

CROWN LAW

# ANNUAL REPORT

for the YEAR ENDED  
30 JUNE 2008

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*Presented to the House of Representatives  
Pursuant to s44(1) of the Public Finance Act 1989*



ANNUAL REPORT

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# SOLICITOR-GENERAL'S INTRODUCTION

It is with pleasure that I present Crown Law's annual report and its audited financial statements for the year ended 30 June 2008.

Crown Law's work to improve responsiveness to clients' needs is beginning to show results. A survey of over 2,500 New Zealand lawyers by Team Factors portrayed Crown Law favourably when compared with the 14 largest law firms in New Zealand. In this survey, for responses by public sector lawyers, Crown Law ranked first in the following characteristics: reliable, value for money, solves my problems and conservative.

In addition, Crown Law rated first equal for the professional and trustworthy characteristics and second for quality and easy to work with. Crown Law was also rated the least expensive. Overall, in the eyes of lawyers employed in government, Crown Law was the most highly placed legal practice working with departments and similar organisations.

Crown Law continues to manage a challenging and diverse range of litigation and advice work. Some of the highlights of that work from the past year are described at page 15 of the report.

During the year I was pleased to be involved in the appointment of three new Crown Solicitors. Lance Rowe was appointed as Crown Solicitor at Wanganui, Michael Smith as Crown Solicitor at Whangarei and Grant Burston as Crown Solicitor at Wellington. Crown Solicitors have a key role in the administration of justice and these appointments ensure that they continue to meet the demands of that role.

In February 2008 we welcomed Dr Matthew Palmer to Crown Law as Deputy Solicitor-General (Public Law). Matthew was most recently Dean of the School of Law at Victoria University. This appointment re-establishes a full complement of senior management.

As always, I am grateful to all staff for their professionalism and commitment throughout the year.



**Dr David Collins QC**  
Solicitor-General & Chief Executive  
30 September 2008

# STRATEGIC DIRECTION

## CROWN LAW – STATEMENT OF DIRECTION

Supporting New Zealand’s system of democratic government, under law and in the public interest.

## CROWN LAW’S VALUES

Consistent with Crown Law’s overall obligation to support New Zealand’s system of democratic government, under law and in the public interest, Crown Law:

- will support the Law Officers, the Attorney-General and the Solicitor-General, in their work in a way that enables them to meet their obligations to make decisions independently and objectively in the public interest;
- will demonstrate a proper understanding of the roles of each of the branches of government;
- will take a “whole of government” perspective in carrying out our primary functions;
- will be responsive to client needs and concerns and will provide legal advice and representation which:
  - shows an understanding of the particular contexts in which legal problems arise;
  - is relevant and focused;
  - is well researched and well reasoned;
  - is balanced but decisive;
  - is expressed and organised in a simple, direct and concise way;
- will conduct itself consistently with the expectation of the Crown as a model litigant; and
- aims to create a work environment, which stimulates and challenges all who work in Crown Law to meet the highest standards of public service, while recognising the need for a balanced and well-rounded personal life.

## THE WORK OF CROWN LAW

Crown Law provides legal services to the Crown thus contributing to the effective and lawful functioning of New Zealand's Government. The work of Crown Law comprises legal advice to, and legal representation of, public sector clients. Crown Law also supports the Law Officers, the Attorney-General and the Solicitor-General.

Legal services are provided to the Government and government departments by in-house legal advisors, private sector legal advisors and Crown Law. In-house legal advisors typically instruct Crown Law. The engagement of external legal advisors, for example, Queen's Counsel, is undertaken where particular specialist knowledge is required, where work pressures within Crown Law create capacity problems, and to preserve independence.

Crown Law operates much like a private sector legal practice and charges for services to public sector clients. Crown Law seeks to service client departments and agencies efficiently and effectively. Key to this is the quality of the working relationship established with the client's internal legal advisors, and the strength of the organisational links with the client's operational and policy functions.

### LEGAL ADVICE AND REPRESENTATION

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. This means that when advising individual departments Crown Law has an overarching duty to the public interest.

Thus Crown Law's clients have two needs: advice that is of high quality addressing the immediate legal problem and advice which

takes into account the Crown's overriding obligations and interests.

The Cabinet Directions for the Conduct of Crown Legal Business 1993 direct departments in the use of Crown Law's legal services. The Cabinet Directions provide for two categories of legal work:

- Category 1, which must be referred to the Solicitor-General, includes cases concerning actual or imminent litigation where the Government or a government agency is a party, situations involving the lawfulness of the exercise of government powers, constitutional questions (including Treaty of Waitangi issues), and issues relating to the enforcement of the criminal law and the protection of the revenue.
- Category 2 is essentially all other work, e.g. employment matters, and is contestable. Departments may choose other legal advisors to assist them to resolve Category 2 matters.

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

By providing legal services Crown Law intends that the Crown's legal interests are protected and its responsibilities are lawfully carried out. This work assists to manage legal risk arising from the operations of government agencies and policy development.

To further promote these outcomes across government, Crown Law provides leadership for legal services within government. Crown Law convenes the Chief Legal Advisors' Forum and supports PS Law, an opinion database and workspace for government lawyers, by sitting on the steering committee and contributing opinions. Crown Law plans to expand these activities by adding to its regular newsletters on legal developments and hosting seminars. This contributes to increased quality and consistency of legal services across government.

### SUPPORTING THE 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 advice and representation to support the following functions:

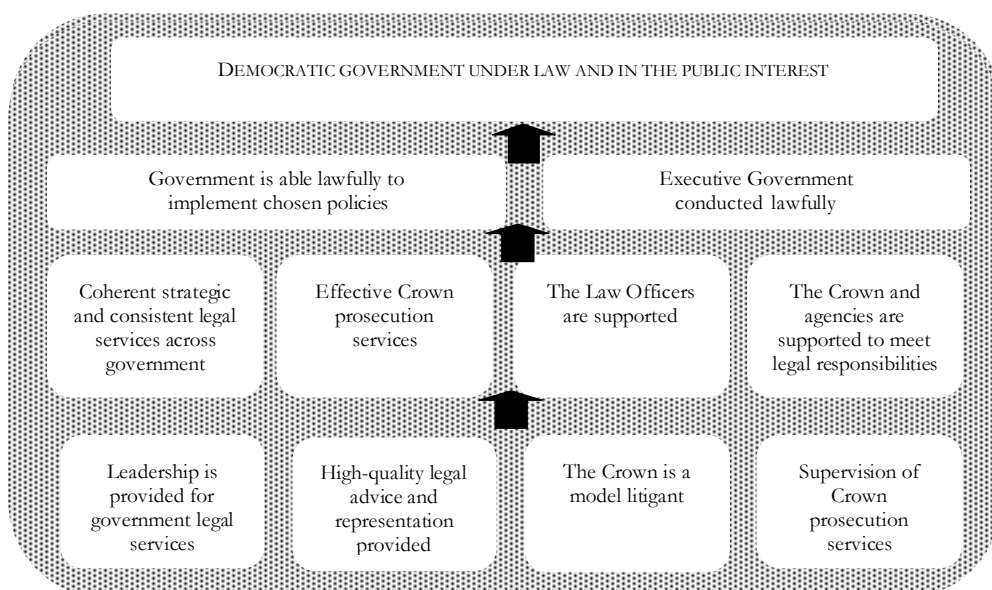
- supervision of charities;
- representation of the public interest;
- vexatious litigant proceedings;
- extraditions;
- participation in Pacific Island Law Officers Meeting (PILON); and

- the exercise of a variety of other powers, duties and authorities arising from statutory powers and constitutional conventions.

Crown Law makes key contributions to the criminal justice system and the Law Officers' responsibilities through the supervision and conduct of the Crown prosecution function. The Solicitor-General has responsibility for prosecuting indictable crime throughout New Zealand. Crown Solicitors are appointed throughout the country under warrant of the Governor-General. They undertake indictable prosecution work for the Crown and appeals to the High Court from the summary jurisdiction. Crown Law provides a co-ordination role within the network to guide and share prosecution practice and knowledge. Crown Law also oversees the prosecution work of the Serious Fraud Office, and conducts criminal appeals to the Court of Appeal, the Supreme Court and the Privy Council.

Crown Law's activities have an impact on the lawful conduct of Executive Government and the ability of government to lawfully implement its chosen policies. Ultimately, Crown Law contributes to New Zealand's system of democratic government under law and in the public interest. The figure below demonstrates how Crown Law's activities are directed toward that outcome.

Figure 1



# CROWN LAW STRATEGIC GOALS 2007-2010

In order to make progress towards its outcomes Crown Law has identified two goals for the next three years. These goals are intended to ensure that Crown Law's activities are effective. In late 2006 Crown Law adopted a new team structure, together with management and governance changes, which are intended to contribute to these goals.

## GOAL 1: ENSURING THE HIGHEST POSSIBLE QUALITY OF LEGAL SERVICES TO GOVERNMENT

This goal recognises that high-quality legal services to government are crucial to the Government's long-term priorities as well as to Crown Law's objectives. Crown Law has well-established processes to ensure high standards of advice – these include peer review of advice, litigation management planning processes and the introduction of litigation support software in 2006 to improve the quality of litigation support offered to clients. Crown Law recognises that continuous improvement is necessary to ensure that, as well as being trustworthy and professional, the services offered are solution-focused, innovative and efficient.

### ENHANCING SERVICES

Crown Law is strengthening the management structure of the office by enhancing the role of Team Leaders.

Team Leaders now have a more managerial role enabling them to manage the team's workload and oversee team development, assisting teams to perform to their maximum potential.

### RESPONDING TO CLIENTS' NEEDS

Fundamental to developing the capability of Crown Law is an understanding of clients' requirements. This enables better alignment of internal resources, processes and structures to meet both individual client and the wider Crown needs for legal services. Enhancing knowledge of the needs of clients will also contribute to an innovative approach to problem solving.

Crown Law now has underway:

- the development of a client relationship management protocol which clearly sets out what clients can expect in their relationship with Crown Law, and reviewing processes to ensure these commitments are met; and
- a programme of exchanges of staff between Crown Law and its clients designed to improve Crown Law's understanding of its clients and also clients' understanding of Crown Law's role and wider responsibilities.

To improve its participation in policy consultation Crown Law has established the new position of Crown Counsel (Policy).

### PROMOTING LEADERSHIP

Promoting Crown Law's legal leadership role contributes to improved standards of legal advice across government. Crown Law has contributed to PS Law, an opinion database and workspace for government lawyers, and led four Chief Legal Advisors' fora and four full client seminars. In addition, Crown Law has provided three newsletters on employment law.



**GOAL 2: ENSURING CROWN LAW IS THE MOST ENGAGING AND RESPONSIVE WORKPLACE FOR LEGAL AND SUPPORT STAFF**

To offer its clients quality legal advice, Crown Law has continued to attract staff of the highest quality. Crown Law aims to ensure that all staff know they are truly valued and have opportunities to continue their career development. This goal is also consistent with the State Sector Development Goals: employer of choice and excellent state servants.

Crown Law has focused on:

- continuing to build leadership and management capability through providing opportunities for Team Leader and senior manager development;
- being clear about performance expectations through the development of competency frameworks and options to reward outstanding performance;
- reviewing Crown Law's approach to the provision of professional development to ensure that the need for a challenging career in the public service is addressed but also that Crown Law is able to respond to the varying needs of clients as an authoritative, trusted, responsive and cost-effective provider of legal services; and
- developing a work environment that is open and receptive to different and more flexible ways of working and which supports a balance between work and home.

# CROWN LAW'S CONTRIBUTION TO GOVERNMENT GOALS AND JUSTICE SECTOR OUTCOMES

## GOVERNMENT THEMES

The Government has identified three key themes as its priorities for the next decade:

- Economic Transformation;
- Families – Young and Old; and
- National Identity.

Through the Justice sector Crown Law contributes strongly to the Families – Young and Old theme, as highlighted below. In a broader sense access to legal services and maintenance of the rule of law underpin all aspects of government and Crown Law has contributed to all three themes by supporting government agencies in meeting their legal responsibilities.

Crown Law has developed a plan to meet the Government's objective for all central government agencies to be on the path to carbon neutrality by 2012. Crown Law is a member of the Govt3 programme, an initiative which encourages government agencies to practise sustainability, and is working towards sustainable initiatives in recycling and waste minimisation and purchasing.

## DEVELOPMENT GOALS FOR THE STATE SERVICES

The Government's overall goal for the State Services is:

*A system of world class professional State Services serving the government of the day and meeting the needs of New Zealanders.*

The State Sector Development Goals outline the future direction for New Zealand's State Services. Crown Law's contribution to the goals is described below.

### GOAL 1: EMPLOYER OF CHOICE

*Ensure the State Services is an employer of choice attractive to high achievers with a commitment to service.*

Crown Law has begun a number of initiatives to ensure it continues to be an attractive employment option for existing staff and prospective employees. These initiatives include delivering leadership and managerial training and development, reviewing the approach to professional development and ensuring that the way Crown Law rewards staff reflects both their contribution and the employment market. Crown Law also reviews its approach to ensuring staff maintain an appropriate balance between work and home life.

## GOAL 2: EXCELLENT STATE SERVANTS

*Develop a strong culture of constant learning in the pursuit of excellence.*

Professional development and translating this into valued results for clients is an ongoing priority. Crown Law is committed to improving access to professional development. During the year Crown Law has focused on developing an appropriate learning framework through which Crown Law can deliver a range of learning opportunities for staff including exchanges and secondments.

## GOAL 3: NETWORKED STATE SERVICES

*Use technology to transform the provision of services for New Zealanders.*

Crown Law has continued to support PS Law, a secure Internet workspace on the Public Sector Intranet that is designed to assist lawyers in the public sector. Through PS Law, public sector lawyers can share their legal advice and intellectual property. Crown Law has sat on the steering group for the workspace and posted legal opinions that have relevance and interest to a wide public sector audience.

## GOAL 4: CO-ORDINATED STATE AGENCIES

*Ensure the total contribution of government agencies is greater than the sum of its parts.*

Crown Law has led four Chief Legal Advisors' fora and four full client seminars, contributing to the quality of legal advice available to government.

Crown Law has collaborated with agencies involved in policy development by providing legal advice when requested. The Solicitor-General has contributed to the Legislation Design Committee.

Crown Law has participated fully in Justice sector processes that are progressively improving planning and management and the quality of

services offered to the public by Justice sector agencies.

## GOAL 5: ACCESSIBLE STATE SERVICES

*Enhance access, responsiveness and effectiveness, and improve New Zealanders' experience of State Services.*

Crown Law has provided legal services across government and contributed indirectly to this goal. Crown Law's approach to the conduct of litigation and management of functions such as the Attorney-General's role as protector of charities has contributed directly to this goal.

## GOAL 6: TRUSTED STATE SERVICES

*Strengthen trust in the State Services, and reinforce the spirit of service.*

Crown Law has provided advice to government agencies, to assist them to meet their legal responsibilities and effectively carry out their functions.

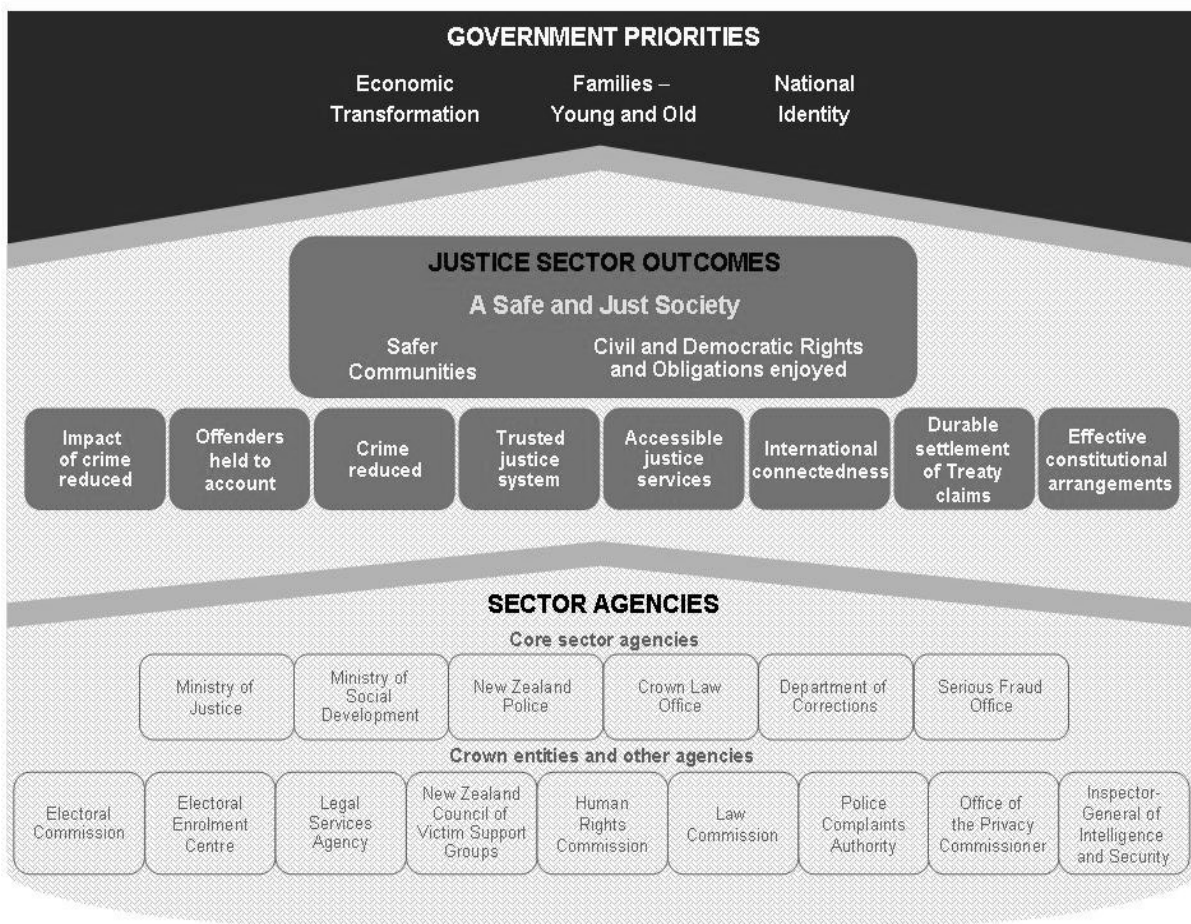
# OVERVIEW OF THE JUSTICE SECTOR

## THE JUSTICE SECTOR – MAKING A DIFFERENCE FOR NEW ZEALANDERS

The Justice sector comprises a complex array of institutions and participants contributing towards government priorities and shared outcomes that are fundamental to the success of New Zealand society.

The following diagram provides an overview of how the agencies in the sector contribute through the sector outcomes to the Government’s priorities.

### Justice sector contribution to government priorities



## SECTOR CONTRIBUTION TO GOVERNMENT PRIORITIES

The Government has set three high-level, long-term priorities for the next decade on which the success of the social, economic, political and cultural activities of the nation will be built:

- Economic Transformation;
- Families – Young and Old; and
- National Identity.

Over the past year, the Justice sector has redeveloped its outcomes framework as part of the sector planning approach that is linked to the achievement of these priorities. Work will continue over the next few years to fully develop the framework and clearly define the contributions of each agency. This includes the development of appropriate performance indicators that will help track performance and demonstrate the progress the sector is making towards the outcomes and government priorities.

