

Te Tari Ture o te Karauna

# Crown Law

The coat of arms of New Zealand, featuring a shield supported by a Māori woman on the left and a European woman on the right. The shield is divided into four quadrants: top-left (blue with a white star), top-right (red with a white anchor), bottom-left (white with a blue ship), and bottom-right (red with a white cross). A crown sits atop the shield, and a banner below reads "NEW ZEALAND".

Presented to the House of Representatives pursuant to section 44(1) of the Public Finance Act 1989

## Annual Report 2014/15

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## Introduction from the Solicitor-General

Since 1873 Crown Law has served the Government of New Zealand and upheld the rule of law. From 1875 the office of the Solicitor-General has been a permanent feature in the New Zealand legal landscape. For at least 140 years now this office has provided high quality legal advice and representation to the Attorney-General and the Government of the day.

Our focus is on ensuring we continue to be the Crown's trusted legal advisor and that our clients value our services. We are able to provide our clients with clear practical advice informed by a unique oversight of the public sector's legal issues.

In 2014/15 we continued building on and embedding changes implemented in 2013. Those changes include our focus on core Crown work, our then new structure and our move to the Justice Centre. We continued in 2014/15 to strengthen our financial management capability and to implement ICT improvements. These changes strengthened the alignment of our organisation to the Government's priorities, supported our stronger focus on core Crown legal work and provided staff with secure mobile technology. This will continue to support and add value to our ongoing provision of legal services. We are increasingly working across government on the range of complex issues that involve modern New Zealand.

In 2014/15, in our strategic planning, we identified as our priorities for 2015/16 onwards:

- The strengthening of Crown Law's professional leadership role and the management of Crown legal risk
- Providing increased leadership and oversight of Crown and public prosecutions

- Ensuring our operating model facilitates efficiency, effectiveness and sustainability

We intend to provide effective leadership across the key areas of Crown legal risk and public prosecutions, and in building the government's capability to identify and address contemporary legal issues across government including those related to the Treaty of Waitangi.

We intend continuing to be influential, credible and the Government's trusted advisor for managing complex cross-government legal issues. We will continue to uphold the rule of law and New Zealand's international reputation.

Ultimately our success in continuing to deliver core Crown legal work depends on the quality of our people. We rely on our people, their expertise and their commitment to delivering a high quality service within the public sector environment. I feel very privileged to be working with such professional and dedicated public servants.

I am confident our work in 2014/15 contributed, as will our ongoing priorities, to ensuring New Zealanders' trust in our justice system is well-placed. That trust is also maintained by our high-quality prosecutions and appeals to ensure offenders are held to account. Our legal advice and services will continue to help the public service to implement the Government's Better Public Services objectives and enable the benefits of these to be achieved for all New Zealanders.

Michael Heron QC

**Solicitor-General and Chief Executive**

# Summary highlights

## Crown Law legal advice and services

<p><b>Client survey (good/excellent ratings) January – June 2015</b></p> <ul style="list-style-type: none"> <li><b>86%</b> Overall satisfaction</li> <li><b>84%</b> Responsiveness, relevancy, accuracy and clarity</li> <li><b>86%</b> Timeliness</li> <li><b>86%</b> Value for money</li> </ul>	<p><b>Overarching service outputs</b></p> <p>For all types of matters, including our main measures, quantities have changed from 2013/14 by approx. +/- 11%</p> <ul style="list-style-type: none"> <li>• new matters ↗ 214 to 2,101</li> <li>• closed /closing files ↘ by 266 to 2,198</li> </ul> <p>Hours assigned to total life of files closed/closing in 2014/15 ↗ 2% to ≈201,800.</p> <p>▷ Details in this report provide more information about specific outputs.</p>
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## The Government Legal Network

<p>Legal practice groups established in key areas such as employment, procurement/commercial and ICT</p>	<p>Inaugural government summer clerk programme ↻ 11 internships attracted 160+ applicants</p>
<p>Ongoing work in legal risk management, talent management, succession planning, and secondments</p>	<p>Design and Launch of GLN graduate programme ↻ 4 positions attracted 170+ applicants</p>

## Crown Solicitor Network

<p><b>Status of the Crown Solicitor Network</b></p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <p>2014/15</p> </div> <div style="text-align: center;"> <p>2013/14</p> </div> </div> <p>No serious issues identified in 2014/15, and isolated issues identified in 2013/14 were successfully resolved</p>	<p><b>New Warrants and Crown Solicitors 2014/15</b></p> <ul style="list-style-type: none"> <li>✓ Large Auckland warrant transitioned to smaller, but significant, Auckland and Manukau warrants</li> <li>✓ Crown Solicitors appointed for the new Auckland and Manukau warrants</li> </ul>
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# Our performance framework



Our performance framework reflects our continued responsible management of public resources, and provision of technical expertise, leadership and valued services to our clients

# Organisation and strategy

## Our purpose

Crown Law is a government department that provides legal advice and representation to the government in matters affecting the executive government, particularly in the areas of criminal, public and administrative law. Crown Law supports both the Attorney-General and the Solicitor-General. We serve the Crown and uphold the rule of law.

### THE PRINCIPAL LAW OFFICERS

The Attorney-General is the senior Law Officer of the Crown, with principal responsibility for the Government's administration of the law. The Attorney-General is also a Minister of the Crown, with ministerial responsibility for Crown Law.

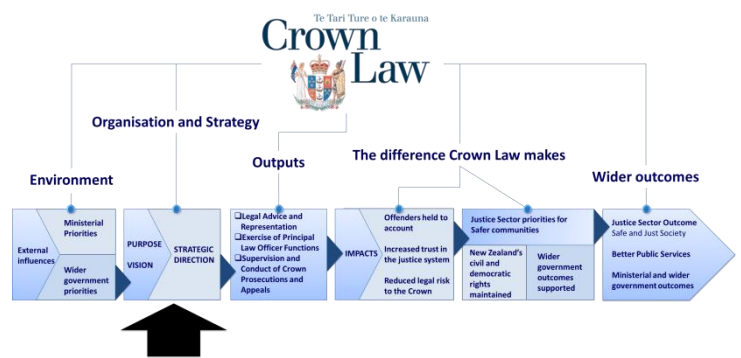
The Solicitor-General is the junior Law Officer, and is the Government's chief legal adviser and advocate in the courts. The Solicitor-General holds office as an official of government and is also the Chief Executive of Crown Law.

Our focus is on core Crown legal work. This includes matters that, because of their nature, have such significance for the Crown that they should be undertaken under the supervision of the Law Officers. It equates to the core legal work for which the Law Officers are constitutionally responsible.

### OUR EXPERTISE

Crown Law supports the Crown in many unique and varied legal matters in areas such as the New Zealand Bill of Rights Act 1990, human rights, land and environment interests, social services, employment law, citizenship, cultural issues, protection of revenue, international obligations, and the Treaty of Waitangi. We participate in crucial all-of-government responses to national disasters and inquiries, such as the Christchurch earthquake recovery. We are also responsible for managing and supervising the Crown Solicitor Network in their conduct of Crown prosecutions, and providing oversight of public prosecutions conducted by government agencies.

