

2021/2022

Pūrongo ā-tau

Annual Report



**Te Tari Ture
o te Karauna**
Crown Law



**Te Tari Ture
o te Karauna**
Crown Law

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Ngā ihirangi

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Te Kupu Whakataki a te Rōia Mātāmua

Solicitor-General's foreword

This has been a year of recovery and renewal. As the accelerating recovery and rebuild from COVID-19 has gathered momentum, it has provided the opportunity for us to recover initiatives that had been paused at the height of the pandemic and renew longer-term strategies. This surge in activity has occurred throughout Aotearoa, but in our case, it has derived additional impetus from two concentric events. The success of the Justice sector's first budget "cluster" process and the unique experience gained from lawyering for the Crown through the COVID-19 response. The approval of the sector's multi-year budget bid provided the additional funding required to strengthen and fill critical capability gaps

at Crown Law, as well as restart and expand activities stalled by the impact of the pandemic. It has also provided the security needed to continue to plan confidently for the longer-term.

The pandemic itself proved accelerative in unexpected ways. COVID-19 required a dynamic approach to providing legal advice in a rapidly changing environment. During this period, the Government Legal Service's vision of cross-government coordination and support among legal teams was realised. We will now build on these gains.

We will continue to move away from old transactional ways of lawyering to new collaborative ways of working. This involves breaking down agency silos and moving towards more efficient and cohesive ways of delivering legal services.

New collaborative ways of working underpin our system-wide approach to such complex intersectional issues as the Government's regulatory response to COVID-19; responding to a variety of challenges arising from the impacts of climate change; te Tiriti rights and obligations and the Māori Crown relationship.

The confirmation of a three-year funding cycle has provided the security needed to address important strategic needs. The System Leadership Group has now been established on a permanent basis to provide long-term



strategic focus and planning across the Government Legal Network (GLN). Several initiatives are already underway.

Building on the successes of the GLN, we finalised the Government Legal Services Strategy in February 2022. This is the first time a strategy has been adopted that looks at the way all legal services are delivered to government.

Working jointly with Inaia Tonu Nei, we have begun a substantial review of the *Solicitor-General's Prosecution Guidelines*. The review aims to establish whether and how the Guidelines should reflect a range of considerations that are important in a holistic and socially responsible prosecution practice that protects the long-term interests of the community.

This is part of a broader cultural shift towards a more solutions-focused legal process that addresses root-causes and opens new pathways for offenders. This is a feature of a number of initiatives across the sector that we are supportive of including the District Court led Te Ao Marama and Te Pae Oranga Iwi Community Panels run jointly by Police and Māori partners.

There is a heightened expectation and legal obligation that the public sector supports the Māori-Crown relationship. Our work in supporting the Crown's litigation of historical Treaty claims and representing it at kaupapa and other inquiries is critical to framing this relationship. We also provide other legal services to the Government on the impact of tikanga on the law and how te Tiriti rights and obligations affect a wide range of policy decisions. Tikanga Māori is already a part of the common law and increasingly also of statute law. If we are to understand our twenty-first century obligations as lawyers of the Crown properly and meaningfully in terms of te Tiriti, our cultural competence must be a priority. We are committed to building a workforce that is capable in te reo and te ao Māori and will be adding to our capacity in the year ahead.

Tawharautuai: Purongo o te Wā/ The Interim Report of the Royal Commission of Inquiry into Abuse in State Care was released in December 2021. The report made some criticism of the Crown's conduct and handling of historical abuse litigation and included a finding that Crown Law had "developed an overly adversarial culture in abuse in care cases." Crown Law has acknowledged that it had not always been survivor-focused and had not, in the past, met the high standards expected of it. In addition to the Government's changed *Strategy for the Resolution of Historic Claims*, changes have been made to our approach to historical abuse litigation to ensure that, as much as possible, abuse survivors do not experience additional trauma because of the legal process.

The Crown Solicitor Network experienced lower than forecast workloads in 2021/22 due to the impact of national and Northern Region Covid-19 lockdowns. Case volumes and time spent on cases are forecast to continue increasing in the medium term based on pre-lockdown data, and in the short term as volumes increase to address the court back-logs caused by the lockdowns. The need to address this growing demand for Crown prosecution services is reflected in the significant funding increase received in Budget 2022. This additional funding will ensure that the Network is sustainably funded over the next three years. The first full review of the Crown Solicitor funding model was also undertaken since it replaced the existing time/cost billing model in 2013/14. The review found the funding model was well-administered by Crown Law and remained fit for purpose. Only minor improvements were recommended.

Due to COVID-19 restrictions this year's Crown Solicitors Conference was held online. This provided the first opportunity since the start of the pandemic to get together as a national network. The programme included a presentation by Chief District Court Judge

Taumaunu on how Te Ao Marama was changing District Court practice, a panel discussion on the impact of trauma work on prosecutors and discussion about building greater diversity and cultural competence in the Network.

During 2021/22, we continued to deliver a capability-building programme to increase the effectiveness of government legal resources. This included, amongst other initiatives, approximately 72.5 hours of professional development resources and 42 practice group seminars and workshops. The annual Government Legal Network Conference was also held virtually in June with 575 government lawyers participating. Topics covered included the first Government Legal Services Strategy and the interface of te ao Māori, tikanga, and state law. The Conference concluded with the first annual Government Legal Network Awards.

Crown Law is in a unique position to help shape the development of an indigenous New Zealand law. Everyone is a stakeholder in the rule of law. It is our job to understand individual and community interest in accordance with values that reflect the Crown's wide-ranging

rights and obligations; to provide the legal leadership needed to ensure that our lawmakers understand the impact of law on our society and its diverse communities; and to shape the development of the laws that will command intergenerational legitimacy.

To do this we must have the right capability, systems and resources needed to provide government with high quality legal advice. We need to have the right people in the right job at the right time. I am proud of the significant progress we have made in the past year towards achieving this goal. Given our more secure funding and the stellar talent we have across our legal networks, I am confident that we will make even greater progress in the coming year and those ahead.



Una Jagose KC

Rōia Mātāmua o te Karauna me te Tumu Whakarae
Solicitor-General and Chief Executive

Kua noho tēnei hei tau o te whakaoranga, o te whakahounga.

I te pikinga o te torohaki o te whakaoranga me te hanganga anō e whakaterere ana i muri i te KOWHEORI-19, kua whai āheinga mātou kia whakaora anō i ngā kaupapa kua tārewatia i te tihi o te urutā me te whakahou i ngā rautaki karioi ake.

Kua puta mai tēnei pikinga mahi huri noa i Aotearoa, heoi kei a mātou, kua whai kaha anō mai i ngā takunetanga e rua e pūrite ana. Te angitu o tā te rāngai Manatika tukanga “kāhu” tahua tuatahi me te wheako ahurei i riro mai i te mahi rōia mō te Karauna i te wā o te urupare KOWHEORI-19.

I tukuna e te whakaaetanga o tā te rāngai tonu tahua tini-tau te pūtea tāpiri e hiahiatia ana hei whakapakari, hei whakakī hoki i ngā āputa āheinga waiwai ki Te Tari Ture o te Karauna, tae atu hoki ki te tīmata anō, ki te whakawhānui hoki i ngā mahi i tinakuhia e te pānga o te urutā. Nāna hoki i tuku te haumarutanga e hiahiatia ana kia whakamahere māia tonu ai mō te wā karioi ake.

He mea ohore tēnei tā te urutā ake pā whakaterere mai. I herea e te KOWHEORI-19 kia hihiri te aronga ki te tuku tohutohu ā-ture i te taiao e tere huri haere ana. I tēnei wā, i whakatinanatia tā te Ratonga Ture Kāwanatanga wawata o te ruruku me te tautoko i waenga i ngā rōpū ture

whakawhiti i te kāwanatanga. Nā, ināianei ka whakapakari tonu mātou i aua hua.

Ka neke tonu atu mātou i ngā āhua mahi rōia o mua, he whakawhiti te āhua, ki ngā āhua hou o te mahi, he mahi ngātahi te āhua. Mā runga i tērā ara ka tāorohia ngā kūtitanga o ngā pokapū, ka ahu atu ki ngā ara pai ake, honohono ake o te tuku i ngā ratonga ā-ture.

Ko ngā āhua mahi ngātahi hou ko te tūāpapa o tō mātou aronga hōkai-pūnaha ki ngā take pūtahitanga matatini pērā i tā te Kāwanatanga urupare ā-waeture i te KOWHEORI-19; pērā hoki i te urupare ki te whānuitanga o ngā wero ka ahu mai i ngā pānga o te panoni āhuarangi; pērā i ngā tika me ngā kawenga o Te Tiriti me te hononga i waenganui i a ngāi Māori me te Karauna.

Nā te whakaū i tētahi huringa tuku pūtea toru-tau te haumarua kia anganui ki ngā matea rautaki hira. Ināianei kua whakatūria pūmautia te Rōpū Ārahitanga Pūnaha hei tuku i te aronga me te whakamaheretanga karioi whakawhiti atu i te Kōtuitui Ture Kāwanatanga (GLN). Kua tīmata kē ētahi kaupapa.

E whai ana i ngā angitu o te GLN, nā mātou i whakaoti te Rautaki Ratonga Ture Kāwanatanga i te Pēpuere o te tau 2022. Koinei te wā tuatahi kua whakaaetia tētahi rautaki e aro ana ki te āhua o te tuku i ngā ratonga ture katoa ki te kāwanatanga.

I runga i te mahi ngātahi ki a Ināia Tonu Nei, kua tīmata mātou i tētahi arotake nui o ngā *Solicitor-General's Prosecution Guidelines* (ngā Aratohu). E whai ana te arotake kia whakatau mēnā rānei me whakaatu, ā, me pēhea e whakaatu, ngā Aratohu nei i te whānuitanga o ngā whai whakaaro e hira ana ki te mahi hāmene he haepapa ā-pāpori, he torowhānui hoki ka tiaki ai i ngā pānga karioi o te hapori.

He wāhanga tēnei o tētahi nekehanga ā-ahurea whānui ake ki tētahi tukanga ā-ture e aro nui ana ki ngā otinga, ā, e anganui ana ki ngā pūtaka, ā, e whakatuwhera ana i ngā ara hou mō te hunga hara. He āhuatanga tēnei o ētahi

kaupapa puta noa i te rāngai e tautokona ana e mātou tae atu ki te Kōti ā-Rohe e ārahina ana e Te Ao Marama, me Te Pae Oranga Iwi Community Panels e whakahaeretia ngātahitia ana e Ngā Pirihimana me ngā hoa pātui Māori.

Kei reira te tūmanako nui ake me te kawenga ā-ture kia tautokona e te rāngai tūmatanui te hononga i waenganui i a ngāi Māori me te Karauna. He mea waiwai hei hanga i tēnei hononga ā mātou mahi tautoko i tā te Karauna uru atu ki ngā kerēme Tiriti ā-hītori me te whakakanohi i a ia ki ngā kaupapa, ki ērā atu uiui hoki. Kei te tuku hoki mātou i ētahi atu ratonga ā-ture ki te Kāwanatanga mō te pānga o ngā tikanga ki te ture, ā, mō te pānga o ngā tika me ngā kawenga Tiriti ki te whānuitanga o ngā whakatau kaupapa here. He wāhanga kē ngā tikanga Māori o te ture noa, ā, e piki haere ana hoki tōna wāhi kei te ture nā te kāwanatanga i hanga. Mēnā ka tika ai, ka whaitake ai tā mātou mārāma ki ā mātou kawenga o te rautau rua tekau mā tahi hei rōia a te Karauna e hāngai ana ki te Tiriti, me noho mātāmua tā mātou matatau ā-ahurea. E ū ana mātou ki te hanga i te ope mahi e matatau ana ki te reo, ki te ao Māori, ā, ka whakapiki mātou i tō mātou raukaha hei te tau e heke mai ana.

I whakaputaina a Tāwharautia: Pūrongo o te Wā/ The Interim Report of the Royal Commission of Inquiry into Abuse in State Care i te marama o Tihema i te tau 2021. Nā taua pūrongo ētahi kupu whakahē i tā te Karauna whanonga, whakahaere hoki i ngā kēhi tūkino ā-hītori, ā, i roto rā tētahi kitenga kua "whakawhanaketia tētahi ahurea tautohe rawa ki ngā kēhi mō te tūkino i te tiakitanga" e Te Tari Ture o te Karauna. Kua whakaaetia e Te Tari Ture o te Karauna kua kore tāna aro-mōrehu i ngā wā katoa, ā, i ngā wā o mua, kāore i whakatutukihia ngā paerewa nui i tūmanakohia mōna. Hei tāpiritanga ki tā te Kāwanatanga *Strategy for the Resolution of Historic Claims*, kua panonihia, kua whakatinanatia he panoni ki tō mātou ahunga ki ngā hāmene tūkino ā-hītori hei whakarite, ina ka taea, kāore ngā mōrehu tūkinotanga e kite

wheako i te whētuki anō ko te tukanga ture te take.

He iti iho ngā kawenga mahi a te Kōtuitui Rōia Karauna i te tau 2021/22 i ērā i matapaehia i runga i te pānga o ngā noho rāhui Kowheori-19 a te motu whānui, a te Takiwā Raki hoki. E matapaehia ana kia piki tonu hei te wā āhua tata te maha o ngā kēhi me te wā ka whakapaungia ki ngā kēhi i runga i ngā raraunga nō mua i te noho rāhui, ā, hei te wā tata ina piki haere ai te maha hei whakatutuki i te tāpiripiri ki ngā kōti kua takea mai i ngā noho rāhui. E whakaaturia ana te matea kia whakatutuki i tēnei hiahia piki haere ki ngā ratonga hāmene a te Karauna ki te whakapikinga pūtea nui i whakawhiwhia ki Tahua 2022. Mā taua pūtea tāpiri e whakarite e toitū ana te tuku pūtea ki te Kōtuitui mō te toru tau kei te heke mai. I whakahaerehia hoki te arotake hōhonu tuatahi o te taurira tuku pūtea o te Rōia Mātāmua o te Karauna mai i tāna whakakapi i te taurira tuku pire wā/utu o taua wā i te tau 2013/14. I kitea e te arotake he pai te whakahaere a te taurira tuku pūtea e Te Tari Ture o te Karauna, ā, he tika tonu mō tōna take. I marohitia ngā whakapainga paku anake.

I runga i ngā herenga o te KOWHEORI-19 i tū ā-ipurangi te Hui a ngā Rōia Karauna. Nā konei te wā tuatahi mai i te tīmatanga o te urutā kia hui tahi ai hei kōtuitui ā-motu. I whai wāhi ki te hōtaka tētahi whakaaturanga nā Kaiwhakawā Kōti ā-Rohe Matua Taumaunu mō te panoni a Te Ao Marama i ngā ritenga o te Kōti ā-Rohe, tētahi wānanga ā-pae mō te pānga o te mahi whētuki ki ngā rōia hāmene, me te kōrerorero mō te whakapiki i te kanorau me te āheinga ā-ahurea ki te Kōtuitui.

I te tau 2021/22, i haere tonu tā mātou tuku i tētahi hōtaka hanga āheinga hei whakapiki i te whaihua o ngā rawa ā-ture o te kāwanatanga. Ko tētahi wāhanga o tēnei, i roto i ērā atu kaupapa, ko te tata ki te 72.5 hāora o te rawa whanaketanga ngaio, me te 42 wānanga rōpū mahi me ngā awheawhe. I tū ā-mariko hoki

te Hui Kōtuitui Ture Kāwanatanga ā-tau i te Hune me te whai wāhitanga mai o te 575 rōia kāwanatanga. Ko ētahi o ngā kaupapa ko te Rautaki Ratonga Ture Kāwanatanga tuatahi, me te tāhono o te ao Māori, te tikanga me te ture ā-kāwanatanga. I te mutunga o te Hui ko te tuatahitanga o ngā Tohu Kōtuitui ā-Ture Kāwanatanga ā-tau.

Kei tētahi wāhi motuhake Te Tari Ture o te Karauna hei āwhina ki te auaha i te whakawhanaketanga o tētahi ture taketake nō Aotearoa. He hunga whai pānga te katoa ki te ture. Ko tā mātou mahi ko te mārāma ki te pānga ā-takitahi, ā-hapori hoki e ai ki ngā uara e whakaata ana i ngā tika me ngā kawenga whānui a te Karauna; ko te tuku i te ārahitanga ā-ture e matea ana kia whakarite ai e mārāma ana tō tātou hunga hanga ture i te pānga o te ture ki tō tātou pāpori, ki ōna hapori kanorau hoki; ā, ko te auaha i te whakawhanaketanga o ngā ture ka tū kaha ai heke iho i ngā tini reanga.

Kia pēnei ai me whai mātou i te āheinga tika, i ngā pūnaha tika, i ngā rawa tika e matea ana kia tuku i te tohutohu ā-ture kōunga ki te kāwanatanga. Me noho ngā tāngata tika ki ngā tūranga tika i te wā tika. E poho kererū ana ahau i te ahunga nui kua oti i a mātou i te tau kua pahure ake e koke atu ana kia whakatutuki i tēnei whāinga. I runga i tā mātou pūtea haumarua ake, i ngā pūmanawa kairangi kei a mātou puta noa i ō mātou kōtuitui ā-ture, e ngākau titikaha ana ahau ka nui atu anō te kokenga ā te tau e heke mai ana, ā muri ake hoki.



Una Jagose KC

Rōia Mātāmua o te Karauna me te Tumu Whakarae
Solicitor-General and Chief Executive

2022 he tiro wawe

2022 at a glance

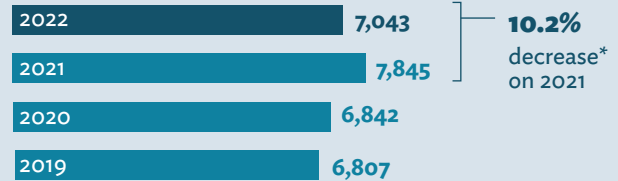


Feedback

from other agencies rating Crown Law service as good to excellent



New Crown prosecutions



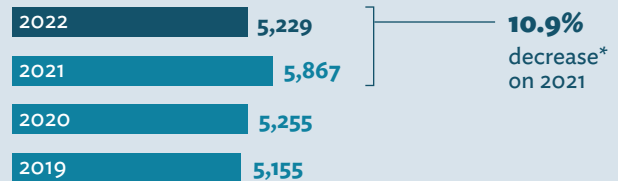
Crown criminal appeals

concluded in favour of the Crown



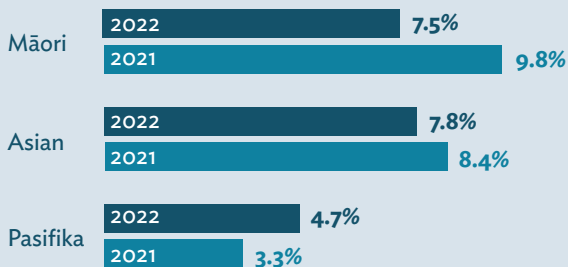
Crown prosecutions

completed by the Crown Solicitor network



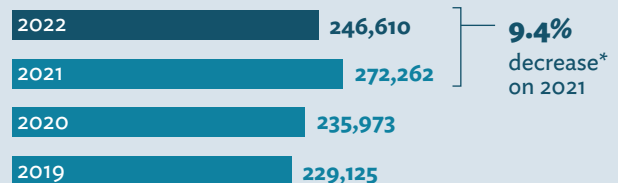
Ethnic profile

of Crown Law staff



Hours of service

provided by the Crown Solicitor network



* See page 3 Solicitor-General's foreword.

Tō mātou rōpū whakahaere

Our organisation

Our role

Crown Law plays an important role in increasing public trust and confidence that decisions made by government are allowed by law. We do this through providing legal advice and representation services to government departments and ministers.

Our work is focused in the areas of criminal, public and administrative law. We are responsible for assisting the Solicitor-General with the conduct of criminal appeals and the supervision and oversight of public prosecutions.

We provide strategic leadership across the wider government legal system and support the Government Legal Network (GLN) and the Solicitor-General's leadership of the legal profession across the Crown.

With our partners in the justice sector, we work together to make New Zealand safer and to deliver accessible justice services and better outcomes for all New Zealanders.

Crown Law administers appropriations under Vote Attorney-General. The Attorney-General is accountable to Parliament to ensure we carry out our functions properly and efficiently. The Solicitor-General is accountable for the leadership and overall performance of the organisation.

Our leadership

Crown Law's Leadership Team is ultimately accountable for the overall performance of the organisation, that is, making sure Crown Law delivers the right services to government, and that we do it properly and effectively. The Leadership Team ensures strategic direction is clear and that our collective efforts move us in that direction. To do this, focus is placed on strategic leadership and oversight, organisational performance and organisational health.