### ECONOMIC TRANSFORMATION

The Justice sector supports *Economic Transformation* by providing effective administration and infrastructure for civil courts and tribunals so that national and international business transactions can be conducted with security and confidence. The development of legislation and policy advice by the Justice sector helps to support an effective trading regime for businesses. Reduced crime also has benefits for businesses by supporting a safe domestic environment in which to operate.

### FAMILIES – YOUNG AND OLD

The priority of *Families – Young and Old* seeks to make New Zealand a place in which all New Zealanders:

- can contribute to and benefit from the success of New Zealand;
- have the support and choices they need to be secure and able to reach their potential throughout their lives;
- have access to a safe and secure environment in which they are accorded respect and dignity throughout their lives; and
- are supported to live healthy and fulfilling lives.

The Justice sector supports *Families – Young and Old* by protecting the safety and security of individuals and communities, and ensuring that people can enjoy their civil and political rights. Reducing crime is a key contributor to safe communities – and it is also important to hold offenders to account, and mitigate the impact of crime.

### NATIONAL IDENTITY

The Justice sector contributes to core elements of New Zealand's *National Identity* by providing services that support the maintenance of effective constitutional arrangements. The settlement of Treaty of Waitangi claims, the integrity of electoral processes, how the interests and rights of the individual are addressed and how offenders are treated are all key elements of how New Zealand is characterised as a nation. The sector's contribution to public confidence in the justice system enhances New Zealand's reputation as a good place to live and raise children. The Justice sector has also had an increased role in ensuring that New Zealand is connected internationally. This includes making sure that New Zealand's laws meet international obligations and support New Zealand as an international citizen.

**SECTOR OUTCOMES**

The sector’s overall outcome is a “Safe and Just Society” for New Zealand. For this outcome to be achieved, communities need to be safe and individuals need to feel secure and that they live in a society where civil and democratic rights and obligations can be enjoyed.

Each Justice sector agency has a role to play in delivering on these outcomes, and in many instances sector agencies need to work together

to deliver core services effectively and maximise contributions to outcomes.

The outcomes framework reflects how Justice sector agencies contribute to a safe and just society through eight outcome areas. Further detail about the outcome areas and examples of the contributions of different agencies may be found in the Ministry of Justice Statement of Intent.

**Crown Law’s contribution to Justice sector outcomes**

The table below illustrates the Justice sector outcomes towards which Crown Law’s outcomes, activities and outputs contribute, which are further detailed in the Statements of Objectives and Forecast Service Performance.

Justice Sector Outcome	Contributing Crown Law Outcomes	Crown Law Activities	Crown Law Outputs
Offenders Held to Account  Crime Reduced	Effective Crown Prosecution Service	<ul style="list-style-type: none"> <li>Provision of Solicitor-General’s Prosecution Guidelines</li> <li>Managing Crown Solicitor warrants</li> <li>Prosecution of criminal trials on indictment</li> <li>Conduct of appeals arising out of summary prosecutions</li> <li>Conduct of appeals arising out of criminal trials on indictment and from Crown appeals</li> </ul>	Supervision and conduct of Crown prosecutions  Conduct of criminal appeals
Trusted Justice System	Crown is a model litigant Coherent and consistent legal services across government Law Officers are supported Effective Crown Prosecution Service High-quality legal advice and representation services are provided	<ul style="list-style-type: none"> <li>Adherence to court rules and ethical obligations</li> <li>Provision of legal advice</li> <li>Conducting litigation including criminal prosecution</li> <li>Leadership of government legal services through Chief Legal Advisors’ Forum</li> </ul>	Legal advice and representation Conduct of criminal appeals Supervision and conduct of Crown prosecutions Principal Law Officer functions
International Connectedness	The Crown and its agencies are supported in meeting their legal responsibilities	<ul style="list-style-type: none"> <li>Participation in Pacific and other international legal fora</li> <li>Provision of advice on international legal issues affecting New Zealand</li> </ul>	Principal Law Officer functions Legal advice and representation
Durable Treaty Settlements	Democratic government under law and in the public interest The Crown and its agencies are supported in meeting their legal responsibilities	<ul style="list-style-type: none"> <li>Legal advice on settlements, including during negotiations</li> <li>Representation in the Waitangi Tribunal and courts</li> <li>Advice on policy proposals with implications for Treaty settlements</li> </ul>	Legal advice and representation
Effective Constitutional Arrangements	Democratic government under law and in the public interest Executive Government is conducted lawfully The Crown and its agencies are supported in meeting their legal responsibilities Law Officers are supported	<ul style="list-style-type: none"> <li>Advice to the Attorney-General and Solicitor-General on constitutional issues and Law Officer functions</li> <li>Advice to government agencies on operational legal issues</li> <li>Advice to government agencies on the legal and constitutional implications of policy proposals</li> <li>Representation of government agencies in litigation</li> <li>Conduct of criminal prosecutions</li> </ul>	Principal Law Officer functions Legal advice and representation Conduct of criminal appeals Supervision and conduct of Crown prosecutions

## CHIEF EXECUTIVE'S OVERVIEW

Crown Law supports New Zealand's system of democratic government, in accordance with the law, by providing legal advice and representation to Executive Government and supporting the Attorney-General and Solicitor-General in the performance of their statutory and other functions as Law Officers. Crown Law has continued to perform this role by providing legal advice to government departments and agencies, often on complex and urgent matters, and conducting litigation on behalf of the Crown generally, in the name of the Attorney-General.

Crown Law was involved in matters during the year which covered a wide range of issues and areas of the law. Some of these matters, which demonstrate the nature of work undertaken by Crown Law, are summarised below.

### PUBLIC LAW GROUP

#### HISTORIC DAMAGES CLAIMS

As previously reported, the Crown is being sued by several hundred plaintiffs alleging physical, sexual and psychological abuses in social welfare and other institutional care. During the year four plaintiffs had their cases heard in the High Court at Wellington. The Crown successfully defended each claim.

#### CHILDREN'S HOMES CLAIMS

##### *W v Attorney-General*

This case was the first of the historic abuse claims to be heard by the High Court and is an important precedent for the future cases. The two plaintiffs are brothers who claimed that State Welfare agencies owed them duties of care that were breached when the agencies first failed to place them in long-term foster care,

and then placed them in institutions such as the Epuni Boys' Home or Hokio Beach School. They alleged that whilst they were in those institutions, they were physically, sexually and psychologically abused, badly educated and poorly equipped for adult life, before being returned to their mother and stepfather in whose care they were further ill-treated. The plaintiffs claimed substantial damages for the alleged mental injuries and their subsequent life difficulties, which they alleged were linked to their experiences in care. The trial ran for approximately eight weeks before Miller J in the High Court in Wellington. The Court heard evidence from approximately 50 witnesses.

On 28 November 2007, Justice Miller issued a judgment in favour of the Crown on all causes of action. Miller J found that the early childhood experiences of both plaintiffs while being cared for by their parents were the dominant, if not the overwhelming, cause of their subsequent difficulties. He rejected any liability on the Crown for the failures of the brothers' parents before the plaintiffs were committed to Crown care and accepted the Crown's argument that the standard of social work care should be assessed, and was acceptable, by the standards of the time. Miller J accepted some of the allegations made by the plaintiffs concerning, for example, the incidence of violence and derogatory language within the institutions, an inappropriate use of secure care and the incidence of sexual assault (in respect of one brother). However, he did not consider there to be any connection between what had happened to the plaintiffs in institutional care and their subsequent life difficulties. Ultimately, the claims were also statute barred by the Limitation Act 1950 and the accident compensation legislation.

The plaintiffs have appealed Miller J's judgment.

#### HISTORIC PSYCHIATRIC HOSPITAL CLAIMS

Over 280 former psychiatric patients have filed claims against the Crown Health Financing Agency (CHFA) (a Crown entity established to assume the contingent liabilities of the former Hospital Boards), represented by Crown Law, for alleged mistreatment dating from the 1950s to the 1990s.

The Crown applied to strike out seven plaintiffs' claims (as a representative sample) on the grounds that the claims are barred for lack of leave under the Mental Health Act legislation, now repealed. In 2006 Simon France J found that the claims as pleaded did not fall within the scope of the Mental Health Act immunity and leave provision and overturned an Associate Judge's earlier decision striking out many of the claims for want of leave under the Act. All parties appealed against the High Court decision. A full bench of the Court of Appeal heard the appeal over three days in June 2008. A decision is not expected until towards the end of this year.

#### *Knight v Attorney-General and J v Attorney-General*

Two claims not affected by the strike-out were heard in the Wellington High Court in October and November 2007.

Mr Knight's claim, that two male nurses at Ngawhatu Hospital had sexually abused him, was dismissed. Justice Gendall suspected that "Mr Knight had come to believe his own inventions by repetition". The Judge also found, by way of obiter, that the Limitation Act 1950 would have barred Mr Knight's claim in any event.

J alleged mistreatment while she was a psychiatric inpatient at Porirua Hospital in the 1950s. She claimed damages of nearly \$1m. Justice Gendall dismissed J's claim. Several of her allegations were not proven, including sexual assaults, assaults by other patients and threats of seclusion and electro-convulsive

therapy as punishment. The Judge did find that J had been subjected to low-level assaults by unnamed junior staff, and had witnessed similar assaults on other patients. However, the Judge found that the Limitation Act 1950 was an "insurmountable hurdle", and barred the claim.

In separate decisions, the Judge awarded costs under s 40(5)(e) of the Legal Services Act in favour of CHFA of \$88,160.00 for the *Knight* claim, and \$122,000.00 for the *J* claim. CHFA has now sought a contribution to these costs from the Legal Services Agency.

#### *Hawkins v Commissioner of Police*

This case for unjustifiable dismissal was brought in the Employment Court by a former Police Sergeant, who voluntarily disengaged from the Police on medical grounds in 2001, at a time when he faced criminal charges alleging assault of two youths in Police custody.

The Employment Court found that, notwithstanding the form of the termination, the Sergeant was constructively dismissed. The Court found that Taumarunui Police Station, where Mr Hawkins worked, was a dysfunctional workplace at the time and that the "last straw" that resulted in him "perforating" was comments by his manager to other officers along the lines that he would probably be found guilty, and in any case would not be able to return to policing in Taumarunui whatever the outcome of the criminal trial.

The Court ordered the reinstatement of Mr Hawkins into Police, loss of earnings covering approximately 4½ years and compensation. Police have been given leave to appeal the Employment Court decision to the Court of Appeal, in particular with respect to the finding that the voluntary disengagement could be reversed by way of a personal grievance.

#### *Director-General of Health's review into matters at Hawke's Bay District Health Board*

Crown Law was involved in assisting the Review Panel appointed by the Director-General of Health looking at conflicts of



interest and other matters at the Hawke's Bay District Health Board.

As well as advising the Review Panel on its process, Crown Law appeared for the Panel and for the Ministry of Health in High Court proceedings brought by the Hawke's Bay District Health Board to injunct the Panel's report, and again in proceedings the Ministry took to prevent media publication of confidential drafts of the Panel's report, which was publicly released on 17 March 2008.

#### TAX AVOIDANCE

The steady stream of litigation involving what are alleged by the Commissioner of Inland Revenue to be sophisticated large-scale tax avoidance arrangements continued this year.

In June 2008 the Supreme Court heard the appeals in two significant tax avoidance cases: *Accent Management* and *Glenharrow Holdings Ltd.* These are the first tax avoidance cases (involving income tax and GST, respectively) to have been considered by the new Supreme Court. An application by the taxpayer for leave to appeal to that Court was declined in the *Chelle Properties* tax avoidance case.

The so-called "structured finance" cases, involving high-value and high-profile challenges to tax avoidance assessments by Inland Revenue, continue to move towards trials in March 2009 (involving BNZ) and June 2009 (involving Westpac). The proceedings with Deutsche Bank, mentioned in last year's report, settled during the hearing in November 2007. The cases with the other trading banks also continue.

The cases have thrown up a number of interlocutory matters of significance including, in the last year, a successful application by the Commissioner to strike out those parts of Westpac's proceedings in which it was alleged that the assessments issued to Westpac by the Commissioner were invalid because they allegedly evidenced an inconsistency of approach to tax avoidance and, more particularly, with private rulings he had issued.

That decision has been appealed to the Court of Appeal and the appeal will be heard in September 2008.

As well, in April 2008 the Supreme Court gave its decision upholding the Commissioner's ability in these cases to disclose, and potentially to use, relevant documents obtained from one bank in proceedings involving another bank, notwithstanding the statutory secrecy provisions.

#### UNCLAIMED MONEY

As reported last year, the Commissioner of Inland Revenue filed a claim in the Wellington High Court against BNZ, Westpac and ANZNB claiming that those banks have failed to pay the Commissioner money that is "unclaimed money" under the Unclaimed Money Act 1971. In June 2008 the High Court heard the Commissioner's application for summary judgment as to liability in respect of some of the causes of action pleaded by the Commissioner in his counterclaim. If the Commissioner is successful this will determine the proceeding as a whole.

#### OTHER LITIGATION OF NOTE

##### *Commissioner of Inland Revenue Search and Seizure Powers*

The judicial review proceedings challenging the Commissioner of Inland Revenue's search and seizure powers and, in particular, the Commissioner's actions in removing computer hard drives from premises for copying, remains ongoing. The High Court decided it could not determine the proceedings without witnesses being cross-examined on conflicts in the affidavit evidence and a fixture has been allocated for that to occur.

##### *Air Nelson v Minister of Transport*

Air Nelson appealed against the judgment of the High Court, which had dismissed Air Nelson's application for judicial review of decisions setting landing charges levied by Hawke's Bay airport at Napier. This is a local

government joint venture airport and the decisions under challenge involved the Minister of Transport and the Hawke's Bay Airport Authority.

The Court of Appeal allowed the appeal and quashed the landing charges on the basis that the Minister's function in fixing landing charges is "regulatory", as well as "commercial". Accordingly, administrative law rules applied to the exercise of the power. The Court held that those rules had not been complied with and the officials' report to the Minister did not "fairly and accurately" inform the Minister of Air Nelson's objection and the bases for objection to an increase in landing charges. Although the High Court had exercised its discretion to decline to grant a judicial review remedy notwithstanding an error of law, the Court of Appeal considered that there was no proper basis on the facts to exercise discretion to refuse relief to Air Nelson.

Leave to appeal to the Supreme Court was not sought, partly because Hawke's Bay Airport is expected to be corporatised later in 2008 and will then be able to set landing charges as an airport company under the Airport Authorities Act 1966. In addition, after the Court of Appeal judgment was given, the Airport Authority and airport users agreed on new landing charges to apply from mid 2008 that were then formally fixed by the Minister of Transport on the recommendation of the Ministry of Transport.

#### *Mihos v Attorney-General*

This case concerned the New Zealand Customs Service's seizure and forfeiture of five vehicles following Mr Mihos' undervaluing of the vehicles in the import entry form, an offence under the Customs and Excise Act 1996. The claim attacked the forfeiture under a number of different heads. In an interim judgment issued in July 2007 the High Court dismissed Mr Mihos' challenge to the Act's Part 14 forfeiture regime. The Court found that the regime did not lack due process, breach the presumption of innocence or constitute unreasonable seizure

under the New Zealand Bill of Rights Act 1990, the Bill of Rights 1688 and the Magna Carta. After further submissions from the parties, the High Court gave final judgment in February 2008 upholding the Minister of Customs' refusals to waive forfeiture of the applicant's cars under s 235 of the Act. The Court found that the Minister's power of decision to waive forfeiture was subject to an unreasonableness standard of review, rather than proportionality, and the applicant could not demonstrate unreasonableness on the facts.

#### *Matai Enterprises Limited & Fernleigh Hospital and Retirement Home Limited v Attorney-General*

This case concerned the legality of the Crown's cancellation of a health funding contract between Matai and the Health Funding Agency in respect of a hospital located in Newtown called "Ewart Hospital". Matai closed Ewart Hospital because its lease there was lawfully terminated by Capital Coast Health. Matai claimed it could legally perform its obligations under the health funding contract anywhere in Wellington. The Crown claimed the contract had to be performed at Ewart Hospital and, because Matai could not perform there, it was entitled to cancel the contract. The High Court agreed with the Crown on all grounds and gave judgment for the Attorney-General.

## CRIMINAL & HUMAN RIGHTS GROUP

### SUPREME COURT CASES

Over the period 1 July 2007 to 30 June 2008, the Supreme Court determined 36 applications for leave to appeal to the Court. Thirty-three of the applications were refused leave and three were granted leave to appeal. During the same period, the Supreme Court determined 11 substantive appeals, dismissing two and allowing nine.<sup>1</sup>

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<sup>1</sup> Four of the substantive appeals were heard together. See *R v Reid, Russel, Connolly and Currie*. That appeal was allowed.

*R v Qui (Jiang)*

The appellant was charged that, together with others, she made threats to the victim. The Crown at trial had sought to introduce the evidence of telephone calls made by third persons under the co-conspirators rule. The Supreme Court examined the test for admission of hearsay evidence by co-conspirators and held that there needed to be “reasonable evidence of the existence of a common purpose”. The Court also provided commentary on the need for a cautionary direction to the jury when hearsay evidence of a joint enterprise was let in, and provided some further observations on the practice of using representative counts in an indictment. The appeal was allowed on other grounds.

*R v Rajamani*

The Supreme Court allowed this appeal by Mr Rajamani against his conviction for the murder of his wife. The trial was completed with only 10 jurors – the Crimes Act 1961 allows this to happen in exceptional circumstances. The Supreme Court overturned the Court of Appeal and found that the circumstances were not exceptional. Therefore, there was no basis upon which the trial should have continued with only 10 jurors and a miscarriage of justice resulted. The Court also briefly dealt with issues of provocation and hearsay evidence.

*R v Wong*

This was a further case dealing with the issue of proceeding to verdict with only 10 jurors. Again, the Supreme Court overturned the Court of Appeal and found that there were not exceptional circumstances which warranted continuing with only 10 jurors in the face of objection by the defence at trial. The decisions in *Rajamani* and *Wong* have resulted in a far stricter interpretation being given to the words “exceptional circumstances”. Trial Judges are now more constrained in exercising their discretion to proceed with 10 jurors in the face of an objection by the defence.

*R v Owen*

The Supreme Court dismissed Mr Owen’s appeal where the appellant had contended that the verdict of the jury, which found him guilty on five counts of sexual violation, was unreasonable. The Court examined domestic and international authority on circumstances where a verdict will be held to be unreasonable and thus result in a miscarriage of justice. The Court agreed with the Court of Appeal that, having regard to all the evidence in the present case, the jury could reasonably have been satisfied of the appellant’s guilt on all counts.

*R v Hayes*

The Supreme Court allowed Ms Hayes’ appeal against convictions for dishonestly using documents to gain ACC payments. The questions of law concerned a point of statutory interpretation, namely the meaning of “pecuniary advantage” and the relevance of an accused’s belief that they were entitled to the payments they are said to have dishonestly obtained. The Court clarified that pecuniary advantage simply means any enhancement of a person’s financial position, irrespective of whether the person may or may not be entitled in law to that enhancement. However, the appeal was allowed on the grounds that the trial Judge had misdirected the jury. The Court held that if Ms Hayes did actually believe she was in the circumstances entitled to Accident Compensation, she was not guilty of the offence as charged, even if her belief was unreasonable.

*R v Reid, Russell, Connelly and Currie*

The Supreme Court allowed appeals in respect of costs orders made in the High Court under the Costs in Criminal Cases Act 1967. The four appellants had successfully defended charges of conspiracy to defraud and money laundering. Following their acquittal the High Court made significant orders in their favour, but the Court of Appeal by majority disallowed costs to two of them and reduced the costs of the other two. The Supreme Court held that the trial Judge did

not err in principle in applying the statute and that the costs order should be reinstated.