## Performance Framework



## Our vision

Crown Law's vision is that we are the Crown's trusted legal advisor, and that our clients value our services. We are the first choice for Ministers, Chief Executives and Chief Legal Advisors for core Crown legal advice and litigation. We are highly respected as the leading administrative and public law experts. The Government knows that it is meeting its legal obligations and is able to make decisions to advance its policy programme. We achieve this by being clear about our focus, passionate about what we do, rigorous in enforcing high standards of technical ability and service, and by being focused on providing excellent client service. We work collaboratively to meet client needs, professionally and cost-effectively, while also managing legal risk across government.

## Strategic direction

Crown Law's strategic priorities will ensure it can continue providing high-quality cost-effective legal advice and services into the future. Over the medium-term our strategic priorities will be supported by:

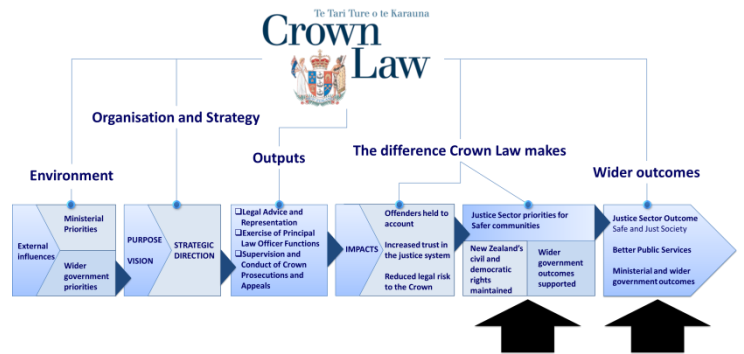
- contributing to government and justice sector priorities through partnership and collaboration
- providing clients with clear and practical advice informed by a unique oversight of the public sector's legal issues
- ongoing work to manage cost pressures and related risks (using Crown Law's strengthened understanding of these)
- managing challenges now and in the future related to the provision of high quality legal advice and services



# The difference we make and wider outcomes

## Our contribution to government goals

## Performance Framework



### JUSTICE SECTOR OUTCOMES

The Ministry of Justice is the lead agency in the justice sector which includes Crown Law, New Zealand Police, Department of Corrections, Serious Fraud Office, and the Ministry of Social Development (for youth justice).

Justice sector Ministers recognise that achieving the best outcomes for people participating in justice sector processes requires all agencies to be working towards the same goals. The ultimate justice sector outcome is a “safe and just society”, which is achieved through shared priorities, as shown below.

There will continue to be substantial policy, legislative and operational change across the sector, as we respond to the Government’s ambitious Better Public Services targets to reduce crime (total crime, violent crime and youth crime) and re-offending. The justice sector Results Action

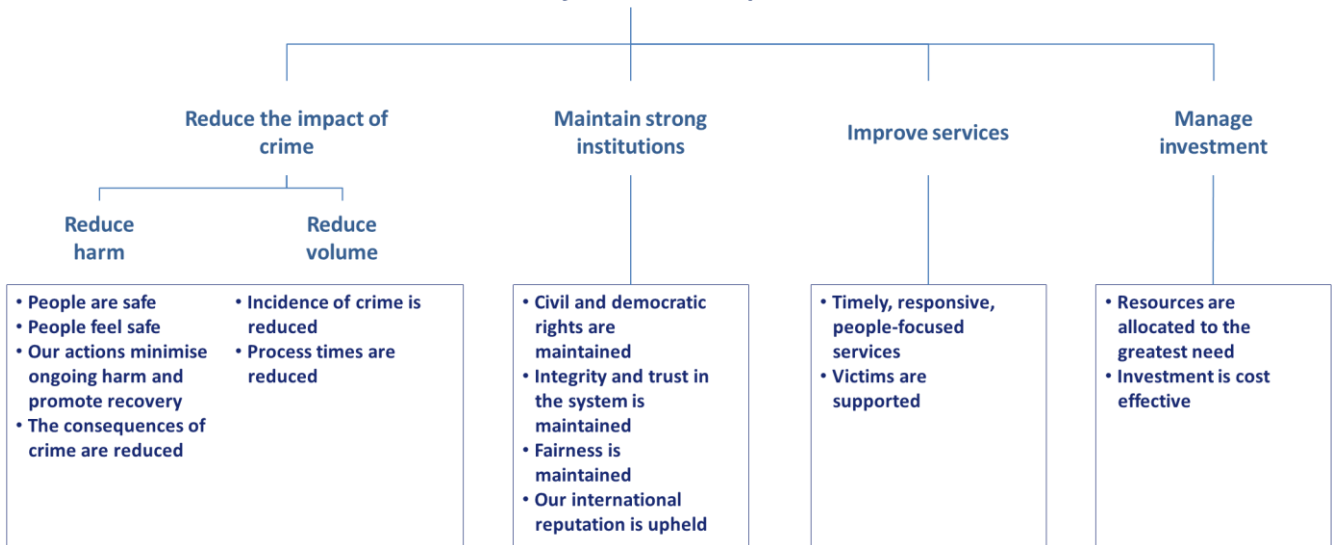
Plan sets out a roadmap for achieving results – by reducing opportunities for crime, targeting vulnerable youth and youth offenders, reducing alcohol and drug abuse, and reducing reoffending. Crown Law supports progress towards the justice sector Better Public Services results by ensuring offenders are held to account through high quality prosecutions and criminal appeals.

### WIDER GOVERNMENT OUTCOMES

Crown Law’s work contributes to all sectors of government. While our home is within the justice sector, our outputs, particularly legal advice and representation services and the exercise of the Principal Law Officer functions, support agencies in other government sectors to manage their legal risks and obligations. This ensures that other agencies can deliver on their responsibilities and achieve their outcomes.

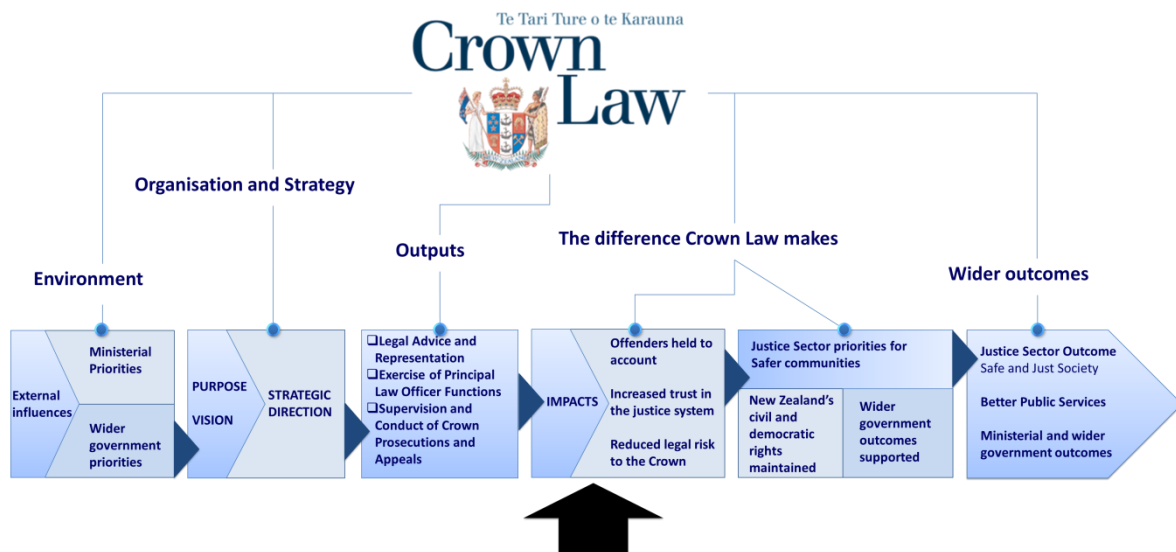
### Sector priorities supported by Crown Law’s work