The Leadership Team comprises (left to right):

Sophie Mexsom – Deputy Chief Executive Strategy and Corporate

Madeleine Laracy – Deputy Solicitor-General Criminal Group

Virginia Hardy – Deputy Solicitor-General Attorney-General Group

Una Jagose KC – Solicitor-General and Chief Executive

Aaron Martin – Deputy Solicitor-General Crown Legal Risk Group

Katie Elkin – Deputy Solicitor-General System Leadership Group



**Ngā whakatutukitanga
ki ō mātou takune
rautaki**

Performance against our
strategic intentions

Crown Law's strategic direction and outcomes

We refreshed our Crown Law strategy and outcome framework in 2021 to reflect the changing public service environment, incorporate what we've learned from working differently during the COVID-19 response and ensure we have the right capability, systems and resources to deliver on government's expectations. Our new strategy is set out in the Statement of Intent 2021-2025.

Our vision is to **build a better Aotearoa through responsible, lawful government.**

This framework has three outcomes, four work goals and four capability development priorities to focus how we invest our resources (and invest in our resources), shape our performance framework and demonstrate the value we are providing to New Zealanders through our work. We have identified outcome indicators to help us understand whether, over time, there is a trend that represents progress towards our outcomes.

Minor changes from one year to another are less significant than the trend of the results over the medium and long term.

Contribution to the wellbeing domains

The Treasury's Living Standards Framework defines 12 wellbeing domains.

Crown Law makes specific contributions to the wellbeing of New Zealanders through improving outcomes linked to civic engagement, governance in accordance with law and public trust in central government institutions and decisions.

The leadership and legal services provided by Crown Law also support the range of government priorities, including all initiatives and reforms designed to raise broader wellbeing outcomes.

Our Crown Law strategy aligns to He Ara Waiora approach adopted by government (as set out in the Statement of Intent 2021-2025).



Build a better Aotearoa through responsible, lawful government

Who we are

Ngā kaitiaki o te ture

Legal experts

Ngā kaihautū

System leaders

Kaitiaki whakatau i te ture

Kaitiaki of the Rule of Law

Te Ao Māori
and **Te Tiriti** sit at the
heart of everything we
do at Crown Law

How we work

We take **pride** in all we do

We **value** our **differences**

We **care** about each other

We **look after** the **mana**
of other people

We **recognise** our
impact on others

1

OUTCOME ONE

Democracy that serves all New Zealanders

The impacts we are working towards:

- Governments protect and observe the rule of law
- Our system of government is transparent and accountable
- The Crown legal stance considers te ao Māori and enhances the Māori Crown relationship
- New Zealanders are confident in the legal system and the lawfulness of government decisions
- New Zealanders consider engagement with government and its processes worthwhile

How we will know we are succeeding

This outcome is focused on our democratic system of government based on the rule of law.

Crown Law contributes to increased trust through the performance of the Law Officers’ constitutional duties. It speaks to Crown Law’s role in safeguarding the rule of law, which includes advising ministers of the meaning of the law and constitutional boundaries, defending the judicial system and legal process, ensuring that the Crown legal stance considers tikanga and te ao Māori and respects the Māori Crown relationship and contributing to policy development and public debate.

Impact indicator	Performance trend				Comment
	2018/19	2019/20	2020/21	2021/22	
Experience and perception of the rule of law					
World Justice Project ¹ (New Zealand score and global rank)	Score: 0.83	Score: 0.82	Score: 0.83	Score: 0.83	Overall measure that takes into account the following factors: constraints on government powers; absence of corruption; open government; fundamental rights; order and security; regulatory enforcement; civil justice and criminal justice.
• Rule of Law Index	Rank: 7/113	Rank: 8/126	Rank: 7/128	Rank: 7/139	
• Government powers are effectively limited by the judiciary	Score: 0.86 Rank: 5/113	Score: 0.86 Rank: 4/126	Score: 0.87 Rank: 4/128	Score: 0.88 Rank: 3/139	
• Due process of the law and rights of the accused	Score: 0.78 Rank: 12/113	Score: 0.76 Rank: 15/126	Score: 0.77 Rank: 15/128	Score: 0.79 Rank: 14/139	Indicates whether the basic rights of criminal suspects are respected, including the presumption of innocence and freedom from arbitrary arrest and unreasonable pre-trial detention, and if the basic rights of prisoners are respected once convicted.

The World Justice Project Rule of Law Index 2021 indicates the rule of law has lost ground in many areas worldwide, likely largely attributable to the impact of the COVID-19 pandemic. Areas of greatest decline globally include constraints on government powers, civic space, timeliness of justice, and absence of discrimination.

In 2021 New Zealand placed 7th worldwide and 1st out of 15 countries in the East Asia and Pacific region followed by Australia and Japan. New Zealand held its Rule of Law Index score and improved in the elements of ‘due process of the law and rights of the accused’ and ‘government powers are effectively limited by the judiciary’. These elements are fundamental aspects of New Zealand’s

¹ The World Justice Project Rule of Law Index provides an overview of the rule of law in a country. The index uses ratings organised around eight primary rule of law factors and 44 sub-factors. The index is based on household and expert surveys, which reflect the rule of law as experienced and perceived by New Zealanders. Due to the timing of the index release date the indicators shown are reported one year in arrears.

democracy and impacted by Crown Law in our work advising ministers on the meaning of the law and constitutional boundaries, defending the judicial system and legal process and ensuring that the Crown legal stance considers tikanga and te ao Māori and supports the Māori Crown relationship.

However, there are several rankings for New Zealand that give rise to concern. We are ranked below our overall ranking (7th) for the broad factors of fundamental rights (11th), criminal justice (10th), civil justice (10th) and order and security (21st), so there is a need for improvement in these areas. As the World Justice Project acknowledges, there are inherent limitations in the methodology underpinning the Rule of Law Index, but there is nevertheless value in assessing the areas in which New Zealand performs relatively well and those where it does not.

New Zealand's overall ranking in the Rule of Law Index is corroborated by Transparency International's Corruption Perceptions Index, which currently ranks New Zealand the best in the world (i.e. the least corrupt) along with Denmark and Finland. Lack of corruption is an integral component of strong adherence to the rule of law.

Impact indicator	Performance trend			Comment
	2019	2020	2021	
Experience and perception of democracy				
Bertelsmann Sustainable Governance Indicators (SGI)	NZ score: 9.5	NZ score: 9.5	NZ score: 9 ³	Indicates the quality of democracy. The process of appointing justices guarantees the independence of the judiciary. Independent courts control whether government and administration act in conformity with the law. Government and administration act on the basis of, and in accordance with, legal provisions to provide legal certainty.
<ul style="list-style-type: none"> • Rule of law² 				
<ul style="list-style-type: none"> • Civil rights 	NZ score: 8	NZ score: 8	NZ score: 10	Indicates the quality of democracy, measuring equal access to the law and equal treatment by the law. The state respects & protects civil rights and citizens are protected by courts against infringements of their rights.

Bertelsmann identifies two of the core areas of a 'Robust Democracy' as Rule of Law and Civil Rights and Political Liberties. "Guaranteeing opportunities for democratic participation as well respect for the rule of law and civil rights cultivate citizens' confidence in the legitimacy of actions taken by political leaders. Without strong public support for government actions, even the best ideas in policymaking will lack the traction needed to take hold. Confidence in the mechanisms and institutions of governance also enable societies to respond more quickly to necessary changes."⁴

² The elements identified as most relevant to Crown Law's impact, and therefore calculated in this indicator, are appointment of justices, judicial review and legal certainty.

³ Bertelsmann released an SGI Special Study in 2021 covering the Sustainable Governance in the Context of the COVID-19 Crisis. This result represents New Zealand's rating for "Judicial Review".

⁴ Bertelsmann released an SGI Special Study in 2021 covering the Sustainable Governance in the Context of the COVID-19 Crisis. This result represents New Zealand's rating for "Civil rights and Political Liberties".

Crown Law can impact this area through oversight of the application of New Zealand human rights legislative provisions and case law, and ensuring that legal advice to government encapsulates human rights implications and obligations. Crown Law also provides advice and support on constitutional issues, including judicial matters and electoral and parliamentary law.

Due to the impact of COVID-19, Bertelsmann carried out a special study on sustainable governance in the context of the COVID-19 crisis in 2021 rather than the regular SGI survey. In the New Zealand special report, the key finding is that “The core institutions of New Zealand’s democracy have continued to function relatively unaffected by COVID-19. Legislative oversight has – with the exception of the controversial COVID-19 Public Health Response Act – remained strong, with the Epidemic Response Committee providing opposition parties with an accountability channel and independent supervisory bodies (e.g., the Auditor-General and the Privacy Commissioner) have been able to perform their “watchdog” roles without significant limitations. The Independent Electoral Commission was well prepared to support the general election, originally scheduled for 19 September, with postal voting and social distancing options if in-person voting was possible. The election was delayed by one month, due to the Auckland lockdown, and was run under conditions that were safe, smooth and legitimate.”⁵

Impact indicator	Performance trend ⁶				Comment
	2018/19	2019/20	2020/21	2021/22	
Trust in government institutions					
Treasury Living Standards Framework <ul style="list-style-type: none"> Level of trust in the public service (% of adults overall that trust the public service) 	49%	69%	63%	61%	Indicates the trust and confidence that New Zealanders have in the public service through service experience and perception.
Public Sector Reputation Index <ul style="list-style-type: none"> Crown Law Office reputation score 	N/A	N/A	N/A	97 (baseline)	Indicates public perceptions of the legitimacy of Crown Law’s purpose and reputation across the pillars of trust, social responsibility, leadership and fairness.

The level of trust in the public sector is a core element of Treasury Living Standards Framework around civic engagement and governance that aims to measure people’s engagement in the governance of their country, how good New Zealand’s governance is perceived to be and the procedural fairness of our society. Crown Law can have an impact on civic engagement and governance through advice and support on constitutional issues and electoral and parliamentary law. As part of the public sector, Crown Law can also have a meaningful impact by upholding the public sector’s reputation for trust, fairness, social responsibility and leadership.

Results in the Treasury analysis for 2020 identified a spike in trust and confidence in government. This is likely to be related to COVID-19, as the public service was central to the national pandemic

⁵ https://www.sgi-network.org/docs/2021/country/SGI2021_New_Zealand.pdf

⁶ Results as of March 2019, December 2020 and March 2021. Timing of 2020 survey impacted by COVID-19 lockdown.

response in 2020. The expected normalisation of the results as New Zealand's COVID-19 situation evolves is likely to be behind the reduction in the trust and confidence scores since, although at 61% they remain higher than the highest pre-COVID-19 rating (51%).

Crown Law participated in the Kantar Public Sector Reputation Index for the first time in 2022, where the reputation of 58 government agencies was measured across the pillars of trust, social responsibility, leadership, and fairness. Crown Law's result is just below the average score of 100, with the range being 76-118. The trust pillar is Crown Law's biggest strength, sitting at 100.

What we achieved this year

We provided legal advice and other assistance to the Law Officers and departments, including:

- legal services involving questions of the lawful exercise of government power – particular focus was and remains on COVID-19
- constitutional questions including in relation to te Tiriti o Waitangi/Treaty of Waitangi and the New Zealand Bill of Rights Act
- advice on the legal and constitutional implications of policy proposals
- advice on a range of questions including Bill of Rights issues about free speech and assembly associated with the February/ March 2022 protests at Parliament.

Te Tiriti and Māori Crown relationship/tikanga

Crown Law has continued to represent the Crown in the Waitangi Tribunal's remaining district inquiries and in a number of kaupapa inquiries, which are thematic inquiries that deal with nationally significant issues affecting Māori as a whole. During 2021/22, there were ongoing hearings in the Taihape and Porirua ki Manawatū district inquiries and the Takutai Moana, Mana Wāhine and Housing Policy and

Services kaupapa inquiries. Preparation began for the first Justice kaupapa inquiry for hearings in July 2022.

During 2021/22, the Crown has been involved in significant High Court and Supreme Court litigation in relation to the Waitangi Tribunal's binding powers to order return of certain land and forests and payment of compensation for historical Tiriti claims. The scope of this power has not previously been tested in the courts, and the outcome of this litigation has important ramifications for the resolution of other Tiriti claims. The Supreme Court judgment is pending.

The courts are continuing to consider and describe the place of tikanga in New Zealand law. Crown Law has been involved in the key cases: Trans-Tasman Resources Ltd, the impact of tikanga on RMA decisions about mining in the EEZ; Ngāti Whātua, the role of the courts in declaring mana whenua rights and Mercury, the obligation of the Waitangi Tribunal to make decisions in accordance with tikanga.

Government's response to climate change

Climate change is a dynamic and rapidly developing area of law. There has been an

increase in litigation against government decision makers based on concerns about the sufficiency of the government's climate change mitigation efforts. The increase reflects wider global trends that show an increasing number of cases across more jurisdictions. Similar patterns have also emerged in litigation against private sector entities.

The range of climate change-related litigation over the last year is an example of democratic institutions and processes working to hold government to account and of government's willingness to have the legality of actions scrutinised in the courts. Ongoing proceedings that illustrate the breadth of challenges to government action on climate change include:

- a proceeding seeking to establish a novel duty of care to protect current and future generations of Māori from the effects of climate change (*Smith v Attorney-General*)
- a judicial review of the Climate Change Commission's advice on the first emissions budgets and advice on the Nationally Determined Contribution (NDC) and the government's subsequent NDC decision (*Lawyers for Climate Action NZ Inc.*)
- a judicial review of the Minister of Energy and Resources' decision to grant onshore oil exploration permits (*Students for Climate Solutions*).

Developments in the law relevant to climate change raise complex and intersecting issues across different areas, such as te Tiriti, human rights, regulatory compliance and governance. Both the *Smith* and *Lawyers for Climate Action* proceedings, for example, have required the Crown to engage with issues relating to human rights and the Treaty, alongside international legal instruments and jurisprudence.

Government's response to COVID-19

A number of legal instruments were in force relating to the COVID-19 response, including an Epidemic Notice and orders made under section 11 of the COVID-19 Public Health Response Act 2020. The Solicitor-General established and maintains an inter-agency group to keep these instruments under constant scrutiny and ensure they have a firm legal basis, are sufficiently well defined, can be demonstrably justified in the circumstances and remain proportionate to the threat posed by COVID-19.

We provide briefings to the Attorney-General on Crown Law's review of the legal instruments for the government's response to COVID-19 and a regular briefing on COVID-19 legal issues. Crown Law continues to work closely with core agencies such as the Ministry of Health, the Department of the Prime Minister and Cabinet, the Ministry of Business, Innovation and Employment (MBIE) and the Parliamentary Counsel Office to ensure appropriate legal instruments are in place and the legality of actions taken.

Crown Law also provided legal support in relation to a variety of COVID-19-related issues, including issues relating to COVID-19 vaccination. These vaccination issues included:

- working with Medsafe and the Ministry of Health on legal issues arising from the vaccine rollout, including distribution and administration of the vaccine
- working with agencies on the legal issues arising from the introduction and removal of various vaccination mandates
- supporting agencies in various proceedings about the vaccination rollout and mandates.

Administration of appointments

Crown Law provides administrative support for the Attorney-General's role in appointing judges to the Supreme Court, Court of Appeal and High Court. During 2021/22, Crown Law administered the following judicial appointments:

- Judge of the Supreme Court: Justice John Stephen Kós.
- President of the Court of Appeal: Justice Mark Cooper.
- Judges of the Court of Appeal: Justice Sarah Katz and Justice Simon France.
- Judges of the High Court: Justice Jonathan Eaton, Justice Layne Harvey, Justice Kiri Tahana and Justice Helen McQueen.
- Associate Judge of the High Court: Associate Judge Clive Taylor.

Crown Law has also administered the appointment of five lay members of the High Court (appointed under the Commerce Act 1986) and three acting warrants for judges who have reached retirement age during 2021/22.

Crown Law provides administrative support for the Attorney-General in relation to the appointment of Queen's Counsel and administered 10 Queen's Counsel appointments

during 2021/22. The appointments made were: Auckland – Lynda Kearns, Stephen McCarthy, Ronald Mansfield, Alan (Fletcher) Pilditch, Davey Salmon, Laura O'Gorman; Wellington – Greg Arthur, Michael Colson, Victoria Heine; Christchurch – Kerry Beaton.

Crown Law also provides administrative support for the appointment of members of the New Zealand Council of Legal Education, an independent statutory body constituted under the Lawyers and Conveyancers Act 2006, responsible for the quality and provision of education and practical legal training required to be undertaken by any person either within New Zealand or from overseas wishing to be admitted as a barrister and solicitor of the High Court of New Zealand.

Memberships

The Solicitor-General is a participating member of the High Court Rules Committee, and Crown Law is a member of the Legislation Design and Advisory Committee.

Illustrative legal advice and representation matters: an increasingly complex web of law and policy



Overview

A broad observation is that the courts are explicitly considering the interplay of the roles of Parliament, the Executive and the courts, informed by the context of developing rights jurisprudence. The courts are both reflecting on the role of the New Zealand Bill of Rights Act and te Tiriti and on international rights/constitutional judgments. The courts' approach informs the way statutes are interpreted and the ongoing shaping of an indigenous New Zealand law, nevertheless facing complex and universal policy issues such as climate change.

Crown Law represents the Executive in this debate. These are some examples in addition to the cases noted elsewhere:



Executive accountability and human rights

Fundamental rights: *Fitzgerald v R* [2021] NZSC 131, [2021] 1 NZLR 551

In *Fitzgerald*, the Supreme Court allowed the defendant's appeal against the maximum sentence of 7 years imposed on him under the three strikes provisions in the Sentencing Act. The defendant had been convicted of a lower-

level indecent assault, and the mandatory maximum penalty was 7 years because it was his third strike. In the Supreme Court, all parties accepted the maximum sentence in Mr Fitzgerald's case breached the guarantee in s 9 of the New Zealand Bill of Rights Act to be free from "disproportionately severe" punishment. The majority in the Supreme Court held that, in the absence of Parliament using language that explicitly indicated third strike sentences should be imposed even if they breached s 9, the Court was unwilling to interpret the provision in a way that allowed that to occur. As a result, the third strike law did not apply in Mr Fitzgerald's case and he was resentenced under ordinary sentencing principles.

Executive accountability and privacy: *Newsroom v SG* [2020] NZHC 3441, [2020] NZFLR 784

The Solicitor-General successfully applied to prevent the publication of identifying material relating to four Māori children, in breach of the Family Court Act. The broader context was the reporting by media on the actions of Oranga Tamariki.

International cooperation and human rights: *Attorney-General v Kim*

In 2013, the District Court found that Mr Kim was eligible for surrender to the People's Republic of China (PRC) to stand trial for intentional homicide. Mr Kim challenged the Minister of Justice's decision under the

Extradition Act to surrender him to the PRC. The Supreme Court overturned the Court of Appeal's decision setting aside the Minister's decision. The Supreme Court unanimously accepted that diplomatic assurances may be used in extradition cases to ameliorate risk that the person to be surrendered is at risk of torture or of not receiving fair trial. The key questions were whether (i) there were substantial grounds for believing Mr Kim would be in danger of being subjected to torture or (ii) whether there was a real risk of Mr Kim not receiving a fair trial that overall meets minimum international standards. To answer those questions, the Court said the Minister must evaluate the risk to the individual based on their personal characteristics in light of the general situation in the receiving country and evaluate the particular assurances and the likelihood they will be kept.

Individual rights and the risk to the public: *Chisnall v AG*

The Court of Appeal made declarations that legislation (Parole Act/ Public Safety (Public Protection Orders) Act) providing for orders restraining individuals who pose a risk of violence but have served the entirety of their criminal sentence is in breach of the New Zealand Bill of Rights Act and cannot be justified. The judgment is that the entirety of the statutory regime breaches protected rights without justification. The case is currently on appeal to the Supreme Court.

2

OUTCOME TWO

Government decisions that inspire confidence

The impacts we are working towards:

- Governments are best placed to implement their policy choices lawfully
- Government decision making is well evidenced and considers core constitutional values
- Government decision making is future focused, balancing risk and opportunity
- Te ao Māori and Tiriti principles are reflected in decision making
- Government decisions are defensible and withstand scrutiny
- Government lawyers are sought by decision makers as partners who add value

How we will know we are succeeding

This outcome is focused on responsible Executive Government decision making.

This includes the Solicitor-General's role of authoritatively determining the Crown's view of the law. It speaks to Crown Law providing advice at the right time, in the right way, and which is sought after by decision makers (not just because it is Cabinet mandated). It includes predicting and influencing the development of the law to help governments manage risk and make the most of opportunities and supporting government decisions that will stand the test of time by considering future implications and impacts. It also includes building the capability of the Government Legal Network to do the same so that successive governments are supported to implement their policy objectives lawfully with better identification and management of risk and opportunity.

Impact indicator	Performance trend				Comment
	2019	2020	2021	2022	
Stakeholder satisfaction					
Attorney-General satisfaction with the quality of advice and representation provided by Crown Law ⁷	Satisfied	Satisfied	Satisfied	Satisfied (baseline)	Indicates Attorney-General satisfaction that defined standards of quality and timeliness have been achieved.
Partner satisfaction with the quality of advice and representation provided by Crown Law	76%	87%	89%	100%	Indicates partner (client/stakeholder) satisfaction that standards of quality and timeliness have been achieved.
Government Legal Network capability⁸					
Number of secondments of lawyers between departments in the GLN	N/A	N/A	N/A	47 ⁹	Indicates level of Government Legal Network competence, as secondments contribute to increased knowledge and consistency across the public sector.
Satisfaction of Chief Legal Advisors with System Leadership Group (SLG) engagement and communication	N/A	100%	100%	100%	Indicates that the information provided by the System Leadership Group is useful and required.