*R v Ngan*

The Supreme Court dismissed Mr Ngan's appeal against conviction for possession of methamphetamine for supply. A car he was driving in was involved in a serious accident in which he was injured. After Mr Ngan had been taken away to hospital and the Police were dealing with the crash scene, items of his property, including a sealed pouch, were located in the wreckage of his car. In the course of completing an inventory of the items, the Police opened the sealed pouch and discovered a quantity of methamphetamine in it. The Court held that the evidence of the discovery of the methamphetamine was properly admitted. There was no breach of Mr Ngan's right under s 21 of the New Zealand Bill of Rights Act 1990 to be secure against unreasonable search or seizure.

*R v Cumming*

The Supreme Court allowed Mr Cumming's appeal against conviction. The Court found, on the basis of fresh evidence filed on appeal, that it was likely that the appellant's mental condition while he was conducting his own defence meant that he had not obtained a fair trial and that a miscarriage of justice was likely to have occurred.

*Couch v Attorney-General*

This is a civil case being brought against the Attorney-General on behalf of the Probation Service. Susan Couch was a surviving victim of the murders committed by William Bell. Bell committed murder whilst on probation during the course of a robbery of an RSA premises. The Supreme Court, in dealing with the Crown's application to strike out the proceedings, found that the argument that a duty of care was owed by Probation to the victim of a crime was not so untenable that it should be struck out. The matter was referred back to the High Court.

COURT OF APPEAL CASES

During the relevant period, the Court of Appeal issued judgments in 379 criminal appeals. Twenty-six of those appeals were Solicitor-General appeals against sentence or on questions of law; 23 of the 26 appeals were allowed or allowed in part. The Court issued a number of significant judgments, many of which are reported in the New Zealand Law Reports, including:

*R v Alo*

The Court of Appeal grappled with the issue of a prisoner's right of access to a lawyer. Alo was involved in an incident that resulted in his being charged with causing grievous bodily harm. He was arrested and interviewed at a Police station. It was not clear whether the appellant was advised he could obtain legal advice without cost. The Court of Appeal held that there was no absolute requirement for Police to advise suspects of the availability of free legal advice through the Police Detention Legal Assistance scheme. However a failure to give such advice could result in a breach of s 23 of the New Zealand Bill of Rights Act 1990 (right to a lawyer) if:

- the circumstances at the time of the interview, including the suspect's age, experience and remarks, provided a substantial basis for believing that the suspect might not have appreciated he or she had a practical ability to obtain legal advice;
- the defendant provided an evidential basis for the contention that he or she chose not to take legal advice because of cost considerations; and
- the Crown could not disprove that contention on the balance of probabilities.

*R v Tye*

This was a continuation of the argument raised in *R v Alob* above. The appellant was breath tested and subsequently charged under s 56(1) of the Land Transport Act 1998 with driving with an excess breath alcohol limit. The appellant challenged the admissibility of the result of the breath test on the ground the Police failed to properly give him his rights under the New Zealand Bill of Rights Act 1990. The appellant argued that the majority decision in *R v Alob* should be overruled in favour of the minority decision. The Court of Appeal in *Tye* noted that *R v Alob* represented the law in relation to Police questioning undertaken prior to 1 August 2007. However, the Court noted that the minority decision in *R v Alob* effectively became the law from 1 August 2007 due to the Practice Note on Questioning issued by the Chief Justice, which made it mandatory for Police to advise a suspect that legal advice could be obtained under the Police Detention Legal Assistance scheme without charge.

*R v Li*

The appellant was convicted of 29 charges of forgery in relation to a printing business she was running that produced and sold a range of forged degree or diploma certificates. The Court of Appeal ruled that “with the intention of using the document” included an intention to sell and further that there was no requirement to intend to use that document dishonestly. The correct statutory interpretation of the forgery provision was an issue on which the Supreme Court granted leave to appeal. The substantive hearing has taken place and judgment is reserved.

*Burgess v Field*

Detective Superintendent Burgess was appointed to conduct an investigation into alleged offending by Mr Field, a Member of Parliament. This resulted in an application to the High Court for leave to prosecute Mr Field for offences of bribery and corruption under s 103 of the Crimes Act 1961. The High Court granted leave to prosecute. Mr Field sought to

appeal from that decision and the Crown argued that there was no right of appeal. The Court of Appeal found that the decision to grant leave to prosecute was an integral step in the criminal process. Accordingly, the appeal involved an exercise of the Court’s criminal jurisdiction and no right of appeal under s 66 of the Judicature Act 1908 existed. Therefore the Court had no jurisdiction to hear the appeal and it was dismissed.

*R v Leonard*

The Court of Appeal issued a guideline judgment for practitioners on the procedure for applications for leave to appeal from pre-trial rulings under s 379A of the Crimes Act 1961. The guideline judgment was incorporated into the Court of Appeal (Criminal) Amendment Rules 2008, which came into force on 17 April 2008.

*R v Hill*

This case concerned the circumstances in which it was appropriate that the sentence of home detention be available. The Court confirmed that it is not appropriate to artificially tailor a sentence to enable offenders to have the benefit of a home detention option. The Court stated that home detention is unlikely to be granted where a person is convicted of dealing in a drug from his or her home. However the Court considered that home detention was intended to be a mechanism to reduce the number of people sentenced to imprisonment and to reduce the prison population. The sentence of home detention reflected a perception that society’s interests are better served in some cases by the imposition of restrictions on liberty through home detention rather than through imprisonment.

*Police v Z*

In this case the Youth Court had made an order for reparation against Z and X as parents of a young person under s 283(f) of the Children and Young Persons and their Families Act 1989. The High Court overturned the order and the New Zealand Police appealed from that

decision on questions of law. The Court of Appeal upheld the Crown's submission that parental fault was a relevant consideration in the exercise of the discretion to make a reparation order against a parent, but not a pre-condition for making such an order. Similarly, causation was a relevant consideration, but not a pre-condition.

*R v Munro*

Munro was convicted in the District Court of one charge of causing death while driving with excess blood alcohol. He appealed the conviction on the basis that the verdict of the jury was unreasonable or that it could not be supported having regard to the evidence. One of the issues on appeal was the correct test to be applied in assessing a ground of appeal based on unreasonable verdict. The Court held that the correct approach to such a ground was to assess whether a jury acting reasonably ought to have entertained a reasonable doubt as to the guilt of the appellant. A verdict was unreasonable where it was a verdict that, having regard to all the evidence, no jury could reasonably have reached to the standard of beyond reasonable doubt. The test concentrated on a reasonable jury and not on whether the Appellate Court might have differed in its conclusion from that reached by the jury.

*Davies v Police*

Davies was convicted in the District Court on a charge of careless use of a motor vehicle and ordered to pay to the victim reparation to compensate her for the difference between her loss of income and her compensation under the Accident Compensation Scheme. The appellant argued that s 317(1) of the Injury Prevention, Rehabilitation, and Compensation Act 2001 barred the making of the additional reparation order. In the Court of Appeal it was held that the bringing of a charge was not a claim for damages but the commencement of a criminal prosecution, in the course of which the Judge was entitled to award reparation as part of the sentence.

As a result, the Sentencing Act 2002 excluded from the sentence of reparation only entitlements under the Injury Prevention Rehabilitation and Compensation Act 2001 and hence only excluded the amount paid under that Act. There was to be no doubling up of recovery under the two Acts, but that did not prevent a reparation order for the shortfall between the loss of income and her compensation under the Accident Compensation scheme.

*R v King*

The accused and a number of others faced trial before Judge and jury in the High Court on a variety of charges under the Misuse of Drugs Act 1975. Before the trial commenced, Counsel for one accused applied for an order prohibiting the Crown from using data that listed whether a juror had criminal convictions when considering to challenge a person selected by ballot to be on the jury or, alternatively, that the accused have access to the same information. The Court ruled that the Crown was not to rely on information obtained from Police as to criminal records. The Court of Appeal on the Solicitor-General's application held that:

- The Police could lawfully access the criminal records database to provide the Crown Solicitor with the non-disqualifying criminal histories of persons on the jury list to assist the Crown to decide whether to oppose a person on the list. There was no statutory impediment to this.
- The Crown could challenge without cause a person on the basis that the person had one or more non-disqualifying convictions and sentences. The Crown's right of challenge was a pre-emptory right and required no reason to be articulated when exercised.
- In usual circumstances, the Crown was not required or permitted to disclose to the defence non-disqualifying criminal

history information about potential jurors, but was required to do so where a defendant could point to a likelihood that, in the context of the particular case, jurors with criminal histories, or particular criminal histories could have an adverse predisposition towards the defendant or the defence which was to be advanced.

The Supreme Court has granted leave to appeal against the Court of Appeal's decision. That appeal has yet to be heard by the Supreme Court.

*R v Taea, R v Healy and others*

There have been a large number of cases arising out of the application of the Evidence Act 2006. In the above cases the Court addressed the new law on propensity evidence and the distinction between propensity and veracity evidence (*R v Kant*). In *R v Barlien*, the Court examined the new law on previous consistent statements and its interrelation with the common law of recent complaint and *res gestae* and ultimately recommended legislative change. The Court has also had reason to consider the application of s 30 of the new Act to the common law fairness discretion (*R v Petricevich*).

*R v Ahyn and R v Fenton*

Recent successes were had in the Court of Appeal over the requirements of the breath and blood alcohol regimes and leave to appeal has been granted by the Supreme Court in the *R v Ahyn* case.

SIGNIFICANT DISCRIMINATION CASES

*Howard v Attorney-General*

This proceeding concerned a claim of age discrimination under Part 1A of the Human Rights Act 1993. Mr Howard claimed that the age limits on eligibility for vocational rehabilitation under the Injury Prevention, Rehabilitation, and Compensation Act 2001, arising from the link between eligibility for vocational rehabilitation and weekly

compensation (for which there are age limits) were discriminatory. The Tribunal found there was a breach of s 19 of the New Zealand Bill of Rights Act 1990, and consequently Part 1A of the Human Rights Act 1993, and that breach was not justified under s 5 of the Bill of Rights Act 1990. The case is being appealed to the High Court, and a hearing is scheduled for March 2009.

*Bullock v Department of Corrections*

This proceeding concerned a claim of sex discrimination under Part 2 of the Human Rights Act 1993 by Ms Bullock who was a probation officer for the Department of Corrections. She claimed that being asked to move from the front row of a poroporoaki being held for offenders graduating from a criminogenic programme and being denied the right to speak at the poroporoaki was discriminatory on grounds of sex. She also claimed that the warning she was given for her unprofessional behaviour at the poroporoaki was discriminatory as was her subsequent dismissal for publicly criticising departmental policies. Ms Bullock was successful in the first two of these claims but was awarded no compensation. The Human Rights Review Tribunal found that as she had not suffered any humiliation as a result of her treatment, no compensation was warranted. The claim that her dismissal was discriminatory was rejected. The Tribunal held that she was dismissed for publicly criticising various of the Department's policies including those in relation to programmes specifically designed to reduce Maori re-offending, and not because of her refusal to move from the front row of the poroporoaki.

*Child Poverty Action Group v Attorney-General*

This proceeding concerns a claim under Part 1A of the Human Rights Act 1993 that the "off-benefit" requirement for eligibility for the In-Work Tax Credit (IWTC) is discriminatory on the grounds of employment status. The IWTC is part of the Working For Families package and is designed to encourage people to

go off benefit and into work, and if in work, to stay there. The case was heard in the Human Rights Review Tribunal over six weeks, in June and July 2008, and a decision is awaited.

*Atkinson and others v Ministry of Health*

This proceeding is another brought under Part 1A of the Human Rights Act 1993. The claim is that the Ministry of Health's policy in not funding the employment of family members to provide disability support services is discriminatory on grounds of family status. The claim is to be heard by the Human Rights Review Tribunal in September and October 2008.

*Trevethick v Ministry of Health*

Ms Trevethick, a multiple sclerosis sufferer, alleged that the Ministry of Health's provision for modified transport for people with disabilities is discriminatory in light of the comparatively generous provision for similar services under the ACC regime. Ms Trevethick contended that she was discriminated against because of the cause of her disability, which did not arise by accident or other circumstances qualifying for ACC cover.

The Crown successfully argued before the Human Rights Review Tribunal that, although "disability" is a prohibited ground of discrimination under the Human Rights Act, "cause of disability" is not. The Tribunal accepted that Parliament had carefully crafted the statutory definition of disability and that recognition of "cause of disability" as a prohibited ground of discrimination would amount to amendment of the statute. Ms Trevethick's claim of discrimination was accordingly struck out.

Ms Trevethick appealed to the High Court, which upheld the Tribunal's decision. Ms Trevethick was also unsuccessful in obtaining leave from the High Court to appeal the High Court's decision to the Court of Appeal. She has now applied for special leave to appeal directly to the Court of Appeal.

SIGNIFICANT BILL OF RIGHTS CASES

*Boscawen & Ors v Attorney-General*

This proceeding challenged the Attorney-General's function under s 7 of the Bill of Rights Act 1990 to report inconsistencies in proposed legislation with the rights and freedoms contained in the Bill of Rights to the House. The applicants also sought declarations in relation to alleged inconsistencies between provisions of the Electoral Finance Act 2007 and the Bill of Rights Act 1990. The High Court struck out the claim, holding that when discharging his responsibilities under s 7 of the Bill of Rights Act 1990 the Attorney-General is performing a Parliamentary function, and is not acting in his capacity as a member of the executive; that s 7 is an "intra-Parliamentary" provision; and that the exercise of the s 7 function falls under the non-justiciable and privileged category of Parliamentary proceedings. The applicants are now pursuing an appeal to the Court of Appeal (scheduled to be heard on 25 October 2008).

*Taumoa v Attorney-General*

This proceeding concerned a claim for compensation under the New Zealand Bill of Rights Act 1990 in respect of the treatment of prisoners placed in the Behaviour Management Regime at Auckland Prison between 1998 and 2004. The High Court and Court of Appeal had found breaches of the right to treatment with humanity and respect for dignity under s 23(5) of the Act and, in one instance, a more serious breach of the right against disproportionately severe treatment under s 9. Compensation of \$140,000 was awarded to five prisoners.

In August 2007, the Supreme Court gave judgment on an appeal by the plaintiffs, who sought a general finding of breach of s 9 and of the right to natural justice under s 27(1), and a Crown cross-appeal on the award and quantum of compensation. The Court declined the plaintiffs' appeal but upheld, by a majority, the Crown cross-appeal, noting that the level of the awards in the courts below was high relative to the practice of the United Kingdom and



Canadian courts and of the European Court of Human Rights. The total award of compensation was reduced to \$86,000. The Court indicated that some previous awards of compensation under the Bill of Rights Act 1990 were too high.

#### SIGNIFICANT IMMIGRATION CASES

##### *Attorney-General v X*

This proceeding arose from an application by X, a claimant for refugee status, for a declaration and/or order as to complete confidentiality in evidence that he was to give in refugee status proceedings. X was the subject of an arrest warrant issued in another jurisdiction alleging that he had participated in genocide and therefore sought to ensure that the evidence given would not be used for his extradition and/or prosecution in respect of that allegation. After the High Court and the Court of Appeal (by a majority) had upheld X's claim, the Crown applied for and was granted leave to appeal to the Supreme Court.

Following a hearing in April 2008, the Court upheld the Crown appeal. The Court noted, particularly, that to preclude use of information for extradition and/or prosecution would be incompatible with the express provision in the Refugee Convention for the exclusion of persons believed to have committed international crimes and with the obligation to pursue prosecution or extradition of such persons.

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

This Crown appeal to the Court of Appeal was heard on 19 March 2008. A key issue was whether an overstayer who refuses to sign a passport application to assist his deportation may be imprisoned indefinitely.

Mr Yadegary, an Iranian national who is unlawfully present in New Zealand but who has to date obstructed his repatriation, was detained from late 2004 to April 2007 under the special provisions of the Immigration Act 1987 adopted in 2003 to deal with such obstruction.

Mr Yadegary is one of a number of Iranian converts to Christianity who believe that they will be at risk of harm if returned to Iran. The High Court had ordered his release on the basis that the period of detention had become excessive.

The Court of Appeal declined the appeal, upholding the High Court decision that Mr Yadegary's detention was excessive. Consideration is being given to an appeal.

##### *Ding/Ye children & Qiu children v Minister of Immigration*

The appeals concerned the extent to which the existence of New Zealand-born and New Zealand citizen children has a bearing on immigration decisions to compulsorily remove overstayer parents.

The Court of Appeal delivered multiple judgments, dismissing the Qiu children's appeal by a majority and upholding the Ding children's appeal by a majority. The majority in the Ding judgment ordered that the matter be referred back to an immigration officer, if he/she thinks fit. The majority (of the majority judges) in the Ding judgment held that the only inquiry that the immigration officer has to make is to inquire whether there was something about the circumstances of the children that means that the parent should be allowed to stay in New Zealand, not to decide whether it would be in the best interests of the New Zealand-born children to go to China. That issue was for the parents, or the Family Court.

##### *Minister of Immigration v Al-Hosan and Deportation Review Tribunal*

This Crown appeal in a residence permit revocation case was heard by the Court of Appeal on 18 and 19 June 2008. Judgment is reserved.

The case was an application to the High Court for judicial review of the Deportation Review Tribunal's decision upholding revocation of residence permit, which was revoked for falsely failing to declare a criminal record and other

related matters that the residence application form requires to be disclosed. There were 5½ years, residence/personal presence in New Zealand at the time of the notice of revocation. The principal humanitarian factors relied on were the effects that deportation would have on the permit holder's wife and two New Zealand born children (6 and 2 years). It is anticipated that the Court of Appeal will rule on the correct interpretation of the residence permit revocation power in s 22 Immigration Act 1987, whether an appellant before the Deportation Review Tribunal is under a burden of proof to make out his or her case and the extent to which the High Court may revisit factors weighed by the Tribunal.

*Minister of Immigration v Vilceanu/Minister of Immigration v Deportation Review Tribunal*

The Crown's appeal to the High Court from a decision of the Deportation Review Tribunal was allowed in a reserved judgment given on 11 December 2007. This is believed to be the first time in approximately 20 years that an appeal has been brought by the Crown from one of the immigration tribunals. The case concerns Romanian parents who did not disclose the serious blood disease afflicting their young son, prior to residence permits being granted to the family. When this information came to light, the residence permits were revoked for fraud and/or deception. The parents appealed against the permit revocation to the Deportation Review Tribunal and asked for a humanitarian exemption to be made in their favour. They argued that New Zealand's public health system was of a higher standard than Romania's and therefore presented less risk in the treatment of their son's serious disease. There was evidence before the Tribunal that the cost to the New Zealand taxpayer of providing treatment throughout the course of the child's expected lifetime would exceed \$5 million. The High Court held that the Tribunal had failed to correctly carry out the balancing exercise required by the Immigration Act 1987 and had erred in deciding that the family should be allowed to keep their residence permits on the basis that

the son's resulting risk of mortality in the country of origin would be higher than it would be in New Zealand. The High Court directed the Deportation Review Tribunal to rehear the case in light of its judgment. The Vilceanu family have appealed to the Court of Appeal against the High Court's decision.

OTHER IMMIGRATION APPEALS OF NOTE

There was a steady stream of appeals involving residence permit holders convicted of serious criminal offences who consequently became the subject of deportation orders. Appeals to the High Court against deportation orders were dismissed in *Hu* (5 May 2008 – appeal to Court of Appeal pending), *Pulu* (12 May 2008) and *Afamasaga* (25 June 2008).