#### A Safe and Just Society



## Our impact – How we contribute to justice sector and wider outcomes

### Performance Framework



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

▶ **Increased trust in the justice system**, through the performance of the Principal Law Officers' constitutional and other duties

▶ **Reduced legal risks to the Crown**, through protecting the Crown's interests and ensuring any risks are managed well

Links to:

▶ **Justice sector priorities**

▶ **Civil and democratic rights**

▶ **Supporting wider government outcomes**

Links to:

▶ **Wider Justice Sector, Ministerial and Government outcomes**

### Our medium-to-long term performance focus

The impact of Crown Law's high quality prosecution services and our oversight and management of the Crown Solicitor Network providing prosecution services is, to the general public, the most visible part of what we do. It should be noted that in providing such services Crown Law's focus is in bringing the best prosecution possible so that whatever the finding, it rests on the highest quality of legal arguments.

Although the effects of our legal advice and services to the Government and departments might not be visible to the general public, Crown Law has a significant role in enabling the Government and departments to operate confidently within the bounds of the law. As set out in the Cabinet Directions for the Conduct of

Crown Legal Business 2012<sup>1</sup> (revised 2015), this includes acting as a check on the lawfulness of actual or proposed exercise of public power, duty or function.

The legal advice and services Crown Law provides also help to reduce and manage legal risks to the Crown and, when questions of law arise, enables public departments to provide services and take actions without fear of breaching laws and regulations. This is vital for the smooth operation of government in its dealings with other countries, businesses and with private citizens.

<sup>1</sup> <http://cabinetmanual.cabinetoffice.govt.nz/appendix-c>



# Changes to performance reporting

Our service performance for the year ended 30 June 2015 is presented on pages 10-46.

## Changes to performance measures

### Reduction in the number of performance measures, and rounding of results

Crown Law has implemented a significant overall reduction in the number of performance measures. This has been achieved through the 2015/16 Vote Attorney-General Estimates and 2014/15 Vote Attorney-General Supplementary Estimates. **Note, in the results percentages are now rounded** (0-0.4 down; 0.5-0.9 up). This simplifies comparison of figures across time and eases understanding, while maintaining substantial accuracy.

### Focus on meaningful performance reporting

The overall reduction in the number of performance measures strengthens Crown Law's focus on more meaningful performance reporting. The stronger focus is complemented by a refreshed performance framework diagram published, first in the Statement of Intent 2015-2018 and now, in the 2014/15 annual report. The changes have also flowed through to Output Plan reporting to the Attorney-General for 2015/16. This comprehensive approach is also supporting Crown Law's strategic and medium term planning.

### Reduction in measures affects all appropriations except those with regard to public prosecutions

The reduction in the number of performance measures has been implemented across all appropriations except with regard to public prosecutions. Our reporting on public prosecutions, provided by the Crown Solicitor Network, was significantly updated in the 2013/14 annual report. That update introduced commentary as to how we maintain confidence in the quality of prosecutions. Along with that we also introduced commentary about maintaining the high quality of legal advice and services provided by Crown Law. The focus on Crown Law's quality of legal advice and services is strengthened further in this annual report.

### Table of changes to performance measures

Given the scale of changes the table below provides an overview (**please note: the withdrawn measures described below do not appear in the following pages**). The table reflects the changes made in Budget 2015 through the 2015/16 Vote Estimates and 2014/15 Supplementary Estimates.

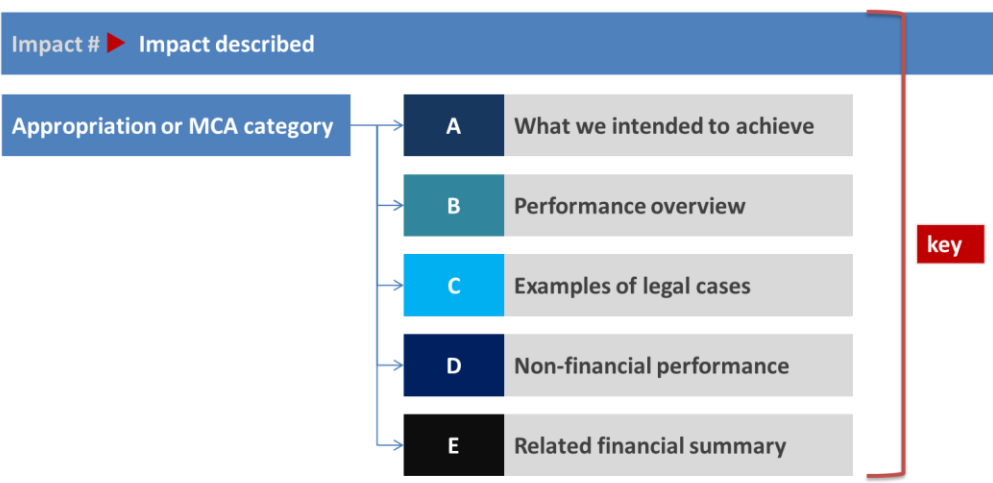
<p><b>Appropriations with <u>measures withdrawn</u></b></p> <ul style="list-style-type: none"> <li>• Legal Advice and Representation</li> <li>• Exercise of Principal Law Officer Functions</li> <li>• Criminal Law Advice and Services (MCA output)</li> <li>• Conduct of Criminal Appeals from Crown Prosecutions (MCA output)</li> </ul>	<p><b>Appropriations with <u>no changes in measures</u></b></p> <ul style="list-style-type: none"> <li>• Oversight and Supervision of Public Prosecutions and the Crown Solicitor Network (MCA output)</li> <li>• Provision of a National Crown Prosecution Service (MCA output)</li> </ul>
<p><b>Types of <u>MEASURES WITHDRAWN</u></b></p> <p>[note: the measures have been removed from the document and are identifiable by this list only]</p> <ul style="list-style-type: none"> <li>• Cases in progress</li> <li>• Cases disposed of</li> <li>• Ministerials – counts of documents</li> <li>• Cost effectiveness (general statements)</li> </ul>	<p><b>Comments</b></p> <p>By removing these measures we are able to switch focus, from volume snapshots, to information that is more related to service performance. Note: cases disposed of are reflected in the retained measure 'Clearance rate' which shows the ratio of disposed matters to new matters.</p> <p>Removed from reporting are the general statements regarding cost effectiveness noting if expenditure was within budget (which, otherwise, would be declared in the financial statements if it was not).</p>

# Statement of Service Performance

This section focuses on our outputs (the services we provide). Our outputs are grouped under:

- the impact to which they are mainly related and contribute
- appropriations(s) to which the outputs are mainly linked

This is a guide to the performance information within the Statement of Service Performance  
 The information is set out in the following way:



**Impact 1 > Offenders are held to account** page 11



**Impact 2 > Increased trust in the justice system** page 19



**Impact 3 > Reduced legal risks to the Crown** page 28



## Impact 1 ► Offenders are held to account

### Appropriation

This work links to the Multi-Category Appropriation (MCA) *Supervision and conduct of Crown prosecutions and appeals*. Within the MCA are appropriations for:

- *Criminal Law Advice and Services*
- *Conduct of Criminal appeals from Crown Prosecutions*
- *Oversight and Supervision of Public Prosecutions and the Crown Solicitor Network*
- *Provision of a National Crown Prosecution Service*

### 1 A What we intended to achieve

#### **Responsibility to provide oversight and services**

The Solicitor-General is responsible for oversight of public prosecutions, Crown representation in criminal appeals and a number of specific statutory duties in relation to administration of the criminal justice system. Crown prosecutions are primarily conducted by Crown Solicitors. Crown Solicitors are appointed under warrant of the Governor-General and they undertake work under the supervision of the Solicitor-General. Crown Law supports the Solicitor-General in the performance of this supervisory function.