⁷ Impact indicator previously defined as "The Attorney-General is satisfied with the services provided by Crown Law".

⁸ Note that the two measures in this category were incorrectly stated in the Statement of Intent 2021-2025 (replicated from SOI Outcome 1 into Outcome 2). The two measures provided above are correct for this outcome.

⁹ As reported by departments.

What we achieved this year

In late 2021, the System Leadership Group was permanently established within Crown Law, having operated as a pilot for the last 2 years.

The Government Legal Services Strategy was finalised in February 2022. The Strategy builds on work in the Government Legal Network (GLN) over the last decade and sets the direction of travel for the GLN for the next 5 years. The Strategy is explicit about the changes we can expect to see over the next 3-5 years. To sum it up, better connections to people and information and a focus on capability, including capability in te ao Māori. Māori lawyers will feel valued and supported, and cultural diversity will increase. By sharing more information and knowledge across the GLN, we'll be more effective together.

The Strategy implementation work programme is under way. It includes:

- developing support for government lawyers advising on the Crown's role under te Tiriti
- creating a competency framework for government lawyers to support capability development and consistency
- identifying resourcing options for government legal teams to meet short-term staffing needs.

Strategic legal advice

During 2021/22, we have provided a broad range of legal advice to government agencies and ministers, much of which has been strategic system-wide advice. Key areas of work have included advice on government decision making, especially in the context of COVID-19, outcomes of inquiries and steps to implement their recommendations, advice on implications of the Terrorism Suppression Act, assisting

the government at an operational level in its many responses to COVID-19, climate change decision making and advice on numerous aspects of criminal justice process and proposed policy changes.

We also delivered a range of strategic and system-wide legal advice products on a one-to-many basis including the following:

- *Ex Gratia Payments: A Guide for Government Lawyers* – sets out legal principles for agencies to apply to their unique operating context. The intention is to improve decision making and consistency across the Crown.
- *Collaborative Working Tools* – how collaborative tools such as Microsoft Teams and Zoom fit with the legal framework.

Crown legal risk management

Crown Law reports twice a year to the Attorney-General on significant and systemic legal risks. Working with departments, we identify the emerging and existing legal risks that may affect government. Management approaches are developed to address emerging risks. Crown Law also provides the Attorney-General and other ministers with regular reports on specific themes of relevance to government priorities and ministerial portfolios.

Programmes and capability

During 2021/22, we continued to deliver a capability-building programme to increase the effectiveness of government legal resources, including the following:

- Approximately 72.5 hours of continuous professional development offerings.

- 42 practice group seminars and workshops.
- The GLN Buddy Programme placing nine new government lawyers with buddies.
- The GLN Summer Clerk Programme involving 29 clerks and 20 agencies.
- The GLN Graduate Programme involving six graduates and nine agencies (over the course of the 2-year programme).
- He Waka Eke Noa Introduction to Government course, provided five times over the year.
- The annual GLN Conference was held virtually in June, with 575 government lawyers attending. The programme included topics such as tikanga and the interface with state law, recent developments in the law, legislative design and the future of government lawyering.
- A programme of regular engagements with Chief Legal Advisors across government aimed at developing capability, connection and collaboration.

A review of the GLN Summer Clerk and GLN Graduate Programmes was undertaken with the assistance of Māori recruitment specialists Haemata Ltd. One of our objectives was to recruit more applicants with an understanding and interest in te Tiriti and an understanding and active participation in te ao Māori. As recommended in the review, we successfully incorporated whanaungatanga elements into our recruitment model and into the programmes, with excellent results.

Inquiries

The Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions redress report was released in December 2021. Crown Law has been involved in providing written and oral evidence to the Royal Commission's state and faith-based redress investigation, in particular relating to the way litigation by survivors of abuse in care was conducted by the Crown. The redress report makes some criticisms of the Crown's conduct and handling of historical abuse litigation. The Royal Commission's report included a finding that Crown Law "developed an overly adversarial culture in abuse in care cases, and lost sight of the people behind the claims who were abused in the State's care" as well as findings critical of other agencies and the Crown as a whole.

Consistent with the evidence the Solicitor-General gave to the Royal Commission, Crown Law acknowledges that the Crown, as litigator, has not always been survivor-focused and that we have not always in the past met the high standards people expect of us. Changes have been made in the approach to historical abuse litigation that Crown Law conducts on behalf of Crown agencies.

In its response to the redress report, the government has announced steps to develop a new, independent, survivor-focused redress system. Crown Law supports this focus on improving the system for the future.

Illustrative legal and constitutional matters



Borrowdale Court of Appeal decision

At the end of 2021, the Court of Appeal released its judgment in *Borrowdale v Director-General of Health & Ors* [2021] NZCA 520. The findings were largely in line with those of the Full Court of the High Court in [2020] NZHC 2090.

The appeal was brought by Dr Borrowdale in relation to the aspects of the High Court decision that went against him, primarily the lawfulness of the Orders made under section 70 of the Health Act 1956 in March and April 2020 that placed New Zealand into lockdown. The first Order was issued on 25 March 2020, requiring the closure of all premises (except those providing essential services) and prohibiting congregating where physical distancing was not possible. The second Order came into effect on 3 April 2020 and required all persons within all districts of New Zealand to remain in their place of residence and maintain physical distancing, except when travel was permitted for “essential personal movement” (including providing and accessing essential businesses and for limited recreational purposes). The third Order came into effect on 27 April 2020 and moved the country from Alert Level 4 to Alert Level 3. The third Order revoked the two earlier Orders (but was still based on section 70(1)(f) and (m) of the Health Act). Dr Borrowdale also challenged the lawfulness of the mechanism by which “essential businesses” were identified. Dr Borrowdale argued that, because such businesses were identified by MBIE rather than Dr Bloomfield, this amounted to an unlawful delegation of the power to make decisions as to which businesses were

considered “essential”.

The Court of Appeal held that:

- applying the relevant principles of statutory construction, Parliament intended section 70 of the Health Act to be broad enough to authorise the three Orders
- Parliament’s intended meaning of section 70 limited the rights affirmed by sections 17 and 18 of the New Zealand Bill of Rights Act, but these limits were justified and Parliament’s intent in conferring such broad powers was to limit those rights
- the Director-General did not unlawfully delegate decisions concerning what businesses were essential businesses.



NZDSOS Inc, & NZTSOS Inc. v Minister for COVID-19 Response & Attorney-General [2022] NZHC 716

NZDSOS v Minister for COVID-19 Response is one in a series of challenges to requirements that workers in particular sectors be vaccinated against COVID-19. Two incorporated societies represented those opposed to vaccination: NZDSOS (health practitioners) and NZTSOS (teachers and educators). In April 2022, Cooke J rejected the challenge to orders made under the COVID-19 Public Health Response Act 2020 mandating vaccination in both the education and the health and disability sectors (the Order). Cooke J held that both mandates were justified under the New Zealand Bill of

Rights Act 1990 both at the time the Order was made (October 2021) and at the time of hearing (March 2022).

Cooke J rejected the applicants' arguments that s 11 of the Bill of Rights Act (the right to be free from compulsory medical treatment) was absolute. Rather, it can be limited if the limit is demonstrably justified in a free and democratic society under s 5 of the Bill of Rights Act.

His Honour also held that, while the vaccine mandate did not compel medical treatment, the pressure was considerable partly because it consequently limited the right to retain existing employment, which is recognised in both domestic and international law. The pressure created by the mandates and fundamental nature of the right in s 11 placed a "very significant evidential burden" on the Crown to demonstrate that the measures were justified.

Cooke J adopted a "broad assessment" to whether the Crown's scientific evidence provides the basis for the s 5 justification, expressing limits on the court's role and in relation to the evidence before the Court in this case.

Beyond the scientific evidence, Cooke J accepted that the adverse implications for schools (such as loss of staff and its effect on social cohesion and teaching programmes) was relevant, but so too was the fact many of the communities with unvaccinated workers were more at risk from COVID-19.

The justification for mandates came down to a question of timing. Given the education workers' order was revoked by the government in March, Cooke J held that the mandate had been reviewed and revoked as appropriate in the changed circumstances and was demonstrably justified for the period it was in force.

Despite considering the health and disability order possibly too broad in scope, Cooke J was

nevertheless satisfied it remained justified at the point of the hearing. The Judge emphasised the need for vaccine mandates, as emergency measures that intrude on rights, to be properly justified. The case is on appeal to the Court of Appeal.



Li and AA Taxation & Accounting Services Ltd v Commissioner of Police and Commissioner of Inland Revenue [2022] NZHC 514

Declaratory judgment decision received on 18 March 2022

The plaintiffs sought declarations under s 3 of the Declaratory Judgments Act 1908 concerning whether assets vested in the Crown pursuant to an assets forfeiture order made under s 50 of the Criminal Proceeds (Recovery) Act 2009 (the CPRA), where one of the significant criminal activities alleged was tax evasion, should be attributed to offset tax liabilities subsequently assessed for the plaintiffs by the Commissioner of Inland Revenue. Wylie J declined to make the declarations sought by the plaintiffs.

This case determined an issue that had not previously been before the courts in New Zealand and is therefore likely to produce significant guidance for issues at the intersection of criminal proceeds forfeiture and tax liabilities. The decision confirms that assets vested in the Crown pursuant to an assets forfeiture order made under the CPRA, where the alleged predicate offending is tax evasion, does not amount to payment in lieu of tax. In this context, tax liabilities may only be satisfied through one of the express mechanisms contained in the CPRA.

H v Minister of Immigration

Mr H, a Chinese citizen, arrived in New Zealand in 1996 on a visitor visa. Mr H was sent to New Zealand to conduct espionage against Taiwanese nationals, but shortly after, he abandoned his mission. He obtained refugee status on the basis of his defection but was refused a residence visa by Immigration New Zealand due to Immigration Instruction A5.30, which provides visa applicants will be considered a risk to New Zealand's international reputation, so are not normally eligible for a visa, if they have had an association with groups that have advocated for or committed gross human rights abuses. This is unless the association was "minimal or remote".

Mr H challenged the validity of that instruction. The Crown successfully defended the challenge in the High Court, Court of Appeal and Supreme Court (by 4:1 majority). The Supreme Court majority held that the instruction is valid, notwithstanding some issues with its drafting. To overcome these issues, it has to be interpreted in a way that requires a "rational connection" between association and character. The "minimal or remote" enquiry – properly interpreted – is broad enough to act as a safety valve to ensure only associations that properly bear on an applicant's character will invalidate applications. The majority also made some suggestions for redrafting but ultimately left that as a matter for the Crown. It also accepted the Crown's submission that A5.30 complies with the Refugee Convention because it treats refugees and non-refugees equally. Mr H's refugee status is not affected by this decision. Any further application for a residence visa will be reassessed according to the law.

Courage v Attorney-General and Others

Three men sought declarations under s 6(5) of the Employment Relations Act 2000 that they were employees of Gloriavale for work

done between the ages of 6-19. This included work done on the Gloriavale gardens, farms and factories as after-school "chores", work in Gloriavale businesses during a "transitional education year" and work in the businesses as "associate partners" of the Christian Partners partnership. The Labour Inspectorate had previously conducted an investigation into the employment status of Gloriavale members so appeared to assist the Court in determining the novel and complex issues arising from the claim.

The Employment Court declared that the plaintiffs were employees at all stages of their working lives in Gloriavale. The Court did not make any finding on the identity of the employer(s) or make any findings about remedies for alleged breaches by the employers. These issues, along with a tort claim against the Labour Inspectorate, will be dealt with at subsequent hearings. A second s 6(5) claim by six women will be heard in August-September 2022.

IDEA Services Ltd v Minister for Workplace Relations and Safety & Ors

IDEA Services, a disability support provider, sought judicial review of the Epidemic Preparedness (Employment Relations Act 2000–Collective Bargaining) Immediate Modification Order 2020, claiming it to be ultra vires. Isac J dismissed the majority of the causes of action. However, the Court found against the respondents in one respect, finding that there is a requirement to periodically review Orders after their commencement which had not been done. Relief included direction that the Order be reviewed, which the Minister did, and it was subsequently revoked with effect 6 May 2022. IDEA Services is appealing the High Court decision, pursuing a declaration that the collective bargaining Order was ultra vires s 15 of the Epidemic Preparedness Act and that there is no collective employment agreement.

3

OUTCOME THREE

Justice that strengthens communities

The impacts we are working towards:

- Increased access to justice and civil redress
- The justice system is solutions-focused
- The justice system is open, transparent and impartial
- Barriers to civil justice are removed
- Victims are supported, have a voice and experience justice
- Crown prosecutions and criminal appeals are high quality and progressed in the public interest

How we will know we are succeeding

This outcome is focused on the justice system and individuals within it. It includes ensuring that the Crown takes a socially responsible, holistic position on legal issues that takes the ‘whole of person’ into account and acts with a knowledge of community impacts. Applying a consistent approach to prosecutions is key to supporting justice system transformation.

To gauge the impact of Crown Law’s legal work, we look at trust in the courts, perceptions of the justice system and quality of prosecutions and appeals.

In November 2016, the Ministry of Justice (MoJ) released a topical report on the public perceptions of crime. Despite the fact the majority of respondents admitted to knowing little about the criminal court system, most respondents were negative or ambivalent about New Zealand’s criminal courts. Some of the key findings from this report were that:

- Criminal court processes treat victims with respect (25% agree)¹⁰
- Criminal court processes are easy for the public to understand (13% agree)¹⁰

In July 2020, the Ministry of Justice (MoJ) released a topical report on the NZ Crime & Victims Survey focused on social wellbeing and perceptions of the criminal justice system.¹¹ Some of the key findings from this report were that:

- adults who identify as bisexual (27%) and Māori (39%) are less likely to be confident in the criminal justice system than New Zealand adults overall (53%)
- the public tend to think groups that provide services for victims (such as Women’s Refuge, Rape Crisis and Victim Support) and Police are doing a better job than other parts of the criminal justice system – the Parole Board, probation officers, criminal lawyers, the prison service, judges and juries
- not all New Zealanders agree their values are usually reflected in the criminal justice system – 51% of New Zealand adults said their feelings about what is right and wrong usually agree with the criminal justice system, 41% said they sometimes agree and 38% of Māori said their feelings about what is right and wrong usually agree with the criminal justice system.

In May 2021, the Ministry of Justice released another topical report, this time focused on victims’ trust and confidence in the criminal justice system. Key findings in this report were that:

- victims of interpersonal violence, offences by family members or sexual assault are less likely to have confidence that the criminal justice system as a whole is effective and have comparatively lower trust in Police, juries, criminal lawyers and groups that support victims
- victims of all offence types tend to have positive perceptions of Police and groups that provide services for victims – however, their perceptions of judges, juries, criminal lawyers and the Parole Board are relatively poorer.

¹⁰ The performance indicators for 2020, 2021, 2022 years are unavailable due to the impact indicator not being published in the New Zealand Crime and Victims Survey.

¹¹ <https://www.justice.govt.nz/assets/Documents/Publications/NZCVS-Module-Cycle-2-v1.9-FINAL-erratum-changes-for-release.pdf>.

Public trust and confidence in the criminal justice system is essential to its performance. The criminal justice system can only operate effectively if society trusts and has confidence in it. Victims, in particular, will only come forward to report crime if they trust the system will keep them safe, provide justice and treat them fairly.

Impact indicator	Performance trend				Comment
	2018/19	2019/20	2020/21	2021/22	
Access to justice					
World Justice Project Rule of Law Index	Score: 0.61	NZ score: 0.59	NZ score: 0.56	NZ score: 0.59	Indicates whether Police and criminal judges are impartial and whether they discriminate in practice based on socio-economic status, gender, ethnicity, religion, national origin, sexual orientation or gender identity.
• The criminal justice system is impartial	Rank: 25/113	Global rank: 39/126	Global rank: 39/128	Global rank: 32/139	
• The criminal investigation system is effective	Score: 0.63	NZ score: 0.59	NZ score: 0.60	NZ score: 0.61	
	Rank: 16/113	Global rank: 18/126	Global rank: 15/128	Global rank: 19/139	Indicates whether perpetrators of crimes are effectively apprehended and charged and whether Police, investigators, and prosecutors have adequate resources, are free of corruption and perform their duties competently.
• People can access and afford civil justice	Score: 0.70	NZ score: 0.72	NZ score: 0.72	NZ score: 0.73	Indicates the accessibility and affordability of civil courts, including whether people are aware of available remedies, can access and afford legal advice and representation; and can access the court system without incurring unreasonable fees, encountering unreasonable procedural hurdles or experiencing physical or linguistic barriers.
	Rank: 9/113	Global rank: 15/126	Global rank: 11/128	Global rank: 11/139	

Overall, the trends around access to civil and criminal justice in New Zealand are positive, although it is worth noting that New Zealand's score and global rank for criminal system impartiality is comparatively low. Through the quality of Crown assistance to the Court, as counsel, and in the many discretionary decisions made by lawyers representing the Crown, Crown Law has a significant and influential role in the cases that come before the court and how they are dealt with. Therefore, ensuring that Crown Law is a diverse, culturally competent organisation with a strong culture of working within the justice sector to ensure it is solutions-focused, transparent, and impartial will have an overall positive impact on the criminal justice system in the long term.

Impact indicator	Performance trend				Comment
	2019	2020	2021	2022	
Institutional trust					
Statistics NZ General Social Survey ¹²	64%	N/A	N/A	64%	A measure of trust in public institutions, specifically in the Courts.
• Level of trust in the courts (population)					
• Level of trust in the courts by Māori	44%	N/A	N/A	44%	

Wellbeing statistics 2021 presents data from the 2021 General Social Survey (GSS) and gives a picture of social wellbeing in the New Zealand population. They're based on people's assessments of their own lives, such as how satisfied they are, and objective information, such as their labour force status.

On average, people rated their trust of most people in New Zealand at 6.7 on a 0 to 10 scale, similar to 2018. The Trust held for courts also remained consistent to 2018, with 64% of the population rating their trust in courts 7 or above on the 10 point scale.

Impact indicator	Performance trend				Comment
	2019	2020	2021	2022	
Quality of prosecutions and appeals					
• Crown criminal appeals concluded in favour of the Crown	62%	62%	70%	79%	The level of appeals concluded in favour of the Crown is an indication about the merits of the prosecutions and the decision to appeal.
• Defendant criminal appeals concluded in favour of the defendant	31%	27%	30%	27%	

Crown Law conducts criminal appeals in the High Court, Court of Appeal and Supreme Court. Appeals include those brought by the Crown or in response to appeals brought by the accused. We also make decisions on requests for Crown and prosecuting agency appeals, judicial reviews, stays of prosecution and consent to prosecute. We conduct Crown appeals against court-imposed sentences that appear manifestly inadequate, and in cases involving an important point of law or principle.

When bringing a Crown appeal, we assess the likelihood of success at generally around 60%. This reflects the fact that the decision to take a Crown appeal will often be finely balanced because, especially when the Crown appeals, the court will look for more than the identification of mere error. The appeal court will generally only allow the appeal if it is satisfied there is something of greater significance at stake, either in the particular case or for the law more generally.

¹² <https://www.stats.govt.nz/information-releases/wellbeing-statistics-2021/>.

What we achieved this year

Solicitor-General's Prosecution Guidelines

The Solicitor-General and Ināia Tonu Nei (partner for the Justice Sector Leadership Group) are working on conducting a review of the Solicitor-General's Prosecution Guidelines. These guidelines set out the core values and high-level guidance that all public prosecuting agencies are expected to follow when exercising their discretion in deciding whether to bring a prosecution and when conducting any subsequent prosecution. The review will result in clearer guidance for how prosecutorial discretion can ensure better outcomes for individuals in the criminal justice system while better supporting the long-term safety of the community. The review began with a wānanga at Pipitea Marae in November 2021. It was attended by a wide range of participants with diverse interests in the criminal justice system. All supported the need for a different approach to prosecutions, especially in less serious cases. The project team, made up of Crown Law and Ināia Tonu Nei representatives, has worked together to scope and plan the next stages of the review. The current Guidelines were also updated to provide public prosecution agencies with guidance on the use of warnings to ensure they are being used in appropriate circumstances and meet the requirements of natural justice.

Te Pae Oranga Iwi Community Panels

Te Pae Oranga Iwi Community Panels are a way that Police and Māori partners deal with crime and prevent reoffending. The process holds offenders accountable while also helping them address problems they're facing, without the intervention of a court. It's available to people

of all ethnicities from all walks of life. Victims are encouraged to take part too. A number of us from Crown Law have had the privilege of observing the transformative power of Te Pae Oranga Panels over the past year. We have also had input into work presently being done to expand Te Pae Oranga and similar initiatives as the Justice Sector continues to seek effective responses to crime that will help prevent future offending.