*Immigration/family law*

Immigration considerations overlapped with family law in two adoption proceedings in the year to 30 June 2007. In one case (parties' identities subject to confidentiality orders) an application for adoption under New Zealand law of Ethiopian children came before the Family Court and submissions were filed on behalf of the Attorney-General (Minister of Immigration).

SIGNIFICANT CLAIMS AGAINST THE DEPARTMENT OF CORRECTIONS

*Miller & Carroll v New Zealand Parole Board & Attorney-General*

This proceeding was heard over 10 days between 23 June and 4 July 2008 before MacKenzie J. His Honour has reserved his decision. The applicants are two prisoners serving sentences of preventive detention who have been declined parole over successive years and now seek release. They are both classified as HRX (highest risk offenders). Their claim challenges the systemic independence and impartiality of the New Zealand Parole Board (and the former Parole Board), alleging that the appointments process, the way in which Board members are remunerated and the relationship between the Board and the Department of

Corrections is unlawful, in breach of the New Zealand Bill of Rights Act 1990 and the International Covenant on Civil and Political Rights, and therefore undermines the independence of the Board. The applicants also made a number of allegations concerning the lawfulness of their individual parole hearings dating back to 1998 and the Department's alleged failure to provide them with treatment for their sex offending prior to their first parole hearing in 2001 and 1998 respectively.

*Smith v Attorney-General*

This application for judicial review challenged a series of security classification decisions and psychological reports issued by the Department of Corrections about Mr Smith, then a maximum security prisoner, during the period 1998-2004.

The Wellington High Court dismissed Mr Smith's application for judicial review. The Court affirmed the lawfulness of the psychological testing of, and reporting on, Mr Smith, and the use of that information in security classification decisions about Mr Smith. The Court also upheld the lawfulness of the various security classification systems operated by the Department during the challenged period, and the classification decisions made about Mr Smith in particular.

OTHER SIGNIFICANT LITIGATION

*Creedy v Commissioner of Police*

This case arose out of disciplinary charges brought against a Senior Sergeant in relation to allegedly inappropriate conduct. Mr Creedy was found guilty of most of the charges before a Police Tribunal. The Tribunal recommended dismissal. Mr Creedy disengaged on medical grounds before the Commissioner of Police had reached any concluded view as to what disciplinary action, if any, he was going to take. Mr Creedy subsequently sought leave to pursue a personal grievance out of time, which was opposed by the Commissioner.

Two issues arose for determination in the Employment Court and then, on subsequent appeals, to the Court of Appeal and the Supreme Court. Firstly, the scope of the test for exceptional circumstances justifying the grant of leave to proceed with a grievance out of time. The Commissioner succeeded in the Court of Appeal and the Supreme Court on his argument that the Employment Court had stated, and applied, the wrong test and that Mr Creedy was unable to point to any exceptional circumstances justifying the grant of leave to pursue a constructive dismissal grievance out of time. Secondly, whether the employment institutions could have regard to the conduct of the Tribunal hearing in considering a grievance. The Employment Court's finding that they could was overturned in the Court of Appeal, but upheld in the Supreme Court.

*Employment Relations Authority v Rawlings*

This was an appeal against a decision of the Employment Court refusing to strike out review proceedings. It was argued that the Employment Court could not entertain an application for review until an applicant had exercised any appeal rights he/she might have. The Court of Appeal upheld the appeal brought on behalf of the Authority.

*Attorney-General v O'Neill*

The Attorney-General applied for orders restraining Mr O'Neill from instituting legal proceedings without first obtaining the leave of the Court. It was argued (successfully) that such orders were necessary, in light of the vexatious nature of Mr O'Neill's persistent litigation (he had filed 114 proceedings in the Human Rights Review Tribunal).

HABEAS CORPUS APPLICATIONS

The Human Rights Team deals with any habeas corpus applications that are filed in the High Court. Such applications must be dealt with within three working days by the Court, and any appeal must be given priority over any other Court business. The Team dealt with a significant number of habeas applications

during the course of the year, together with consequent appeals to the Court of Appeal and applications for leave to the Supreme Court.

COMPLAINTS IN RELATION TO  
INTERNATIONAL HUMAN RIGHTS  
OBLIGATIONS

*Manuel v New Zealand*

This was an individual communication to the United Nations Human Rights Committee in respect of parole and other decisions affecting the author, a prisoner who had been recalled to continue serving a sentence of life imprisonment following violent incidents. The communication alleged a range of breaches of the International Covenant on Civil and Political Rights.

In October 2007, the Committee held that the bulk of the communication was inadmissible, principally because it had been open to Mr Manuel to pursue remedies under New Zealand law and he had not done so. The Committee held a claim of arbitrary detention to be admissible but dismissed that claim on its merits, observing that the violent incidents had justified Mr Manuel's recall and, further, that annual review by the New Zealand Parole Board ensured that Mr Manuel's continuing detention was also justified.

BILL OF RIGHTS ACT VETTING

The Human Rights Team has spent a considerable amount of time undertaking vetting advice to the Attorney-General on Bills.

CONSTITUTIONAL GROUP

FISHERIES & RELATED CLAIMS

*Marlborough District Council v Valuer-General and others*

The High Court was asked to make a declaration as to whether mussel farms authorised by virtue of coastal permits under the Resource Management Act 1991 were rateable under the Local Government (Rating)

Act 2002. The issue raised questions of ownership of the seabed and the nature of occupation rights granted by resource consents. The Court concluded that the coastal permit does not grant real or personal property rights and a coastal permit does not form the basis for a claim for an interest in land. It also concluded that the mussel farms were not part of the Crown's land and the Crown was not, therefore, liable for rates.

*Minister of Fisheries v Pranfield Holdings Limited*

The Court of Appeal heard this appeal concerning claims for damages by unsuccessful applicants for permits to take scampi in 1990. The Court upheld the Crown appeal and dismissed appeals by Pranfield Holdings and others. Specifically, it upheld the Crown appeal against the finding that Ministry of Fisheries officials had breached a statutory duty to Pranfield in failing to issue it a permit to target scampi in August or September 1990, before a moratorium was imposed on the issue of permits for scampi. It also held that the Director-General of Agriculture and Fisheries was generally not under any duty of care or actionable statutory duty in relation to the issuing of fishing permits; that if a decision had been made on the applications before the moratorium was imposed the applications would properly have been declined; and that there was no basis for finding misfeasance in public office.

*Sanford Ltd & Ors v New Zealand*

This was an appeal to the Court of Appeal against a High Court decision which found that the Minister of Fisheries had erred in some respects in setting the Total Allowable Commercial Catch (TACC) for Kahawai in 2004 and 2005. The High Court also found that the Minister had failed to take proper account of the Hauraki Gulf Marine Park Act 2000 when fixing the Total Allowable Catch (TAC) for the stock Kahawai in Quota Management Area 1 (KAH 1), and that the Minister had failed to consider advice from the Ministry to review bag catch limits for

recreational fishers. The Commercial Fishers appealed to the Court of Appeal in relation to the High Court's finding that the Minister set TACCs without having regard to the social, economic and cultural wellbeing of the people, the finding with respect to the Hauraki Gulf Marine Park Act 2000, and the refusal to grant a declaration that the Minister had failed to implement measures to monitor recreational catch of Kahawai. The first respondents, the Recreational Fishers, cross-appealed with respect to the Court's finding regarding the Hauraki Gulf Marine Park Act 2000. The Court of Appeal found the TACC for KAH 1 was invalid and that the decision not to review recreational bag limits was also invalid. The Court disagreed with the grounds on which the High Court found the other TACCs to be invalid. The Court of Appeal set aside the order to reconsider the TACCs and the TAC for KAH 1, but noted an agreement between the Ministry and the industry to reconsider those limits. The Court was sympathetic to the difficult decisions the Minister had to make and agreed that, when making TAC and TACC decisions, the Minister had to walk a tightrope between two powerful interest groups. The Court also found that adequate consideration had been given in relation to the Hauraki Gulf Marine Park Act 2000 for the TAC for KAH 1 but it should have been considered for the TACC for KAH 1 as well. In relation to the declaration being sought that the Minister consider measures to monitor recreational catch, the Court declined on the basis that such resource allocation decisions were for the Government to determine, not the Court. The Recreational Fishers are now seeking leave to appeal to the Supreme Court, on the basis that the Court of Appeal erred in law by rejecting the High Court's analysis as to the statutory interpretation of the relationship between ss 8 and 21 of the Fisheries Act 1996 in relation to the TACC decisions, and the related findings as to the relationship between the TAC and TACC decisions.

*Antons Trawling Company Limited & Ors v Minister of Fisheries*

The applicants challenged the Minister's decision in September 2007 to reduce the TAC for the stock Orange Roughy in Quota Management Area 1 (ORH 1) by 38% on the basis that the decision was unlawful, unreasonable and procedurally unfair. The key legal issue related to the range of the Minister's powers/duties under s 13 of the Fisheries Act 1996 when he or she considers that a TAC should be varied but there is limited information in relation to the fish stock. The application for review succeeded and the decision was quashed. The Court found that the Minister set the TAC even though there was insufficient information provided to make such a decision, and that a survey could be taken, but had not been, which could have indicated the likely order of magnitude of Orange Roughy stocks. As a result, the Minister supported an amendment to s 13, which was introduced on 21 July 2008.

ELECTORAL FINANCE ACT LITIGATION

During the year Crown Law acted for the Electoral Commission in two proceedings challenging Commission decisions made under the Electoral Finance Act 2007.

*Kirk v Electoral Commission & EPMU*

The first proceeding, brought by the National Party, challenged a decision to register the Engineering Printing and Manufacturing Union (EPMU) as a third party under the Act. The National Party claimed that the Commission made an error of law in deciding that EPMU was not a "person" in terms of the relevant part of the Act, and that it could therefore be registered as a third party. EPMU filed a counterclaim alleging that the Commission was not entitled in law to seek and consider outside views on an application for third party listing. The Court upheld the first challenge, rejecting contextual and Bill of Rights Act 1990 arguments that, in context, "person" was restricted to natural persons, but rejected the counterclaim.

*Kirk v Electoral Commission*

The second challenge, also from the National Party, alleged that the Commission decision not to refer a New Zealand Labour Party pamphlet to the Police for possible prosecution was an error of law. The Court held that the Commission was called upon to make a value judgment that was for the Commission and not the Court. The Court found that the Commission had clearly applied the correct test and could properly form the view that the better course was to deal with the issue by an educative process rather than by reporting to Police.

*Kirk v Electoral Commission & EPMU*

The plaintiff claimed the Commission had erred in law by listing EPMU as a third party under the Electoral Finance Act 2007, because EPMU is involved in the administration of the affairs of the Labour Party, and was therefore ineligible for listing.

The Commission submitted that the judgment in the first EPMU proceeding emphasised the importance of the rules of the political party rather than the rules of any third party applicant in determining eligibility for listing. It also noted that a claimed failure to refer to the EPMU rules did not feature in the plaintiff's pleadings. More generally the Commission submitted that it had come to a decision that was open to it on the facts, which, in accordance with established case law, should not be lightly disturbed by the courts.

The High Court determined that the Commission's findings were open to it on the evidence, and that the question for the Court is not whether it would have reached the same conclusion on the facts, but whether the conclusion which the Commission reached was clearly untenable. The Court also held that the Commission was not required to undertake an examination of EPMU rules. The extent of inquiry which the Commission makes is a matter for it. Accordingly the Court dismissed the application.

*Challenge to refusal to order a new inquest: Berryman v Solicitor-General and New Zealand Defence Force*

The Berrymans applied for judicial review of the Solicitor-General's 2005 decision declining to order a second inquest into the death of beekeeper, Kenneth Richards. The High Court dismissed the causes of action against the Solicitor-General on the basis that the Solicitor-General's decision not to order a new inquest was not based on any material mistake of fact, was reasonable and was not made as a result of a procedurally unfair process. The High Court also dismissed the claim against the New Zealand Defence Force (NZDF) holding that NZDF decisions and/or conduct in relation to the inquest could not be challenged in a judicial review proceeding brought against the NZDF, but would need to be challenged by way of review of the Coroner's decision.

However, the Berrymans succeeded in part on their application to review the Coroner's decision. The High Court held that although the irregularities alleged against the Coroner were not made out or did not cause unfairness to the Berrymans, it was clear that the Berrymans' concern was that the Coroner's hearing was unfair to them because of the NZDF's conduct. The Court held that the NZDF's conduct, as previously stated by the High Court and concurred with by the Solicitor-General, raised real doubt as to whether justice was done or was seen to be done in respect of the findings of fact concerning the adequacy of the design and construction of the bridge and the apportioning of responsibility to the parties as a result. The Court therefore ordered that those findings be formally quashed, but did not alter the Coroner's findings concerning the Berrymans' responsibility to maintain the bridge.

*Challenge to independence and impartiality of judiciary: Wikio & Beckham v Attorney-General*

The applicants in this matter were both convicted in the High Court and unsuccessfully appealed their convictions. They claimed that the High Court and the Court of Appeal that

heard their cases were not independent and impartial and that the decisions of both Courts were therefore invalid. The applicants also challenged the constitutionality of legislation providing for the appointment of acting High Court Judges, the process of nominating High Court Judges seconded to the Court of Appeal, the divisional nature of the Court of Appeal and the impartiality of a sitting Judge holding a concurrent appointment as a Law Commissioner.

The High Court dismissed the applications on all points but did express a view that payment of a “higher duties allowance” for High Court Judges seconded to the Court of Appeal might challenge s 24 of the Constitution Act 1986, which requires that the salary of a Judge of the High Court must not be reduced. The Court considered that it was arguable that a reduction in salary occurs when the additional salary ceases to be payable, expressing a concern that the basis for such payments is not expressly authorised by the Remuneration Authority Act 1977. The Court noted that it did not consider the issue raised any implications for the independence and impartiality of the Judges who heard the applicants’ appeals or indeed any Court.

*Allegation that Court owed natural justice obligations to non-party: Quantum Laboratory Ltd & Ors v Dunedin District Court*

The plaintiffs in this case claimed that findings made in a District Court decision were adverse to their interests and breached the principles of natural justice. The plaintiffs were neither parties nor witnesses in the District Court proceedings.

The High Court found that the District Court judgment, in particular the comments of the Judge relating to the qualifications of one of the plaintiffs, had adversely affected that plaintiff, and that another plaintiff was potentially adversely affected. This was especially so given that the first plaintiff was not a witness in the case and had no opportunity to defend himself.

However, the Court further held that a requirement that a non-party should be given an opportunity to be heard in an adversarial proceeding was incompatible with the dynamics of that system. The absence of a rule providing for procedural fairness in favour of non-parties in an adversarial process has arisen for good reason. Accordingly, despite the concerns the Court held in relation to the treatment of the plaintiffs in the District Court judgment, it held that there was no breach of natural justice for which a remedy was available. The case is currently under appeal to the Court of Appeal.

*Right to Life Inc v Abortion Supervisory Committee*

Right to Life sought judicial review of the exercise by the Abortion Supervisory Committee of its powers and functions under the Contraception, Sterilisation, and Abortion Act 1977. The High Court held that the abortion law neither confers nor recognises a legal right to life for the unborn child. It also dismissed the plaintiff’s challenges to the independence of counselling services provided to women under the Act.

The Court held, however, that there is reason to doubt the lawfulness of many abortions authorised by certifying consultants and that the Committee has misinterpreted its functions and powers under the abortion law, reasoning incorrectly that the Court of Appeal decision in *Wall v Livingston* means it may not review or scrutinise the decisions of certifying consultants.

The Court refused mandatory relief and reserved for further argument the question whether declarations ought to be made.

The Committee has appealed the decision and Right to Life has cross-appealed. The appeal is likely to be heard in early 2009.

*Challenge to Privacy Commissioner request for information: Jeffries v Privacy Commissioner*

The plaintiff challenged the lawfulness of information requests made of him by the Privacy Commissioner. The requests arose out

of a Commissioner investigation into complaints made by the Ps, United States citizens who travelled to New Zealand in 1999 and left again in early 2000. The plaintiff had a client involved in litigation against the Ps and obtained the dates of their entry into and exit from New Zealand. The Ps wished to lodge a complaint against the agency that provided the plaintiff with that information, alleging that to do so was a breach of their privacy. The plaintiff alleged that, as a barrister in court proceedings, barristerial immunity meant he could not be the subject of a complaint under the Privacy Act 1993, and prevented the Commissioner from requiring him to provide information relevant to a complaint against another party.

The Court dismissed the review, finding that the Commissioner had jurisdiction to require the plaintiff to provide information and that no barristerial immunity existed to allow the plaintiff to refuse the statutory requirement to provide information. The decision has been appealed to the Court of Appeal.

*Central North Island Forests Iwi Collective settlement and the Te Arawa Affiliate Iwi and Hapu settlement*

Crown Law continued to provide advice to departments on a broad range of Treaty of Waitangi issues. A particular focus for the year was the Central North Island forestry negotiations, which culminated in the introduction of legislation in June to give effect to two significant settlements of historical land claims, the Central North Island Forests Iwi Collective settlement and the Te Arawa Affiliate Iwi and Hapu settlement.

Crown Law gave initial advice last year over the drafting of terms of agreement to guide the negotiations. Through the course of the negotiations Crown Law supported the secretariat of officials run out of the Treasury. A particular focus was the management of litigation in the Waitangi Tribunal, which raised issues of overlapping claims and mandate. Proceedings seeking injunctions were also filed in the Maori Land Court, which were resisted.

At the same time, the New Zealand Maori Council and Federation of Maori Authorities with Ngati Tuwharetoa pursued litigation through to an appeal in the Supreme Court. That litigation challenged the Crown's conduct in agreeing an earlier settlement with Affiliate Te Arawa Iwi/Hapu, which involved the transfer of licensed forest land.

*Paki v Attorney-General*

The plaintiffs claimed that 19<sup>th</sup> century land transactions gave rise to enforceable fiduciary obligations. The High Court held that the Waikato River is legally navigable from the mouth to Lake Taupo. Consequently, all of the riverbed was vested in the Crown in 1903, under the Coal-mines Act Amendment Act 1903. The Court considered that the Act was intended to secure navigation rights as well as mineral rights in riverbeds. The test for navigability under the Act requires assessing the "whole of the river"; considering legal navigability in sections of a river is not possible. The Court also rejected the argument that the Crown owed Maori a general fiduciary duty when purchasing Maori land during the 1880s and 1890s. Canadian precedents favouring fiduciary duty approaches were firmly rejected. Harrison J held that the Court's obligation was to act in the wider public interest, not exclusively for the benefit of Maori.

The decision has been appealed to the Court of Appeal by the plaintiffs.

*Taranaki Whanui*

The other work of the Treaty team ranged across advice on the construction of settlements such as the agreement with Taranaki Whanui over the Wellington area, resulting in a Deed of Settlement in June; in the Waitangi Tribunal the Whanganui Inquiry, the single large regional inquiry currently in hearing and due to be concluded next year, has involved a small team of counsel and researchers addressing both historical and contemporary Treaty claims.