#### **Oversight and service delivery activities**

In 2014/15 we intended to provide:

- high quality prosecutions delivered cost-effectively and free from political interference
- management of Crown Solicitor warrants and funding
- reviews of prosecution practices to ensure services are high quality and value for money
- sharing of knowledge among prosecutors
- criminal appeals in the High Court, Court of Appeal, Supreme Court and the Privy Council (i.e. appeals brought by the Crown, or in response to appeals brought by the accused)
- advice on requests for Crown appeals, judicial reviews, stays of prosecution, and consent to prosecute
- decisions on appeal requests from prosecuting agencies
- Crown appeals against Court-imposed sentences considered to be inadequate

#### **Public Prosecutions Unit**

The Public Prosecutions Unit (PPU) was established in 2012. Its initial focus has been to manage the funding for Crown prosecutions, which includes those conducted by Crown Solicitors and the Serious Fraud Office.

The PPU is also providing oversight of all public prosecutions for the Solicitor-General and provides advice to the sector on prosecution-related activities and initiatives. This is supported by reporting frameworks developed by the PPU and in use by the Crown Solicitor Network and 37 agencies with prosecution functions.

The Public Prosecutions Advisory Board, established by the PPU and comprised of representatives from across the public sector involved in public prosecutions, assists Crown Law to identify and manage inconsistencies in prosecution decision-making. Crown Law will continue to identify opportunities to add value to the function and quality of public prosecution services. This ongoing focus will be achieved through the work of the PPU and the Deputy Solicitor-General for criminal law, with public sector legal colleagues.

#### **Criminal Law**

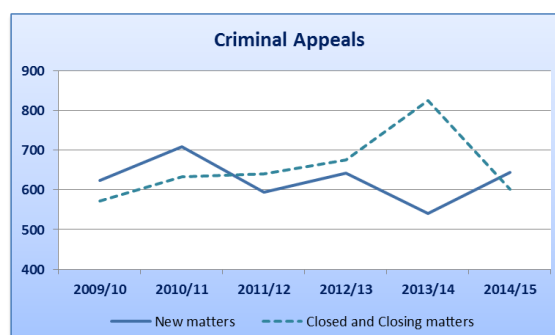
Crown Law also provides legal advice and responds to applications on criminal law issues. We provide legal advice and representation on interventions in respect to alleged contempt of court and breaches of name suppression, and we oversee the prosecution work of the Serious Fraud Office. We also assist in international criminal investigations, proceedings and extradition requests. We envisage that international work will continue to be an area of strong focus. Crown Law's focus over the next three years, regarding Crown prosecutions and appeals, is on the maintenance of high-quality and effective services and effective management of costs.

### 1 B Performance overview

Service delivery is reported for criminal law advice and services and criminal appeals on pages 13-16. Please refer to pages 42-45 regarding work done by the PPU to strengthen oversight across public prosecutions and pages 17-18 for related service

delivery. The following graphs show the numbers of new matters opening across the financial years and likewise the closure of matters. In all similar graphs in this report the increase in closures around 2012/13 to 2013/14 reflects an administrative project to close files. This was

undertaken prior to Crown Law's relocation to the Justice Centre in 2013. Note: when legal work on a matter/case/file is completed the file is put into an administrative 'closing' process, prior to archival at which point the file status is 'closed'.



## 1 C Significant and illustrative criminal matters

### The Lundy matter

Mark Lundy was found guilty, by a jury in the High Court at Wellington on 1 April 2015, of murdering his wife Christine and daughter Amber. Barrister Philip Morgan QC and Palmerston North Crown Solicitor Ben Vanderkolk led the case for the Crown. An appeal to the Court of Appeal against the conviction is pending at this time. Previously in late 2014 Crown Law's John Pike QC appeared with Mr Morgan to argue the Crown's response to pre-trial appeals then brought, unsuccessfully, by Mr Lundy in the Court of Appeal.

### The Pora case

Teina Pora's conviction for murdering Susan Burdett was quashed by the Privy Council in 2015

with a central issue being the reliability of Mr Pora's confessions to the killing. The Solicitor-General Michael Heron QC, Mathew Downs and Zoe Hamill appeared for the Crown. Mr Pora now has a claim for ex gratia compensation before the Minister of Justice to which Crown Law is responding.

### Inquiry into David Bain's compensation claim

Former Justice of the Australian High Court Ian Callinan is heading an inquiry into David Bain's compensation claim. Crown Law's Annabel Markham prepared the response for the Crown in March and June 2015 and that is currently being considered by the former judge. Previous advice on the claim by a former Supreme Court of Canada judge has been put aside.

## 1 E Audited financial performance (MCA Summary) (GST exclusive)

Actual 2014 \$000		Actual 2015 \$000	Main Estimates 2015 \$000	Supplementary Estimates 2015 \$000
<b>Revenue</b>				
41,825	Crown	40,363	39,005	40,363
16	Other	3	-	-
<b>41,841</b>	<b>Total revenue</b>	<b>40,366</b>	<b>39,005</b>	<b>40,363</b>
<b>Expenditure</b>				
<b>41,148</b>	<b>Expenditure</b>	<b>39,466</b>	<b>39,005</b>	<b>40,363</b>
<b>693</b>	<b>Net surplus/(deficit)</b>	<b>897</b>	<b>-</b>	<b>-</b>

The variance to the main estimates of \$1.358 million is comprised of transferring of \$0.900 million from The Exercise of Principal Law Officer Functions, carrying over the 2013/14 surplus of \$0.690 million, and transferring of \$0.232 million back to the Justice Sector Fund for the Alcohol and Other Drug Court funding.

