, what Crown Law is seeking to achieve through the services we provide, how this relates to our operating environment and to Ministerial priorities, and most importantly, how we measure our performance and our contribution to the outcomes the Government is seeking to achieve. Our strategic focus areas and our new performance framework are included in this Statement of Intent.

Crown Law currently has 205 staff, comprising counsel and support and corporate staff. Each year we receive more than 400 new instructions for advice and over 350 new instructions in respect of litigation. In addition, Crown Law manages more than 500 criminal appeals each year.

Crown Solicitors are appointed to prosecute indictable crimes on behalf of the Crown. Each year, they handle more than 1,800 trials for indictable crime and 6,500 other criminal matters, including bail applications and appeals relating to summary prosecutions, on behalf of the Solicitor-General.<sup>1</sup>

Crown Law works with the other justice sector agencies to support the Government's policy priorities of public safety and maintaining confidence in the criminal justice system, implementing initiatives that will reduce crime, volumes and cost and improving the performance of sector agencies. The prosecution of indictable crime and the representation of the Crown before appellate Courts are two Crown Law functions that have a significant impact on the justice sector and its overall objective of ensuring that New Zealand has a "safe and just society". In addition, through its advice and representation function, Crown Law supports all other Government sectors to achieve their outcomes.

Over the next three years 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 to those employed at Crown Law. In the past year this has involved playing a central role in the Government's response to the Canterbury earthquakes and Pike River Mine and Rena disasters. We will continue to meet these challenges and make full use of the expertise of our high-calibre staff.



Cheryl Gwyn  
**Acting Solicitor-General**

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<sup>1</sup> Figures taken from Crown Law Annual Report for the year ended 30 June 2011.

## **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 Applications (2012/13 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.



Cheryl Gwyn  
**Acting Solicitor-General**  
Date: May 2012



Chris Walker  
**Chief Financial Officer**

# NATURE AND SCOPE OF FUNCTIONS

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Crown Law has two broad functions:

- to support the principal Law Officers, the Attorney-General and the Solicitor-General, to undertake their constitutional duties, including responsibility for the prosecution of indictable crime; and
- to provide legal advice to and legal representation for the Crown.

In providing these services, Crown Law contributes to the effective and lawful functioning of the Government and to the maintenance of a “safe and just society”.

The Crown is subject to the rule of law and has an obligation to ascertain what the law is and to comply with and enforce it. Crown Law supports the dual roles of the Attorney-General, who is both a Minister within Government and the senior Law Officer. Crown Law assists the Attorney-General to act as an independent legal advisor 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.

When providing advice and representation, Crown Law takes a whole of government view and acts in the public interest while aiming to act as a model litigant. Crown Law’s purpose is therefore to:

**“Provide authoritative legal representation and advice to Government to enable it to achieve its objectives, act lawfully and discharge its constitutional duties, including supervision and conduct of Crown prosecutions and appeals, while being financially sustainable.”**

## 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. Some specific responsibilities include the supervision of charitable trusts, representation of the public interest, vexatious litigant proceedings, consideration of Bills for Bill of Rights Act 1990

consistency (vetting), extraditions, conduct of criminal appeals and the supervision and conduct of Crown Prosecutions.

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 including managing the funding, guiding and sharing of prosecution practice and knowledge, and reviewing practices to ensure high quality, value for money, services are provided. Crown Law conducts all criminal appeals heard by the Court of Appeal and the Supreme Court and oversees the prosecution work of the Serious Fraud Office.

## Legal Advice and Representation

Crown Law provides legal advice and representation to the Crown, government departments and government agencies in accordance with the Cabinet Directions for the Conduct of Crown Legal Business 1993.<sup>2</sup> The Cabinet Directions provide for two categories of legal work:

- **Category 1:** Must be referred to the Solicitor General; and
- **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; and
- legal issues relating to the protection of the revenue.

The Dean/Cochrane Review<sup>3</sup> has suggested some change to the drafting of the Cabinet Directions, but not their substance.

<sup>2</sup> “Cabinet Directions for the Conduct of Crown Legal Business 1993”, Appendix C, Cabinet Office Manual, 2008.

<sup>3</sup> “A Review of the role and functions of the Solicitor-General and the Crown Law Office” (2012) Miriam Dean CNZM QC, David Cochrane.

When providing legal services in either Category 1 or 2, Crown Law charges clients for the services. 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 has 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, including advice on the operational impacts of policy or legislative change on Crown Law.