**Statistics for Decisions given for Criminal Appeals**

<b>SUPREME COURT (CRIMINAL APPEALS)</b>	<b>NUMBERS</b>
Application for leave to appeal	36
Refused	33
Granted	3
Application for leave to appeal granted, substantive hearing held	11
Allowed	9
Dismissed	2

<b>COURT OF APPEAL (CRIMINAL APPEALS)</b>	<b>NUMBERS</b>
Solicitor-General appeals filed	26
Pre-trial	9
Sentence	5
Case stated	12
Solicitor-General appeals heard	26
Allowed	23
Dismissed	3
Criminal appeals filed (includes Solicitor-General appeals)	457
Heard orally	379
Abandoned	78



**Dr David Collins QC**  
Solicitor-General and Chief Executive

## ORGANISATION INFORMATION

Crown Law is organised into three practice groups, comprising seven client service legal teams and a Corporate Services group. The legal teams are focused on the delivery of specialist legal services to government covering the following core areas of business:

- Public Law issues which, for example, arise out of the exercise and control of governmental power and public sector governance
- The conduct of Crown prosecutions and criminal appeals
- Constitutional advice and litigation including Treaty of Waitangi work, advice on international human rights obligations, bill of rights, and constitutional conventions.

The practice group structure is designed to enable better co-ordination of work, to enable improved sharing of resources across teams, and to improve the capacity to serve Ministers and clients. A Deputy Solicitor-General is responsible for the professional leadership and management of each practice group. Within each practice group, there are a number of specialist client service teams. A Team Leader, who is a Crown Counsel, has responsibility for the development and management of staff in each team and is also the principal contact point for clients of the team. Each team is staffed with further Crown Counsel, Associate Crown Counsel, Assistant Crown Counsel, and Litigation and Secretarial Support staff.

The current\* Group/Team structure comprises:

Practice Group	Legal Teams
Public Law Group	<ul style="list-style-type: none"> <li>• Social Services and Employment Team</li> <li>• Tax and Commercial Team</li> </ul>
Criminal & Human Rights Group	<ul style="list-style-type: none"> <li>• Criminal Team and Crown Solicitors</li> <li>• Human Rights Team</li> </ul>
Constitutional Law Group	<ul style="list-style-type: none"> <li>• Law Officer Team</li> <li>• Natural Resources Team</li> <li>• Treaty Issues and International Law Team</li> </ul>

Corporate Services consists of Finance, Human Resources, Information Technology, Knowledge Management, Litigation Services, Support Services, including Facilities Management and Central Business Support.

\* These were restructured in January 2008.

## MANAGEMENT STRUCTURE

### *SENIOR MANAGEMENT GROUP:*

Dr David Collins QC	Solicitor-General
Cheryl Gwyn	Deputy Solicitor-General (Constitutional Law)
Rebecca Ellis	Acting Deputy Solicitor-General (Public Law) to 29 February 2008
Dr Matthew Palmer	Deputy Solicitor-General (Public Law) from 1 March 2008
Cameron Mander	Deputy Solicitor-General (Criminal Law & Human Rights)
Diana Pryde	Practice Manager

### *LEGAL TEAM LEADERS:*

Bronwyn Arthur	Team Leader, Natural Resources
Rebecca Ellis	Team Leader, Taxation and Commercial*
Maria Deligiannis	Acting Team Leader, Taxation and Commercial**
Peter Gunn	Team Leader, Law Officer
Virginia Hardy	Team Leader, Treaty Issues and International Law
Brendan Horsley	Team Leader, Criminal Law
Una Jagose	Team Leader, Social Services and Employment
Christina Inglis	Team Leader, Human Rights

## HUMAN RESOURCE MANAGEMENT

During 2007/08 the overall permanent staffing of Crown Law increased to reflect the increased demand for services. The number of employees permanently employed at year-end was as follows:

	<b>30 June 2008</b>	<b>30 June 2007</b>
Solicitor-General, Deputy Solicitors-General and Practice Manager	5	5
Counsel (including Legal Advisors)	90	88
Legal Support***	24	12
Secretarial and Word Processing	32	30
Corporate Services Group	33	29
Total Number of Employees	184	164

(Part-time arrangements are included in these numbers)

\* From 1 March 2008 to 27 April 2008, previously Acting Deputy Solicitor-General (Public Law Group).

\*\* From 28 April 2008.

\*\*\* From 1 January 2008, contracted part-time Litigation Support staff were moved to permanent part-time.

## OUR PEOPLE CAPABILITY

Crown Law, like other professional service organisations strives to have human resources management policies, processes and systems directed towards attracting and retaining experienced and skilled staff across the organisation.

One of the main attractions for lawyers wanting to work at Crown Law is the diverse range of work not found in any other legal practice in New Zealand.

As the largest public law and litigation practice in New Zealand, Crown Law has been and continues to be a sought after workplace for lawyers.

Crown Law, in accordance with its obligations under s 56 of the State Sector Act 1988 is constantly working towards providing a healthy and supportive work environment for all staff and contractors.

Crown Law's success in realising potential and maximising contribution is dependent on providing clear expectations, successfully challenging people to perform to the highest standard, developing and supporting individual performance potential and being flexible about how that performance is delivered.

The learning and development opportunities within Crown Law continue to focus on the development and enhancement of Crown Law staff.

The Legal Counsel competencies referred to in the previous Annual Report are well underway having been well received by those who will be most directly affected by them.

The introduction of the competencies will be followed by a review of the systems by which Counsel performance is assessed and measured. A further range of competencies will be developed for all support staff positions within Crown Law.

The issue of remote working was assessed during the year although no decisions have been taken in relation to that.

Crown Law currently has a number of staff on reduced or modified hours to meet various work/life balance commitments and we expect to see further applications under the provisions of the flexible working hours arrangements recently introduced through changes to the Employment Relations Act 2000 from staff for changes to work hours, particularly where those staff are providing care for another person.

Since the early part of 2008 the Pay and Employment Equity for Women Review (PEER) has been underway.

The work of the PEER Committee is expected to be concluded by late August 2008 with some issues arising out of that work requiring further work or in some cases ongoing monitoring.

Crown Law and the Public Service Association continue to collaborate on a range of issues including negotiation for a new Collective Employment Agreement.

Crown Law is continuing to make progress in maintaining an environment which values its people, is a desirable and satisfying place to work and which encourages organisational as well as individual potential and growth.

## CROWN SOLICITOR NETWORK

There are 15 private law practitioners holding 16 warrants as Crown Solicitors. Together with their partners and staff solicitors, Crown Solicitors prosecute indictable offences in those centres where District Court and High Court jury trials are conducted.

## LEGISLATIVE RESPONSIBILITIES

Crown Law administers the Crown Solicitors Regulations 1994 which set out the basis upon which the scale of fees is calculated and the process by which fees are claimed and paid to

Crown Solicitors for undertaking Crown prosecution work.

The Cabinet Directions for the Conduct of Crown Legal Business 1993 govern the conduct of legal business between the Law Officers of the Crown, Crown Law and government departments and agencies.

## INFORMATION SYSTEMS MANAGEMENT

Effective use is made of information technology and systems to support the legal advice and representation functions of Crown Law. Much of the focus of this investment is directed towards the production and management of documents, the conduct of legal research, communication with clients and the management of matters on behalf of those clients. Strategies are in place to ensure that technology and systems are reviewed on a regular basis and updated or replaced where justified.

## ELECTRONIC LITIGATION SUPPORT IN CROWN LAW

The highlight of the year for Litigation Services has been the introduction of electronic litigation support into Court and Tribunal hearings.

System@Law Court has been used successfully in two hearings with another two planned in the near future. System@Law Court has reduced the hearing time in Court by an estimated 25%, reportedly made it much less stressful for witnesses and much easier and quicker for Counsel to locate the documents they are wishing to present to the Court.

System@Law Court is used in conjunction with Signature Canoe which is the document management system introduced to Crown Law in 2006 for managing large volume document cases, and for preparing discovery lists.

## KNOWLEDGE MANAGEMENT

During the year Crown Law continued to develop a knowledge-based approach to the

management of Crown Law's records, document management and other key information resources.

Significant work carried out during the year included the Review of Core Business Processes.

This review identified the management of information as a key area needing development and several projects have been initiated to address this need. These projects include development of an expertise directory, establishing a good practice repository and enhancing the litigation management planning process.

## OFFICE ACCOMMODATION

Crown Law is located in Unisys House, The Terrace and occupies four floors of office accommodation. The premises are under lease until 31 March 2013, with a further renewal available until 31 March 2019.

## ENVIRONMENT

Crown Law is a member of the Govt3 network and the Carbon Neutral Public Service. Crown Law continues to work on improving energy efficiency, minimising waste and emissions and sustainable purchasing.

In January 2008 we introduced an office-wide waste reduction and recycling system. The recycling includes paper, cardboard, toner cartridges, fluorescent tubes, glass, plastic, cans and compostables including food waste and paper towels. A waste audit conducted in June 2008, six months after the implementation of the recycling system, identified a 73% reduction in the volume of waste being sent to landfill. This represents a reduction from 44kg to 12kg per full-time equivalent staff member (per annum).

Various energy saving initiatives have been implemented including the use of energy efficient light bulbs, motion sensor light controls, zoned floor lighting and after hours lighting timers; the installation of water

efficient shower heads, the use of timers to turn off water filters and billies at the end of the day, the replacement of electric coffee machines with thermal plunger pots, and economy settings being utilised on dishwashers.

Sustainability is considered when purchasing stationery and other office consumables. All white copier/printer paper is 100% recycled and chlorine-free as are Crown Law letterhead and business cards. Toilet paper, hand towel and soap dispensers specifically designed to reduce paper/soap wastage are being used in conjunction with 100% recycled Green Seal Certified sanitary papers and economical foam soap. All kitchen-cleaning products utilised within the office meet the relevant NZ Environmental Choice standards.

Crown Law has invested in specialised e-litigation software enabling the scanning, storing and viewing of large quantities of evidential paper thereby reducing the quantity of paper being printed and replicated as evidence documentation.

Progress will be monitored and further areas of improvement in sustainability identified in an effort to reduce our carbon footprint.

## STAFF PUBLICATIONS AND PRESENTATIONS DURING THE YEAR

### MARK HICKFORD

“John Salmond and Native Title in New Zealand: Developing a Crown theory on the Treaty of Waitangi, 1910-1920”, *Victoria University of Wellington Law Review*, xxxviii, 4 (2007), 853-924.

“A Conceptual Approach to Privacy”, NZLC MP19, report for the New Zealand Law Commission, (1 November 2007) (refer to <http://www.lawcom.govt.nz/Publications.aspx>).

Contributing author to Law Commission, *Privacy Concepts and Issues*, NZLC SP19 (8 February 2008).

### CHRIS CURRAN

Gave a staff seminar at Otago University – R v Condon: *The Supreme Court and the Right to Counsel*.

Lectured in Otago’s Laws 482 Bill of Rights: Theory and Practice course.

Gave a Laws 449/549 seminar (Comparative Human Rights) at Victoria University.

### BEN KEITH

Paper for LexisNexis Public and Administrative Law Conference, February 2008 – R v Hansen *and Standards of Review in Administrative Law*.

“Seeing the World Whole: Understanding the Citation of External Sources in Judicial Reasoning” (2008) *New Zealand Journal of Public and International Law*, 99 (first presented as a paper to Victoria University Conference *From Professing to Advising to Judging*, August 2007).

### JOHN PIKE

Article for Introduction to Advocacy, NZLS text: *Criminal Appeals*.

Paper for HOPAC Conference July 2007 – *Tort Liability Arising from the Perspective of an Offence*.

Paper for Legal Research Foundation Conference on Bill of Rights July 2007 – NZ BORA: *Remedies and Proportionality in Criminal Proceedings: A Prosecution Perspective*.

Paper for 12<sup>th</sup> Annual IAP Conference September 2007 – *Litigation Involving Prosecutors’ Decisions: Judicial Review*.

### CHERYL GWYN

NZLS Judicial Review Intensive, Intercontinental Hotel, Wellington 3 September 2007, *Discovery & Evidence in the Context of Judicial Review*.

# STATEMENT OF RESPONSIBILITY

## FOR THE YEAR ENDED 30 JUNE 2008

Pursuant to s 45 and s 45c of the Public Finance Act 1989, I am responsible, as the Chief Executive of Crown Law, for the preparation of the financial statements, statement of objectives and service performance and the judgements made in the process of producing these financial statements.

In my opinion, these financial statements, statement of objectives and service performance fairly reflect its financial position and operations of Crown Law for the financial year ended 30 June 2008.

I have responsibility of establishing and maintaining Crown Law's internal control procedures designed to provide reasonable assurance as to the integrity and reliability of the financial reporting.



**Dr David Collins QC**  
Solicitor-General and Chief Executive  
30 September 2008

Countersigned by:



**Chris Walker**  
Chief Financial Officer  
30 September 2008



**Diana Pryde**  
Practice Manager  
30 September 2008

# AUDIT REPORT

TO THE READERS OF  
CROWN LAW OFFICE'S  
FINANCIAL STATEMENTS AND STATEMENT OF SERVICE PERFORMANCE  
FOR THE YEAR ENDED 30 JUNE 2008

The Auditor-General is the auditor of Crown Law Office (the Office). The Auditor-General has appointed me, John O'Connell, using the staff and resources of Audit New Zealand, to carry out the audit on his behalf. The audit covers the financial statements and the statement of service performance included in the annual report of the Office for the year ended 30 June 2008.

## Unqualified Opinion

In our opinion:

- The financial statements of the Office on pages 43 to 83:
  - comply with generally accepted accounting practice in New Zealand; and
  - fairly reflect:
    - the Office's financial position as at 30 June 2008; and
    - the results of its operations and cash flows for the year ended on that date.
- The statement of service performance of the Office:
  - complies with generally accepted accounting practice in New Zealand; and
  - fairly reflects for each class of outputs:
    - its standards of delivery performance achieved, as compared with the forecast standards outlined in the statement of forecast service performance adopted at the start of the financial year; and
    - its actual revenue earned and output expenses incurred, as compared with the forecast revenues and output expenses outlined in the statement of forecast service performance adopted at the start of the financial year.

The audit was completed on 30 September 2008, and is the date at which our opinion is expressed.

The basis of our opinion is explained below. In addition, we outline the responsibilities of the Solicitor-General and the Auditor, and explain our independence.



## **Basis of Opinion**

We carried out the audit in accordance with the Auditor-General's Auditing Standards, which incorporate the New Zealand Auditing Standards.

We planned and performed the audit to obtain all the information and explanations we considered necessary in order to obtain reasonable assurance that the financial statements and statement of service performance did not have material misstatements, whether caused by fraud or error.

Material misstatements are differences or omissions of amounts and disclosures that would affect a reader's overall understanding of the financial statements and statement of service performance. If we had found material misstatements that were not corrected, we would have referred to them in our opinion.

The audit involved performing procedures to test the information presented in the financial statements and statement of service performance. We assessed the results of those procedures in forming our opinion.

Audit procedures generally include:

- determining whether significant financial and management controls are working and can be relied on to produce complete and accurate data;
- verifying samples of transactions and account balances;
- performing analyses to identify anomalies in the reported data;
- reviewing significant estimates and judgements made by the Solicitor-General;
- confirming year-end balances;
- determining whether accounting policies are appropriate and consistently applied; and
- determining whether all financial statement and statement of service performance disclosures are adequate.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements and statement of service performance.

We evaluated the overall adequacy of the presentation of information in the financial statements and statement of service performance. We obtained all the information and explanations we required to support our opinion above.

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

The Solicitor-General is responsible for preparing the financial statements and statement of service performance in accordance with generally accepted accounting practice in New Zealand. The financial statements must fairly reflect the financial position of the Office as at 30 June 2008 and the results of its operations and cash flows for the year ended on that date. The statement of service performance must fairly reflect, for each class of outputs, the Office's standards of delivery performance achieved and revenue earned and expenses incurred, as compared with the forecast standards, revenue and

expenses adopted at the start of the financial year. The Solicitor-General's responsibilities arise from section 15 of the Public Audit Act 2001 and section 45D (2) of the Public Finance Act 1989.

We are responsible for expressing an independent opinion on the financial statements and statement of service performance and reporting that opinion to you. This responsibility arises from section 15 of the Public Audit Act 2001 and section 45D(2) of the Public Finance Act 1989.

### **Independence**

When carrying out the audit we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the Institute of Chartered Accountants of New Zealand.

Other than the audit, we have no relationship with or interests in the Office.



John O'Connell  
Audit New Zealand  
On behalf of the Auditor-General  
Wellington, New Zealand

### **Matters relating to the electronic presentation of the audited financial statements**

This audit report relates to the financial statements of Crown Law Office (the Office) for the year ended 30 June 2008 included on the Office's web site. The Office is responsible for the maintenance and integrity of the Office's web site. We have not been engaged to report on the integrity of the Office's web site. We accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the web site.

The audit report refers only to the financial statements named above. It does not provide an opinion on any other information which may have been hyperlinked to/from these financial statements. If readers of this report are concerned with the inherent risks arising from electronic data communication they should refer to the published hard copy of the audited financial statements and related audit report dated 30 September 2008 to confirm the information included in the audited financial statements presented on this web site.

Legislation in New Zealand governing the preparation and dissemination of financial statements may differ from legislation in other jurisdictions.

# STATEMENT OF OBJECTIVES AND SERVICE PERFORMANCE

FOR THE YEAR ENDED 30 JUNE 2008

## OUTPUT EXPENSE: CONDUCT OF CRIMINAL APPEALS

### OBJECTIVE

To determine whether the Crown should take pre-trial and case stated appeals in the appeals against sentence are lodged and to appear or arrange representation at the hearing of appeals whether brought by the Crown or by offenders following trials on indictment.

### OUTCOME

By conducting criminal appeals Crown Law contributes to the Justice sector outcome for safer communities that requires that offenders be held to account. By its conduct in criminal appeals Crown Law also contributes to the outcome of a trusted Justice system in which civil and democratic rights and obligations are enjoyed.

### FINANCIAL PERFORMANCE

(Figures are GST exclusive)

<b>2007 Actual</b>		<b>2008 Actual</b>	<b>2008 Main Estimates</b>	<b>2008 Supp Estimates</b>
<b>\$000</b>		<b>\$000</b>	<b>\$000</b>	<b>\$000</b>
3,363	Revenue – Crown	3,120	2,995	3,120
3,175	Expenditure	2,539	2,995	3,120
188	Net surplus / (deficit)	581	-	-

### EXPLANATION OF MAJOR VARIATIONS:

The surplus arose from the rescheduling of matters that were anticipated to be heard by the Privy Council before the end of June 2008, and an unexpected reduction in the number of matters and hearings.

OUTPUT EXPENSE: CONDUCT OF CRIMINAL APPEALS - CONTINUED

SERVICE PERFORMANCE

QUANTITY

2007 Actual	Measures	2008 Actual	2008 Forecast
	Number of Decisions by the Court of Appeal/Supreme Court/Privy Council arising out of criminal trials on indictment, brought by:		
29	• the Crown	26	30 - 35
412	• offenders	353	550 - 600
	Decisions made on requests for the Solicitor-General to take Crown appeals in relation to:		
15	• sentence	12	40 - 50
14	• case stated or other appeals	14	25 - 30

QUALITY AND TIMELINESS

Measures	Performance
Success rate for appeals brought by the Solicitor-General to be not less than 60%	26 appeals brought by the Solicitor-General have been heard. 23 appeals (88.5%) have been decided in favour of the Solicitor-General
Compliance with court procedures and requirements of the judiciary as specified in the <i>Court of Appeal and Supreme Court Practice Notes – Criminal Appeals</i>	No complaints have been received by Crown Law for non-compliance with court procedures and practice notes
The hearing of sentence appeals to be undertaken in accordance with the schedule of sitting days which is agreed by the court one month in advance, and resulting in no requests for adjournment being sought by the Crown	The hearing of appeals was undertaken in accordance with the timetable set by the court
Decisions to appeal by the Crown are taken in accordance with the statutory deadlines. Written submissions are filed within the timeframe stipulated in the practice notes prepared for the guidance of counsel in the Court of Appeal and Supreme Court	The Crown filed written submissions within the timeframe stipulated in the <i>Court of Appeal Practice Note – Criminal Appeals</i>

## OUTPUT EXPENSE: LEGAL ADVICE AND REPRESENTATION

### OBJECTIVE

To provide legal advice and representation services to central government departments and agencies with special emphasis on matters of public and administrative law, including Treaty of Waitangi and revenue issues.