## 1.1 D MCA output: CRIMINAL LAW ADVICE AND SERVICES

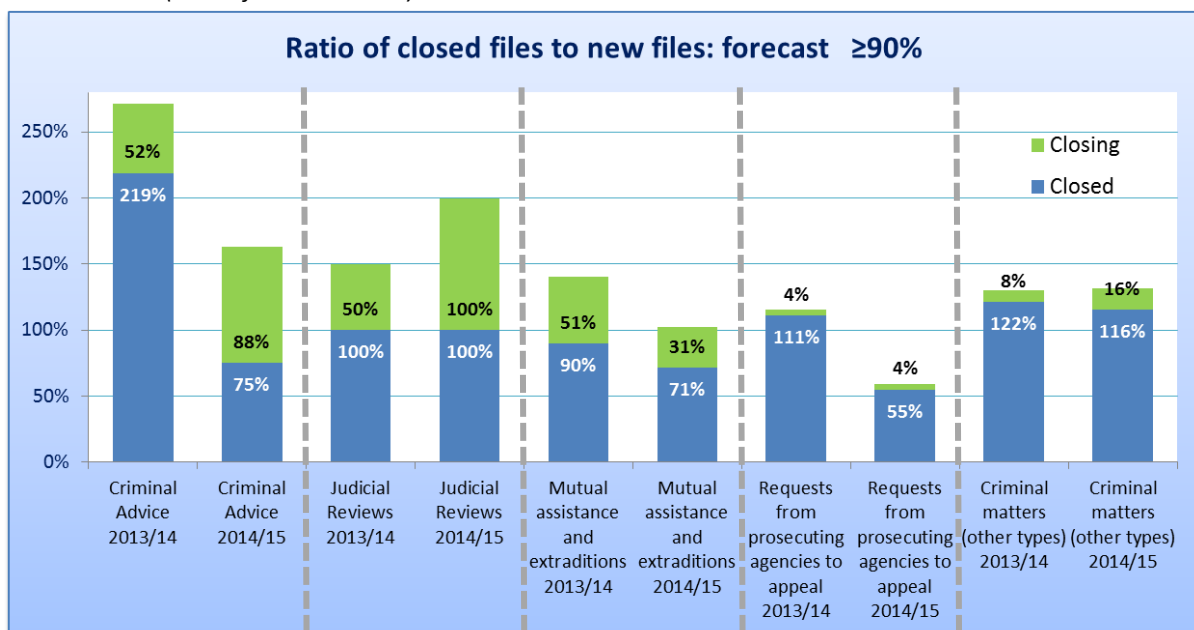
Scope – provision of advice on criminal law, mutual assistance and extradition matters to other government agencies and to Crown Solicitors

*Audited service performance (see page 9 regarding performance measures withdrawn)*

QUANTITY	<ul style="list-style-type: none"> <li>New matters</li> </ul>
	<ul style="list-style-type: none"> <li>Clearance rate (ratio of closed to new)</li> </ul> <p>Closed files are ready to be archived. Files where legal work has been completed are put into an administrative <u>closing</u> process, before they can be archived.</p>

Performance measure	Actual 2013/14	Forecast 2014/15	Actual 2014/15	Comment
<b>Quantity</b>				
<i>New matters (On page 14 are the average numbers of hours assigned to these kinds of matters)</i>				
Criminal Advice	21	25 – 35	16	<i>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.</i>
Judicial Reviews	2	3 – 5	1	
Mutual assistance and extraditions	69	50 – 60	91	
Criminal matters (other types)	60	50 – 60	45	
Requests for prosecution appeals	47	30 – 50	96	

*Clearance rate (ratio of closed to new)*



<b>TIMELINESS</b>	<ul style="list-style-type: none"> <li>• <b>Average total life (hours) of matters closed</b></li> </ul>
	<ul style="list-style-type: none"> <li>• <b>Ministerial services</b></li> </ul>

Performance measure	Actual 2013/14	Forecast 2014/15	Actual 2014/15	Comment
<b>Timeliness</b>				
<i>Average hours worked per disposed case</i>				
Criminal Advice	39	≤ 50	17	<i>This measure includes total hours (across all years) assigned to a case when it closed in 2014/15. This measure forms part of the ongoing development of our non-financial reporting. We envisage at this time that average hours of disposed cases will be one of several measures that contribute to a better understanding of workloads and the distribution of these across time.</i>
Judicial Reviews	45	≤ 150	116	
Mutual assistance and extraditions	41	≤ 50	33	
Criminal matters (other types)	13	≤ 50	22	
Requests for prosecution appeals	19	≤ 50	22	
<i>Ministerial services – proportion of responses on time</i>				
Ministerial letters	100%	95%	100%	<i>The forecasts of 95% and 100% for these responses are based respectively on (i) setting a high standard for responding promptly to Ministerial and Parliamentary requirements and (ii) the deadlines set out in the relevant Acts.</i>
Parliamentary Questions	100%	95%	100%	
Official Information Act 1982 and Privacy Act 1993 requests	100%	100%	100%	

### **1.1 E** Audited financial performance (GST exclusive)

Actual 2014 \$000		Actual 2015 \$000	Main Estimates 2015 \$000	Supplementary Estimates 2015 \$000
<b>Revenue</b>				
2,530	Crown	2,388	1,488	2,388
16	Other	-	-	-
<b>2,546</b>	<b>Total revenue</b>	<b>2,388</b>	<b>1,488</b>	<b>2,388</b>
<b>Expenditure</b>				
<b>2,683</b>	<b>Expenditure</b>	<b>2,952</b>	<b>1,488</b>	<b>2,388</b>
<b>(137)</b>	<b>Net surplus/(deficit)</b>	<b>(564)</b>	-	-

The variance to the main estimates is due to a transfer of \$0.900 million from The Exercise of Principal Law Officer Functions.



## 1.2 D MCA output: CONDUCT OF CRIMINAL APPEALS FROM CROWN PROSECUTIONS

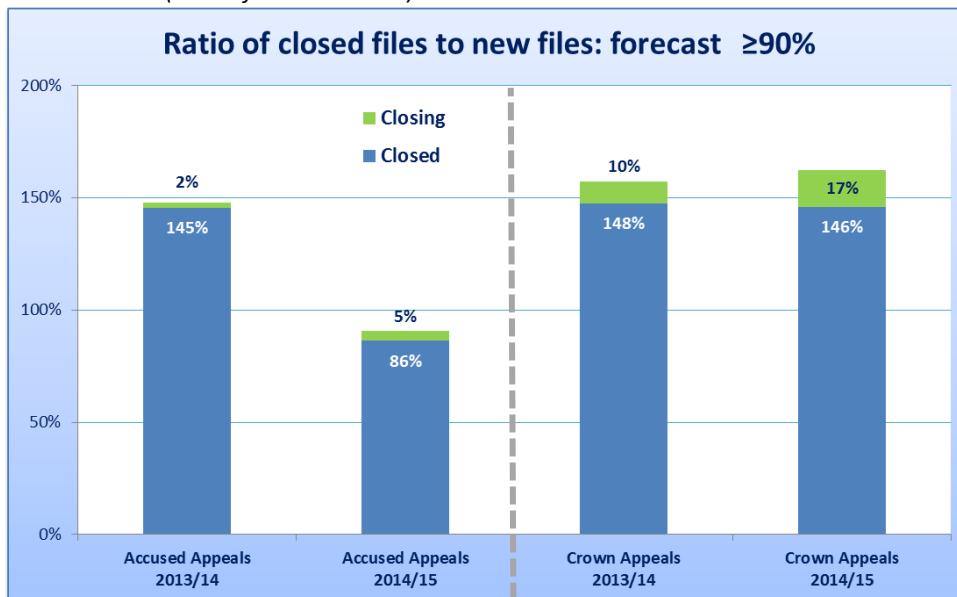
### Scope – conducting appeals arising from Crown prosecutions