Oversight of the Crown Solicitor network

Crown Solicitor reviews

As part of the Solicitor General's oversight of Crown prosecutions, all Crown Solicitors are reviewed on a triennial cycle using a combination of in-depth reviews (primarily interview-based) and written survey-based reviews. In 2021/22, five Crown Solicitors (covering six regions) were reviewed. The Whangārei Crown Solicitor was identified to participate in the in-depth review. The Deputy Solicitor-General and other members of the Crown Law Criminal Group interviewed stakeholders, including judges, Police, defence counsel and prosecuting agencies. The review process identified that the Whangārei Crown Solicitor's office had significantly strengthened its prosecuting capability, particularly by increasing the number of senior prosecutors, and the benefits of this were reflected in other aspects of the office's performance. Some recommendations for further improvements were made and agreed with the Crown Solicitor.

The Auckland, Tauranga, Napier/Gisborne and Wellington Crown Solicitors were all reviewed using the survey-based approach. These reviews provided assurance that the Crown

Solicitors and Crown prosecutors in their offices continue to provide quality services and are well regarded by stakeholders. The in-depth and survey reviews also found that te reo Māori and tikanga Māori capability amongst prosecutors continues to develop, and efforts are being made to incorporate te ao Māori into ways of working, both in the office and in court.

Survey-based reviews use online surveys to seek feedback from stakeholders that engage with Crown Solicitors. This approach increases the number of Crown Solicitors that can be reviewed at any one time. The review process seeks input from representatives of Police CIB, prosecuting agencies (including the Police Prosecution Service), defence counsel and Victim Support. Feedback from Crown Law's Criminal Group is also incorporated into the reviews. As surveys only target stakeholders, Crown Solicitors subject to survey reviews are also required to provide additional information in their annual questionnaire as part of the review process. The Survey reviews paint a broad and contemporary picture of a Crown Solicitor's performance. Within the confines of the data collected any significant issues can be identified and followed up.

Annual questionnaires are sent by the Public Prosecution Unit to all Crown Solicitors. These are designed to collect information on resourcing, other types of work undertaken by their offices and processes for allocation and supervision of work as well as key relationships required to support the Crown prosecution work.

Monthly reporting, in-depth and survey reviews, annual questionnaires, the prosecutor classification framework and Terms of Office all form part of a quality assurance framework used to provide assurance about the performance of the Crown Solicitors and their offices.

To ensure the sustainability of the Crown Solicitor network in the face of forecast increases in Crown workloads over the next three years, we received a significant funding increase in Budget 2022.

Funding model review

A review of the Crown Solicitor funding model was completed by KPMG in 2021/22. It was the first large-scale review of the funding model, which was first introduced in 2013/14.

The funding model consists of a bulk-funding mechanism that is responsible for distributing most of the funding to the Crown Solicitor network (~95%) and a smaller flexi-funding mechanism (~5%) that is used to manage exceptional cases and other network risks.

The review found that the bulk-funding mechanism was well administered by Crown Law and remains fit for purpose given the characteristics of the Crown Solicitor network. Some simple improvements were suggested for both the bulk and flexi-funding mechanisms, but the overall structure of the model was found to be sound.

After consideration of alternative models for funding Crown prosecutions, there is no clear case for changing from the current model. Whilst some aspects of the alternative models appeared to be feasible, overall, it was not obvious they offered improvements over the current model.

Recommendations in relation to flexi funding have been reviewed and several changes implemented following consultation with the Crown Solicitor network. Recommendations in relation to bulk funding are to be considered and any changes implemented for the 2023/24 financial year.

Oversight of prosecuting agencies

As part of the Solicitor General's general oversight of public prosecutions, Inland Revenue was invited to participate in an in-depth review. This was completed in 2021/22. The outcome of the review indicated Inland Revenue adheres to the Solicitor-General's Prosecution Guidelines and has robust processes in place to manage prosecution decisions. The review also indicated Inland Revenue satisfactorily manages issues related to disclosure of evidence and deals with the challenges of having a regionally diverse workforce. In addition, there were good procedures in place for managing staff involved in prosecutions, and there was oversight and supervision in place. The combination of tools Inland Revenue uses for enforcement, including prosecution, was also considered appropriate.

An in-depth review of the Ministry for Primary Industries' prosecuting function was completed this year, and an in-depth review of the Department of Corrections is ongoing and scheduled for completion in early 2022/23.

Three mainly survey-based reviews of prosecuting agencies were also conducted in 2021/22. The reviews involved surveying stakeholders to assess how each agency was performing. However, for the first time, a small number of stakeholders from each agency were also interviewed.

Stakeholders that were surveyed included the heads of investigations for each agency and a few external prosecutors (such as Crown Solicitors) and defence counsel. Feedback on each agency's engagement and reporting to Crown Law's Public Prosecution Unit is incorporated into the reviews. The agencies reviewed were the Department of Conservation,

MBIE and the Real Estate Authority (REA). No significant concerns were raised during the reviews, and prosecutions appeared to be well managed with good leadership within each of the agency's legal teams. Although REA has not had any prosecutions in the last few years, the review did show that there are systems in place to manage any prosecutions that may arise. The reviews also identified that MBIE has opportunities to improve connections between its prosecutors and compliance teams and its other business units involved in the investigation and decision-making process.

In total, 39 prosecuting agencies reported on their prosecutions. Overall, agencies are reporting a reduction in prosecutions since 2018/19¹³ but with a general trend of increasing workload reflected in increasing hours being reported on prosecutions. Whilst the amount of time agencies have spent internally on conducting prosecutions has remained static, the hours reported by agencies for briefed out prosecutions is trending upwards with a significant increase between 2020/21 and 2021/22.

Working with the justice sector

It is accepted across the five justice sector agencies that operating as a sector increases the ability to make significant changes to key aspects of the criminal justice system. The changes sought will achieve better criminal justice outcomes for all and particularly for Māori.

Crown Law, even though a small department, participates fully in the sector approach to transformation of the criminal justice system. Critical to this work is an overarching strategy that, in part, involves shared monitoring or governance of various transformative projects

¹³ This excludes figures for Police.

– for example, Police’s Reframe, Corrections’ Hokai Rangī and the District Court’s Te Ao Marama.

Better outcomes require sector-level agreement about priority developments and the expenditure to support them. The justice sector has just successfully collaborated on its first budget cluster process, which sought and received government funding using a sector view of priorities over a 3-year timeframe.

Mutual assistance and extradition regime

Crown Law performs a significant central role in facilitating international cooperation for law enforcement purposes. In 2021/22, Crown Law provided and requested assistance in relation to a wide range of transnational criminal matters. Requests to the United States for

electronic evidence, particularly in relation to homicide investigations and organised crime, continue to represent a high proportion of outgoing requests. Another recent trend has been requests to various countries for evidence relating to the importation and attempted importation into New Zealand of drugs, particularly methamphetamine.

Crown Law has a significant role in incoming extradition requests, providing advice to the Ministry of Justice on the adequacy of incoming requests, appearing in eligibility hearings and any resulting appeals and, if eligibility is made out, contributing to the advice to the Minister of Justice on surrender. Crown Law also works with prosecuting agencies and the Crown Solicitors to facilitate outgoing extradition requests under Parts 3 and 5 of the Extradition Act (Part 4 requests being facilitated primarily by Crown Solicitors).

Illustrative legal and constitutional matters



***R v Smith* [2021] NZCA 318, [2021] 29 CRNZ 830**

Lorraine Smith was the sole carer for four children with varying levels of special needs, including her 13-year-old granddaughter who had behavioural and psychological issues. Ms Smith struggled to cope and was suffering from anxiety and depression when she strangled her granddaughter in a sleepout at the back of her property. Ms Smith pleaded guilty to murder. At sentencing, the Judge found it would be manifestly unjust to sentence her to life imprisonment. Instead, she was sentenced to 12 years' imprisonment with a minimum period of imprisonment (MPI) of 6 years. The Crown appealed on the grounds that, in the circumstances of Ms Smith's case, the strong presumption in s 102 of the Sentencing Act 2002 that those convicted of murder will be sentenced to life imprisonment was not displaced.

First, the Court of Appeal was satisfied that, given the victim's particular vulnerability, s 104(1)(g) of the Sentencing Act was engaged, which required the court to impose an MPI of at least 17 years' imprisonment unless it would be manifestly unjust to do so. However, the Court had no hesitation in concluding that a 17-year MPI would be manifestly unjust.

The Court then assessed all the circumstances of the case. Ms Smith's personal circumstances justified considerable compassion and leniency. However, the victim's vulnerability, the gross breach of trust and the determined manner of

the killing, which would have been terrifying for the victim, meant that life imprisonment would not be manifestly unjust. The sentencing objectives of accountability, denunciation and deterrence could be achieved by imposing life imprisonment with a 10-year MPI.



***Alan Hall v R* [2022] NZSC 71**

On 8 June 2022, the Supreme Court quashed Mr Alan Hall's 1986 convictions for murder and aggravated wounding and directed his acquittal. This outcome was invited by the Crown, who accepted that Mr Hall had been the victim of a substantial miscarriage of justice. The merits of Mr Hall's application, filed in the Supreme Court in January 2022, informed the Crown's approach, it being clear that the prosecution had failed to meet its disclosure obligations and material evidence was not before the jury at the time of Mr Hall's trial. While the Supreme Court's judgment ended Mr Hall and his family's decades long fight to clear his name, it has kickstarted other processes within the criminal justice sector. The Solicitor-General has directed an inquiry into what role, if any, Crown lawyers played in this miscarriage and its delayed resolution, Police have commenced a similar inquiry into the actions of police officers at the time and a reinvestigation of the 1985 crime has begun. Pursuant to the miscarriage of justice in this case, Mr Hall spent 18 years in prison and 18 years on parole for Arthur Easton's

murder. Mr Hall's claim for compensation for the loss occasioned by the wrongful conviction and time in prison will be dealt with pursuant to Cabinet Guidelines.



P v the District Court at Manukau **[2022] NZHC 1102**

Victims and complainants have important roles to play in criminal cases, but they are not a party to the proceeding and do not make the decisions about key steps in the prosecution. In this proceeding, Ms P, the complainant in a criminal prosecution, sought judicial review of a District Court decision to dismiss criminal charges against the defendant, Mr S. Ms P was successful in part. The High Court found that, due to the unusual combination of circumstances, Ms P had a sufficient personal interest in the underlying prosecution to bring judicial review proceedings. Those unusual circumstances included the District Court Judge finding, without having heard her evidence, that Ms P's allegations had been false. The High Court also considered that the decision to dismiss Mr S's criminal charges had been wrong.

The High Court, however, declined to make an order setting aside the District Court's decision, as such an order would cut across and subvert statutory appeal pathways. Instead, the Court granted Ms P declarations that the District Court decision was erroneous and that references to her having made false sexual allegations were erroneous and made without cogent or sufficient foundation.



Fitzgerald v R [2021] NZSC 131

In this case, the Supreme Court considered the three strikes sentencing regime. The appellant had been convicted of his third strike offence, a low-level indecent assault, and sentenced to the 7-year maximum term of imprisonment. By majority, the Court held that the regime does not require the imposition of the maximum sentence on a third-strike offender in the rare case where such a sentence would be so disproportionately severe as to breach s 9 of the New Zealand Bill of Rights Act 1990. On that basis, the Court quashed Mr Fitzgerald's sentence and directed he be resentenced.

Following *Fitzgerald*, a number of third-strike offenders have filed out-of-time appeals against their (maximum) sentences. In *Phillips v R* [2021] NZCA 651 and *Mitai-Ngatai v R* [2021] NZCA 679, the Court of Appeal extended the time for appealing and quashed the sentences imposed for third-strike indecent assaults. The Court has reserved its judgment on a third appeal, *Allen v R*, where the third-strike offence was wounding with reckless disregard, committed during a home invasion.

The Court of Appeal has also extended the approach in *Fitzgerald* to second-strike sentencing. In *Matara v R* [2021] NZCA 692, it held that sentencing judges are not required to order that the sentence imposed be served without parole if doing so would breach s 9. It accordingly quashed the no-parole order imposed in 2017 on Mr Matara for the attempted murder of a fellow boarding-house resident with a pump-action shotgun. The

Court directed that he instead serve at least 40% of his 10-year, 2-month sentence. Applying *Matara*, in *Crowley-Lewis* [2022] NZCA 235, the Court of Appeal quashed the no-parole order imposed on a second-strike offender for offending that included the rapes of two previous partners. It substituted a minimum period of imprisonment of 50% of the sentence of 8 years and 6 months.



***Ihaia v R* [2022] NZCA 95**

Can driving the wrong way down a one-way street constitute the offence of endangering transport under s 270 of the Crimes Act 1961?

This was the question before the Court of Appeal in *Ihaia*. Ultimately, the Court held that such conduct was not captured by s 270. Section 270 prohibits “interference with” or “doing anything to” a “transport facility”. The Court agreed with the appellant in *Ihaia* that simply driving on the road – even in the wrong direction and in circumstances that were objectively dangerous – did not fall within the meaning of either prohibited action. This applied whether the transport facility identified was the road or an oncoming vehicle. More than driving on or driving towards is therefore required under s 270 in order to cause the requisite sort of criminal harm to a transport facility.

Te āheitanga o tō mātou whakahaerenga

Our organisational capability

Governance framework

Crown Law's Leadership Team is supported by the following:

- The **Performance and Capability Governance Committee** (PCGC) reviews Crown Law's management at an operational level, focusing on ensuring we are able to perform and function effectively. This includes governance of strategic initiatives designed to improve organisational performance and governance of cross-functional work to enable organisational effectiveness (including security, information and records, people capability, finance and health and safety, amongst others).
- The **Professional Standards Governance Group** (PSGG) reviews the professional performance of our legal services and of Crown Law's system leadership role across government.
- The **Assurance and Risk Committee** (ARC) provides an independent perspective on Crown Law's strategic management. In broad terms, its job is to identify any obstacles or threats to the organisation's success at a strategic level. It seeks to understand the strategic risks and opportunities facing Crown Law through an awareness of the current and future environment in which it operates. A primary benefit of the ARC is its independence. As at 30 June 2021, the independent committee

members are Colin McDonald (previously CEO of the Department of Internal Affairs and Government Chief Information Officer) as Chair and Victoria Werohia (Assurance Head of Risk at ACC).

- The **GLN Governance Board** is responsible for the governance of the Government Legal Network and its activities. The Board may give direction to Crown Law's System Leadership Group, including commissioning work from the group as required. The Board is not responsible for but supports the Solicitor-General in her consideration of and response to legal risk matters.
- The **Public Prosecutions Advisory Board** (PPAB) enhances the integrity of the Crown's prosecution function by promoting consistency and effectiveness. The Board consists of 12 members, including senior representatives from government agencies.

Managing risk

Crown Law operates a risk assessment framework that helps to assess legal and operational risk (including technology, security, privacy, fraud and corruption, procurement and business risk). Risk is assessed by determining the likelihood of an event occurring and considering the impact of the event's consequences. The Leadership Team identifies, monitors and reviews organisational risk on a regular basis.

The System Leadership Group maintains the Crown's Significant Legal Risk Register. This register captures significant legal risks for individual departments and systemic legal risks that affect multiple departments or the whole Crown. A report on key legal risks identified is provided twice a year to the GLN Governance Board and the Attorney-General.

People and capability

To achieve our strategic outcomes and goals, we need our people to be engaged and working collaboratively with a diverse range of views and be comfortable communicating and considering different perspectives. This will help us continue to deliver excellent legal advice and services that are relevant and valued both by our customers and New Zealand. We are committed to building and investing in such a workforce.

Success at Crown Law is not just about what we do but how we do it. Our ways of working support a shift in culture that embraces the value of all of the work carried out across Crown Law. Specifically, as an organisation, we:

- take pride in all we do
- value our differences
- look after the mana of other people
- recognise our impact on others
- care about each other.

Inclusion and diversity

Crown Law's Leadership Team is committed to fostering an inclusive and diverse culture. This will ensure we attract and retain a workforce that is drawn from diverse backgrounds and is capable of approaching our work from diverse perspectives. So our staff can perform at their best, we provide a safe work environment where people are empowered to contribute their knowledge, skills and experiences.

Papa Pounamu

Crown Law continues to be committed to Papa Pounamu and the five priority areas that support our levels of representation and inclusion across all areas.

Impact of our Papa Pounamu efforts

According to Te Taunaki findings, Crown Law supports and promotes an inclusive workplace and ensures that our people feel accepted and valued. Our Te Taunaki results exceeded the public service average. We exceeded it by 11% in our ratings for people feeling accepted as a valued member of the team and by 12% for people perceiving that the agency I work for supports and actively promotes an inclusive workplace. Despite these positive findings, Crown Law recognises that we need to take a more structured approach to achieving the desirable Papa Pounamu impact.

In January 2022, we appointed a Senior Advisor Capability and Culture to address a recognised capability gap in progressing our Papa Pounamu commitments. In discussion with our staff, we have developed an Inclusion and Diversity Strategic Plan, which will be finalised and implementation started during the 2022/23 financial year. The plan sets out our actions, goals and targeted measures designed to lift our collective inclusion and diversity competence so that Crown Law can better serve Aotearoa New Zealand's diverse communities. The Inclusion and Diversity Strategic Plan is championed by our newly appointed Inclusion and Diversity Executive Sponsor – Sophie Mexsom, Deputy Chief Executive, Strategy and Corporate.

Addressing bias

During 2021/22, to help address potential bias during recruitment, we altered our application processes to enable people to provide their gender, ethnicity and disability identity. In

addition to helping us identify potential recruitment bias, it will also help us design recruitment approaches that connect us with a more diverse range of applicants.

During 2021/22, we committed to undertake unconscious bias training as part of our Gender Pay Action Plan. Uptake on this has been low. Therefore, this will be carried over to the updated Gender and Ethnicity Pay Action Plan for 2022/23. A revised bias awareness programme will target new starters. It will also be made available to all existing staff with supplementary tools and resources to support leader-led conversations.

Crown Law continues to provide unconscious bias training. This was supplemented with a live presentation on inclusion, diversity and empathy that was available to all Crown Law and our Government Legal Network.

Cultural competence

Building our cultural competence is a key priority in Crown Law's Strategy 2021–2025. Our future success in providing quality legal services to the Crown will require significant cultural competency, upskilling in te ao Māori, tikanga Māori and te reo Māori. We aspire to operate in unfamiliar spaces. We aim to be more adaptable and flexible in our response to others' diversity, especially in potentially ambiguous contexts.

Implementing He Rautaki Māori and the Inclusion and Diversity Strategic Plan will be central to building greater cultural competency.

During 2021/22, we continued to implement our Whāinga Amorangi Plan and our Māori Language Plan by providing access to a range of cultural competence training. Training included te reo Māori and tikanga Māori (46% of staff have undertaken) and cultural competence foundations, including te Tiriti Waitangi/New Zealand history (34% have undertaken).

Inclusive leadership

Crown Law will develop an inclusive leadership programme during 2022/23 that takes an ao Māori approach to leadership to support the development of an inclusive and safe workplace culture. This programme will be made available to all our people leaders.

In the meantime, we have supported managers to attend the Leadership Development Centre's New Leader of Leaders programme.

Building relationships

Effective and meaningful internal and external relationship building is strongly encouraged at Crown Law. These are some examples:

- Our System Leadership Group supports the Solicitor-General in her role as leader of the Government Legal Network (GLN). The GLN is the network for government lawyers. Among other work, the GLN fosters relationships among government lawyers to enable support and collaboration. This collegiality benefits government lawyers and those they advise.
- Counsel staff attend He Waka Eke Noa, a cross-agency induction that starts to build relationships across the Government Legal Network.
- Our Criminal Group has a network of 16 Crown Solicitors around New Zealand holding 17 warrants to prosecute serious criminal offending in their respective districts. In addition, various agencies – such as government departments and Crown entities – employ prosecutors who undertake non-Crown prosecutions on behalf of their agencies. All Crown and agency prosecutors are subject to the Solicitor-General's oversight, primarily through the leadership of the Deputy Solicitor-General (Criminal) with support from Crown Law's Criminal Group.

- Internal staff relationship building efforts include managers appointing a buddy to new starters and supporting employee-led networks.

Our Human Resources team connects across the sector as active members of the Justice Sector Cross-Agency Confidence Group, Leadership Development Centre hui, Diversity and Inclusion Community of Practice and Lead Toolkit and Disability hui.

Planning is under way to establish two new teams during 2022/23 that will further support our ability to build broader relationships: Māori Capability, and Strategic Engagement and Communications.

Employee-led networks

We continue to encourage and support employee-led networks. During 2021/22, we had the following employee-led network groups operating:

- Crown Law Social Committee
- Te Rōpū Māori
- LGBTea and Coffee Group
- Asian Coffee Group
- Pasifika Group
- Te Awheawhe Reo Māori
- Parents and Whānau Group
- Menopause and the Workplace Network

- Assistant Crown Counsel Group

These employee networks provide the opportunity for staff to safely share their ideas, doubts and apprehensions and know these will be received with empathy and consideration. Celebrating diversity and sharing knowledge is central to our ways of working.

These networks are in their early stages of development. They are informal and largely self-governed. People engage when issues and opportunities arise. We expect participation to increase as the networks mature.

We are developing guidance to support the creation of new networks as well as linking our networks to those of other agencies.