## Appropriations

Crown Law administers three appropriations:

- **Legal Advice and Representation**  
Providing legal advice and representation services to central government departments and Crown agencies (**\$22.406 million**).  
*Services\**
  - › Instructions for legal advice
  - › Instructions for litigation matters
  - › Judicial reviews
- **Supervision and Conduct of Crown Prosecutions and Appeals (Multiclass Appropriation)**  
**Conduct of Criminal Appeals**  
This output class is limited to conducting appeals in the Court of Appeal and the Supreme Court arising from criminal trials on indictment including Crown appeals (**\$3.295 million**).  
*Services\**
  - › Crown Appeals
  - › Accused 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 (**\$32.485 million**).  
*Services\**
  - › Trials for indictable crime
  - › Conduct of appeals in the High Court
  - › Criminal matters conducted by Crown Solicitors**Criminal Law Advice and Services**  
This output class is limited to the provision of advice on criminal law, mutual assistance and

extradition matters to other government agencies, foreign countries and to Crown Solicitors (**\$2.568 million**).

### *Services\**

- › Criminal Law Officer requests<sup>4</sup>
- › Ministerial and Parliamentary questions, OIA requests regarding criminal matters
- › Appeal or judicial review requests from prosecuting agencies

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

This output class is limited to the supervision of the network of Crown Solicitors who deliver prosecution services (**\$0.840 million**).

### *Services\**

- › Reviews of Crown Solicitors' practices
- › Applications from Crown Solicitors for special fees, approval of extra counsel and classification of counsel
- › Processing of expert witness applications
- › Monitoring and over-seeing the efficiency and effectiveness of Crown Solicitor services

- **The Exercise of Principal Law Officer**

### **Functions**

Providing legal advice, representation services and administrative services to the Attorney-General and Solicitor-General to assist them in the exercise of their Principal Law Officer functions, and the provision of legal and constitutional advice to the Government, Ministers and the judiciary (**\$2.884 million**).

### *Services\**

- › Legal advice on behalf of the Attorney-General
- › Legal representation on behalf of the Attorney-General including interventions in the public interest
- › Written briefings to the Attorney-General
- › Support and advice to Chief Executives and Chief Legal Advisors
- › Charitable trust investigations and variations
- › Vetting of Bills for Bill of Rights Act 1990 consistency
- › Vexatious litigant proceedings
- › Ministerial and Parliamentary questions, Official Information Act requests
- › Discharge of adoption orders
- › Requests for second coronial inquiries
- › Pacific Island Law Officers' Network support
- › Intervention requests regarding contempt and name suppression

\* See pages 15 and 17 for a fuller description of services.

<sup>4</sup> This includes stay of prosecution requests, criminal prosecution advice, consents to prosecute, extraditions, immunities from prosecution requests, mutual assistance requests.

# CROWN LAW IS PART OF THE JUSTICE SECTOR

The justice sector is comprised of Crown Law, the New Zealand Police, the Ministry of Justice (including courts), the Department of Corrections, the Serious Fraud Office and the Ministry of Social Development (youth justice). Collectively the justice sector aims to provide accessible justice and encourage a safe and just society where people enjoy civil and democratic rights.

Justice sector Ministers recognise that achieving the best outcomes for people participating in justice sector processes requires all relevant agencies to be working towards the same goals. An outcomes framework is in place (below) to drive an enduring focus for work across the justice sector. Agencies have identified contributing outcomes at various points in the system, and work is underway to ensure these contributing outcomes are consistent across the system. Once complete, these outcomes will be included in justice sector agencies' 'Statements of Intent' from 2014.

As a first priority for joined-up work and enhanced measurement systems, focus has been on the criminal justice system. In this 'pipeline', a change in one part of the system has high flow-on impacts to individual outcomes, the demand for services, and cost in other parts of the system.

For the justice system to work well it needs to be accessible, modern, effective and sustainable. The key goal of the justice sector is to reduce flow into the criminal justice pipeline – prevent crime, reduce its impact on people, and to enhance public safety. To achieve this, the justice sector is focused

on results, the users of the system and quality of services, and minimising its costs.

In advancing these goals the sector will focus on the following initiatives:

- the Accessible Justice work programme;
- the Better Public Services Results Action Plan;
- the sector 4-year Budget Plan and sector-wide resource prioritisation;
- sharing back-office services and building elements of common workforce strategy; and
- integrating the delivery of complementary services across the criminal justice pipeline.

As part of the Better Public Services Programme, the justice sector will be required to report through the Result Action Plan process on two result areas agreed by Cabinet. These are to reduce crime (total crime, violent crime and youth crime) and reoffending. Crown Law will support progress in these two result areas through Crown prosecutions and appeals work.