The legal advice and representation services provided are to take into account the responsibility of the Government to conduct its affairs in accordance with the law and the underlying obligation (to discharge their responsibilities) of the Attorney-General and Solicitor-General by acting in the public interest.

### OUTCOME

Crown Law contributes to the outcomes of its clients and the wider public sector by protecting the Crown's legal interests and supporting the responsibilities of the Crown, so that the Government is able to lawfully implement its chosen policies and Executive Government is conducted lawfully. This, in turn, contributes to the outcome of democratic government under law and in the public interest.

By meeting the Crown's objectives as a model litigant Crown Law contributes to the Justice sector outcome of a trusted Justice system by upholding public interest factors in the application of the law, including trial by process and fair results.

### FINANCIAL PERFORMANCE

(Figures are GST exclusive)

<b>2007 Actual \$000</b>		<b>2008 Actual \$000</b>	<b>2008 Main Estimates \$000</b>	<b>2008 Supp Estimates \$000</b>
19,571	Revenue – Department	20,469	21,100	21,100
18,720	Expenditure	19,599	21,100	21,100
851	Net surplus / (deficit)	870	-	-

### EXPLANATION OF MAJOR VARIATIONS:

The surplus is due to changes in accounting policy for overdue bills and work in progress, and an unexpected change in resources allocated to client matters.

**OUTPUT EXPENSE: LEGAL ADVICE AND REPRESENTATION - CONTINUED**

**SERVICE PERFORMANCE**

**QUANTITY**

<b>2007 Actual</b>	<b>Measures</b>	<b>2008 Actual</b>	<b>2008 Forecast</b>
454	Number of new instructions for legal advice	333	500 – 600
903	Average number of requests for legal advice in progress during the year	781	750 – 850
787	Number of new instructions in respect of litigation matters	511	600 – 700
2,632	Average number of litigation matters in hand	2,677	2,000 – 2,200

**EXPLANATION OF MAJOR VARIATIONS:**

Although there is a decrease in the number of instructions for advice and litigation, the issues require significantly more resources.

**QUALITY AND TIMELINESS**

<b>Measures</b>	<b>Performance</b>
Legal advice, including opinions and representation services, will be provided in accordance with Crown Law's Professional Standards: Crown Law Advice and Conduct of Litigation, respectively	Quality assurance review processes have been implemented to ensure compliance with the standards established for legal advice and representation services

## OUTPUT EXPENSE: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS

### OBJECTIVE

To provide a national Crown prosecution service to undertake criminal trials on indictment, and related appeals, the supervision of the network of Crown Solicitors who deliver the prosecution services and the provision of advice on criminal law matters.

This output class comprises three outputs:

- *Crown Prosecution Services* – The provision of a national Crown prosecution service to undertake criminal trials on indictment, including appeals against conviction and sentence arising from summary prosecutions, for all regions in New Zealand.
- *Supervision of the Crown Solicitor Network* – Includes administering the Crown Solicitors Regulations 1994, and in particular the classification of counsel, approval of special fees and approval of additional counsel for lengthy or complex trials.
- *Criminal Law Advice and Services* – The provision of advice in relation to criminal law and undertaking work in the following areas: proceeds of crime, mutual assistance, blood sampling for DNA, requests for Crown appeals, consents to prosecute, applications for stays and immunity from prosecution, and ministerials in relation to criminal matters.

### OUTCOME

Crown Law is responsible for prosecuting indictable crime throughout New Zealand, and contributes to effective Crown Prosecution Services and the justice sector outcome for safer communities that require that offenders be held to account. By its conduct of Crown prosecutions Crown Law also contributes to the outcome of a trusted Justice system in which civil and democratic rights and obligations are enjoyed.

### FINANCIAL PERFORMANCE

(Figures are GST exclusive)

<b>2007 Actual</b>		<b>2008 Actual</b>	<b>2008 Main Estimates</b>	<b>2008 Supp Estimates</b>
<b>\$000</b>		<b>\$000</b>	<b>\$000</b>	<b>\$000</b>
31,510	Revenue – Department	34,514	31,865	34,515
32,119	Expenditure	34,683	31,865	34,515
(609)	Net surplus / (deficit)	(169)	-	-

### EXPLANATION OF MAJOR VARIATIONS:

The deficit arose during the last quarter of the year and is mainly in relation to preparation cost for trials in the 2008/09 year, together with increase trial time and associated costs.

**OUTPUT EXPENSE: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS - CONTINUED**

**SERVICE PERFORMANCE – OUTPUT: CROWN PROSECUTION SERVICES**

**QUANTITY**

<b>2007 Actual</b>	<b>Measures</b>	<b>2008 Actual</b>	<b>2008 Forecast</b>
	Number of trials for indictable crime:		
1,790	• District Court	1,523	1,350 – 1,450
222	• High Court	198	160 – 180
	Number of high cost trials for indictable crime*		
68	• District Court	91	180 – 200
79	• High Court	73	120 – 140
	Number of other criminal matters conducted by the Crown Solicitors:		
1,238	• Bail applications and appeals	1,373	1,500 – 1,600
2,821	• Guilty pleas / lower band and middle band sentencing	2,989	2,600 – 2,800
572	• Appeals relating to summary prosecutions	555	750 – 850

**EXPLANATION OF MAJOR VARIATIONS:**

The length of time to dispose of criminal matters continues to grow. This impacts on cost and the number of matters completed.

**QUALITY AND TIMELINESS**

<b>Measures</b>	<b>Performance</b>
Prosecution services to be provided in accordance with prosecution guidelines and case management practices developed by the Solicitor-General and judiciary, respectively  Review of each Crown Solicitor practice on a cyclical basis	The review of three Crown Solicitor practices has been completed

\* Cost greater than \$20,000.



**OUTPUT EXPENSE: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS - CONTINUED**

**SERVICE PERFORMANCE – OUTPUT: SUPERVISION OF CROWN SOLICITOR NETWORK**

**QUANTITY**

<b>2007 Actual</b>		<b>2008 Actual</b>	<b>2008 Forecast</b>
0	Number of Crown Solicitors' practices to be reviewed	3	1 – 2
300	Number of new applications from Crown Solicitors for special fees, classification of counsel and approval of additional counsel	390	275 – 325

**EXPLANATION OF SIGNIFICANT VARIANCES:**

The number of Crown Solicitors' practices reviewed was increased due to the prior year shortfall.

Multi defendant trials, and the amount of time required, in excess of the Crown Solicitors Regulations, to address some complex legal issues, resulted in the increased number of applications for special fees and approval of additional counsel.

**QUALITY AND TIMELINESS**

<b>Measures</b>	<b>Performance</b>
Applications by Crown Solicitors for special fees, classification of counsel and approval of additional counsel to be considered in accordance with the Crown Solicitors Regulations 1994 and Crown Law's protocols which support the application of the Regulations. The protocols describe the processes to be followed, the quality standards relating to the process and the content and justification required for the applications	All applications made by Crown Solicitors were considered in accordance with the Crown Solicitors Regulations 1994, and Crown Law's protocols, which support the application of the Regulations. Notification of approval and feedback on the applications was formally advised to the Crown Solicitor within the agreed timeframe

**OUTPUT EXPENSE: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS - CONTINUED**

**SERVICE PERFORMANCE – OUTPUT: SUPERVISION OF CROWN SOLICITOR NETWORK - CONTINUED**

**QUALITY AND TIMELINESS - CONTINUED**

<b>Measures</b>	<b>Performance</b>
<p>The provision of prosecution services by Crown Solicitors is to be reviewed by an independent review panel with reference to a range of quality standards which include:</p> <ul style="list-style-type: none"> <li>• compliance with professional standards of conduct;</li> <li>• application of the Solicitor-General’s prosecution guidelines;</li> <li>• compliance with court procedures and the requirements of the judiciary and clients in the management of cases;</li> <li>• compliance with the Crown Solicitors Regulations 1994 and, in particular, the charging for services rendered; and</li> <li>• compliance with the protocols and financial guidelines developed by Crown Law to support the application of the Regulations</li> </ul>	<p>The Review Panel, which comprised a senior representative of Crown Law and an independent advisor, performed a review of three Crown Solicitor practices compressing four warrants during the period. The review addressed compliance with the performance measures covering:</p> <ul style="list-style-type: none"> <li>• case processing efficiency and effectiveness; and</li> <li>• practice management case allocation, “good employer” responsibilities, financial reporting on cases and compliance with the Regulations and the supporting protocols</li> </ul>

**CROWN SOLICITOR PRACTICE REVIEW PROCESS**

The Crown Solicitor Practice Review process has been established to ensure that Crown Solicitors meet certain quality standards in undertaking Crown prosecutions. These standards are described in the above table. It is aimed to review all Crown Solicitor practices at least once in each four- to five-year period. The number of reviews undertaken in any year will depend upon the size of the practice to be reviewed, the resources available to undertake the reviews and the operational efficiencies derived from reviewing practices in close geographic proximity.

**CROWN SOLICITOR APPOINTMENT PROCESS**

The Solicitor-General is responsible for the process of appointment of Crown Solicitors. The process, which includes extensive consultation and inquiry to determine the suitability of candidates to undertake the role of Crown Solicitor, results in a recommendation to the Attorney-General and, in turn, to the Governor-General for the issuing of the Crown Solicitor warrant. During the year three new Crown Solicitors were appointed in Wellington, Wanganui and Whangarei.

**OUTPUT EXPENSE: SUPERVISION AND CONDUCT OF CROWN PROSECUTIONS - CONTINUED**

**SERVICE PERFORMANCE – OUTPUT: CRIMINAL LAW ADVICE AND SERVICES**

**QUANTITY**

<b>2007 Actual</b>	<b>Measures</b>	<b>2008 Actual</b>	<b>2008 Forecast</b>
326	Number of new requests for legal advice or determination of applications received in relation to criminal law issues	251	300 – 400
502	Average number of requests for legal advice or determination of applications in relation to criminal law in process during the year	490	400 – 450
31	Number of new ministerials and parliamentary questions received	35	30 – 40

**QUALITY AND TIMELINESS**

<b>Measures</b>	<b>Performance</b>
Legal advice, including opinions, and representation services to be provided in accordance with Crown Law’s Professional Standards: Crown Law Advice and Conduct of Litigation, respectively	Quality assurance review processes have been implemented to ensure compliance with the standards established for legal advice and representation services
<p>Ministerial correspondence and parliamentary questions to be responded to within the following timeframes:</p> <ul style="list-style-type: none"> <li>• Replies to ministerial correspondence will be completed within 20 working days of receipt in 90% of cases</li> <li>• All responses to parliamentary questions will be provided within the required deadlines</li> </ul>	<ul style="list-style-type: none"> <li>• 23 ministerial questions were concerning the Terrorism Suppression Act 2002. These questions could not be answered until the Solicitor-General had completed his review. All other replies to ministerial correspondence were provided within the required timeframe in 83% of cases (2007: 97%)</li> <li>• 7 Responses to parliamentary questions were provided, 100% of responses were within the required time (2007: 100%)</li> </ul>

## OUTPUT EXPENSE: THE EXERCISE OF PRINCIPAL LAW OFFICER FUNCTIONS

### OBJECTIVE

This output class covers the provision of legal and administrative services to the Attorney-General and Solicitor-General to assist them in the exercise of their Principal Law Officer functions, the provision of legal advice to government and Ministers of the Crown including advice on constitutional and governance-related issues and advice to the judiciary regarding legal processes.

The particular services provided include monitoring the enforcement and application of the law, supervision of charities, representation of the public interest, relator proceedings, vexatious litigant proceedings and the exercise of a variety of powers, duties and authorities arising from statutory requirements and constitutional conventions. This output class also involves the review of legislation for compliance with the New Zealand Bill of Rights Act 1990 and advice on the appointment processes for Judges and Queen's Counsel and participation in PILON.

### OUTCOME

By supporting the Law Officers, who have a constitutional role in the lawful conduct of Executive Government, Crown Law contributes to democratic government under the law and in the public interest, and to the Justice sector outcome of effective constitutional arrangements.

### FINANCIAL PERFORMANCE

(Figures are GST exclusive)

2007 Actual \$000		2008 Actual \$000	2008 Main Estimates \$000	2008 Supp Estimates \$000
	Revenue:			
2,164	- Crown	3,178	2,995	3,178
3	- Other	55	-	-
2,167		3,233	2,995	3,178
2,108	Expenditure	1,740	2,995	3,178
59	Net surplus / (deficit)	1,493	-	-

### EXPLANATION OF MAJOR VARIATIONS:

The appropriation was increased to the expected level of services to be provided. The increase in other revenue is mainly the recovery of costs awarded by the Court.

The unexpected surplus arose late in the year and was due to members of the Constitutional Group being allocated client files that are classified as Legal Advice and Representation and the subsequent reclassification of costs to that output expense. The matters contributing to this adjustment: Child Poverty Action Group v Attorney-General, Electoral Finance Act 2007 litigation and other litigation.

**OUTPUT EXPENSE: THE EXERCISE OF PRINCIPAL LAW OFFICER FUNCTIONS - CONTINUED**

**SERVICE PERFORMANCE**

**QUANTITY**

<b>2007 Actual</b>	<b>Measures</b>	<b>2008 Actual</b>	<b>2008 Forecast</b>
237	Number of new applications or requests for advice received for action on behalf of the Attorney-General and Solicitor-General	145	120 – 140
393	Average number of applications or requests for legal advice in progress during the year	393	320 – 340
170	Number of new ministerials and parliamentary questions received	273	240 – 260

**QUALITY AND TIMELINESS**

<b>Measures</b>	<b>Performance</b>
Legal advice, including opinions, and representation services to be provided in accordance with Crown Law's Professional Standards: Crown Law Advice and Conduct of Litigation, respectively	Not aware of any instances where standards have not been maintained
Brief the Attorney-General in a timely and relevant way on significant legal matters affecting the Crown	A weekly report is provided to the Attorney-General advising on significant legal matters involving the Crown
Ministerial correspondence and parliamentary questions to be responded to within the following timeframes: <ul style="list-style-type: none"> <li>• Replies to ministerial correspondence will be completed within 20 working days of receipt in 90% of cases</li> <li>• All responses to parliamentary questions will be provided within the required deadlines</li> </ul>	<ul style="list-style-type: none"> <li>• Replies to ministerial correspondence were provided within the required timeframe in 89% of cases (2007: 93%)</li> <li>• 7 Responses to parliamentary questions were provided, 100% of responses were within the required time (2007: 100%)</li> </ul>

# INCOME STATEMENT

## FOR THE YEAR ENDED 30 JUNE 2008

2007 Actual		Note	2008 Actual	2008 Main Estimates	2008 Supp Estimates
\$000			\$000	\$000	\$000
<b>Revenue</b>					
37,037	Crown		40,812	38,038	40,813
19,574	Other	3	20,524	21,100	21,100
<u>56,611</u>	<b>Total revenue</b>		<u>61,336</u>	<u>59,138</u>	<u>61,913</u>
<b>Expenditure</b>					
16,076	Personnel costs	4	16,839	18,035	18,035
39,084	Operating costs	5	40,781	40,121	42,896
865	Depreciation	6	844	885	885
97	Capital charge	7	97	97	97
<u>54,122</u>	<b>Total expenses</b>		<u>58,561</u>	<u>59,138</u>	<u>61,913</u>
<u>489</u>	Net operating surplus/(deficit)		<u>2,775</u>	<u>-</u>	<u>-</u>

The accompanying notes form part of these financial statements.

## STATEMENT OF MOVEMENTS IN TAXPAYERS' FUNDS FOR THE YEAR ENDED 30 JUNE 2008

2007 Actual		2008 Actual	2008 Main Estimates	2008 Supp Estimates
\$000		\$000	\$000	\$000
1,297	Taxpayers' funds as at 1 July	1,424	1,297	1,297
489	Net surplus/(deficit) for the year	2,755		
-	Capital contribution	639	-	639
-	Movements in revaluation reserve	-	-	-
(362)	Provision for repayment of surplus	(2,755)	-	-
127	<b>Movements in equity for the year</b>	639	-	639
1,424	Taxpayers' funds as at 30 June	2,063	1,297	1,936

Taxpayers funds have increased by \$127,000 as a result of the remeasurement arising from the reassessment of prior years' provision for doubtful debts and doubtful Work in Progress (see Note 20)

The accompanying notes form part of these financial statements.

## BALANCE SHEET

AS AT 30 JUNE 2008

2007 Actual		Note	2008 Actual	2008 Main Estimates	2008 Supp Estimates
\$000			\$000	\$000	\$000
1,424	<b>TAXPAYERS' FUNDS</b>	14	2,063	1,936	1,936
	Represented by:				
	<b>CURRENT ASSETS</b>				
3,746	Cash and cash equivalents		7,260	3,675	3,797
221	Prepayments		205	216	216
3,879	Debtors and receivables	8	4,350	3,133	3,133
<u>7,846</u>	<b>Total current assets</b>		<u>11,815</u>	<u>7,024</u>	<u>7,146</u>
	<b>NON-CURRENT ASSETS</b>				
3,087	Property, plant and equipment	9	2,654	2,775	2,653
119	Intangible assets	10	49	169	202
-	Receivables and advances		-	-	-
<u>3,206</u>	<b>Total non-current assets</b>		<u>2,703</u>	<u>2,944</u>	<u>2,855</u>
<u>11,052</u>	<b>Total assets</b>		<u>14,518</u>	<u>9,968</u>	<u>10,001</u>
	<b>CURRENT LIABILITIES</b>				
8,005	Creditors and payables	11	8,328	6,793	6,826
1,010	Employee entitlements	12	1,090	986	986
362	Repayment of surplus	13	2,775	-	-
<u>9,377</u>	<b>Total current liabilities</b>		<u>12,193</u>	<u>7,779</u>	<u>7,812</u>
	<b>NON-CURRENT LIABILITIES</b>				
251	Employee entitlements	12	262	253	253
<u>251</u>	<b>Total non-current liabilities</b>		<u>262</u>	<u>253</u>	<u>253</u>
<u>9,628</u>	<b>Total liabilities</b>		<u>12,455</u>	<u>8,032</u>	<u>8,065</u>
<u>1,424</u>	<b>NET ASSETS</b>		<u>2,063</u>	<u>1,936</u>	<u>1,936</u>

The accompanying notes form part of these financial statements.



## STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED 30 JUNE 2008

2007 Actual		2008 Actual	2008 Main Estimates	2008 Supp Estimates
\$000	Note	\$000	\$000	\$000
<b>Cash flows – operating activities</b>				
<i>Cash was provided from: Supply of outputs to</i>				
37,037	- Crown	40,812	38,038	40,813
18,990	- Other	20,694	21,100	21,140
56,027		61,506	59,138	61,953
<i>Cash was applied to: Produce outputs</i>				
15,631	- Personnel	16,840	18,035	18,035
36,081	- Operating	38,605	38,229	41,082
2,204	- Net GST paid/(received)	2,387	2,431	2,431
97	- Capital charge	97	97	97
-	- Other	-	-	-
54,013		57,929	58,792	61,645
2,014	<b>Net cash inflow from operating activities</b>	3,577	346	308
<b>Cash flows – investing activities</b>				
<i>Cash was provided from:</i>				
-	- Sale of fixed assets	-	-	-
<i>Cash was disbursed for:</i>				
494	Purchase of fixed assets	339	494	372
100	Purchase of intangible assets	2	200	162
594		341	694	534
(594)	<b>Net cash outflow from investing activities</b>	(341)	(694)	(534)
<b>Cash flows – financing activities</b>				
<i>Cash was provided from:</i>				
	- Capital contributions	639	639	639
<i>Cash was disbursed for:</i>				
273	Repayment of surplus	361	362	362
(273)	<b>Net cash outflow from financing activities</b>	278	277	277
1,147	<b>Net increase in cash</b>	3,514	(71)	51
2,599	Cash at the beginning of the year	3,746	3,746	3,746
3,746	<b>Cash at the end of the year</b>	7,260	3,675	3,797

The accompanying notes form part of these financial statements.

## STATEMENT OF COMMITMENTS

AS AT 30 JUNE 2008

Crown Law leased office premises in Wellington as from 1 April 2004. The term of the lease is for an initial period of nine years expiring on 31 March 2013. Annual lease payments are subject to three-yearly reviews.

Other leases are subject to a range of review periods. The amounts disclosed below as future commitments are based on the current rental rates.

<b>2007</b>		<b>2008</b>
<b>Actual</b>		<b>Actual</b>
<b>\$000</b>		<b>\$000</b>
	<b>Capital commitments</b>	
	There were no capital commitments as at 30 June 2008	
	<b>Non-cancellable operating lease commitments</b>	
1,691	Not later than one year	1,674
6,692	Later than one year and not later than five years	6,272
1,254	Later than five years	-
9,637	Total non-cancellable operating lease commitments	7,946
9,637	Total commitments	7,946

## STATEMENT OF DEPARTMENTAL CONTINGENT LIABILITIES

AS AT 30 JUNE 2008

There were no departmental contingent liabilities as at 30 June 2008 (2007: Nil).

The accompanying notes form part of these financial statements.

# STATEMENT OF UNAPPROPRIATED EXPENDITURE AND CAPITAL EXPENDITURE

FOR THE YEAR ENDED 30 JUNE 2008

2007 Unappropriated Expenditure \$000		2008 Actual \$000	2008 Appropriation Voted \$000	2008 Unappropriated Expenditure \$000
609	Output expense – Supervision and Conduct of Crown Prosecutions	34,683	34,515	168

#### **Expenses approved under Section 26B of the Public Finance Act 1989**

Crown Law incurs costs in relation to the national Crown prosecution service to undertake criminal trials, on indictment, including appeals against convictions and sentence arising from summary prosecutions. The unexpected increase in Crown Solicitor time, during June, resulted in actual costs exceeding those appropriated by \$168,000.

This unappropriated expenditure has been approved by the Minister of Finance in terms of section 26B of the Public Finance Act 1989.

The accompanying notes form part of these financial statements.

# STATEMENT OF DEPARTMENTAL EXPENDITURE AND APPROPRIATIONS

FOR THE YEAR ENDED 30 JUNE 2008

2007 Actual \$000		2008 Actual \$000	2008 Main Estimates \$000	2008 Supplementary Estimates \$000
<b>VOTE: Attorney-General Appropriations for classes of outputs</b>				
3,175	Conduct of Criminal Appeals	2,539	2,995	3,120
18,720	Legal Advice and Representation	19,599	21,100	21,100
32,119	Supervision and Conduct of Crown Prosecutions	34,683	31,865	34,515
2,108	The Exercise of Principal Law Officer Functions	1,740	3,178	3,178
56,122	<b>Total appropriations for classes of outputs</b>	58,561	59,138	61,913
<b>Appropriations for capital contribution</b>				
594	Capital investment	341	-	534
56,716	<b>Total appropriations</b>	58,902	59,138	62,447

As per requirement of s 2 and s 4 of the Public Finance Act 1989, expenditure reported should exclude remeasurements from appropriation. There have been no remeasurements identified during 2007 and 2008 financial year, which implies that the actual expenditures incurred are equal to the expenditures after remeasurement.

The accompanying notes form part of these financial statements.

# SCHEDULE OF TRUST MONIES

FOR THE YEAR ENDED 30 JUNE 2008

Account	As at 1 July 2007	Contribution	Distribution	Revenue	Expenses	As at 30 June 2008
	\$000	\$000	\$000	\$000	\$000	\$000
Claim Trust Account	65	2,986	2,933	2	-	120

This interest bearing account is operated to receive and pay legal claims and settlements on behalf of clients of Crown Law. In accordance with the Public Finance Act 1989 the interest income is payable to the Crown.

# NOTES TO THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2008

## NOTE 1: STATEMENT OF ACCOUNTING POLICIES

### **Reporting entity**

Crown Law is a government department as defined by s 2 of the Public Finance Act 1989 and is domiciled in New Zealand.

In addition, Crown Law has reported on Crown activities and trust monies which it administers.

The primary objective of Crown Law is to provide services to the public rather than making a financial return. Accordingly, Crown Law has designated itself as a public benefit entity for the purposes of New Zealand equivalents to International Financial Reporting Standards (NZ IFRS).

The financial statements of Crown Law are for the year ended 30 June 2008. The financial statements were authorised for issue by the Chief Executive of Crown Law on 26 September 2008.

### **Basis of preparation**

The financial statements of Crown Law have been prepared in accordance with the requirements of the Public Finance Act 1989, which includes the requirement to comply with New Zealand generally accepted accounting practices (NZ GAAP).

These financial statements have been prepared in accordance with, and comply with, NZ IFRS as appropriate for public benefit entities.

This is the first set of financial statements prepared using NZ IFRS. The comparatives for the year ended 30 June 2007 have been restated to NZ IFRS accordingly. Reconciliations of equity and net surplus for the year ended 30 June 2007 under NZ IFRS to the balances reported in the 30 June 2007 financial statements are detailed in note 20.

The accounting policies set out below have been applied consistently to all periods presented in these financial statements and in preparing an opening NZ IFRS statement of financial position as at 1 July 2006 for the purposes of the transition to NZ IFRS. The financial statements have been prepared on a historical cost basis.

The financial statements are presented in New Zealand dollars and all values are rounded to the nearest thousand dollars (\$000). The functional currency of Crown Law is New Zealand dollars.

## NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

Standards, amendments and interpretations issued but not yet effective that have not been early adopted, and which are relevant to Crown Law include:

- NZ IAS 1 *Presentation of Financial Statements (revised 2007)* replaces NZ IAS 1 *Presentation of Financial Statements (issued 2004)* and is effective for reporting periods beginning on or after 1 January 2009. The revised standard requires information in financial statements to be aggregated on the basis of shared characteristics and to introduce a statement of comprehensive income. This will enable readers to analyse changes in equity resulting from transactions with the Crown in its capacity as “owner” separately from “non-owner” changes. The revised standard gives Crown Law the option of presenting items of income and expense and components of other comprehensive income either in a single statement of comprehensive income with subtotals, or in two separate statements (a separate income statement followed by a statement of comprehensive income). Crown Law expects it will apply the revised standard for the first time for the year ended 30 June 2010, and is yet to decide whether it will prepare a single statement of comprehensive income or a separate income statement followed by a statement of comprehensive income.

### **Revenue**

Revenue is measured at the fair value of consideration received.

#### *Revenue Crown and Revenue Other*

Crown Law derives revenue through the provision of outputs to the Crown and for services to third parties. Such revenue is recognised when earned and is reported in the financial period to which it relates.

### **Capital charge**

The capital charge is recognised as an expense in the period to which the charge relates.

### **Leases**

#### *Operating leases*

An operating lease is a lease that does not transfer substantially all the risks and rewards incidental to ownership of an asset. Lease payments under an operating lease are recognised as an expense on a straight-line basis over the lease term.

Crown Law leased office premises in Wellington as from 1 April 2004. The term of the lease is for an initial period of nine years expiring on 31 March 2013. Annual lease payments are subject to three-yearly reviews.

Other leases are subject to a range of review periods. The amounts disclosed below as future commitments are based on the current rental rates.

## NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

### **Financial instruments**

Financial assets and financial liabilities are initially measured at the fair value plus transaction costs unless they are carried at fair value through profit or loss in which case the transaction costs are recognised in the statement of financial performance.

### **Cash and cash equivalents**

Cash includes cash on hand and funds on deposit with maturities of less than three months with the Government Branch, Westpac Banking Corporation.

### **Debtors and other receivables**

Debtors and other receivables are initially measured at fair value and subsequently measured at amortised cost using the effective interest rate, less impairment changes. The carrying value of debtors and other receivables approximate their fair value.

Impairment of a receivable is established when there is objective evidence that Crown Law will not be able to collect amounts due according to the original terms of the receivable. The amount of the impairment is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted using the original effective interest rate. The carrying amount of the asset is reduced through the use of an allowance account, and the amount of the loss is recognised in the statement of financial performance. Overdue receivables that are renegotiated are reclassified as current (i.e. not past due).

### **Debtors work in progress**

Work in progress is determined as unbilled time and disbursement that can be recovered from clients, and are measured at the lower of cost or net realisable value.

The write-down from cost to current net realisable value is recognised in the statement of financial performance in the period when the write-down occurs.

### **Property, plant and equipment**

Property, plant and equipment consists of leasehold improvements, computer hardware, furniture and office equipment.

Property, plant and equipment is shown at cost or valuation, less accumulated depreciation and impairment losses.

Individual assets, or group of assets, are capitalised if their cost is greater than \$1,000. The value of an individual asset that is less than \$1,000 and is part of a group of similar assets is capitalised.

#### *Additions*

The cost of an item of property, plant and equipment is recognised as an asset if, and only if, it is probable that future economic benefits or service potential associated with the item will flow to the Crown Law and the cost of the item can be measured reliably.



## NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

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

### *Disposals*

Gains and losses on disposals are determined by comparing the proceeds with the carrying amount of the asset. Gains and losses on disposals are included in the statement of financial performance. When revalued assets are sold, the amounts included in the property, plant and equipment revaluation reserves in respect of those assets are transferred to general funds.

### *Subsequent costs*

Costs incurred subsequent to initial acquisition are capitalised only when it is probable that future economic benefits or service potential associated with the item will flow to the Crown Law and the cost of the item can be measured reliably.

### *Depreciation*

Depreciation is provided on a straight-line basis on all property, plant and equipment, at rates that will write off the cost (or valuation) of the assets to their estimated residual values over their useful lives. The useful lives and associated depreciation rates of major classes of assets have been estimated as follows:

Leasehold improvements	9 years	(11.1%)
Computer hardware	3 years	(33.3%)
Furniture and fittings	5 years	(20%)
Office equipment	5 years	(20%)
Library	10 years	(10%)

Leasehold improvements are depreciated over the unexpired period of the lease or the estimated remaining useful lives of the improvements, whichever is the shorter.

The residual value and useful life of an asset is reviewed, and adjusted if applicable, at each financial year-end.

## **Intangible assets**

### *Software acquisition and development*

Acquired computer software licences are capitalised on the basis of the costs incurred to acquire and bring to use the specific software.

Costs associated with maintaining computer software are recognised as an expense when incurred.

Staff training costs are recognised as an expense when incurred.

## NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

### *Amortisation*

The carrying value of an intangible asset with a finite life is amortised on a straight-line basis over its useful life. Amortisation begins when the asset is available for use and ceases at the date that the asset is derecognised. The amortisation charge for each period is recognised in the statement of financial performance.

The useful lives and associated amortisation rates of major classes of intangible assets have been estimated as follows:

Acquired computer software	3 years	(33.3%)
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### **Impairment of non-financial assets**

Property, plant and equipment and intangible assets that have a finite useful life are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable.

### **Creditors and other payables**

Creditors and other payables are initially measured at fair value and subsequently measured at amortised cost using the effective interest method.

### **Employee entitlements**

#### *Short-term employee entitlements*

Employee entitlements Crown Law expects to be settled within 12 months of balance date are measured at nominal values based on accrued entitlements at current rates of remuneration.

These include salaries and wages accrued up to balance date, annual leave earned but not yet taken at balance date, retiring and long service leave entitlements expected to be settled within 12 months.

Note that retirement and long service leave from an old expired contract are maintained for 15 staff.

#### *Long-term employee entitlements*

Entitlements that are payable beyond 12 months, such as long service leave and retirement leave, have been calculated on an actuarial basis. The calculations are based on:

- likely future entitlements based on years of service, years to entitlement and the likelihood that staff will reach the point of entitlement and contractual entitlements information; and
- the present value of the estimated future cash flows. A weighted average discount rate of 5.75% and a salary inflation factor of 2.75% were used. The discount rate is based on the weighted average of government bonds with terms to maturity similar to those of the relevant liabilities. The inflation factor is based on the expected long-term increase in remuneration for employees.

## NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

### **Superannuation schemes**

#### *Defined contribution schemes*

Obligations for contributions to the State Sector Retirement Savings Scheme, KiwiSaver and the Government Superannuation Fund are accounted for as defined contribution schemes and are recognised as an expense in the statement of financial performance as incurred.

Crown Law recovers the contribution costs for the State Sector Retirement Savings Scheme and KiwiSaver from the State Services Commission. This recovery is accrued and recognised as Departmental revenue in the statement of financial performance.

### **Provisions**

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

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

### **Taxpayers' funds**

Taxpayers' funds is the Crown's investment in Crown Law and is measured as the difference between total assets and total liabilities. Taxpayers' funds is disaggregated and classified as general funds and property, plant and equipment revaluation reserves.

### **Commitments**

Expenses yet to be incurred on non-cancellable contracts that have been entered into on or before balance date are disclosed as commitments to the extent that there are equally unperformed obligations.

### **Goods and Services Tax (GST)**

All items in the financial statements, including appropriation statements, are stated exclusive of GST, except for receivables and payables, which are stated on a GST inclusive basis. Where GST is not recoverable as input tax, then it is recognised as part of the related asset or expense.

The net amount of GST recoverable from, or payable to, the Inland Revenue Department (IRD) is included as part of receivables or payables in the statement of financial position.

The net GST paid to, or received from, the IRD, including the GST relating to investing and financing activities, is classified as an operating cash flow in the statement of cash flows.

Commitments and contingencies are disclosed exclusive of GST.

## NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

The GST (net) component has been presented on a net basis, as the gross amounts do not provide meaningful information for financial statement purposes.

### **Income taxation**

Government departments are exempt from income tax as public authorities. Accordingly, no charge for income tax has been provided for.

### **Budget figures**

The budget figures are those included in Crown Law's Statement of Intent for the year ended 30 June 2008, which are consistent with the financial information in the Main Estimates. In addition, the financial statements also present the updated budget information from the Supplementary Estimates.

### **Statement of cost accounting policies**

Crown Law has determined the cost of outputs using the cost allocation system outlined below.

Direct costs are those costs directly attributed to an output. Indirect costs are those costs that cannot be identified in an economically feasible manner, with a specific output.

Direct costs are charged directly to outputs. Indirect costs are charged to outputs based on cost drivers and related activity/usage information. Depreciation and capital charge are charged on the basis of asset utilisation. Personnel costs are charged on the basis of actual time incurred. Other indirect costs are assigned to outputs based on the proportion of direct staff costs for each output.

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

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

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

#### *Retirement and long service leave*

Note 12 provides an analysis of the exposure in relation to estimates and uncertainties surrounding retirement and long service leave liabilities.

## NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

## NOTE 2: TRANSITION TO NZ IFRS

In preparing these financial statements in accordance with NZ IFRS 1, Crown Law has applied the mandatory exceptions and certain optional exemptions from full retrospective application elected by Crown Law.

**Optional exemptions**

Crown Law has elected to apply the following optional exemptions from full retrospective application:

- (a) Designation of financial assets and financial liabilities exemption – Crown Law designated various term deposits as financial assets at fair value through equity at the date of transition to NZ IFRS.

**Mandatory exceptions**

Crown Law is required to make the following mandatory exception from full retrospective application:

- (a) Estimates exception – Estimates under NZ IFRS at 1 July 2007 are consistent with estimates made for the same date under previous NZ GAAP.

## NOTE 3: OTHER REVENUE

2007 Actual \$000		2008 Actual \$000
<b>Legal fees and disbursements received from:</b>		
19,571	- Government departments / other government agencies	20,469
3	- Other clients	55
<u>19,574</u>	<b>Total other revenue</b>	<u>20,524</u>

## NOTE 4: PERSONNEL COSTS

2007 Actual \$000		2008 Actual \$000
16,174	Salaries and wages	16,791
(98)	Movement in retirement and long service leave	48
<u>16,076</u>	<b>Total personnel costs</b>	<u>16,839</u>

## NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

## NOTE 5: OPERATING COSTS

2007 Actual \$000		2008 Actual \$000
40	Audit fees for audit of the financial statements	43
-	Audit fees for NZ IFRS audit	8
16	Bad Debts written off	-
-	Increase (decrease) provision for doubtful debts	-
-	Increase (decrease) impairment for doubtful WIP	(16)
260	Consultancy costs	310
31,687	Crown Solicitors' fees	33,321
1,529	Operating lease costs	1,784
5,552	Other operating costs	5,331
39,084	<b>Total operating costs</b>	40,781

## NOTE 6: DEPRECIATION / AMORTISATION

2007 Actual \$000		2008 Actual \$000
	<b>PPE:</b>	
55	- Office equipment	55
151	- Computer equipment	132
291	- Leasehold improvements	302
200	- Furniture and fittings	207
75	- Library	76
	<b>Intangibles:</b>	
93	- Computer software	72
865		844

## NOTE 7: CAPITAL CHARGE

Crown Law pays a capital charge to the Crown on its taxpayers' funds as at 30 June and 31 December each year. The capital charge rate for the year ended 30 June 2008 was 7.5% (2007: 7.5%).

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

NOTE 8: DEBTORS AND RECEIVABLES

<b>2007</b>		<b>2008</b>
<b>Actual</b>		<b>Actual</b>
<b>\$000</b>		<b>\$000</b>
2,059	Trade debtors	2,016
-	Less provision for doubtful debts	-
1,820	Work in progress	2,350
-	Less impairment for doubtful work in progress	(16)
<b>3,879</b>	<b>Total debtors and receivables</b>	<b>4,350</b>

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

As at 30 June 2008 and 2007, all overdue trade debtors have been assessed for impairment and the appropriate provision applied, as detailed below:

<b>\$000</b>	<b>2007</b>			<b>2008</b>		
	<b>Gross</b>	<b>Impairment</b>	<b>Net</b>	<b>Gross</b>	<b>Impairment</b>	<b>Net</b>
Not past due	1,933	-	1,933	1,625	-	1,625
Past due 1 - 30 days	16	-	16	182	-	182
Past due 31 - 60 days	20	-	20	132	(16)	116
Past due 61 - 90 days	32	-	32	11	-	11
Past due > 90 days	58	-	58	66	-	66
<b>Total</b>	<b>2,059</b>	<b>-</b>	<b>2,059</b>	<b>2,015</b>	<b>(16)</b>	<b>1,999</b>

The provision for impairment has been calculated based on expected losses following an analysis of the past due accounts.