Our demographic profile

We continue to improve our ability to report on our demographic profile. We are making significant progress with our application and recruitment data. This will enable us to better identify our target audiences and reach a more diverse applicant base.

We have ethnicity information for 210 of our 215 people (97.7%). Of these 210 people, we have 255 ethnicity entries in total, meaning 45 of our people identify with two ethnicities. Nobody has identified with three or more ethnicities. Five of our people (2.3%) have not disclosed an ethnic identity.

Workforce	215 people	60.8% European
	70.2% of our workforce identify as female	7.5% NZ Māori
	29.8% of our workforce identify as male	4.7% Pacific people ¹⁴
	0% identify as another gender	7.8% Asian
		1.2% MELAA ¹⁴
		18% Other ethnicity
		(2.3% Not disclosed)

¹⁴ This dataset is smaller than 20 people, therefore may not be statistically robust and should be considered indicative only.

Our locations	94.9 % based in Te Whanganui-a-Tara/Wellington 5.1 % based in Tāmaki Makaurau/Auckland	
Leadership cohort	26 people 56.5% of our Tier 1–3 leaders identify as female 43.5% of our Tier 1–3 leaders identify as male 0% of our Tier 1–3 leaders identify as another gender	69.2% European 30.8% Other ethnicity
Lawyer cohort	63.6 % identify as female 36.4 % identify as male	
Gender pay gap	12.4% (mean)	31.8% (median)
Māori pay gap	13.5% (mean)	-2.9% (median)
Pacific people pay gap	27.7% (mean)	35.2% (median)
Asian pay gap	22.0% (mean)	21.4% (median)
Other ethnicity pay gap	-22.1% (mean)	-31.1% (median)

Note: Negative figures indicate a pay gap in favour of that group (an inverse pay gap).

Kia Toipoto

Impact

The impact of Crown Law being a less ethnically diverse organisation is that our ethnicity pay gaps may initially appear high.

The pay gaps seen in the table above exist primarily because the majority (more than 80%) of our lower-banded support staff and legal staff are women (vertical segregation). For the same or similar roles, there is little or no difference between the average pay of men and women. Despite this, Crown Law has an active programme to address gender inequalities, including providing unconscious bias training. This is designed to mitigate gender bias from appointment, performance, promotion and remuneration decisions and is available to all managers and HR staff.

Crown Law's gender pay gap as at 30 June 2022 was 12.4%. This continues a downward trend. The gap was 15.5% as at both 30 June 2020 and 30 June 2021 and 23.5% at 30 June 2019.

The number of people who identify as Middle Eastern, Latin American or African (MELAA) is statistically not enough to report on.

Additional information

We have reviewed our application and recruitment processes to better understand the needs of potential recruits.

We have reviewed our Study Assistance Policy to make it more accessible and included consideration of time off in lieu to further mitigate any age or gender discrimination.

Crown Law is also a party to the Gender Equitable Engagement and Instruction Policy promoted by the New Zealand Law Society and New Zealand Bar Association. A key objective of the policy is to ensure that women lawyers with relevant expertise take a lead on at least 30% of court proceedings, arbitral proceedings and major regulatory investigations.

For the year ended 30 June 2022, of matters briefed externally, Crown Law had engaged and

instructed women barristers as follows:

- 39% of the matters compared with their male counterparts (29% in 2020/21).
- 55% of dollar value compared with their male counterparts (63% in 2020/21).

Plan

During 2020/21, we developed Crown Law's Gender Pay Gap Action Plan 2021/22, which had four key actions. Two have been completed. The two still outstanding are the implementation of a new payroll system and development of an Inclusion and Diversity Strategic Plan. However, planning for both is well progressed.

We continue to review our attraction and recruitment processes and strengthen bias awareness training to mitigate any influence unconscious bias might have on starting salaries.

Progress

We have made the following progress under each of the Kia Toipoto milestones:

- **Transparency** - In July 2022, Crown Law implemented and published our remuneration step framework to ensure greater transparency and fairness.
Crown Law collects ethnicity data as part of the application and recruitment process.
- **Equitable pay outcomes** - In October 2021, a relativity exercise was undertaken with a focus on the identification of any gender, Māori or ethnic differences in remuneration. Where required, remediation occurred.
The July 2022 remuneration increases provided more-meaningful increases to lower-paid roles to reduce pay gaps within Crown Law.
- **Leadership and representation** - Our representation of women in leadership

roles can be seen in the table above. We aim to ensure our workplace culture and policies support women's career progression. This includes providing flexible working arrangements and sponsoring women and minorities to attend development programmes and conferences.

Māori Crown Relations Capability

As advisors to and representatives of the Crown, we need to be capable of readily engaging with Māori. To achieve this, we must adopt a considered and holistic approach to te ao Māori and tikanga Māori across all aspects of our work. By building this capability, we will ensure we have the skills needed to support government in meeting its Tiriti rights and obligations.

During 2021/22, we continued to implement our Whāinga Amorangi Phase One plan. However, lack of access to ao Māori expertise and COVID-19 disruptions slowed our progress. The following outlines the key actions of our plan and progress made during 2021/22.

- **Te reo Māori training**

During 2021/22, Crown Law provided access to interactive reo Māori training for all staff, with weekly classes available that range from support for beginners through to full immersion. Approximately 45% of Crown Law staff have accessed these on-site/online classes. This level is lower than our 70% target, but we remain committed to providing this training and remain focused on encouraging staff to participate. Staff can also access a number of te reo Māori resources on Crown Law's intranet, and our te reo Māori network Te Awheawhe continues to support kōrero Māori at Crown Law.

- **Te Tiriti/New Zealand history training**

We have started once again offering workshops on cultural competence, cultural safety and intelligence, addressing institutional racism and te Tiriti. Although interest waned during the height of the pandemic, by 30 June, 33% of our staff had attended at least one cultural competence course. This level is lower than our 50% target, but we remain committed to providing this training and remain focused on encouraging staff to participate.

- **Tikanga/kawa Māori training**

Training in tikanga/kawa continues to be an aspiration that will be implemented as part of our He Rautaki Māori strategy. Staff have access to a range of tikanga Māori resources through the Crown Law library.

- **Develop our internal te ao Māori expertise**

In addition to providing the above te ao Māori and te reo Māori training, we have recognised we need to employ dedicated Māori capability to help develop our internal te ao Māori expertise. As part of our 2021–2025 Budget bid, we requested and had approved funding to establish a Māori Capability team in 2021/22.

While we have not yet achieved our target of having 40% of staff participate in some form of intercultural awareness training, we are continuously improving our processes to increase participation and build greater inclusivity. For example, work began in 2020/21 to make greater use of te reo Māori in position descriptions and recruitment advertising and encourage use of karakia at the start of meetings.

- **Māori engagement plan developed**

Our Māori Engagement Plan was not developed as intended during 2021/22 due

to a lack of expertise to lead this work.

However, this is a key deliverable of the new Māori Capability team. Despite not having a specific engagement plan in place, Crown Law continues to engage with our staff Māori network group Te Rōpū Māori.

In 2020/21, we began developing He Rautaki Māori, which will provide a more holistic approach to te ao Māori across all aspects of Crown Law's work and provide the foundation for our ongoing commitment to Whāinga Amorangi. He Rautaki Māori will consider the capability requirements needed to support what we do (our professional capabilities) and how we do it (our culture). It will set out specific kaupapa and actions across a range of capability elements including knowledge and skills, environment, people and projects, and relationships. Implementation of He Rautaki Māori has not progressed as intended during 2021/22 due to a lack of dedicated te ao Māori capability within Crown Law's workforce. However, an increased focus on implementing He Rautaki Māori will be possible once the new Māori Capability team is established in 2022/23.

Māori language planning

Crown Law continues to be committed to developing te reo Māori capability of our people alongside embedding te reo Māori within our organisation. Crown Law provided access to te reo Māori weekly classes for our staff ranging from beginners to full immersion.

The Te Taunaki – Public Service Census results indicated that Crown Law was above the Public Service average across all Māori – Crown relationship metrics including our support and use of te reo Māori at work and tikanga capability and usage. Te Taunaki findings also indicated our Māori Language Plan goals need to be clearer. This will be achievable with the establishment of the new Māori Capability team.

Matariki

2022 was the first time the Matariki celebration is being formally and legally recognised, making it the country's first Indigenous public holiday.

Matariki celebrations provided an opportunity for Crown Law staff to learn more about te ao Māori and tikanga related to Matariki. An awareness session was held to educate our staff on the origins and tikanga of Matariki. Our Te Rōpū Māori network also led several initiatives including the hosting of our inaugural Matariki Staff Awards, inviting our people to place a star on our Te Rākau Whakamahara – Remembrance Tree in honour of loved ones, a hāngī lunch sharing kai and kōrero with colleagues and making available Matariki resources, such as a Matariki background to use during Microsoft Teams calls.

Workplace health, wellbeing and safety

Crown Law has a strong commitment to the health, safety and wellbeing of staff (including contractors and other service providers). Identified as a strategic risk, this year has seen a range of foundational work to start progressing our organisational health and safety maturity.

Work is under way to understand our current state and plan accordingly. Health, safety and wellbeing have been a regular item for discussion at the Assurance and Risk Committee as well as being a core focus of our Leadership Team, COVID-19 Response Committee and people leaders. The Government Health and Safety Lead and PSA have attended a number of operational meetings to provide an external lens, and recognising the importance of understanding the views of our people, seeking feedback has been prioritised. Activities in this regard have included:

- running two health, safety and wellbeing perceptions surveys using WorkSafe's SafePlus tool
- obtaining feedback via short wellbeing pulse surveys through various phases of the pandemic to understand pressure points and inform support needs of our people
- increasing activities with our health and safety committee (Health, Safety and Wellbeing Panel) to empower this group and increase participation and engagement on health, safety and wellbeing matters
- developing a health, safety and wellbeing work programme to support planning and direct efforts in ways that matter to our people.

Risks that can lead to psychosocial injury is an area identified as being a critical risk for Crown Law Office. This has had substantial focus this year, with the Leadership Team including it as part of the strategic risk management process. Complex in nature, the range of work undertaken to understand and mitigate risks that can lead to psychosocial harm has included these actions:

- Engaging with external specialists to determine good practice in psychosocial injury risk management, including investigating a potential supporting framework.
- Promoting attendance at professional supervision, noting it is a protective process that offers the opportunity for staff to reflect on work with a skilled supervisor.
- Providing access to a confidential employee assistance programme, which provides counselling, trauma management and employee development services. A range of online resources and learning modules are also available.

- Supporting Safety Net – a working group of Crown Law volunteers with the purpose of “proactively keeping our people safe through policy, education, support and growing cultural awareness” in relation to sexual misconduct and harassment in the workplace. Our Safety Net Contact Officers have been trained by the Sexual Abuse Prevention Network (now RespectEd).
- Establishing practical action plans to support and protect staff who have been identified as having a potential increased risk to their wellbeing.

In addition to legislation, our health, safety and wellbeing work is guided by a Health, Safety and Wellbeing Panel consisting of a cross-section of Crown Law staff and chaired by the Deputy Chief Executive Strategy and Corporate. Work is under way to update the supporting Worker Participation Agreement and bring new members onboard. The panel facilitates cooperation between Crown Law management and staff in instigating, developing and implementing measures, standards, rules and policies to improve and ensure the health, safety and wellbeing of all Crown Law employees. The panel met six times during 2021/22. Health, safety and wellbeing reporting is now included in a quarterly People Dashboard to ensure appropriate elements of risk, legislative obligations and performance are considered by the relevant bodies.

H&S performance indicators	Actual 2020/21	Actual 2021/22
Worksite injuries	3	2
Lost-time injuries	-	-
Number of employees accessing employee assistance services	20	26
Early report pain or discomfort	5	-

Systems, software and processes

We continue to invest in and enhance systems and infrastructure to ensure efficient and secure functioning of Crown Law. During 2021/22, we completed several systems and software roadmap initiatives including migrating to Microsoft 365, going to tender for discovery software, gathering requirements for a replacement payroll system, selecting a new desktop as a service provider and continuation of the document management system upgrade.

The Legal Matter Management and Financial Management System Review commenced in 2019/20, and based on review recommendations, the Leadership Team has agreed to implement a new legal practice management and financial management system. This business-critical system is a cloud-based Microsoft solution that will enable us to simplify and streamline our processes, support increased financial resilience and offer an improved user experience. The system also integrates with Microsoft 365 and will enable us to deliver better information and dashboard reports. Procurement has completed, and system design and implementation is now under way. This project has been delayed by the impacts of COVID-19 and staff changes. However, it is now in flight, on track and expected to complete in 2023.

Cyber security

Cyber security is a constantly evolving area and Crown Law reviewed and improved our cyber security posture during 2021/22 by developing and delivering a Cyber Security Work Programme. Information security policies were reviewed and revised, certification and accreditation activities were completed on business-critical systems, operational improvements were made to systems and

education and awareness training continued. Crown Law developed a cyber security Budget bid as part of the justice sector cluster to continue this work. Crown Law received this funding, and we are now in the process of revising the work programme for the 2022/23 financial year.

Crown Law takes a multi-layered approach to providing digital security to Crown Law information. Crown Law uses all-of-government and common capability ICT contracts to access suppliers procured through DIA-led processes. These suppliers provide perimeter defences, and Crown Law has processes in place to ensure our devices and applications are as secure as possible. Crown Law educates, raises awareness and reminds staff regularly about their obligations to keep Crown Law information safe. Crown Law responds to and follows the guidance of the Government Communications Security Bureau (GCSB), the National Cyber Security Centre (NCSC), the Government Chief Digital Officer (GCDO) and the National Computer Emergency Response Team (CERT NZ) among others.

Accommodation

Auckland relocation project

Crown Law relocated our Auckland office from Zurich House 21 Queen Street Auckland, to HSBC Tower, 188 Quay Street, Auckland, in February 2022 as part of our co-location with the Serious Fraud Office. This relocation provided both Crown Law and the Serious Fraud Office with the ability to accommodate additional team members, modernise our office and mode of working and take advantage of the favourable office space market available at the time. The delivery of this work was the culmination of months of planning, design and implementation between Crown Law and the Serious Fraud Office.

Wellington accommodation project

Crown Law has commenced an accommodation review project for our Wellington office space that is expected to run through to late 2023. The project is designed to ensure Crown Law's Wellington office accommodation needs keep pace with our changing organisation to ensure a sustainable Crown Law with the infrastructure required to deliver on Crown Law's core role and objectives and support our workforce over the long term (9-12 years). Phase 1 of the project (Discovery phase), which was completed between April and September 2021, gathered information from Crown Law teams, developed an understanding of how we use our current office space, our current accommodation needs and what we require moving forward and investigated potential co-location and real-estate opportunities.

Phases 2 and 3 will see the project working through the insights and options gathered in phase 1 and to begin designing our accommodation to meet the current and future needs of Crown Law. Phase 2 of the project implemented an interim desk plan to support Crown Law to manage our changing accommodation needs in the interim, until the completion of the full project in 2023. Phase 3 is about designing the new accommodation, answering the question of how we get the most from our new environment while delivering on the project objectives. The final phase of the project (phase 4) will see the implementation of the design. Our current timeline will see Crown Law in our updated accommodation in late 2023.

Quality framework

Crown Law is committed to providing high-quality legal services, and we have a range of systems, guidance, knowledge and capability to ensure the quality of our work, enabling us to

be confident we are delivering value for New Zealanders. The following are a range of formal mechanisms that make sure we provide high-quality, fit-for-purpose legal services that meet varying needs and expectations.

Continuous professional development

Legal staff must maintain a programme of continuous professional development, as monitored by the New Zealand Law Society. We provide regular and continuous in-house opportunities for all staff to receive professional development and education. Our Education Committee facilitates a seminar series and a range of programmes. We also encourage staff to attend external training relevant to their role.

All staff at Crown Law must participate in the performance management framework, which establishes goals that directly align to our strategy. We also expect this framework to provide opportunities for feedback to be given and received about opportunities to improve.

Professional standards

The Professional Standards Committee is the internal body responsible for reviewing our professional practices and for making sure policies, guidelines, templates and resources are up to date and represent best practice.

All advice provided to clients on behalf of the Solicitor-General, whether written or oral, must be provided per the principles set out in these policies and guidelines.

Peer review and consultation

All written Crown Law advice must be peer reviewed. This process allows our lawyers who are drafting advice to consult with other staff with the relevant and specific legal expertise. In practice, this process means fresh expert eyes consider an issue's complexity. This peer-review mechanism contributes to ensuring we deliver high-quality legal advice.

Litigation management planning

Litigation management planning (LMP) enables us to effectively and efficiently commission and run a case while also increasing our prospects of success. The LMP framework involves robust planning by assigned lead counsel and strong communication with our clients and stakeholders.

As with all our work, we are conscious that the outcome should be consistent with wider Crown interests. The LMP discipline requires, at the conclusion of each case, a debrief to discuss and cement the lessons from the experience for application in how future litigation is handled.

Feedback from other agencies

Our annual satisfaction survey offers an opportunity for other agencies to rate and comment on various quality factors of our service. We collect both quantitative and qualitative information and ask a series of open-ended questions to help us understand what we can do to improve our legal advice and services.

For further information about the results of our annual survey, please refer to page 63.

Our sustainability reporting

We are committed to meeting the requirements of the Carbon Neutral Government Programme (CNGP) and operating in an emissions and energy-efficient environment. We have chosen financial year 2019/2020 as our base year. Our emissions have been reported and independently verified by Toitū Envirocare. We are proudly a Toitū carbonreduce organisation, which means we are measuring, managing and reducing our emissions according to ISO 14064-1:2018 and Toitū requirements. Toitū carbonreduce certification is accredited by the Joint Accreditation System of Australia and New Zealand (JAS ANZ) and under ISO 14065.

A copy of our Toitū carbonreduce certification disclosure can be viewed on the Toitū website.

Total annual emissions and their source

In 2021/22, we emitted 122 tCO₂-e (tonnes of carbon dioxide equivalent), a 51% reduction on our base year (247 tCO₂-e). Over 90% of our emissions in 2021/22 came from air travel, working from home, wastewater, paper use, and electricity for our 2 offices.

While we have seen a significant reduction in our emissions compared to our base year,

largely due to a drop in international and domestic travel, COVID-19 has prompted us to reconsider the need for us to travel and instead utilise online meetings. While we do expect our business travel emissions to increase over the next 2 years, as travel restrictions are lifted, we are actively working to identify options to minimise these increases.

We have seen an increase in working from home mainly due to extended lockdowns during 2021/22. We do expect this to decrease as we return to more normal working patterns.

Emissions profile broken down by scope and total annual emissions (tCO ₂ -e)	2019/20 base year	2020/21	2021/22
Category 1: Direct emissions	0.33	0.48	0.13
Category 2: Indirect emissions from imported energy	9.19	22.44	9.00
Category 3: Indirect emissions from transportation	194.76	89.26	81.46
Category 4: Indirect emissions from products used by organisation	42.45	23.34	31.39
Category 5: Indirect emissions associated with the use of products from the organisation	0.00	0.00	0.00
Category 6: Indirect emissions from other sources	0.00	0.00	0.00
Total direct emissions	0.33	0.48	0.13
Total indirect emissions	246.41	135.04	121.86
Total gross emissions in tCO₂-e	246.74	135.51	121.99
Change in gross emissions since base year		-45%	-51%

Total emissions breakdown by source 2021/22	2021/22	Percentage
Travel – flights	62.65	51.4%
Paper	17.47	14.3%
Wastewater services	11.30	9.3%
Working from home	10.88	8.9%
Electricity transmission and distribution losses	9.82	8.1%
Travel – accommodation	5.42	4.4%
Taxi, petrol and mileage	2.30	1.9%
Waste	0.93	0.8%
Water supply	0.88	0.7%
Freight	0.34	0.3%
Total gross emissions in tCO₂-e	121.99	100%

Emissions intensity by FTE

Since our base year, Te Tari Ture o te Karauna Crown Law has experienced a slight growth in full-time equivalent employees (FTEs) and

our expenditure. Despite this, we have seen a reduction in emissions per FTE and per million dollars of expenditure.

Emissions intensity by FTE and expenditure	2019/20	2020/21	2021/22
KPI			
FTEs	199	207	215
Expenditure (\$m)	72.64	79.21	81.75
Emissions intensity			
Total gross emissions per FTE in tCO ₂ -e	1.24	0.65	0.57
Total gross emissions per million dollars of expenditure in tCO ₂ -e	3.40	1.71	1.49

Our reduction targets

Te Tari Ture o te Karauna Crown Law Office is committed to reducing carbon emissions and has reduction targets aligned to keep global warming to less than 1.5c of warming as required under the Carbon Neutral Government Programme.

Our targets also align to the requirements of the Toitū carbonreduce programme.