Justice sector agencies will also report annually, and more frequently as required, on their progress to achieve the justice sector's priorities through the over-arching justice sector performance report. This report will include information on the effectiveness, efficiency and productivity, quality of service, and organisational performance of the core justice sector agencies. The first report will be released in September 2012.

## A safe and just society

### Justice Sector Outcomes

#### Safer communities

#### Civil and democratic rights and obligations enjoyed

Justice Sector Agency Outcomes							
Impact of crime reduced	Offenders held to account	Crime reduced	Trusted justice system	Accessible justice services	Internationally connected	Durable settlement of Treaty claims	Effective constitutional arrangements

The outcomes that Crown Law has a direct impact on are coloured green. Those we have an indirect impact on are coloured red.

## STRATEGIC CONTEXT

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How Crown Law performs its functions has been influenced by two main factors in 2011/12 – changes to the wider environment we operate in and three external reviews into various aspects of what we do. As a result, Crown Law has renewed its strategic focus and put in place a new performance framework. The framework is intended to show in one place what Crown Law is seeking to achieve, how this relates to our operating environment and to Ministerial priorities, and how we will measure our performance.

### Our operating environment

Crown Law needs to respond to the very tight financial constraints the Government is required to operate in following the global financial crisis. This means ensuring that Crown Law can operate sustainably within available funding and is cost effective in everything we do in order to provide value for money services for our clients. The funding available to Crown Law for Crown Solicitor services reduces in 2012/13, following a period of significant increase in costs. In addition, Crown Law has other cost pressures associated with returning an efficiency dividend to Government, absorbing KiwiSaver and other superannuation costs and increases in other operating costs.

As the financial situation has tightened, the expectations of Ministers, key stakeholders and clients about the quality and timeliness of the services they receive has increased. The Government expects agencies to demonstrate that:

- the services they provide are both effective and efficient; and
- the agencies contribute directly to the outcomes the Government is seeking, such as a “safe and just society” and economic growth.

There is a much greater expectation that agencies will work together within and across sectors to improve the services they deliver and be more cost effective.

The work Crown Law does contributes to all sectors of government, but our “home” is the justice sector. The justice sector is currently undergoing significant change. In particular, costs have grown significantly in recent years but the volume of cases going through the criminal and civil justice systems is declining. The challenge is to realise savings from this reduction in volume while ensuring public safety is maintained and services are accessible.

Finally, 2011/12 saw three major disasters – the Canterbury earthquakes, the Pike River Mine tragedy and the grounding of the *MV Rena*. These events will have enduring impacts on the country. Crown Law has played a significant role in the Government’s response to these disasters to date and will continue to do so in 2012-15.

### Three recent reviews

Crown Law was the subject of three external reviews in 2011/12, each of which confirmed the high quality of Crown Law’s work but also made important recommendations for improvement to the way we work and the services we provide.

*The Review of Public Prosecution Services*, undertaken by John Spencer and completed in September 2011, found that while the quality of the prosecution services provided by Crown Solicitors was high, Crown Law needed to enhance its financial management and data collection systems for Crown Solicitors. The review also recommended that the Solicitor-General should have a greater role in supervising all prosecutions undertaken by other government agencies.

*A Performance Improvement Framework Review (PIF)* of Crown Law was completed by Paula Rebstock and Peter Doolin in October 2011 on behalf of the State Services Commission, the Treasury and the Department of Prime Minister and Cabinet. It made a series of recommendations on how Crown Law could improve its strategic leadership and public sector management capability, and has resulted in the establishment of a new role of Deputy Chief Executive among other changes.

In February 2012 *a Review of the Role and Functions of the Solicitor-General and the Crown Law Office* was completed by Miriam Dean QC and David Cochrane, on behalf of the Attorney-General. This was a comprehensive review that in broad terms confirmed the current role of the Solicitor-General and Crown Law. However, it also made a series of recommendations on how Crown Law can improve how it operates and endorsed the earlier recommendations of the Public Prosecution Services and PIF reviews.

Crown Law’s Management Board recognises the value of the recommendations made in these reviews and implementation has already begun. The recommendations have had a significant influence on both our new strategic direction and our work programme for 2012/13.

## OUR STRATEGIC FOCUS

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We have identified six key areas to focus on in order to respond to our changing operating environment, meet the Government's objectives and improve our overall performance.