*Audited service performance (see page 9 regarding performance measures withdrawn)*

<b>QUANTITY</b>	<ul style="list-style-type: none"> <li>• New matters</li> </ul>
	<ul style="list-style-type: none"> <li>• Clearance rate (ratio of closed to new)</li> </ul>

Performance measure	Actual 2013/14	Forecast 2014/15	Actual 2014/15	Comment
<i>New matters (See below on this page for the average numbers of hours assigned to these kinds of matters)</i>				
Crown appeals	18	10 – 30	24	<i>From year to year the inflow of new matters may vary significantly. Inflow also depends on the likelihood of appeals by the accused.</i>
Accused appeals	523	550 – 600	620	

#### Clearance rate (ratio of closed to new)



<b>TIMELINESS</b>	<ul style="list-style-type: none"> <li>• Average total life (hours) of matters closed</li> </ul>
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Performance measure	Actual 2013/14	Forecast 2014/15	Actual 2014/15	Comment
<i>Average hours worked per disposed case</i>				
Crown appeals	59	≤ 100	71	<i>The measure includes total hours (across all years) assigned to a case when it closed in 2014/15. In 2014/15 a Crown appeal with 354 total hours contributed to a higher average.</i>
Accused appeals	28	≤ 50	32	

**EFFECTIVENESS**

- appeals allowed in full and in part

Performance measure	Actual 2013/14	Forecast 2014/15	Actual 2014/15	Comment
<i>Effectiveness – appeals allowed in full and in part</i>				
Percentage of appeals, brought by the Crown, concluded in favour of the Crown	90%	60% <sup>2</sup>	64%	64% = 4 allowed + 3 granted; Other 36% = 4 dismissed. <sup>3</sup>
Percentage of appeals, brought by the accused/defendant, concluded in favour of the accused/defendant	23%	30%	28%	Of appeals brought by the accused /defendant: 308 dismissed; 9 refused; 3 abandoned in part; 87 allowed; 27 allowed in part; and 13 granted. <sup>4</sup>

Note: where leave is required 'granted' and 'refused' is typically used. For substantive appeals 'allowed' and 'dismissed' is used.

**1.2 E Audited financial performance (GST exclusive)**

Actual 2014 \$000	Actual 2015 \$000	Main Estimates 2015 \$000	Supplementary Estimates 2015 \$000
<b>Revenue</b>			
3,995 Crown	3,285	3,285	3,285
- Other	3	-	-
<b>3,995 Total revenue</b>	<b>3,288</b>	<b>3,285</b>	<b>3,285</b>
<b>Expenditure</b>			
<b>3,875 Expenditure</b>	<b>2,993</b>	<b>3,285</b>	<b>3,285</b>
<b>120 Net surplus/(deficit)</b>	<b>295</b>	<b>-</b>	<b>-</b>

<sup>2</sup> Crown Law's forecast success rate (60%) balances the tension between the taking of an appeal because the decision is considered to be wrong and the need to take an appeal to clarify a point of law in the public interest.

<sup>3</sup> Abandoned appeals are not counted, as an appeal may be lodged within the available time limits before a decision to appeal can be fully determined. If it is decided not to appeal, the appeal is then 'abandoned' – 1 abandoned in 2014/15.

<sup>4</sup> As per footnote above; 70 were abandoned by the accused / defendant in 2014/15.

### 1.3 D MCA output: OVERSIGHT AND SUPERVISION OF PUBLIC PROSECUTIONS AND THE CROWN SOLICITOR NETWORK

Scope - oversight of public prosecutions and supervision of the network of Crown Solicitors who deliver prosecution services

*Audited service performance (no change in measures to previous year)*

Performance measure	Actual 2013/14	Forecast 2014/15	Actual 2014/15	Comment
<b>Quantity</b>				
See next appropriation: Provision of a National Crown Prosecution Service				
<b>Quality</b>				
Reviews: new measure in 2013/14 based on data from the then newly implemented reporting framework	4	5	5	The five reviews consist of four survey-based reviews and an interview-based review. Full network is reviewed on rotation every 3 years.

### 1.3 E Audited financial performance (GST exclusive)

Actual 2014 \$000	Actual 2015 \$000	Main Estimates 2015 \$000	Supplementary Estimates 2015 \$000
<b>Revenue</b>			
840 Crown	840	840	840
<b>Expenditure</b>			
820 Expenditure	753	840	840
20 Net surplus/(deficit)	87	-	-

### 1.4 D MCA output: PROVISION OF A NATIONAL CROWN PROSECUTION SERVICE

Scope – provision of a national Crown prosecution service that undertakes prosecutions and appeals on behalf of the Solicitor-General

*Audited service performance (no change in measures to previous year)*

Performance measure	Actual 2013/14	Forecast 2014/15	Actual 2014/15	Comment
<b>Quantity</b>				
New matters (for hours of service see page 18)				
New Crown Prosecutions including appeals to the High Court from non-Crown prosecutions	4,495	5,800 – 6,000	5,050	-

Performance measure	Actual 2013/14	Forecast 2014/15	Actual 2014/15	Comment
Crown Prosecutions disposed of, including appeals to the High Court from non-Crown prosecutions	4,395	4,900 – 5,100	4,103	<i>Does not include the currently estimated 200-300 disposals that were not reported by the Auckland warrant that still need to be validated.</i>
Hours of service provided	181,170	230,000 – 250,000	177,881	<i>Forecast was based on early data (gathered through a then relatively new reporting framework). More data gathered over time will contribute to the accuracy of future forecasts. Does not include the currently estimated 12,000 to 13,000 hours that were not reported by the Auckland warrant that still need to be validated.</i>
<b>Quality</b>				
Reviews, quality assessed as exceeding or meeting expected standards	3 (of 4)	5 (of 5)	5	<i>The five reviews consist of four survey-based reviews and an interview-based review.</i>
Improvement recommendations implemented within timeframes set	First year of results will be 2014/15	>90%	>90%	-

#### **1.4 E** Audited financial performance (GST exclusive)

Actual 2014 \$000		Actual 2015 \$000	Main Estimates 2015 \$000	Supplementary Estimates 2015 \$000
<b>Revenue</b>				
34,460	Crown	33,850	33,392	33,850
<b>Expenditure</b>				
33,770	Expenditure	32,768	33,392	33,850
690	Net surplus/(deficit)	1,082	-	-

The variance from the main estimates of \$0.458 million is comprised of \$0.690 million surplus from 2013/14 carried forward and \$0.232 million Alcohol and Other Drug Court funding transferred out as our involvement in the related programme of work concluded.

## Impact 2 ► Increased trust in the justice system

### Appropriation

This work links to the appropriation for the *Exercise of Principal Law Officer Functions*.

### 2 A What we intended to achieve

#### **Responsibility to provide independent legal advice to the Crown**

The Law Officers have responsibility for providing independent legal advice to the Crown, free from political influence. This independence is critical in maintaining the integrity of the rule of law and is instrumental in minimising the risk of the Government acting unlawfully. Crown Law is responsible for supporting the Attorney-General and the Solicitor-General in performing their roles.

We have a responsibility to provide advice (to the Crown and government agencies) on legal issues, and on the legal and constitutional implications of policy proposals. The Cabinet Directions for the Conduct of Crown Legal Business 2012 (revised 2015) set out particular legal matters that must be referred to the Solicitor-General.