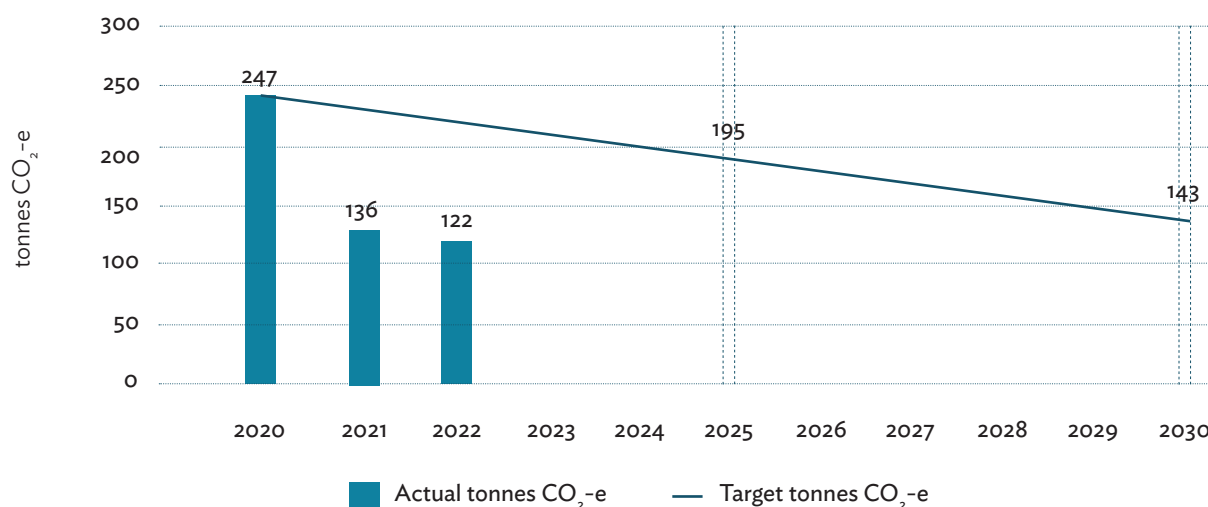
We have set the following emissions reduction targets:

- **2025 target:** Gross emissions (all categories) to be no more than 195 tCO₂-e or a 21% reduction in gross emissions (all categories) compared to base year FY19/20.
- **2030 target:** Gross emissions (all categories) to be no more than 143 tCO₂-e, or a 42% reduction in gross emissions (all categories) compared to base year FY19/20.

Progress towards our targets

Our emissions for 2021/22 have reduced by 51% compared to our base year of 2019/20. This would mean that, if we can maintain this current level of emissions we would meet our emissions targets.

We project our emissions to grow over the next two financial years compared to 2021/22 due to an increase in our domestic and international travel along with our planned FTE uplift. However, we are actively working with our managers in order to minimise the likelihood of our travel emissions returning to pre-COVID levels.



Our reduction plan and future reporting

Future reduction plans

To achieve our reduction targets, we have identified specific projects to decarbonise our emissions-generating activity.

- **Energy efficiency** – The Wellington office accommodation project provides us the opportunity to investigate options to design a more energy efficient office environment
- **Paper** – Our Business Improvement team has a continued focus on supporting the reduction of paper usage across our organisation.
- **Travel** – Review of our travel policy to ensure travel must be necessary and justifiable, including in respect of the requirements to minimise emissions under the Carbon Neutral Government Programme. Travel should only be undertaken where the business purposes cannot be achieved through other means such as technology-enabled solutions.
- **Waste landfill** – Identification and implementation of opportunities to promote reduction in waste to landfill in order to reduce our emissions while promoting behavioural changes in our people.

As part of our commitment to ongoing improvement, our plans for the 2022/23 financial year include:

- improving our data collection for our working from home emissions to remove assumptions from our methodology
- increase communications with staff on reduction plans and boost awareness of our targets to help staff decarbonise in their everyday lives.

Improving our data

Crown Law is looking to leverage improvements in our core financial management system to help make emissions reporting more efficient and more accurate by reducing the number of manual steps involved to complete emissions inventories.

Partners

We work with a wide range of stakeholders to help deliver our outcomes. These stakeholders include the following:

- the Law Officers (Attorney-General and Solicitor-General)
- Parliamentary Counsel Office

- state sector agencies that we represent and provide legal advice to
- Government Legal Network
- the network of Crown Solicitors.

Crown Law is one of the six core justice sector agencies along with the Ministry of Justice, New Zealand Police, Department of Corrections, Oranga Tamariki and Serious Fraud Office.

We are also a member of the justice sector cluster for Treasury's Budget process, which

has just successfully completed its first multi-year, multi-agency budget funding prioritisation process and will commence jointly reporting on the outcomes of funding.

We work with Ināia Tonu Nei who have set out their priorities for working with the justice sector.

For more information on how we work with our fellow agencies and networks, refer to *Performance against our strategic intentions*.

**Ā mātou
whakatutukinga
ā-whakahaere**
Our operational
performance

Appropriations – audited service performance and financial performance

Law Officer Functions – multi-category appropriation (MCA)

The overarching purpose of this appropriation is to provide for the discharge of the Law Officers' constitutional, criminal law and system leadership responsibilities including legal advice and representation. This appropriation is intended to achieve improvement in the management of Crown legal risk and improved criminal justice, maintain strong legal institutions and strengthen the influence of the rule of law.

Performance measure	Actual 2020/21	Target 2021/22	Actual 2021/22	Comment
The Attorney-General is satisfied with the services provided by Crown Law	Yes	Yes	Yes	-

Audited financial performance (MCA summary) (GST exclusive)

Actual 2021 \$000		Actual 2022 \$000	Main Estimates 2022 \$000	Supplementary Estimates 2022 \$000
Revenue				
54,643	Crown	56,405	56,404	56,405
26,551	Other	25,182	26,290	26,290
81,194	Total revenue	81,587	82,694	82,695
Expenditure				
79,210	Expenditure	81,748	82,694	82,695
1,984	Total annual and permanent appropriations	(161)	-	-

Law Officer Functions (MCA) - Strategic and Operational Legal Advice and Representation

Performance measure	Actual 2020/21	Target 2021/22	Actual 2021/22	Comment
Quantity - new matters				
Advice	316	380-425	286	From year to year, the inflow of new matters may vary significantly. New matters mostly arise from circumstances external to Crown Law but in which Crown Law must subsequently become involved. In each year, as we prepare budget documents, we consider whether there are any factors that could help us anticipate the numbers of new matters in the upcoming financial year. Such factors can include policy changes and recent events.
Litigation	256	250-300	213	
Judicial review	88	80-100	107	
Claims before Waitangi Tribunal	112	50-70	113	-
Number of continuous professional development compatible hours delivered annually to the Government Legal Network	N/A ¹⁵	60-70	72.5	-
Number of reports submitted to the Attorney-General under the GLN Legal Risk Reporting System	4	2	2	-
Quality				
Responses to the client survey that consider the advice and services received overall are good to excellent	100%	90%	100%	-
Responses to the client survey that consider the responsiveness, relevance, accuracy and clarity of advice are good to excellent	100%	90%	99%	-
Written opinions and advice that are peer reviewed	68%	80%	73%	73% of matters (122 out of 155) were peer reviewed. The process to complete peer reviews and to ensure data is accurately captured is being reviewed as we implement the new legal practice management system.
Chief Legal Advisors consider SLG team engagement and communications are good to excellent	100%	90%	100%	-

¹⁵ This measure is amended from that used in 2020/21.

Performance measure	Actual 2020/21	Target 2021/22	Actual 2021/22	Comment
Quality (continued)				
Lawyers registered on GLN Online consider GLN activities and opportunities for participation are good to excellent	94%	85%	93%	-
The Attorney-General is satisfied with the GLN Legal Risk Reporting System	Yes	Yes	Yes	-
Timeliness				
Responses to the client survey that consider timeliness in responding to requests is good to excellent	96%	85%	100%	-
Written opinions/advice (final or draft) completed by the due date	76%	85%	79%	79% of matters (113 out of 155) had advice provided to clients by the due date for the year.
Litigation management plans completed by due date	74%	80%	68%	There were 219 matters requiring a litigation management plan during the year. Of these 68% (148 out of 219) were completed on time and 82% (180 out of 219) were completed. The process to complete litigation management plans and to ensure data is accurately captured is being reviewed as we implement the new legal practice management system.
Value for money				
Percentage of responses to the client survey that consider the service received represents value for money is good to excellent	95%	95%	96%	-

Audited financial performance (GST exclusive)

Actual 2021 \$000		Actual 2022 \$000	Main Estimates 2022 \$000	Supplementary Estimates 2022 \$000
Revenue				
1,029	Crown	1,331	1,331	1,331
26,519	Other	25,179	26,150	26,150
27,548	Total revenue	26,510	27,481	27,481
Expenditure				
26,256	Expenditure	26,918	27,481	27,481
1,292	Total annual and permanent appropriations	(408)	-	-

Law Officer Functions (MCA) - Law Officer Constitutional and Criminal Law Duties

Performance measure	Actual 2020/21	Target 2021/22	Actual 2021/22	Comment
Quantity - new matters				
Applications processed on behalf of the Attorney-General	33	35-55	36	
Advice on behalf of the Attorney-General	92	120-160	98	
Litigation on behalf of the Law Officers (Attorney-General and/or Solicitor-General)	18	10-25	20	
Criminal advice	4	5-15	5	
Judicial reviews	14	5-10	13	
Mutual assistance and extraditions	96	100-120	112	
Criminal cases (other types)	70	25-40	73	
Requests for prosecution appeals and judicial reviews	115	70-110	93	
Timeliness				
Ministerial correspondence on time	97%	100%	85%	<p>10 responses were delayed in being sent back to the Attorney-General's office but were not late to the requestor.</p> <p>The majority of these were sent to the Attorney-General's office only 1 or 2 working days after the specified due date (due to counsel's capacity constraints).</p> <p>One request was significantly delayed (approximately 15 business days' delay) by the need to obtain further information from another agency.</p>
Responses to parliamentary questions on time	100%	100%	100%	
Official Information Act and Privacy Act responses on time	99%	100%	95%	Statutory deadlines not met in all cases due to pressure of COVID-19 work, administrative oversight and complexity of requests.

Audited financial performance (GST exclusive)

Actual 2021 \$000		Actual 2022 \$000	Main Estimates 2022 \$000	Supplementary Estimates 2022 \$000
Revenue				
5,143	Crown	4,484	5,699	5,700
22	Other	-	70	70
5,165	Total revenue	4,484	5,769	5,770
Expenditure				
3,958	Expenditure	4,506	5,769	5,770
1,207	Total annual and permanent appropriations	(22)	-	-

Law Officer Functions (MCA) - Conduct of Criminal Appeals from Crown Prosecutions

Performance measure	Actual 2020/21	Target 2021/22	Actual 2021/22	Comment
Quantity - new matters				
Crown appeals	27	15-30	29	-
Accused appeals	659	600-650	606	-
Quality				
Percentage of Crown appeals concluded in favour of the Crown	70%	60%	79%	-

Audited financial performance (GST exclusive)

Actual 2021 \$000		Actual 2022 \$000	Main Estimates 2022 \$000	Supplementary Estimates 2022 \$000
Revenue				
3,975	Crown	5,700	4,484	4,484
-	Other	3	50	50
3,975	Total revenue	5,703	4,534	4,534
Expenditure				
4,489	Expenditure	5,033	4,534	4,534
(514)	Total annual and permanent appropriations	670	-	-

Law Officer Functions (MCA) - Public Prosecution Services

Performance measure	Actual 2020/21	Target 2021/22	Actual 2021/22	Comment
Quantity				
New Crown prosecutions, including appeals to the High Court from non-Crown prosecutions	7,845	5,200–6,200	7,043	Based on data collected by the Ministry of Justice.
Crown prosecutions, including appeals to the High Court from non-Crown prosecutions disposed of	5,867	5,500–6,500	5,229	The lower numbers compared to the previous financial year and the variance from forecast is primarily the result of the COVID-19 lockdowns that were in place for the Auckland, Manukau, Hamilton and Whangarei Warrants from October to December 2021.
Hours of service provided	272,262	250,000–260,000	246,610	The lower numbers compared to the previous financial year and the variance from forecast is primarily the result of the COVID-19 lockdowns that were in place for the Auckland, Manukau, Hamilton and Whangarei Warrants from October to December 2021.
Number of quality assurance reviews (full network is reviewed on rotation every 3 years)	7	6	6	The six reviews consist of five survey-based reviews and an interview-based review.
Quality				
Reviews quality assessed as exceeding or meeting expected standards	7	6	6	All six reviews referred to above met or exceeded acceptable standards.
Improvement recommendations implemented within timeframes set greater than:	N/A	90%	N/A	Although no significant issues were identified, where necessary, Warrants were provided with minor suggestions on how to strengthen areas of practice that will be considered as part of their next review.

Audited financial performance (GST exclusive)

Actual 2021 \$000		Actual 2022 \$000	Main Estimates 2022 \$000	Supplementary Estimates 2022 \$000
Revenue				
44,496	Crown	44,890	44,890	44,890
10	Other	-	20	20
44,506	Total revenue	44,890	44,910	44,910
Expenditure				
44,506	Expenditure	45,290	44,910	44,910
-	Total annual and permanent appropriations	(400)	-	-

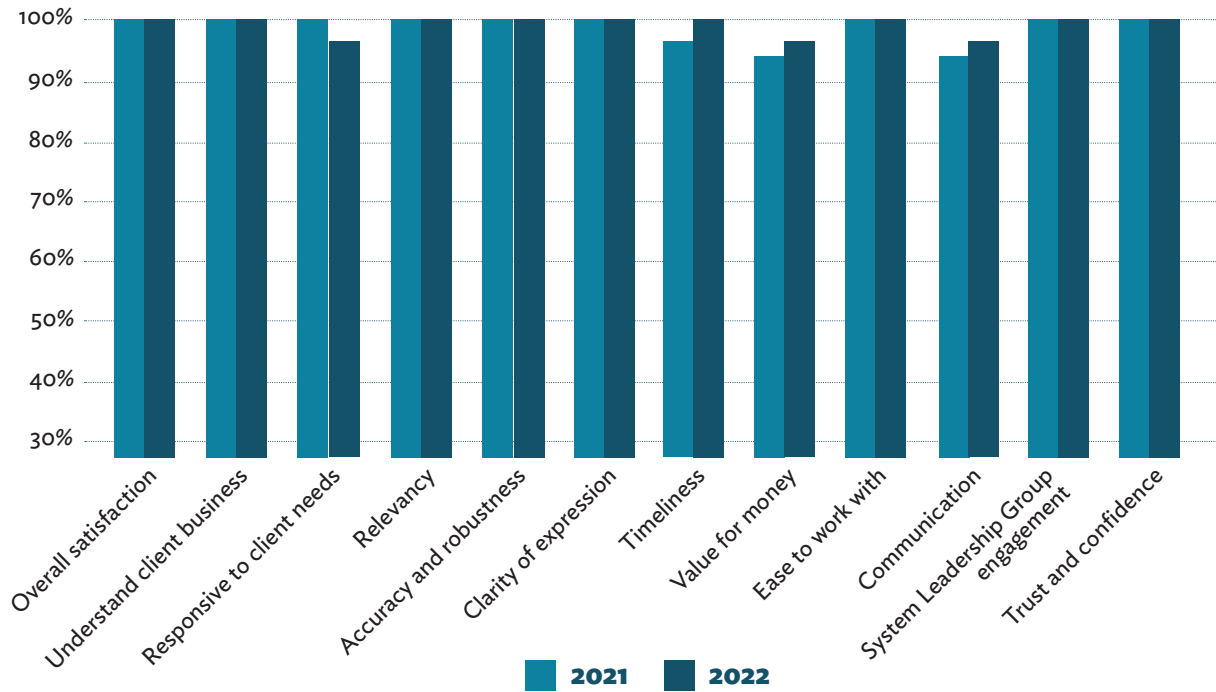
Quality service indicators – annual client satisfaction survey

Chief Legal Advisors (CLAs) from 32 organisations and business units that Crown Law provided legal advice and services to during 2021/22 were approached to participate in Crown Law's annual client satisfaction survey. Of those CLAs invited, 25 participated – a response rate of 78%. The respondents represent \$15.4 million of revenue earned during 2021/22.

Overall, respondents rated Crown Law's legal advice and services highly. 99% of responses in the survey rated Crown Law as good to excellent. 100% of respondents rated Crown Law's legal advice and services as good to excellent, and 100% of respondents rated the System Leadership Group's engagement and communication as good to excellent.

The main findings from this year's survey were an overall improvement in ratings from last year's survey, particularly in those areas where we had placed focused effort in alignment with our strategic direction. The most significant improvement was in the area of timeliness in responding to requests, which increased from 96% to 100%. Other areas of improvement were meaningful and up-to-date communications about work in progress and value-for-money, which both increased from 95% to 96%, while there was a small decrease in responsiveness, which dropped from 100% to 99%.

Client survey results: 2021 and 2022



Crown Law Office – capital expenditure appropriation

Scope: This appropriation is limited to the purchase or development of assets by and for the use of the Crown Law Office, as authorised by section 24(1) of the Public Finance Act 1989.

Output performance measures and standards

The expenditure was in accordance with Crown Law’s capital asset management intentions in order to maintain service levels.

Output statement for the year ending 30 June 2022

Audited financial performance (MCA summary) (GST exclusive)

Actual 2021 \$000		Actual 2022 \$000	Main Estimates 2022 \$000	Supplementary Estimates 2022 \$000
417	Total capital expenditure	404	1,512	1,512

Ngā tauākī pūtea Financial statements

Statement of responsibility

I am responsible as Chief Executive of Crown Law for:

- the preparation of Crown Law's financial statements and statements of expenses and capital expenditure and for the judgements expressed in them
- having in place a system of internal control designed to provide reasonable assurance as to the integrity and reliability of financial reporting
- ensuring that end-of-year performance information on each appropriation administered by Crown Law is provided in accordance with sections 19A to 19C of the Public Finance Act 1989, whether or not that information is included in this Annual Report
- the accuracy of any end-of-year performance information prepared by Crown Law, whether or not that information is included in the Annual Report.

In my opinion:

- the financial statements fairly reflect the financial position of Crown Law as at 30 June 2022 and its operations for the year ended on that date
- the forecast financial statements fairly reflect the forecast financial position of Crown Law as at 30 June 2022 and its operations for the year ending on that date.



Una Jagose KC

Solicitor-General and Chief Executive

30 September 2022

Independent Auditor's Report

To the readers of the Crown Law Office's annual report for the year ended 30 June 2022

The Auditor General is the auditor of the Crown Law Office (the Department). The Auditor General has appointed me, Jacques Du Toit, using the staff and resources of Audit New Zealand, to carry out, on his behalf, the audit of:

- the financial statements of the Department on pages 72 to 102, that comprise the statement of financial position, statement of commitments, statement of contingent liabilities and contingent assets as at 30 June 2022, the statement of comprehensive revenue and expense, statement of changes in equity, and statement of cash flows for the year ended on that date and the notes to the financial statements that include accounting policies and other explanatory information;
- the performance information prepared by the Department for the year ended 30 June 2022 on pages 12 to 18, 22 to 25, 30 to 37 and 57 to 65;
- the statements of expenses and capital expenditure of the Department for the year ended 30 June 2022 on pages 103 to 105; and
- the schedules of non departmental activities which are managed by the Department on behalf of the Crown on page 102 that comprise the schedule of trust monies for the year ended 30 June 2022.

Opinion

In our opinion:

- the financial statements of the Department on pages 72 to 102:
 - o present fairly, in all material respects:
 - its financial position as at 30 June 2022; and
 - its financial performance and cash flows for the year ended on that date; and
 - o comply with generally accepted accounting practice in New Zealand in accordance with Public Benefit Entity Reporting Standards;
- the performance information of the Department on pages 12 to 18, 22 to 25, 30 to 37 and 57 to 65:
 - o presents fairly, in all material respects, for the year ended 30 June 2022:
 - what has been achieved with the appropriation; and

- the actual expenses or capital expenditure incurred compared with the appropriated or forecast expenses or capital expenditure; and
 - o complies with generally accepted accounting practice in New Zealand;
- the statements of expenses and capital expenditure of the Department on pages 103 to 105 are presented fairly, in all material respects, in accordance with the requirements of section 45A of the Public Finance Act 1989; and
- the schedules of trust monies which are managed by the Department on behalf of the Crown on page 102 present fairly, in all material respects, in accordance with the Treasury Instructions.

Our audit was completed on 30 September 2022. This is the date at which our opinion is expressed.

The basis for our opinion is explained below. In addition, we outline the responsibilities of the Solicitor General and our responsibilities relating to the information to be audited, we comment on other information, and we explain our independence.

Basis for our opinion

We carried out our audit in accordance with the Auditor General's Auditing Standards, which incorporate the Professional and Ethical Standards and the International Standards on Auditing (New Zealand) issued by the New Zealand Auditing and Assurance Standards Board. Our responsibilities under those standards are further described in the Responsibilities of the auditor section of our report.

We have fulfilled our responsibilities in accordance with the Auditor General's Auditing Standards.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of the Solicitor General for the information to be audited

The Solicitor General is responsible on behalf of the Department for preparing:

- financial statements that present fairly the Department's financial position, financial performance, and its cash flows, and that comply with generally accepted accounting practice in New Zealand;
- performance information that presents fairly what has been achieved with each appropriation, the expenditure incurred as compared with expenditure expected to be incurred, and that complies with generally accepted accounting practice in New Zealand;
- statements of expenses and capital expenditure of the Department, that are presented fairly, in accordance with the requirements of the Public Finance Act 1989; and
- schedules of non departmental activities, in accordance with the Treasury Instructions, that present fairly those activities managed by the Department on behalf of the Crown.