- **Confirm our role** – Before Crown Law can fully realise its potential, staff and management need a shared understanding of what our role is, and this needs to be effectively communicated to our stakeholders. Of particular importance is the whole of government approach we take to minimise the Crown's legal risk. The *Review of the Role and Functions of the Solicitor-General and the Crown Law Office* provided useful guidance in this area.
- **Enhance client and stakeholder relationships** – Our key stakeholders and clients include the Attorney-General, Ministers, government departments and Crown entities, the justice sector agencies and the central agencies, the judiciary and Crown Solicitors. We need to work constantly to maintain and enhance our relationships with our clients and stakeholders to understand their changing interests and expectations, and the impact this has on Crown Law.
- **Support justice sector leadership** – Crown Law is committed to working with New Zealand Police, the Department of Corrections, the Ministry of Justice and the Serious Fraud Office to achieve the justice sector outcomes of "Safer communities" and "New Zealanders' civil and democratic rights maintained", as well as ensuring that as an integrated sector we remain financially sustainable. At the same time, the advice and representation services we provide contribute to the outcomes of all government sectors.
- **Develop our strategic leadership focus** – Crown Law's Management Board as well as the wider management group will have a greater focus on the strategic leadership and governance of Crown Law so we can respond better to our changing environment and be more effective. The new Deputy Chief Executive role has provided increased capability in this area.
- **Be efficient and sustainable** – Like all other government agencies, Crown Law needs to operate within the fixed level of funding we receive and ensure that the services we provide represent value for money. In 2012/13 the funding available for Crown Solicitors is reducing. Ensuring the service can be delivered within this funding, with no reduction in quality, is a top priority, as is responding to the other cost pressures we face.
- **Fully engage staff** – To be most effective, our staff need to understand what the organisation is seeking to achieve, feel valued for the

contribution they make and have confidence in their leadership. Initiatives to improve staff engagement in 2012/13 are based on the results of the staff engagement survey undertaken in March 2012.

There are a series of initiatives under each of these strategic focus areas and internal performance measures are in place to ensure we are making progress. Because these focus areas are relevant to all aspects of our work, managers and staff have been encouraged to develop their own supporting initiatives and include them within their team and individual development plans.

### Our new performance framework

Our new performance framework, which incorporates Crown Law's strategic focus areas, is set out over the page. It includes, at the top, our Purpose, which is the reason why Crown Law exists, and our Vision, which is the over-arching goal we are seeking to achieve. Starting from the left-hand side, the framework has a brief description of the environment we expect to be operating in and then a list of Ministerial priorities of direct relevance to Crown Law. This context informs the strategic focus areas discussed above, which are intended to make us more effective at delivering the four outputs, or services, we are funded to provide. These have been discussed previously and are summarised in the middle column of the framework.

The services provided under each output are intended to produce certain results or impacts, which are listed in the next column. These Crown Law impacts are in turn expected to contribute to the two justice sector outcomes of "Safer communities" and "New Zealanders' civil and democratic rights maintained", and ultimately, to the over-arching sector goal of a "safe and just society". As noted above, while Crown Law's home is within the Justice sector, its outputs, particularly legal advice and representation and the exercise of the principal law officer functions, support agencies in other government sectors to achieve their outcomes.

Across the bottom of the framework is how our performance will be measured. In addition to putting in place a set of measures for our strategic focus areas, we have developed a new Output Plan which includes quantity, quality, timeliness and effectiveness measures for the services we provide. We have a series of measures to assess whether our outputs are having the desired impact, some of which are high level and we recognise that other agencies also contribute to these impacts. We rely on the justice sector performance indicators to assess the impacts at a sector level. We have begun to develop some cost-effectiveness measures, initially focussed on Crown Prosecutions because this is the area of greatest risk.

# CROWN LAW PERFORMANCE FRAMEWORK

## Environmental Factors

- Fiscal constraints
- Expectation of better smarter public services
- Shift from individual department to a sector focus with a lead agency
- Changes in the risk profile of government activities
- Increased costs in the Justice system
- Changes in volumes entering the court system
- Impact of major disasters - earthquakes, Pike River, Rena

**CROWN LAW PURPOSE**  
Provide authoritative legal representation and advice to Government to enable it to achieve its objectives, act lawfully and discharge its constitutional duties, including supervision and conduct of Crown prosecutions and appeals, while being financially sustainable

**CROWN LAW VISION**  
To be the Government's trusted provider of legal representation and advice

**Ministerial Priorities**

- A justice system that is sustainable at current funding levels
- Act on recommendations of recent reviews to ensure Crown Law is as effective as it can be
- Oversight of public prosecutions including ensuring Crown Solicitor services are financially sustainable and quality is maintained
- Develop the Government Legal Service to contribute to better management of Crown legal risk
- Working with the Minister of Justice to improve the courts
- Progress the settlement of historical Treaty of Waitangi claims by 2014
- Recognise and advance human rights and international obligations
- Build a more competitive and productive economy