#### **Activities supporting the Law Officers**

In 2014/15 we intended to provide:

- representation or advice in relation to actual or imminent litigation to which the government or agency is or may become a party
- legal services involving questions of the lawfulness of the exercise of government power
- constitutional questions including Treaty of Waitangi issues
- legal issues relating to the protection of revenue.

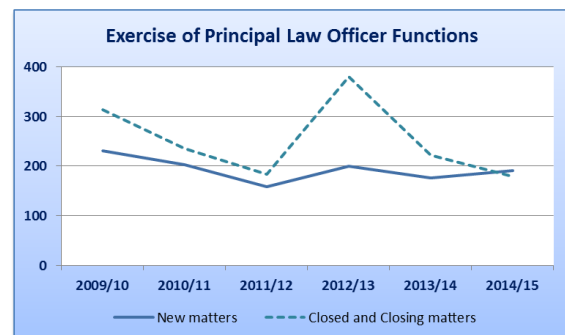
In addition we also intended to provide other assistance to the Law Officers in the following areas:

- ensuring that government actions are conducted according to the law
- representing the public interest
- managing the relationship of the Executive Government with the judiciary
- administering appointments of Judges to the higher courts and of Queen's Counsel
- acting on behalf of the Government in civil litigation

- informing the House whether any provision in a Bill introduced to the House is inconsistent with the Bill of Rights Act 1990
- supporting the supervision of charitable trusts
- managing vexatious litigant proceedings
- processing applications for the discharge of adoption orders
- processing requests for second coronial inquiries
- managing special patient reclassifications
- defending judicial reviews
- providing legal advice and representation on intervention in respect to alleged contempt of court and breach of name suppression.

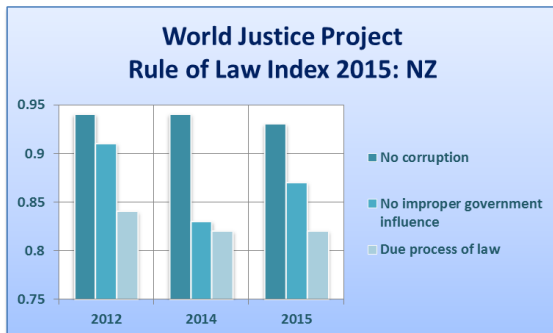
### 2 B Performance overview – International Rankings

Crown Law contributes to *increased trust in the justice system through the performance of the Principal Law Officers' constitutional and other duties*. The following graph shows the numbers of new matters opening across the financial years and likewise the closure of matters. Further information about service delivery is provided in section 2D.



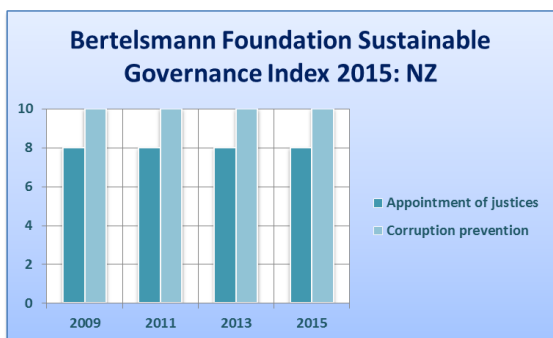
To gauge the impact of Crown Law's legal work, we look at international indexes rating New Zealand's standing in matters related to justice. In international ratings for justice-related indexes New Zealand is very well regarded overall. The World Justice Project Rule of Law Index 2015 is based on a range of factors focused on the operation of democracy and the enforcement of freedoms and rights, security and justice. In the overall Rule of Law Index New Zealand is ranked 1/15 amongst regional East Asia and Pacific neighbours and scores above average for countries of similar incomes. Globally, New Zealand is ranked 6/102 when all Index factors are considered. In the Index's criminal justice focus overall, New Zealand is ranked 8/102. According to

the Index there are no significant problems in New Zealand’s criminal investigations system, which includes confidence in prosecutorial independence and integrity. The following diagram shows our country results across key factors of the Rule of Law Index:



New Zealand’s international ratings for the Rule of Law Index (above) and Sustainable Governance Index (below) are shown in pages 26-27.

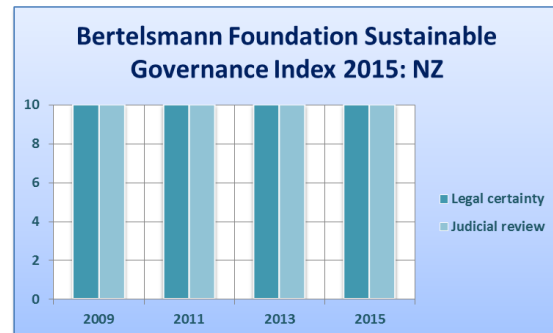
The high rating for freedom from corruption in the World Justice Project Rule of Law Index is similarly reflected in the Bertelsmann Sustainable Governance Index. *New Zealand is one of the least corrupt countries in the world.*<sup>5</sup> The Bertelsmann index maximum score is 10, out of which New Zealand has returned a perfect score for corruption prevention in the past four reports as shown in the following diagram:



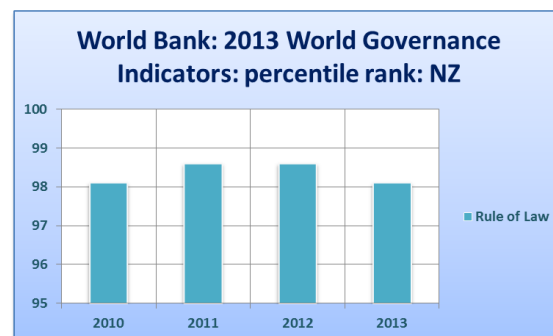
The 8/10 rating for appointment of Justices is related to the potential for strengthening formal reporting on this area of governance. Otherwise there were no issues stated, reflecting the strength of New Zealand’s institutions.

Crown Law also contributes to the *reduction of legal risks to the Crown through protecting the Crown’s interests and ensuring any risks are managed well.* The reduction of risk is related to the following index measures, in which New Zealand has scored perfectly in the past four years.

<sup>5</sup> Page 26 of the Sustainable Governance Indicators report for New Zealand, covering the period May 2013 to November 2014, <http://www.sgi-network.org/2015>



The World Bank Governance Indicators continue to rank New Zealand well for rule of law, placing New Zealand marginally above the 98<sup>th</sup> percentile in the latest survey (for 2013) of over 200 countries.



The Worldwide Governance Indicators project constructs aggregate indicators of six broad dimensions of governance. The six aggregate indicators are based on underlying data sources reporting the perceptions of governance of a large number of survey respondents and expert assessments worldwide.<sup>6</sup> Likewise Transparency International’s Corruption Perceptions Index placed New Zealand second out of 175 states in 2014, scoring 91 out of 100 for a second year. (Denmark scored 92, moving up from 91 in 2013.)

While Crown Law makes an indirect contribution to these results, the contribution that is made through the constitutional duties of the Principal Law Officers, reducing risk to the Crown’s interests, ensuring legal certainty and prosecuting serious crime helps New Zealand to achieve these results and supports the justice sector in making this a safe and just country.