The Solicitor General is responsible for such internal control as is determined is necessary to enable the preparation of the information to be audited that is free from material misstatement, whether due to fraud or error.

In preparing the information to be audited, the Solicitor General is responsible on behalf of the Department for assessing the Department's ability to continue as a going concern. The Solicitor General is also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting, unless there is an intention to merge or to terminate the activities of the Department, or there is no realistic alternative but to do so.

The Solicitor General's responsibilities arise from the Public Finance Act 1989.

Responsibilities of the auditor for the information to be audited

Our objectives are to obtain reasonable assurance about whether the information we audited, as a whole, is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit carried out in accordance with the Auditor General's Auditing Standards will always detect a material misstatement when it exists. Misstatements are differences or omissions of amounts or disclosures, and can arise from fraud or error. Misstatements are considered material if, individually or in the aggregate, they could reasonably be expected to influence the decisions of readers, taken on the basis of the information we audited.

For the budget information reported in the information we audited, our procedures were limited to checking that the information agreed to the Department's Statement of Intent 2021 – 2025, Estimates of Appropriation 2021/22 for Vote Attorney General, and the 2021/22 forecast financial figures included in the Department's annual report.

We did not evaluate the security and controls over the electronic publication of the information we audited.

As part of an audit in accordance with the Auditor General's Auditing Standards, we exercise professional judgement and maintain professional scepticism throughout the audit. Also:

- We identify and assess the risks of material misstatement of the information we audited, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- We obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Department's internal control.
- We evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Solicitor General.
- We evaluate the appropriateness of the reported performance information within the Department's framework for reporting its performance.
- We conclude on the appropriateness of the use of the going concern basis of accounting by the Solicitor General and, based on the audit evidence obtained, whether a material uncertainty

exists related to events or conditions that may cast significant doubt on the Department's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the information we audited or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Department to cease to continue as a going concern.

- We evaluate the overall presentation, structure and content of the information we audited, including the disclosures, and whether the information we audited represents the underlying transactions and events in a manner that achieves fair presentation.

We communicate with the Solicitor General regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

Our responsibilities arise from the Public Audit Act 2001.

Other information

The Solicitor General is responsible for the other information. The other information comprises the information included on pages 2 to 106, but does not include the information we audited, and our auditor's report thereon.

Our opinion on the information we audited does not cover the other information and we do not express any form of audit opinion or assurance conclusion thereon.

Our responsibility is to read the other information. In doing so, we consider whether the other information is materially inconsistent with the information we audited or our knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on our work, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

Independence

We are independent of the Department in accordance with the independence requirements of the Auditor General's Auditing Standards, which incorporate the independence requirements of Professional and Ethical Standard 1: International Code of Ethics for Assurance Practitioners issued by the New Zealand Auditing and Assurance Standards Board.

During the year, Audit New Zealand engaged the Department for legal advice on normal commercial terms. Other than the engagement for legal advice and in our capacity as auditor, we have no relationship with, or interests, in the Department.



Jacques Du Toit
Audit New Zealand
On behalf of the Auditor General
Wellington, New Zealand

Financial statements

Statement of comprehensive revenue and expense

FOR THE YEAR ENDED 30 JUNE 2022

Actual 2021 \$000		Notes	Actual 2022 \$000	Unaudited Budget 2022 \$000	Unaudited Forecast 2023 \$000
Revenue					
54,643	Revenue Crown	2	56,405	56,404	96,780
26,553	Other revenue	2	25,182	26,290	25,790
81,196	Total income		81,587	82,694	122,570
Expenses					
25,368	Personnel costs	3	26,988	27,019	30,593
520	Depreciation and amortisation	7,8	551	657	1,497
103	Capital charge	4	103	103	308
43,377	Crown Solicitors' fees		43,844	42,743	77,492
9,842	Other expenses	5	10,261	12,172	12,680
79,210	Total expenses		81,748	82,694	122,570
1,986	Surplus/(deficit)		(161)	-	-
1,986	Total comprehensive revenue and expense		(161)	-	-

The accompanying notes form part of these financial statements.

Explanations for major variances against the original 2021/22 budget are provided in Note 17.

Statement of changes in equity

FOR THE YEAR ENDED 30 JUNE 2022

Actual 2021 \$000		Notes	Actual 2022 \$000	Unaudited Budget 2022 \$000	Unaudited Forecast 2023 \$000
2,642	Balance at 1 July		4,608	4,606	10,806
1,986	Total comprehensive revenue and expense		(161)	-	-
(21)	Return of operating surplus to the Crown	11	(199)	-	-
1,966	Movements for the year		(360)	-	-
4,608	Balance as at 30 June	12	4,248	4,606	10,806

The accompanying notes form part of these financial statements.

Statement of financial position

AS AT 30 JUNE 2022

Actual 2021 \$000		Notes	Actual 2022 \$000	Unaudited Budget 2022 \$000	Unaudited Forecast 2023 \$000
	Current assets				
11,130	Cash and cash equivalents		10,630	10,275	8,866
405	Prepayments		587	400	400
3,131	Receivables	6	3,931	6,000	6,000
14,666	Total current assets		15,148	16,675	15,266
	Non-current assets				
937	Property, plant and equipment	7	828	1,755	7,079
166	Intangible assets	8	127	203	578
1,103	Total non-current assets		956	1,958	7,657
15,769	Total assets		16,104	18,633	22,923

Explanations for major variances against the original 2021/22 budget are provided in Note 17.

Statement of financial position (continued)

AS AT 30 JUNE 2022

Actual 2021 \$000		Notes	Actual 2022 \$000	Unaudited Budget 2022 \$000	Unaudited Forecast 2023 \$000
Current liabilities					
8,631	Payables and deferred revenue	9	8,607	11,527	9,617
2,277	Employee entitlements	10	2,806	2,300	2,300
21	Return of operating surplus	11	199	-	-
10,928	Total current liabilities		11,612	13,827	11,917
Non-current liabilities					
233	Employee entitlements	10	244	200	200
233	Total non-current liabilities		244	200	200
11,161	Total liabilities		11,856	14,027	12,117
4,608	Net assets		4,248	4,606	10,806
Equity					
2,064	Taxpayers' funds	12	2,064	4,606	4,606
-	Capital contribution		-	-	6,200
2,544	Memorandum accounts	12	2,184	-	-
4,608	Total equity	12	4,248	4,606	10,806

The accompanying notes form part of these financial statements.

Statement of cash flows

FOR THE YEAR ENDED 30 JUNE 2022

Actual 2021 \$000		Notes	Actual 2022 \$000	Unaudited Budget 2022 \$000	Unaudited Forecast 2022 \$000
Cash flows from operating activities					
Cash was provided from:					
54,643	Receipts from revenue Crown		56,405	56,404	96,780

Explanations for major variances against the original 2021/22 budget are provided in Note 17.

Statement of cash flows (continued)

FOR THE YEAR ENDED 30 JUNE 2022

Actual 2021 \$000	Notes	Actual 2022 \$000	Unaudited Budget 2022 \$000	Unaudited Forecast 2022 \$000
29,054	Receipts from other revenue	24,384	24,631	25,790
83,697	Subtotal cash from operations	80,789	81,035	122,570
Cash was applied to:				
25,023	Payments to employees	26,448	26,286	26,482
52,898	Payments to suppliers	54,085	53,989	96,383
69	Goods and services tax (net)	221	-	-
103	Payment for capital charge	103	103	308
78,093	Subtotal cash applied	80,857	80,378	123,173
5,604	Net cash flows from operating activities	(69)	657	(603)
Cash flows from investing activities				
Cash was disbursed for:				
322	Purchase of property, plant and equipment	327	1,192	6,446
95	Purchase of intangible assets	77	320	560
(417)	Net cash flows from investing activities	(404)	(1,512)	(7,006)
Cash flows from financing activities				
Cash was disbursed for:				
1,214	Repayment of operating surplus	27	-	-
-	Capital contribution	-	-	(6,200)
(1,214)	Net cash flows from financing activities	(27)	-	6,200
3,973	Net (decrease)/increase in cash	(500)	(855)	(1,409)
7,157	Cash at the beginning of the year	11,130	11,130	10,275
11,130	Cash at the end of the year	10,630	10,275	8,866

Explanations for major variances against the original 2021/22 budget are provided in Note 17.

Statement of cash flows (continued)

FOR THE YEAR ENDED 30 JUNE 2022

Reconciliation of net surplus/(deficit) to net cash flow from operating activities

Actual 2021 \$000		Actual 2022 \$000
1,986	Net surplus/(deficit)	(161)
520	Depreciation and amortisation expense	551
520	Total non-cash items	551
	Add/(less) movements in statement of financial position items	
2,500	(Increase)/decrease in receivables	(799)
(69)	(Increase)/decrease in prepayments	(182)
321	Increase/(decrease) in payables and deferred revenue	(18)
-	Increase/(decrease) in provision	-
345	Increase/(decrease) in employee entitlements	540
3,097	Total net movement in working capital items	(459)
5,604	Net cash flows from operating activities	(69)

The accompanying notes form part of these financial statements.

Statement of commitments

AS AT 30 JUNE 2022

Commitments are future expenses and liabilities to be incurred on contracts that have been entered into as at balance date. Information on non-cancellable capital and lease commitments are reported in the statement of commitments.

Crown Law has no cancellable commitments.

Explanations for major variances against the original 2021/22 budget are provided in Note 17.

Non-cancellable operating lease commitments

Crown Law's office lease at 19 Aitken Street, Wellington, is a sub-lease from the Ministry of Justice. The lease started from 1 July 2013, and the minimum term of the lease is for a period of 6 and a half years expiring on 31 December 2019. This lease has become open from 1 January 2020, with 18 months' notice on both parties.

Crown Law also leases an office with the Serious Fraud Office (SFO) at Level 8, 188 Quay Street, Auckland. The lease term is from 24 February 2022 to 24 February 2033. The SFO may terminate the lease by giving Crown Law 18 months' prior written notice provided that no such notice can be given before 24 February 2023 and therefore cannot take effect before 24 August 2024. However, Crown Law may terminate the lease at any time by giving not less than 12 months' prior written notice to the SFO.

There are no restrictions placed on Crown Law by any of its leasing arrangements.

The amounts disclosed below as future commitments are based on the current rental rates.

Actual 2021 \$000		Actual 2022 \$000
-	Capital commitments	-
There were no capital commitments as at 30 June		
Operating leases as lessee (inter-entity)		
The future aggregate minimum lease payments to be paid under non-cancellable operating leases are as follows:		
1,172	Not later than 1 year	1,223
598	Later than 1 year and not later than 5 years	582
	Later than 5 years	-
1,770	Total non-cancellable operating lease commitments (inter-entity)	1,805
1,770	Total commitments	1,805

Explanations for major variances against the original 2021/22 budget are provided in Note 17.

Statement of contingent liabilities and contingent assets

AS AT 30 JUNE 2022

Quantified contingent liabilities

Crown Law has no quantifiable contingent liabilities at 30 June 2022 (30 June 2021: nil).

Unquantified contingent liabilities

Crown Law has no unquantifiable contingent liabilities at 30 June 2022 (30 June 2021: nil).

Contingent assets

Crown Law has no contingent assets as at 30 June 2022 (30 June 2021: nil).

The accompanying notes form part of these financial statements.

Notes to the financial statements

FOR THE YEAR ENDED 30 JUNE 2022

NOTE 1:

Statement of accounting policies

Reporting entity

Crown Law is a government department as defined by section 2 of the Public Finance Act 1989 and is domiciled and operates in New Zealand. The relevant legislation governing Crown Law's operations includes the Public Finance Act. Crown Law's ultimate parent is the New Zealand Crown.

In addition, Crown Law has reported on trust monies that it administers on page 102.

The primary objective of Crown Law is to provide services to the Government of New Zealand. Crown Law does not operate to make a financial return.

Crown Law has designated itself as a public benefit entity (PBE) for the purpose of complying with generally accepted accounting practice.

The financial statements of Crown Law are for the year ended 30 June 2022, and were approved for issue by the Chief Executive of Crown Law on 30 September 2022.

Basis of preparation

The financial statements of Crown Law have been prepared using the accrual basis of accounting and as a going-concern. The accounting policies have been applied consistently throughout the period.

Statement of compliance

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

These financial statements have been prepared in accordance with Tier 1 PBE accounting standards.

Presentation currency and rounding

The financial statements are presented in New Zealand dollars, and all values are rounded to the nearest thousand dollars (\$000).

Changes in accounting policies

There have been no changes in Crown Law's accounting policies since the date of the last audited financial statements.

Standards issued and not yet effective and not early adopted

Standards and amendments issued but not yet effective that have not been early adopted:

PBE IPSAS 41 Financial Instruments

The XRB issued PBE IPSAS 41 Financial Instruments in March 2019. This standard supersedes PBE IFRS 9 Financial Instruments, which was issued as an interim standard. It is effective for reporting periods beginning on or after 1 January 2022. Although Crown Law has not assessed the effect of the new standard, it does not expect any significant changes as the requirements are similar to PBE IFRS 9.

PBE FRS 48 Service Performance Reporting

PBE FRS 48 replaces the service performance reporting requirements of PBE IPSAS 1 and is effective for periods beginning on or after 1 January 2022. Crown Law has not yet determined how application of PBE FRS 48 will affect its statement of service performance.

Summary of significant accounting policies

Significant accounting policies are included in the notes to which they relate.

Significant accounting policies that do not relate to a specific note are outlined below.

Cash and cash equivalents

Cash and cash equivalents includes cash on hand, deposits held at call with banks and other short-term highly liquid investments with original maturities of 3 months or less.

Provisions

A provision is recognised 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 resources embodying economic benefits or service potential 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 net deficits from future operating activities.

Provisions are measured at the present value of the expenditure and are disclosed using market yields on government bonds at balance date with terms to maturity that match, as closely as possible, the estimated timing of the future cash outflows. The increase in the provision due to the passage of time is recognised as an interest expense and is included in finance costs.

Goods and services tax (GST)

All items in the financial statements and 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, 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.

Income tax

Crown Law is a public authority and consequently is exempt from the payment of income tax. Accordingly, no provision has been made for income tax.

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 assumptions 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.

Measuring retirement and long-service leave

An analysis of the exposure in relation to estimates and uncertainties surrounding retirement and long-service leave liabilities is disclosed in Note 10.

Budget and forecast figures

Basis of the budget and forecast figures

The 2022 budget figures are for the year ended 30 June 2022 and were published in the 2020/21 Annual Report. They are consistent with Crown Law's best estimate financial forecast information submitted to Treasury for the Budget Economic and Fiscal Update (BEFU) for the year ending 2021/22.

The 2023 forecast figures are for the year ending 30 June 2023, which are consistent with the best estimate financial forecast information submitted to Treasury for the BEFU for the year ending 2022/23.

The forecast financial statements have been prepared as required by the Public Finance Act to communicate forecast financial information for accountability purposes.

The budget and forecast figures are unaudited and have been prepared using the accounting policies adopted in preparing these financial statements.

The 30 June 2023 forecast figures have been prepared in accordance with PBE FRS 42 Prospective Financial Statements and comply with PBE FRS 42.

The forecast financial statements were approved for issue by the Chief Executive on 30 September 2022. The Chief Executive is responsible for the forecast financial statements, including the appropriateness of the assumptions underlying them and all other required disclosures.

While Crown Law regularly updates its forecasts, updated forecast financial statements for the year ending 30 June 2023 will not be published.

Significant assumptions used in preparing the forecast financials

The forecast figures contained in these financial statements reflect Crown Law's purpose and activities and are based on a number of assumptions on what may occur during the 2022/23 year. The forecast figures have been compiled on the basis of existing government policies and ministerial expectations at the time the Main Estimates were finalised.

The main assumptions were as follows:

- Crown Law's activities and output expectations will remain substantially the same as the previous year focusing on the government's priorities.
- Personnel costs were based on 215 full-time equivalent staff positions, which takes into account staff turnover. Remuneration rates are based on current wages and salary costs, adjusted for anticipated remuneration changes.
- Operating costs were based on historical experience and other factors that are believed to be reasonable in the circumstances and are Crown Law's best estimate of future costs that will be incurred.
- Estimated year-end information for 2021/22 was used as the opening position for the 2022/23 forecasts.

The actual financial results achieved for 30 June 2023 are likely to vary from the forecast information presented, and the variations may be material.

Since the approval of the forecasts, there has been no significant change or event that would have a material impact on the forecasts figures.

NOTE 2:

Revenue

Accounting policy

The specific accounting policies for significant revenue items are explained below:

Revenue Crown

Revenue from the Crown is measured based on Crown Law's funding entitlement for the reporting period.

The funding entitlement is established by Parliament when it passes the Appropriation Acts for the financial year. The amount of revenue recognised takes into account any amendments to appropriations approved in the Appropriation (Supplementary Estimates) Act for the year and certain other unconditional funding adjustments formally approved prior to balance date.

There are no conditions attached to the funding from the Crown. However, Crown Law can incur expenses only within the scope and limits of its appropriations.

The fair value of revenue Crown has been determined to be equivalent to the funding entitlement.

Revenue department and other revenue

Crown Law derives revenue through the provision of legal services to third parties, mainly government agencies. Such revenue is recognised when earned and is reported in the financial period to which it relates.

Breakdown of other revenue and further information

Actual 2021 \$000		Actual 2022 \$000
	Revenue received from:	
26,409	Government departments/other government entities	25,130
141	Other	50
3	Court-awarded costs	2
26,553	Total other revenue	25,182

NOTE 3:

Personnel costs

Accounting policy

Salaries and wages

Salaries and wages are recognised as an expense as employees provide services.

Superannuation schemes

Employee contributions to the State Sector Retirement Savings Scheme, KiwiSaver and the Government Superannuation Fund are accounted for as defined contribution superannuation schemes and are expensed in the surplus or deficit as incurred.

Breakdown of personnel costs

Actual 2021 \$000		Actual 2022 \$000
23,880	Salaries and wages	25,201
112	Other personnel costs	141
1,030	Employer contribution to defined contribution plans	1,106
345	Increase/(decrease) in employee entitlements	540
25,368	Total personnel costs	26,988

NOTE 4:

Capital charge

Accounting policy

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

Further information

Crown Law pays a capital charge to the Crown on its equity (adjusted for memorandum accounts) as at 30 June and 31 December each year. The capital charge rate for the year ended 30 June 2022 was 5.0% (30 June 2021: 5.0%).

NOTE 5:

Other expenses

Accounting policy

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.

Lease incentives received are recognised in the surplus or deficit as a reduction of rental expense over the lease term.

The amounts disclosed in the statement of commitments as future commitments are based on the current rental rates.

Other expenses

Other expenses are recognised as goods and services when they are received.

Breakdown of other expenses and further information

Actual 2021 \$000		Actual 2022 \$000
76	Fees to Audit New Zealand for audit of financial statements	90
725	Consultancy	928
1,334	Operating lease expenses (rent for office accommodation)	1,339
1,874	IT and library costs	2,341
2,801	External barrister/solicitor fees	3,046
3,033	Other expenses	2,517
9,842	Total other operating expenses	10,261

NOTE 6:

Receivables

Accounting policy

Short-term receivables are recorded at the amount due, less allowance for credit losses.

Crown Law applies the simplified expected credit loss model of recognising lifetime expected credit losses for receivables. Short-term receivables have been assessed on a collective basis as they possess shared risk characteristics.

Short-term receivables are written-off when there is no reasonable expectation of recovery.

Work in progress

Work in progress is determined as unbilled time and disbursements that can be recovered from clients and is measured at the lower of cost or net realisable value. Work in progress is generally invoiced in the following month.

Breakdown of receivables and further information

Actual 2021 \$000		Actual 2022 \$000
581	Debtors (gross)	1,870
(5)	Less: allowance for credit losses	(14)
577	Net debtors	1,856
2,528	Work in progress (gross)	2,006
-	Less: allowance for credit losses	-
2,528	Net work in progress	2,006
27	Sundry debtors	69
3,131	Total receivables	3,931
	Total receivables comprise:	-
3,098	Receivables from the provision of legal advice and representation services to other government agencies at cost recovery (exchange transactions)	3,931
33	Receivables from miscellaneous expense recoveries	-

Ageing profile

	2021			2022		
	Gross \$000	Expected credit loss \$000	Net \$000	Gross \$000	Expected credit loss \$000	Net \$000
Current	514	(5)	509	1,787	(14)	1,773
1-2 months	38		38	73		73
2-3 months	16		16	7		7
3-4 months	-		-	2		2
4-6 months	-		-	-		-
6-12 months	-		-	-		-
1-2 years	13		13	-		-
>2 years	-		-	-		-
Total	581	(5)	576	1,869	(14)	1,855

The expected credit loss rates for receivables at 30 June 2022 are based on the payment profile of revenue on credit over the prior 12 months at the measurement date and the corresponding historical credit losses experienced for that period. The historical loss rates are adjusted for current and forward-looking macroeconomic factors that might affect the recoverability of receivables. Given the short period of credit risk exposure, the impact of macroeconomic factors is not considered significant.