**Crown Law Strategic Focus**

- Confirm our role**  
Develop and communicate a shared understanding of our role, including our whole of government responsibilities
- Enhance client and stakeholder relationships**  
Develop a greater understanding of client and stakeholder needs and keep abreast with the changing landscape
- Support Justice Sector leadership**  
Participate fully in leadership of the overall Justice Sector
- Develop our strategic leadership focus**  
Increase the focus of the Solicitor-General and Management Board on organisational strategy and governance
- Be efficient and sustainable**  
Be able to demonstrate we provide value for money services and stay within appropriation
- Fully engage staff**  
A stronger collective leadership focus to support staff engagement with our strategic direction

Performance measures

**Crown Law Outputs**

**FUNDED BY THE CROWN**  
**Supervision and Conduct of Crown Prosecutions and Appeals (Multiclass Appropriation)**

- Conduct of Criminal Appeals  
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  
Provision of a national Crown prosecution service that undertakes criminal trials on indictment
- Supervision of the Crown Solicitor Network  
Provision of advice on criminal law, mutual assistance and extradition matters to other government agencies and to Crown Solicitors
- Criminal Law Advice and Services  
Supervision of the network of Crown Solicitors who deliver prosecution services

**The Exercise of Principal Law Officer Functions**  
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

**FUNDED BY DEPARTMENTS**  
**Legal Advice & Representation**  
Providing legal advice and representation services to central government departments and Crown agencies

Service performance measures

**Crown Law Impacts**

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

Trusted justice system supported through the performance of the principal Law Officers' constitutional and other duties

The Crown's legal risks are well managed and its interests are protected, including its commercial and revenue interests

Impact measures

**Justice Sector Outcomes**

**Safer Communities**

- Impact of crime reduced
- Offenders held to account
- Crime reduced
- Justice system is trusted

**New Zealand's civil and democratic rights maintained**

- Justice services are accessible
- The justice system is internationally connected
- Durable settlement to Treaty claims
- Constitutional arrangements are effective

**Other Government Sectors' Outcomes**

**Crown Law supports agencies in these sectors to achieve their outcomes:**

- Environment
- Education & Science
- External
- Economic Development & Infrastructure
- Finance & Government Administration
- Health
- Justice
- Maori, Other Populations & Cultural
- Primary
- Social Development & Housing

Sector performance indicators

Cost-effectiveness measures

Safe and just society

## WHAT CROWN LAW IS SEEKING TO ACHIEVE

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In this section we explain the impacts that Crown Law is working to achieve through the services we provide, why these impacts are important and how we will know whether or not we have been successful at achieving them.

Some of the services Crown Law provides contribute to more than one impact. Cross-referencing is used where this occurs.

### **Impact 1: Offenders are held to account through high quality Crown prosecutions and appeals, delivered in the public interest and cost effectively**

#### ***Why this is important:***

“New Zealand is indeed fortunate to have a high-quality, independent, criminal prosecution service carried out mainly by Crown Solicitors and Police prosecutors.” (John Spencer, “Review of the Public Prosecution Services” (2011)).

High quality prosecutions and appeals delivered cost-effectively and free from political influence

are crucial to a democratic society. The Solicitor-General is responsible for oversight of all indictable 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.

#### ***We will know we have been successful when:***

- The average case cost of criminal prosecutions in the District Court and High Court is maintained or lower when compared to the previous year.
- The success rate for Crown appeals conducted by Crown Law and prosecution / informant appeals conducted by Crown Solicitors is greater than 60%<sup>5</sup>.
- Reviews of Crown Solicitor practices demonstrate that prosecutions have been conducted according to the prosecution guidelines and any review recommendations have been implemented.

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<sup>5</sup> The success rate of 60% is intended 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.