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

NOTE 9: PROPERTY, PLANT AND EQUIPMENT

	Leasehold Improve- ments \$000	Office Equipment \$000	Library \$000	Furniture & Fittings \$000	Computer Equipment \$000	Total \$000
<b>Cost</b>						
Balance at 1 July 2006	2,544	513	800	1,040	1,052	5,949
Additions	160	56	15	37	225	493
Disposals	-	-	-	-	(261)	(261)
Balance at 30 June 2007	2,704	569	815	1,077	1,016	6,181
Balance at 1 July 2007	2,704	569	815	1,077	1,016	6,181
Additions	-	4	-	19	316	339
Disposals	-	-	-	-	-	-
Balance at 30 June 2008	2,704	573	815	1,096	1,332	6,520
<b>Accumulated depreciation and impairment losses</b>						
Balance at 1 July 2006	557	347	368	444	869	2,585
Additions	291	55	75	200	151	772
Disposals	-	-	-	-	(261)	(261)
Balance at 30 June 2007	849	402	443	645	755	3,094
Balance at 1 July 2007	849	402	443	645	755	3,094
Additions	302	55	76	207	132	772
Disposals	-	-	-	-	-	-
Balance at 30 June 2008	1,151	457	519	852	887	3,866
<b>Carry amount</b>						
At 1 July 2006	1,987	166	432	596	183	3,364
At 30 June and 1 July 2007	1,855	167	372	432	261	3,087
At 30 June 2008	1,553	116	296	244	445	2,654



## NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

## NOTE 10: INTANGIBLE ASSETS

	<b>Acquired Software \$000</b>
<b>Cost</b>	
Balance at 1 July 2006	644
Additions	100
Disposals	-
Balance at 30 June 2007	744
Balance at 1 July 2007	744
Additions	2
Disposals	-
Balance at 30 June 2008	746
<b>Accumulated depreciation and impairment losses</b>	
Balance at 1 July 2006	532
Additions	93
Disposals	-
Balance at 30 June 2007	625
Balance at 1 July 2007	625
Additions	72
Disposals	-
Balance at 30 June 2008	697
<b>Carry amount</b>	
At 1 July 2006	112
At 30 June and 1 July 2007	119
At 30 June 2008	49

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

## NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

## NOTE 11: CREDITORS AND PAYABLES

<b>2007</b>		<b>2008</b>
<b>Actual</b>		<b>Actual</b>
<b>\$000</b>		<b>\$000</b>
4,310	Trade creditors	4,558
3,120	Accrued work in progress – Crown Solicitors’ fees	3,090
304	Other accrued expenses	276
271	GST payable	404
<u>8,005</u>	<b>Total creditors and payables</b>	<u>8,328</u>

Trade creditors and other payables are non-interest bearing and are normally settled on 30-day terms, therefore, the carrying value of creditors and other payables approximate their fair value.

Trade creditors includes an amount that is repayable to NZAID of \$240,000. On 30 April, NZAID advanced to Crown Law the sum of \$240,000 as a deposit for the cost of the 7<sup>th</sup> PILON Litigation Skills Programme that Crown Law is organising on behalf of NZAID at the University of the South Pacific, Port Vila, Vanuatu. Due to rescheduling of the University timetable the course was delayed until November/December 2008 and the expected costs are yet to be incurred.

## NOTE 12: EMPLOYEE ENTITLEMENTS

<b>2007</b>		<b>2008</b>
<b>Actual</b>		<b>Actual</b>
<b>\$000</b>		<b>\$000</b>
<b>CURRENT LIABILITIES</b>		
-	Personnel accruals	-
987	Annual leave	1,036
23	Retirement and long service leave	54
<u>1,010</u>	<b>Total current portion</b>	<u>1,090</u>
<b>NON-CURRENT LIABILITIES</b>		
<u>251</u>	Retirement and long service leave	<u>262</u>
<u>251</u>	<b>Total non-current portion</b>	<u>262</u>
<u>1,261</u>	<b>Total employee entitlements</b>	<u>1,352</u>

The present value of the retirement and long service leave obligations depends on a number of factors that are determined on an actuarial basis using a number of assumptions. Two key assumptions used in calculating this liability include the discount rate and the salary inflation factor. Any changes in these assumptions will impact on the carrying amount of the liability.

In determining the appropriate discount rate, Crown Law considered the interest rates on NZ government bonds which have terms to maturity that match, as closely as possible, the estimated future

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

cash outflows. The salary inflation factor has been determined after considering historical salary inflation patterns and after obtaining advice from an independent actuary.

NOTE 13: REPAYMENT OF SURPLUS

2007 Actual \$000		2008 Actual \$000
362	Provision for repayment of surplus to the Crown	2,775
362	<b>Total other short-term liabilities</b>	2,775

The repayment of surplus is required to be paid by 31<sup>st</sup> October or each year. Crown Law is seeking approval to retain \$999,000 of the surplus.

NOTE 14: TAXPAYERS' FUNDS

2007 Actual \$000		2008 Actual \$000
	General fund	
1,297	Balance at 1 July	1,424
489	Net surplus/(deficit)	2,775
-	Capital contribution from Crown Law	639
(362)	Provision from repayment of surplus to the Crown	(2,775)
1,424	<b>General funds at 30 June</b>	2,063

NOTE 15: FINANCIAL INSTRUMENTS

Crown Law's activities expose it to a variety of financial instrument risk, including market risk, credit risk and liquidity risk. Crown Law has a series of policies to manage the risks associated with financial instruments and seeks to minimise exposure from financial instruments. These policies do not allow any transactions that are speculative in nature to be entered into.

**Market risk**

*Currency risk*

Currency risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in foreign exchange rates.

Crown Law occasionally purchases goods and services from overseas, such as Australia, but contracts are always signed in New Zealand currency. Therefore, Crown Law has no exposure to currency risk.

## NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

### *Interest rate risk*

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate due to changes in market interest rates exchange rates.

Crown Law has no interest bearing financial instruments and, accordingly, has no exposure to interest rate risk.

### **Credit risk**

Credit risk is the risk that a third party will default on its obligation to Crown Law, causing Crown Law to incur a loss.

In the normal course of its business, credit risk arises from debtors, deposits with banks and derivative financial instrument assets.

Crown Law is only permitted to deposit funds with Westpac, a registered bank with a high credit rating. Crown Law does not enter into foreign exchange forward contracts.

Crown Law's maximum credit exposure for each class of financial instrument is represented by the total carrying amount of cash and cash equivalents, net debtors (note 8). There is no collateral held as security against these financial instruments, including those instruments that are overdue or impaired.

### **Liquidity risk**

Liquidity risk is the risk that Crown Law will encounter difficulty raising liquid funds to meet commitments as they fall due.

In meeting its liquidity requirements, Crown Law closely monitors its forecast cash requirements with expected cash withdraws from the New Zealand Debt Management Office. Crown Law maintains a target level of available cash to meet liquidity requirements.

The table below analyses Crown Law's financial liabilities that will be settled based on the remaining period at the balance sheet date to the contractual maturity date. The amounts disclosed are the contractual undiscounted cash flows.

## NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

<b>2007</b>	<b>Less than 6 Months</b>	<b>Between 6 Months and 1 Year</b>	<b>Between 1 and 5 Years</b>	<b>Over 5 Years</b>
	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>
Creditors and other payables (note 11)	8,005	Nil	Nil	Nil
Derivative financial instrument				
Liabilities	Nil	Nil	Nil	Nil
Finance leases	Nil	Nil	Nil	Nil
<b>2008</b>				
Creditors and other payables (note 11)	8,328	Nil	Nil	Nil
Derivative financial instrument				
Liabilities	Nil	Nil	Nil	Nil
Finance leases	Nil	Nil	Nil	Nil

## NOTE 16: RELATED PARTY INFORMATION

**Related party transactions**

Crown Law is a wholly owned entity of the Crown. The Government significantly influences the roles of Crown Law as well as being its major source of revenue.

Cabinet Directions for the Conduct of Crown Legal Business 1993 (Cabinet Manual Appendix C) sets out the requirements for chief executives of departments to refer specified legal work to Crown Law.

Crown Law enters into transactions with the Crown, other departments and ministries, Crown entities, and state-owned enterprises on an arm's length basis. Those transactions that occur are within the normal legal provider client relationship on terms and conditions no more or less favourable than those reasonably expected that Crown Law would have adopted if dealing with other clients.

The following transactions were carried out with related parties:

During the year Crown Law purchased legal services from 15 Crown Solicitors across the country, mainly in relation to the conduct of criminal prosecutions and criminal appeals. Crown Law has no financial relationship with the Crown Solicitors, but is involved in their appointment and the periodic review of their practices. The value of the services provided cost \$33.321 million (2007: \$31.687 million). There is a balance of \$3.090 million (2007: \$3,120 million) outstanding at year-end.

No provision has been required, nor any expense recognised, for impairment of receivables from related parties.

## NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

**Key management personnel compensation**

<b>2007 Actual \$000</b>		<b>2008 Actual \$000</b>
1,207	Salaries and other short-term employee benefits	1,495
-	Post-employment benefits	-
-	<i>Other long-term benefits</i>	-
-	Termination benefits	-
<b>1,207</b>	<b>Total creditors and other payables</b>	<b>1,495</b>

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

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

During the 2007 year vacancies in the senior management team, where covered by existing staff pending appointments to the vacant positions. These staff members were subsequently paid an allowance, which is included in the 2008 salaries.

## NOTE 17: CATEGORIES OF FINANCIAL INSTRUMENTS

<b>2007 Actual \$000</b>		<b>2008 Actual \$000</b>
3,746	Cash and cash equivalents	7,260
3,879	Debtors and other receivables	4,350
<b>7,625</b>	<b>Total loans and receivables</b>	<b>11,610</b>
-	<i>Fair value through profit and loss – held for trading</i>	-
-	Derivative financial instrument assets	-
-	Derivative financial instrument liabilities	-
-	<i>Financial liabilities measured at amortised cost</i>	-
8,005	Creditors and other payables	8,328
<b>8,005</b>	<b>Total creditors and other payables</b>	<b>8,328</b>

## NOTE 18: CAPITAL MANAGEMENT

Crown Law's capital is its equity (or taxpayers' funds), which comprise general funds and revaluation reserves. Equity is represented by net assets.

## NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

Crown Law manages its revenue, expenses, assets, liabilities and general financial dealings prudently. Crown Law's equity is largely managed as a by-product of managing income, expenses, assets, liabilities and compliance with the Government Budget processes and with Treasury Instructions.

The objective of managing Crown Law's equity is to ensure Crown Law effectively achieves its goals and objectives for which it has been established, whilst remaining a going concern.

## NOTE 19: RECONCILIATION OF NET SURPLUS/DEFICIT TO NET CASH FLOW FROM OPERATING ACTIVITIES FOR THE YEAR ENDED 30 JUNE 2008

2007 Actual \$000		2008 Actual \$000
489	<b>Net operating surplus/(deficit)</b>	2,775
(127)	NZ IFRS adjustment*	
865	Depreciation and amortisation expense	844
(738)	<b>Total non-cash items</b>	844
	<b>Working capital movements</b>	
(556)	(Increase)/decrease in debtors and receivables	(471)
(67)	(Increase)/decrease in prepayments	16
1,223	Increase/(decrease) in creditors and payables	322
224	Increase/(decrease) in employee entitlements	80
824	<b>Working capital movements – net</b>	(53)
	<b>Movements in non-current liabilities</b>	
-	Provision for premises make good	-
(37)	Increase/(decrease) in employee entitlements	11
(37)	<b>Movements in non-current liabilities</b>	11
-	Add/(less) investing activity items	-
-	Net (gain)/loss on sale of fixed assets	-
-	<b>Total investing activity items</b>	-
2,014	<b>Net cash flow from operating activities</b>	3,577

\* See note 20.

## NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

## NOTE 20: EXPLANATION OF TRANSITION TO NZ IFRS

**Impact on transition to NZ IFRS**

Crown Law's financial statements for the year ended 30 June 2008 are the first financial statements that comply with NZ IFRS. Crown Law has applied NZ IFRS 1 First-time Adoption of NZ IFRS in preparing these financial statements. Crown Law's transition date is 1 July 2006. Crown Law prepared its opening NZ IFRS balance Sheet as at that date. The reporting date of these financial statements is 30 June 2008. Crown Law's NZ IFRS adoption date is 1 July 2007.

The only mandatory exception from retrospective application that applies to Crown Law is the requirement for estimates under NZ IFRS at 1 July 2006 and 30 June 2007 to be consistent with estimates made for the same date under previous NZ GAAP.

**Reconciliation of equity – Crown Law**

The following table shows the changes in equity, resulting from the transition from previous NZ GAAP to NZ IFRS as at 1 July 2006 and 30 June 2007.

	Note	Previous NZ GAAP 1 July 2006 \$000	Effect on Transition to NZ IFRS 1 July 2006 \$000	NZ IFRS 1 July 2006 \$000	Previous NZ GAAP 30 June 2007 \$000	Effect on Transition to NZ IFRS 30 June 2007 \$000	NZ IFRS 30 June 2007 \$000
<b>CURRENT ASSETS</b>							
Cash and cash equivalent		2,599	-	2,599	3,746	-	3,746
Debtors and other receivables	a	1,443	32	1,475	1,981	78	2,059
Prepayments		154	-	154	221	-	221
Inventories	b	1,753	33	1,786	1,771	49	1,820
<b>Total current assets</b>		<b>5,649</b>	<b>65</b>	<b>6,014</b>	<b>7,719</b>	<b>127</b>	<b>7,846</b>
<b>NON-CURRENT ASSETS</b>							
Property, plant and equipment	c	3,476	(112)	3,364	3,206	(119)	3,087
Intangible assets	c	-	112	112	-	119	119
<b>Total non-current assets</b>		<b>3,476</b>	<b>-</b>	<b>3,476</b>	<b>3,206</b>	<b>-</b>	<b>3,206</b>
<b>TOTAL ASSETS</b>		<b>9,425</b>	<b>65</b>	<b>9,490</b>	<b>10,925</b>	<b>127</b>	<b>11,052</b>



## NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

## NOTE 20: EXPLANATION OF TRANSITION TO NZ IFRS (continued)

	Note	Previous NZ GAAP 1 July 2006 \$000	Effect on Transition to NZ IFRS 1 July 2006 \$000	NZ IFRS 1 July 2006 \$000	Previous NZ GAAP 30 June 2007 \$000	Effect on Transition to NZ IFRS 30 June 2007 \$000	NZ IFRS 30 June 2007 \$000
<b>CURRENT LIABILITIES</b>							
Creditors and payables		6,781	-	6,781	8,005	-	8,005
Employee entitlements		786	-	786	1,010	-	1,010
Repayment of surplus		273	-	273	362	-	362
<b>Total current liabilities</b>		<b>7,840</b>	<b>-</b>	<b>7,840</b>	<b>9,377</b>	<b>-</b>	<b>9,377</b>
<b>NON-CURRENT LIABILITIES</b>							
Employee entitlements		288	-	288	251	-	251
<b>Total non-current liabilities</b>		<b>288</b>	<b>-</b>	<b>288</b>	<b>251</b>	<b>-</b>	<b>251</b>
<b>Total liabilities</b>		<b>8,128</b>	<b>-</b>	<b>8,128</b>	<b>9,628</b>	<b>-</b>	<b>9,628</b>
<b>NET ASSETS</b>		<b>1,297</b>	<b>65</b>	<b>1,362</b>	<b>1,297</b>	<b>127</b>	<b>1,424</b>
<b>Taxpayers' funds</b>							
General funds		1,001	65	1,066	1,001	127	1,128
Revaluation reserve		296	-	296	296	-	296
<b>Total taxpayers' funds</b>		<b>1,297</b>	<b>65</b>	<b>1,362</b>	<b>1,297</b>	<b>127</b>	<b>1,424</b>

**Explanatory notes – reconciliation of equity***(a) Debtors and other receivables – provision for doubtful debts*

Under previous NZ GAAP Crown Law applied a general provision for doubtful debts to all debtors over 90 days old. NZ IFRS requires Crown Law to measure the provision for doubtful debts based on objective evidence that Crown Law will not be able to collect the amounts owing. The impact of this change has been a reduction in the provision for doubtful debts.

*(b) Debtors – provision for write-off*

Under previous NZ GAAP Crown Law applied a general provision for write-off to all work in progress over 90 days old. NZ IFRS requires Crown Law to estimate the net realisable value of work in progress based on the most reliable evidence available at the time the estimates are made, of the amount the work in progress are expected to realise. The impact of this change has been a reduction in the provision for write-off of work in progress.

*(c) Intangible assets – computer software*

Computer software was classified as property, plant and equipment under previous NZ GAAP. Computer software has been reclassified as intangible assets on transition to NZ IFRS.

## NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

## NOTE 20: EXPLANATION OF TRANSITION TO NZ IFRS (continued)

**Reconciliation of surplus – Crown Law**

The following table shows the changes in Crown Law's surplus, resulting from the transition from previous NZ GAAP to NZ IFRS for the year 30 June 2007.

	Note	Previous NZ GAAP 30 June 2007 \$000	Effect on Transition to NZ IFRS 30 June 2007 \$000	NZ IFRS 30 June 2007 \$000
<b>Revenue</b>				
Crown	Nil	37,037		37,037
Other		19,574		19,574
Total revenue		56,611		56,611
<b>Expenditure</b>				
Personnel costs		16,076		16,076
Operating costs	a, b	39,211	(127)	39,084
Depreciation and amortisation expense		865		865
Capital charge		97		97
Total expenditure				
<b>Net surplus/(deficit)</b>		<b>362</b>	<b>(127)</b>	<b>489</b>

*(a) Other operating expenses – provision for doubtful debts*

This represents the change in measurement basis of the provision for doubtful debts on transition to NZ IFRS, which has impacted on the movement in the provision for doubtful debts recognised in the statement of financial performance by \$78,000.

*(b) Other operating expenses – provision for write-off of work in progress*

This represents the change in measurement basis of the provision for write-off of work in progress on transition to NZ IFRS, which has impacted on the movement in the provision for write-off of work in progress recognised in the statement of financial performance by \$49,000.

**Statement of cash flows**

There have been no material adjustments to the statement of cash flows on transition to NZ IFRS.

## NOTE 21: EVENTS AFTER BALANCE DATE

Subsequent to the balance sheet date, Crown Law has entered into:

- A contract with Thomson Elite, a business unit of Thomson Reuters, for the purchase of Thomson Elite 3E, an integrated practice management and financial application.

NOTES TO THE FINANCIAL STATEMENTS - CONTINUED

NOTE 21: EVENTS AFTER BALANCE DATE (continued)

- A non-cancellable lease for additional office accommodation at 50 The Terrace, Wellington for a term of one year with a right of renewal for a further one year. This short-term solution addresses a critical accommodation situation while a longer-term solution is identified.
- An operating lease for the replacement of photocopying equipment.

Because these arrangements were entered after balance date they are not reflected in the statement of commitments.

There have been no other events after balance date.

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Website: <http://www.crownlaw.govt.nz>

## AUDITOR

Audit New Zealand (on behalf of the Controller and Auditor-General)  
Wellington

## BANKERS

Westpac Banking Corporation  
Government Branch  
Wellington

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FURTHER INFORMATION about CROWN LAW can be found by visiting our website at [www.crownlaw.govt.nz](http://www.crownlaw.govt.nz) or by CONTACTING our Human Resources Team by e-mail at [hr@crownlaw.govt.nz](mailto:hr@crownlaw.govt.nz)

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