There have been no changes during the reporting period in the estimation techniques or significant assumptions used in measuring the loss allowance.

The allowance for credit losses at 30 June 2022 was determined as follows:

30 June 2022	Current	1-2 months	2-3 months	3-4 months	4-6 months	6-12 months	1-2 years	2 > years	Total
Expected credit loss rate	0.88%	0.19%	0.06%		0.40%				
Gross carrying amount (\$'000)	1,825	42	2	1	-	-	-	-	1,870
Expected credit loss (\$'000)	14	-	-	-	-	-	-	-	14

The movement in allowance for credit losses is as follows:

Actual 2021 \$'000		Actual 2022 \$'000
92	Opening allowance for credit losses as at 1 July	(5)
(5)	Reduction in loss allowance made during the year	64
(92)	Receivables written off during the year	(45)
(5)	Net work in progress	14

NOTE 7:

Property, plant and equipment

Accounting policy

Property, plant and equipment consist of the following asset classes: leasehold improvements, computer hardware, furniture and fittings, office equipment.

Property, plant and equipment are measured at cost, less accumulated depreciation and impairment losses.

Individual assets or groups 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 it is probable that future economic benefits or service potential associated with the item will flow to Crown Law and the cost of the item can be measured reliably.

Work in progress is recognised at cost less impairment and is not depreciated.

In most instances, an item of property, plant and equipment is recognised at its cost. Where an asset is acquired through a non-exchange transaction 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 comprehensive income. When a revalued asset is sold, the amount included in the property, plant and equipment revaluation reserve in respect of the disposed asset is transferred to taxpayers' 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 Crown Law and the cost of the item can be measured reliably.

The costs of day-to-day servicing of property, plant and equipment are recognised in the surplus or deficit as they are incurred.

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:

Computer hardware	2 to 5 years	20% to 50%
Furniture and fittings	5 years	20%
Office equipment	5 years	20%

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.

Impairment

Crown Law does not hold any cash-generating assets. Assets are considered cash-generating where their primary objective is to generate a commercial return.

Property, plant and equipment held at cost 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.

An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable service amount. The recoverable service amount is the higher of an asset's fair value less costs to sell and value in use.

Value in use is the present value of the asset's remaining service potential. Value in use is determined using an approach based on either a depreciated replacement cost approach, restoration cost approach or service units approach. The most appropriate approach used to measure value in use depends on the nature of the impairment and availability of information.

If an asset's carrying amount exceeds its recoverable service amount, the asset is regarded as impaired and the carrying amount is written down to the recoverable service amount. The total impairment loss is recognised in the surplus or deficit.

The reversal of an impairment loss is recognised in the surplus or deficit.

Breakdown of property, plant and equipment and further information

	Leasehold improvements \$000	Office equipment \$000	Furniture and fittings \$000	Computer equipment \$000	Total \$000
Cost					
Balance as at 01 July 2020	1,803	632	1,852	1,955	6,242
Additions	12	-	22	288	322
Disposals	-	-	(79)	(228)	(307)
Balance as at 30 June 2021	1,815	632	1,795	2,015	6,257
Balance as at 1 July 2021	1,815	632	1,795	2,015	6,257
Additions	125	4	30	168	327
Disposals	-	(92)	(94)	-	(186)
Balance as at 30 June 2022	1,940	544	1,731	2,183	6,398

Breakdown of property, plant and equipment and further information (*continued*)

	Leasehold improvements \$000	Office equipment \$000	Furniture and fittings \$000	Computer equipment \$000	Total \$000
Accumulated depreciation and impairment losses					
Balance as at 1 July 2020	1,646	520	1,603	1,418	5,187
Depreciation expense	63	21	73	283	440
Elimination on disposal	-	-	(79)	(228)	(307)
Balance as at 30 June 2021	1,709	541	1,597	1,473	5,320
Balance as at 1 July 2021	1,709	541	1,597	1,473	5,320
Depreciation expense	96	21	69	250	436
Elimination on disposal	-	(92)	(94)	-	(186)
Balance as at 30 June 2022	1,805	470	1,572	1,723	5,570
Carrying amount					
At 30 June and 1 July 2020	157	112	249	537	1,055
At 30 June 2021	106	91	198	542	937
At 30 June 2022	135	74	159	460	828

There are no restrictions over the title of Crown Law's property, plant and equipment. No property, plant and equipment assets are pledged as security for liabilities.

NOTE 8:

Intangible assets

Accounting policy

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 that are directly associated with the development of software for internal use are recognised as an intangible asset. Direct costs include the costs of services, software development employee costs and an appropriate portion of relevant overheads.

Staff training costs are recognised as an expense when incurred.

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

Costs of software updates or upgrades are capitalised only when they increase the usefulness or value of the software.

Costs associated with development and maintenance of Crown Law's website are recognised as an expense when incurred.

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 financial year is recognised in the surplus or deficit.

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

Acquired computer software	3 years/33%
Developed computer software	3 years/33%

Impairment

Intangible assets subsequently measured at cost that have an indefinite useful life or are not yet available for use are not subject to amortisation and are tested annually for impairment.

For further details, refer to the policy for impairment of property, plant and equipment in Note 7.

Critical accounting estimates and assumptions

Useful lives of software

The useful life of software is determined at the time the software is acquired and brought into use and is reviewed at each reporting date for appropriateness. For computer software licences, the useful life represents management's view of the expected period over which Crown Law will receive benefits from the software but not exceeding the licence term. For internally generated software developed by Crown Law, the useful life is based on historical experience with similar systems as well as anticipation of future events that may impact the useful life, such as changes in technology.

Breakdown of intangible assets and further information

Movements in the carrying value for intangible assets are as follows:

	Acquired software \$'000
Cost	
Balance as at 01 July 2020	2,031
Additions	95
Disposals	-
Balance as at 30 June 2021	2,126
Balance as at 01 July 2021	2,126
Additions	77
Disposals	-
Balance as at 30 June 2022	2,203
Accumulated depreciation and impairment losses	
Balance as at 1 July 2020	1,880
Amortisation expense	80
Elimination on disposal	-
Impairment losses	-
Balance as at 30 June 2021	1,960
Balance as at 1 July 2021	1,960
Amortisation expense	116
Elimination on disposal	-
Impairment losses	-
Balance as at 30 June 2022	2,076
Carrying amount	
At 30 June and 01 July 2020	151
At 30 June 2021	166
At 30 June 2022	127

There are no restrictions over the title of Crown Law's intangible assets. No intangible assets are pledged as security for liabilities.

NOTE 9:**Payables and deferred revenue****Accounting policy**

Short-term payables are recorded at the amount payable.

Breakdown of payables and further information

Actual 2021 \$000		Actual 2022 \$000
Payables and deferred revenue under exchange transactions		
70	Creditors – Crown Solicitors’ fees	29
280	Creditors – other	548
297	Other accrued expenses	578
7,374	Other accrued expenses – unbilled Crown Solicitors’ fees	7,065
-	Income in advance for cost recovered services	-
8,022	Total payables and deferred revenue under exchange transactions	8,219
609	GST payable	388
609	Payables and deferred revenue under non-exchange transactions	388
8,631	Total payables and deferred revenue	8,607

NOTE 10:**Employee entitlements****Accounting policy***Short-term employee entitlements*

Employee entitlements that are due to be settled within 12 months after the end of the reporting period in which the employee renders the related service are measured 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, retirement leave and long-service leave entitlements expected to be settled within 12 months.

Long-term employee entitlements

Employee entitlements that are due to be settled beyond 12 months after the end of the reporting period in which the employee renders the related service, such as long-service leave and retirement leave, are calculated on an actuarial basis. The calculations are based on:

- likely future entitlements accruing to staff, based on years of service, years to entitlement, the likelihood that staff will reach the point of entitlement and contractual entitlement information
- the present value of the estimated future cash flows.

Expected future payments are discounted using market yields on government bonds at balance date with terms to maturity that match, as closely as possible, the estimated future cash outflows for entitlements. The inflation factor is based on the expected long-term increase in remuneration for employees.

Critical accounting estimates and assumptions

Annual leave is calculated using the number of days owing as at 30 June 2022.

The collective employment agreement and individual employment contracts provide 1 week's long-service leave after completing 10 years' service with Crown Law. A number of employees have grandparented long-service arrangements prior to the above agreement.

The retirement and long-service leave from an old expired contract are maintained for three staff as at June 2022 (2021: three).

Long-service leave and retirement gratuities

The measurement of the long-service leave and retirement gratuities 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 affect the carrying amount of the liability.

Expected future payments are discounted using the discount rates derived from the yield curve of New Zealand government bonds. The discount rates used have maturities that match, as closely as possible, the estimated future cash outflows. The discount rates in year 1 of 3.34% (2021: 0.38%), year 2 of 3.70% (2021: 0.81%) and year 3 and beyond of 4.29% (2021: 3.08%) and a long-term salary inflation factor of 3.01% (2021: 3.08%) were used. The discount rates and the salary inflation factor are those advised by Treasury.

Breakdown of employee entitlements

Actual 2021 \$000		Actual 2022 \$000
Current accruals		
486	Personnel accruals	578
1,753	Annual leave	2,148
38	Retirement and long-service leave	79
2,277	Total current portion	2,806
Non-current liabilities		
233	Retirement and long-service leave	244
233	Total non-current portion	244
2,510	Total employee entitlements	3,049

NOTE 11:

Return of operating surplus

Actual 2021 \$000		Actual 2022 \$000
1,986	Net surplus/(deficit)	(161)
(1,945)	Add (surplus)/deficit of memorandum account: legal advice and representation	360
(21)	Add (surplus)/deficit of memorandum account: processing of Queen's Counsel applications	-
21		199

The repayment of surplus to the Crown is required to be paid by 31 October of each year.

NOTE 12:**Equity****Accounting policy**

Equity is the Crown's investment in Crown Law and is measured as the difference between total assets and total liabilities. Equity is disaggregated and classified as taxpayers' funds and memorandum accounts.

Memorandum accounts

Memorandum accounts reflect the cumulative surplus/(deficit) on those departmental services provided that are intended to be fully cost recovered from third parties through fees, levies or charges. The balance of each memorandum account is expected to trend towards zero over time.

Breakdown of equity and further information

Actual 2021 \$000		Actual 2022 \$000
	Taxpayers' funds	
2,064	Balance at 1 July	2,064
1,986	Net surplus/(deficit)	(161)
(1,966)	Transfer of memorandum accounts net (surplus)/deficit for the year	360
-	- Capital injections	-
(21)	Return of operating surplus to the Crown	(199)
2,064	Balance at 30 June	2,064
	Memorandum accounts	
578	Opening balance at 1 July	2,544
26,414	Revenue	25,112
(24,448)	Less expenses	(25,472)
1,966	Surplus/(deficit) for the year	(360)
2,544	Closing balance at 30 June	2,184
4,608	Total equity at 30 June	4,248

Breakdown of memorandum accounts

Actual 2021 \$000		Actual 2022 \$000
Legal advice and representation		
491	Opening balance at 1 July	2,436
26,378	Revenue	25,112
(24,433)	Less expenses	(25,472)
1,945	Surplus/(deficit) for the year	(360)
2,436	Closing balance at 30 June	2,076
Processing of Queen's Counsel applications		
87	Opening balance at 1 July	108
36	Revenue	-
(15)	Less expenses	-
21	Surplus/(deficit) for the year	-
108	Closing balance at 30 June	108
Memorandum accounts		
578	Opening balance at 1 July	2,544
26,414	Revenue	25,112
(24,448)	Less expenses	(25,472)
1,966	Surplus/(deficit) for the year	(36)
2,544	Closing balance at 30 June	2,184

These accounts summarise financial information relating to the accumulated surpluses and deficits incurred in the provision of legal advice and representation services and processing of Queen's Counsel applications by Crown Law to third parties on a full cost recovery basis.

The balance of each memorandum account is expected to trend towards zero over a reasonable period of time, with any interim deficit being met whether from cash from Crown Law's statement of financial position or by seeking approval for a capital injection from the Crown. Capital injections will be repaid to the Crown by way of cash payments throughout the memorandum account cycle.

The transactions are included as part of Crown Law's operating income and expenses in the net surplus/(deficit). However, effective from 1 July 2011, these transactions have been excluded from the calculation of Crown Law's return of operating surplus (refer Note 11). The cumulative balance of the surplus/(deficit) of the memorandum accounts is recognised as a component of equity.

Action taken to address surpluses and deficits

The fee strategy has been developed and will be regularly reviewed to ensure that the fee structure and associated revenues are in line with the forecast activities.

NOTE 13:

Capital management

Crown Law's capital is its equity, which comprises taxpayers' funds and memorandum accounts. Equity is represented by net assets.

Crown Law manages its revenues, expenses, assets, liabilities and general financial dealings prudently. Crown Law's equity is largely managed as a by-product of managing revenue, expenses, assets and liabilities and compliance with the government budget processes, Treasury instructions and the Public Finance Act 1989.

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

NOTE 14:

Related-party information

Crown Law is a wholly owned entity of the Crown.

Related-party disclosures have not been made for transactions with related parties that are within a normal supplier or client/recipient relationship on terms and conditions no more or less favourable than those that it is reasonable to expect Crown Law would have adopted in dealing with the party at arm's length in the same circumstances. Further, transactions with other government agencies (for example, government departments and Crown entities) are not disclosed as related-party transactions when they are consistent with the normal operating arrangements between government agencies and undertaken on the normal terms and conditions for such transactions.

Collective but not individually significant transactions with government-related entities

The Cabinet Directions for the Conduct of Crown Legal Business 2016 (Cabinet Manual Appendix C) set out the requirements for chief executives of departments to refer specified legal work to Crown Law. During the year ended 30 June 2022, Crown Law has provided legal services to departments and government entities in the amount of \$25.130 million (2021: \$26.408 million).

Transactions with key management personnel

Key management personnel compensation

Actual 2021 \$000		Actual 2022 \$000
Leadership Team, including the Chief Executive		
2,180	Remuneration	2,147
6	Full-time equivalent staff	6

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

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

There are no related-party transactions involving key management personnel (or their close family members).

NOTE 15:

Financial instruments

NOTE 15A:

Financial instrument categories

The carrying amounts of financial assets and financial liabilities in each of the financial instrument categories are as follows:

Actual 2021 \$000		Actual 2022 \$000
Loans and receivables		
11,130	Cash and cash equivalents	10,630
3,131	Receivables	3,931
14,261	Total loans and receivables	14,561
Financial liabilities measured at amortised cost		
8,631	Payables	8,607
8,631	Total financial liabilities measured at amortised cost	8,607

NOTE 15B:**Financial instrument risks**

Crown Law's activities expose it to a variety of financial instrument risks, 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.

Interest rate risk

Interest rate risk is the risk that the fair value of a financial instrument will fluctuate or the cash flow from a financial instrument will fluctuate due to changes in market interest 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 receivables, deposits with banks and derivative financial instrument assets.

Crown Law is permitted to deposit funds only with Westpac (S&P Global credit rating of AA), 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 and receivables (refer Note 6). 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 drawdowns 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 into relevant maturity groupings based on the remaining period at balance sheet date to the contractual maturity date. The amounts disclosed are the contractual undiscounted cash flows.

	Notes	Carrying amount \$000	Contractual cash flows \$000	Less than 6 months	6 months to 1 year	1-5 years	Over 5 years
2022							
Payables	9	8,607	8,607	8,607			
2021							
Payables	9	8,631	8,631	8,631			

Crown Law has no finance leases and derivative financial instrument liabilities.

NOTE 16:

Events after balance date

Subsequent to the reporting date a case has been found against the Attorney-General in favour of the defendant, an evaluation of the impact to Crown Law is currently being completed (2021: nil).

NOTE 17:

Explanation of major variances against budget

Statement of comprehensive revenue and expense

Other revenue

Income from other revenue was lower than budget by \$1.108 million mainly due to a decrease in legal advice and representation work.

Other expenses

Other expenses were \$1.911 million lower than budgeted due to lower than planned spend on consultant.

Statement of financial position

Cash and cash equivalents

Cash held has decreased year on year from \$11.130 million in 2021 to \$10.630 million in 2022. This is largely attributable to an increase in aged debtors of \$0.800 million and offset by a net operating deficit of \$0.161 million.

Schedule of trust monies

FOR THE YEAR ENDED 30 JUNE 2022

Actual 2021 \$000		Actual 2022 \$000
	Crown Law Office Legal Claims Trust Account	
5	Balance at 1 July	8
42,680	Contributions	1,189
(42,677)	Distributions	(1,197)
-	Revenue	-
-	Expenditure	-
8	Balance 30 June	1

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.

Statement of departmental unappropriated expenses and capital expenditure

FOR THE YEAR ENDED 30 JUNE 2022

Unappropriated expenditure 2021 \$000		Approved appropriation 2022 \$000	Unappropriated expenditure 2022 \$000
	Vote Attorney-General		
	Departmental output expenses		
–	Strategic and operational legal advice and representation	–	–

Appropriation statements

The following statements report information about the expenses and capital expenditure incurred against each appropriation administered by Crown Law for the year ended 30 June 2022. They are prepared on a GST-exclusive basis.

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 output expenses. Personnel costs are charged on the basis of actual time incurred. Depreciation, capital charge and 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.

Statement of budgeted and actual expenses and capital expenditure incurred against appropriations

FOR THE YEAR ENDED 30 JUNE 2022

Actual 2021 \$000		Actual 2022 \$000	Main Estimates 2022 \$000	Supp. Estimates 2022 \$000	Approp. voted 2022* \$000
	Vote Attorney-General				
	Law Officer Functions MCA				
26,256	Strategic and Operational Legal Advice and Representation	26,918	27,481	27,481	27,481
4,489	Conduct of Criminal Appeals from Crown Prosecutions	5,033	4,534	4,534	4,534
3,958	Law Officer Constitutional and Criminal Law Duties	4,506	5,769	5,770	5,770
44,506	Public Prosecution Services	45,290	44,910	44,910	44,910
79,210	Total appropriations for output expenses	81,748	82,694	82,695	82,695
	Appropriations for capital expenditure				
417	Capital investment	404	1,512	1,512	1,512
79,627	Total annual and permanent appropriations	82,152	84,206	84,207	84,207

* This includes adjustments made in the Supplementary Estimates and the additional expenditures incurred under section 26 of the Public Finance Act 1989.

As per section 2 and section 4 of the Public Finance Act 1989, expenditure reported should exclude remeasurements from appropriation.

There have been no remeasurements identified during the 2021/22 financial year, which implies that the actual expenditure incurred was equal to the expenditure after remeasurement.

See pages 56–65 for performance information for these appropriations.

Statement of departmental capital injections

FOR THE YEAR ENDED 30 JUNE 2022

Actual capital injections 2021 \$000	Actual capital injections 2022 \$000	Approved appropriation 2022 \$000
Vote Attorney-General		
- Crown Law – capital injection	-	-

Statement of departmental capital injections without or in excess of authority

FOR THE YEAR ENDED 30 JUNE 2022

Crown Law did not receive any capital injections during the year without or in excess of authority (2021: nil).

Our funding

The Crown Law Office administers Vote Attorney-General. The total annual and permanent appropriations sought for Vote Attorney-General in 2021/22 are \$84.2 million. This is 5.8% more than the estimated actual expenditure of \$79.6 million in 2020/21. The increased budget for Strategic and Operational Legal Advice and Representation and Law Officer Constitutional and Criminal Law Duties services accounts for 67% of the increase.

The Vote for the 2021/22 financial year consists of two appropriations: Crown Law Office – Capital Expenditure (\$1.512 million) for renewal and replacement of assets in support of our service delivery) and the multi-category appropriation Law Officer Functions (\$82.694 million) to provide for the discharge of the Law Officers' constitutional, criminal law and system leadership responsibilities including legal advice and representation (a combination of the remaining previous appropriations).

The amount of \$82.694 million is provided through a multi-category appropriation (MCA) for the Law Officer Functions, which includes the following categories:

- Leading and developing the collective strength of government lawyers and providing legal advice and representation services to state sector entities (\$27.481 million).
- Conducting appeals arising from Crown prosecutions (\$4.534 million).
- Providing assistance to the Law Officers in the exercise of their functions and providing advice on constitutional, criminal law, mutual assistance and extradition matters (\$5.769 million).
- The provision and supervision of a national Crown prosecution service and oversight of public prosecutions (\$44.910 million).

Other legal advice and representation is generally funded on a cost-recovery basis. Other functions within the MCA are mainly funded by Crown revenue. Crown Law has a permanent legislative authority for capital expenditure.

Crown Law completed a review of the fees it charges government departments in order to recover the costs of legal advice and representation services. The new fee structure was implemented on 1 July 2020 and included a fee increase for 2021/22. This reflects an increase in the fees previously charged but remain well below the rates of all-of-government legal panel members. Prior to implementing this new fee structure, fees had been held since 1 October 2017.



**Te Kāwanatanga
o Aotearoa**
New Zealand Government

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