**What we will do to achieve this:**

**Chart 1:** Services provided to achieve Impact 1 and how they are measured.

Service	Performance Indicators
<b>Output – Supervision and Conduct of Crown Prosecutions and Appeals</b>	
<ul style="list-style-type: none"> <li>• Conduct of Crown Appeals.</li> <li>• Conduct of Accused Appeals.</li> <li>• Prosecute criminal trials on indictment.</li> <li>• Conduct of other criminal matters by Crown Solicitors.</li> <li>• Review the Crown Solicitors’ practices.</li> <li>• Provide legal advice and representation on Mutual Assistance matters.</li> <li>• Provide legal advice and representation on Extradition matters.</li> <li>• Process applications from Crown Solicitors for special fees, classification of counsel, approval of additional counsel.</li> <li>• Process expert witness applications.</li> <li>• Provide legal advice or respond to applications on criminal law issues.</li> <li>• Make decisions on appeal requests from prosecuting agencies.</li> <li>• Respond to ministerials, parliamentary questions and Official Information Act 1982 requests.</li> </ul>	<ul style="list-style-type: none"> <li>• The number of Crown and Accused appeals in progress and disposed of in the Supreme Court and Court of Appeal.</li> <li>• The number of indictable trials and complex trials in progress and disposed of in the District Court and High Court by Crown Solicitors.</li> <li>• The number of prosecution / informant appeals in progress and disposed of in the District Court and High Court by Crown Solicitors.</li> <li>• The number of other criminal matters conducted by Crown Solicitors, technical applications, requests for prosecution appeals and judicial review processed.</li> <li>• The success rate of Crown appeals and prosecution/ informant appeals conducted by Crown Solicitors is greater than 60%.</li> <li>• The percentage of responses to a survey of the Judiciary that consider the quality and the timeliness of Crown submissions is either good or excellent.</li> <li>• The average cost of criminal prosecution cases in the District Court and High Court is maintained or lower when compared to the previous year.</li> <li>• Independent reviews of Crown Solicitors’ practices are completed at least once every five years and all recommendations actioned.</li> <li>• Number of ministerial letters, parliamentary questions and Official Information Act 1982 requests received regarding criminal matters.</li> <li>• Percentage of draft responses to ministerial letters, parliamentary questions and Official Information Act 1982 requests regarding criminal matters provided within required timeframes.</li> </ul>
<b>Output – The Exercise of Principal Law Officer Functions</b>	
<ul style="list-style-type: none"> <li>• Brief the Attorney-General on significant legal criminal matters affecting the Crown.</li> <li>• Provide legal advice and representation on intervention in respect to alleged contempt and breach of name suppression.</li> </ul>	<ul style="list-style-type: none"> <li>• Percentage of responses to a questionnaire of the Attorney-General that consider the service provided by Crown Law is either good or excellent.</li> <li>• The number of other Law Officer requests regarding criminal matters.</li> </ul>

## **Impact 2: Trusted justice system supported through the performance of the principal Law Officers' constitutional and other duties**

### ***Why this is important:***

It is the function of Crown Law to support both the Attorney-General and the Solicitor-General in their respective roles of chief legal advisor to the Government and chief advocate for the Government in the courts. As Law Officers, the Attorney-General and the Solicitor-General 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<sup>6</sup>;
- acting on behalf of the Government in civil litigation;
- informing the House whether any provision in a Bill introduced to the House is inconsistent with the 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 appeals<sup>7</sup> including appeals against sentence after conviction on indictment;
- giving consent to:
  - appeal against sentence and on questions of law arising out of summary proceedings;
  - stay of prosecutions;
  - prosecutions in certain instances defined in the relevant statute; and
- bringing proceedings on behalf of the community to enforce the law.

The constitutional roles of the Attorney-General and Solicitor-General – requiring them as the principal Law Officers to act independently free of influence and in the public interest – are critical to the rule of law and trusted legal system.

### ***We will know we have been successful when:***

- ratings for New Zealand in the World Justice Project Rule of Law Index Survey either remain unchanged or improve on the previous year's results;
- ratings for New Zealand in the Corruptions Perception Index Survey remain within the top range of 9 – 10; and
- the trend in ratings for New Zealand in the World Bank Institute – Worldwide Governance Indicators for the Rule of Law and Control of Corruption is maintained or improved on the previous four years' results.

<sup>6</sup> 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. 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.

<sup>7</sup> 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 2:** Services provided to achieve Impact 2 and how they are measured.

Service	Performance Indicators
<b>Output – Legal Advice and Representation</b>	
<ul style="list-style-type: none"> <li>• Provide legal advice and representation to Ministers and government departments from a whole of government view and acting in the public interest.</li> <li>• Participate in judicial reviews.</li> </ul>	<ul style="list-style-type: none"> <li>• The number of legal advice matters, litigation matters and judicial review matters in progress and disposed of.</li> <li>• Percentage of written opinions / advice that comply with Crown Law’s quality assurance process of peer review and are completed by the due date.</li> <li>• Percentage of litigation management plans completed for litigation matters that comply with Crown Law’s quality assurance processes.</li> <li>• Percentage of client survey responses that consider the service clients receive from Crown Law is either good or excellent.</li> <li>• Percentage of responses to a survey of the judiciary in the Supreme Court, Court of Appeal and executive judges of the High Court and the Environment Court that consider the quality of Crown Law’s submissions is either good or excellent.</li> </ul>
<b>Output – The Exercise of Principal Law Officer Functions</b>	
<ul style="list-style-type: none"> <li>• Receive and respond to requests for advice on behalf of the Attorney-General and the Solicitor-General.</li> <li>• Undertake litigation on behalf of the Attorney-General including interventions in the public interest.</li> <li>• Undertake vetting of Bills for Bill of Rights Act 1990 consistency.</li> <li>• Support and advise Ministers, Chief Executives and Chief Legal Advisors of departments.</li> <li>• Brief the Attorney-General on significant legal matters affecting the Crown.</li> <li>• Undertake vexatious litigant proceedings.</li> <li>• Undertake charitable trust investigations and process charitable trust variation applications.</li> <li>• Manage special patient reclassifications.</li> <li>• Process applications for second coronial inquiries.</li> <li>• Provide support to the Pacific Islands Law Officer Network.</li> <li>• Provide legal advice and representation on interventions with respect to alleged contempt and breach of name suppression.</li> <li>• Process applications for the discharge of adoption orders.</li> </ul>	<ul style="list-style-type: none"> <li>• Number of applications processed on behalf of the Attorney-General.</li> <li>• Number of weekly written briefings provided to the Attorney-General.</li> <li>• Number of opinions / advice matters provided on behalf of the Attorney-General.</li> <li>• Number of litigation matters taken on behalf of the Attorney-General including interventions in the public interest.</li> <li>• Number of ministerial letters, parliamentary questions, Official Information Act 1982 and Privacy Act 1993 requests received and responded to.</li> <li>• Percentage of draft responses to ministerial letters, parliamentary questions, Official Information Act 1982 and Privacy Act 1993 requests provided within required timeframes.</li> <li>• Percentage of responses to a questionnaire of the Attorney-General that consider the service provided by Crown Law is either good or excellent.</li> </ul>

**Output – Supervision and Conduct of Crown Prosecutions and Appeals — Same as for Impact 1**

**Impact 3: The Crown’s legal risks are well-managed and its interests are protected, including its commercial and revenue interests**

***Why is this important:***

“While government interests must always be kept in mind, the highest value is in maintaining the integrity of the law. A barometer measuring the popularity of the Solicitor-General’s advice will inevitably swing wildly.” (John McGrath QC, “Principles for sharing Law Officer power: the role of the Solicitor-General.” (1998) 18 NZULR 197.)

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

While supporting the Government, Crown Law is required to act in the public interest, not simply promote the interests of the Crown or individual agencies it is acting for. There are times when the Law Officers do intervene in a matter or bring proceedings in the public interest to enforce the law.

***What we will do to achieve this:***

**Output – Legal Advice and Representation — Same as for Impact 2**

**Output – The Exercise of Principal Law Officer Functions — Same as for Impact 2.**

One of Crown Law’s strengths identified in the Performance Improvement Framework Report was “the whole-of-government approach it brings to its work, in particular Category One, is important in managing legal risk and providing value-for-money solutions to the Crown rather than ad hoc responses”<sup>8</sup>.

The whole-of-government approach taken by Crown Law provides assurance to the Attorney-General and Solicitor-General that the Crown’s legal risk is being identified early and well managed.

***We will know we have been successful when:***

- Ratings for New Zealand in the World Justice Project Rule of Law Index Survey either remain unchanged or improve on the previous year’s results;
- Ratings for New Zealand in the Corruptions Perception Index Survey remain within the top range of 9 – 10; and
- The trend in ratings for New Zealand in the World Bank Institute – Worldwide Governance Indicators for the Rule of Law and Control of Corruption is maintained or improved on the previous four years’ results.

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<sup>8</sup> Performance Improvement Framework Report, 2011, page 7.

## COST-EFFECTIVENESS

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Organisational cost-effectiveness measures included in the Crown Law Performance Measurement Framework for 2012/13 are focused on Crown Solicitor services because this is the area with the highest cost pressures over the coming years. An internal group has been set up to develop organisational-wide cost-effectiveness measures.

Crown Law monitors cost-effectiveness by assessing the cost per hour of client services, and forecasts demand by analysis of cost drivers. Further work is required to understand fluctuations in the cost per hour of client services and to improve the reliability of forecasts.

Indicators such as the number of trials or the total cost of trials are of limited value as measures of cost effectiveness. Crown Law is often required to be reactive and has limited control over the number or complexity of cases. Changes to the court process and the upcoming implementation of the Criminal Procedure Act 2011 mean cost comparisons over the transition stage are not meaningful.

The Justice Sector Strategy Group in collaboration with justice sector agencies is continuing its work on the development of a Justice Sector Performance Report to provide an overview of the performance of the whole sector on an annual basis. Crown Law will provide input into this report as required.

# ORGANISATIONAL HEALTH AND CAPABILITY

## Overview

Crown Law’s strategy relies upon having capable people, strong leadership, a positive culture, good

working relationships, appropriate information and communications technologies (ICT), sufficient assets and adequate structures. Chart 3 below provides information on each of these dimensions.

**Chart 3:** Organisational health and capability dimensions

What is needed and capability initiatives	Capability measures and standards
<p><b>Leadership</b></p> <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><b>Initiatives:</b> Leadership and management development including participation in “Talent Scope” and Crown Law’s Future Leaders Programme.</p> <p>Use the responses to sections in the Staff Engagement Survey which relate to leadership to determine actions.</p>	<p>To ensure we have this in 2012/13 we will:</p> <ul style="list-style-type: none"> <li>Assess the improvement in the Engagement Survey<sup>9</sup> ratings.</li> </ul>
<p><b>People</b></p> <p>To deliver its objectives, Crown Law needs people with a high level of expertise in their chosen area and a strong commitment to delivering a high quality service within the public sector environment.</p> <p><b>Initiatives:</b> Our people must have the required skills to perform. This focuses on implementing good practice standards for:</p> <ul style="list-style-type: none"> <li>recruitment;</li> <li>performance standards;</li> <li>the sharing of expertise amongst staff; and</li> <li>secondments in and out of Crown Law.</li> </ul> <p>Crown Law also has significant in-house development programmes to support ongoing professional development for all staff.</p>	<ul style="list-style-type: none"> <li>Standardised recruitment guidelines.</li> <li>As and When process.</li> <li>Secondments undertaken within the policy guidelines.</li> <li>Presentations and publications supported in accordance with policy guidelines.</li> <li>Evaluation of all programmes by participants to ensure the programme is meeting their development needs.</li> <li>Regular evaluation by the Education Group of the overall in-house development programmes to identify areas for improvement and possible gaps in the programmes.</li> </ul>
<p><b>ICT</b></p> <p>Crown Law needs good quality information and communication systems to achieve its objectives.</p> <p><b>Initiatives:</b></p> <ul style="list-style-type: none"> <li>Compliance with the Government’s Cyber Security strategy.</li> <li>Complete implementation and full integration of our ICT systems with practice management and document management systems.</li> <li>Website redesign.</li> </ul>	<ul style="list-style-type: none"> <li>Monitoring of progress against milestones in the ICT strategy.</li> </ul>

<sup>9</sup> Engagement survey undertaken is the “Best places to work” survey from JRA (NZ) Ltd.

**Culture**

Crown Law needs a high performance, developed, focused culture that successfully integrates the efficiencies of a private legal firm with the public sector needs and ethos.

**Initiatives:**

- The Engagement Survey.
- The As and When process.
- Regular opportunities for all staff to take part in across the office networking, from the Solicitor-General to the most junior staff.
- Working at the heart of government means staff are involved with senior levels of executive government and the judiciary on a regular basis. These opportunities are unique to Crown Law, create a deeper understanding of public law issues and are seen as unrivalled professional development by Counsel.

- Engagement Survey ratings.
- Measurement of compliance with professional standards which support the delivery of high quality, timely services.

**Relationships**

Crown Law takes a leadership role in the public sector, particularly the justice 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.

**Initiatives:**

- Client Relationship Management good practice protocols.
- Enhanced client reporting.
- Client seminars and newsletters.
- Secondments in and out of Crown Law.
- External peer networking groups.
- Active involvement in the Justice Sector Agencies Group.

- Evaluation and feedback.
- Feedback from clients.
- Annual survey of Crown Law’s clients.

**Equal Employment Opportunities**

Crown Law operates an equal employment opportunity policy. Crown Law participated in the Pay and Employment Equity Review for women in the 2007/2008 financial year. The main findings of this review were:

- The high percentage of women in senior and other management roles.
- The high level of access to and availability of parental and caregiving leave.

- The high level of satisfaction in the way staff are treated by managers.
- The pay gap reducing at a greater rate than that for the public sector as a whole.

Work is ongoing under Strategic Focus Area Fully Engaged Staff to ensure Crown Law continues to be an EEO employer and provides a working environment that people want to be part of and contribute to.