<sup>6</sup> World Bank Governance Indicators 2015 Update, Aggregate Indicators of Governance 1996-2013 data



## **2 C Significant and illustrative legal and constitutional matters concluded**

### ***Lecretia Seales v Attorney-General***

In March 2015 Ms Seales filed proceedings in the High Court under the Declaratory Judgments Act 1908 seeking declarations that sections 160 and 179 of the Crimes Act 1961 should be interpreted to permit “physician assisted dying” where (a) a person clearly consents to his or her death and (b) has a grievous and irremediable illness causing intolerable suffering. If the court was to rule that the two sections of the Crimes Act could not be so interpreted, Ms Seales sought a “declaration of inconsistency” under the New Zealand Bill of Rights Act 1990, claiming that the effect of sections 160 and 179 of the Crimes Act was to deprive her of life (contrary to section 8), and to impose degrading or disproportionately severe treatment (contrary to section 9).

Following a three day hearing Collins J ruled that sections 160 and 179 of the Crimes Act could not be interpreted as the plaintiff sought and dismissed her application. The Court further held that the Crimes Act provisions against assisted suicide and culpable homicide were each consistent with both sections 8 and 9 of the New Zealand Bill of Rights Act.

### ***Greenpeace v Electoral Commission; Greenpeace & Others v Electoral Commission***

The Electoral Commission determined in advisory opinions that two websites, the Climate Voter website and the Greenpeace Simon Bridges website, were electoral advertisements.

The plaintiffs sought declaratory relief to the effect the websites were not election advertisements. In the alternative, if the websites were held to be election advertisements, the plaintiffs asked for a declaration that section 3A of the Electoral Act 1993 is inconsistent with rights of freedom of expression under section 14 of the New Zealand Bill of Rights Act.

Mander J was satisfied that the meaning of “election advertisement” contained in section 3A(1) was a proportionate means of achieving the important objective of preserving the integrity of the electoral system and ensuring a “level playing field” for expression designed to influence the public as to the type of candidate or party for whom they should vote. He concluded, as a result, that Parliament’s intended meaning insofar as it is inconsistent with the right to freedom of expression was a legitimate limitation on that right.

Mander J also held whether a publication is caught by the definition depends on the particular effect of the material, assessed on an objective basis.

In relation to the Climate Voter materials, Mander J was unwilling to make a decision whether they were election advertisements, though he was prepared to observe that those images which only refer to the issue of climate change would not constitute an election advertisement.

Regarding the Greenpeace Simon Bridges website, the Court concluded the fact the website had been part of ongoing discussion or debate for some period of time should be taken into account as to whether it might reasonably be regarded as encouraging or persuading people to vote in a particular way. When examined in these terms, Mander J inclined to the view that the informed observer would not reasonably regard the website as encouraging or persuading voters to vote or not to vote for a type of candidate or party.

### ***Watson & Jones v Electoral Commission***

In another challenge to an Electoral Commission decision, the composers of the song “Planet Key” sought declaratory judgments from the High Court that their song and the accompanying video were neither an election programme for the purpose of the Broadcasting Act 1989 nor an election advertisement for the purpose of the Electoral Act.

The plaintiffs’ counsel argued the two definitions were intended only to capture material which publishers or broadcasters had been paid to publish or broadcast. The Electoral Commission argued the legislative intent was not to confine the definitions to paid materials, and New Zealand Bill of Rights Act concerns could be addressed when the Commission (or a Court) considered whether a song could reasonably be regarded as encouraging voters to vote.

Clifford J held the song and video were not “advertisements” under the Electoral Act because the plaintiffs did not pay anyone to publish them, nor would they be published in a manner similar to an advertisement in a newspaper or a commercial on TV.

The Electoral Commission has appealed to the Court of Appeal against part of the High Court decision, with the sole purpose of clarifying the law it must apply at the next election. The Commission has also sought the Court of Appeal’s ruling on Clifford J’s interpretation of section 70 of the Broadcasting Act.

### ***New Health New Zealand Inc v South Taranaki District Council***

The plaintiff society challenged the lawfulness of the South Taranaki District Council decision to fluoridate the water supplied to Waverley and Patea. The Crown was granted leave to intervene and to make submissions.

The High Court rejected all grounds of challenge, concluding there was implied power to fluoridate in the Local Government Act 2002, as there had been in previous legislation. In addition the Health Act confirmed that fluoride may be added to drinking water in accordance with drinking water standards issued under that Act. The Court concluded the power to fluoridate drinking water is not a regulatory function which required express authority, and nor was it medical treatment for the purpose of section 11 of the New Zealand Bill of Rights Act. However, if contrary to that view, fluoridation did engage the right to refuse medical treatment, the High Court concluded in terms of section 5 of the New Zealand Bill of Rights Act the power to fluoridate was a justified curtailment of the right to refuse medical treatment.

The High Court's decision has been appealed.

### ***Taylor v Attorney-General (declaration of inconsistency)***

Mr Taylor applied to the High Court for a declaration that the Electoral (Disqualification of Sentenced Prisoners) Amendment Act 2010 was inconsistent with section 12(a) of the New Zealand Bill of Rights Act. The Court accepted that the existence of a jurisdiction to make such a declaration was uncertain, and even if it existed, there were arguments as to why it would be unwarranted in circumstances where the apparent inconsistency had been reported to Parliament under section 7 of the Bill of Rights Act.

Heath J granted the plaintiff's application, declaring that section 80(1)(d) of the Electoral Act 1993 (as amended by the Electoral (Disqualification of Sentenced Prisoners) Amendment Act) is inconsistent with the right to vote affirmed and guaranteed in section 12(a) of the New Zealand Bill of Rights Act and could not be justified under section 5 of that Act.

This is the first case in which a formal declaration of inconsistency with the New Zealand Bill of Rights Act has been made by any court. Previously there has been uncertainty about whether and when there is jurisdiction to make such declarations. The decision is to be appealed.

### **TREATY OF WAITANGI**

In 2014/15 we have seen a number of significant developments in litigation involving Crown-Māori relations. Outside of litigation Crown Law continues to contribute to negotiations to both settle historical claims brought by Māori and to resolve by engagement applications for recognition of customary marine title and protected customary rights under the Marine and Coastal Area (Takutai Moana) Act 2011.

#### ***Extant aboriginal title rights or fiduciary duty***

In *Paki v Attorney General* [2014] NZSC 118, [2015] 1 NZLR 67 the Supreme Court expressed a number of concerns about the impact of the case it was asked to determine on alleged extant rights to part of a riverbed. The Court signalled caution in the application of the rebuttable presumption that riparian owners have title to a non-navigable riverbed to the mid-point. There is a surrounding context of claims that many waterways are treated in Māori customary law as tribal taonga without division into bed, banks and water.

In *Proprietors of Wakatu v Attorney General* [2014] NZCA 628, [2015] 2 NZLR 298 the Court of Appeal rejected arguments that lands in the Nelson region were held by the Crown under fiduciary and trust law obligations for descendants of prior Māori owners. The case is now under appeal to the Supreme Court.

#### ***Challenges to the Treaty settlement process***

In *Attorney General v Ririnui* [2015] NZCA 160 the Court of Appeal examined whether State Owned Enterprise law and company law could be used to aid in a judicial review of Crown decisions about preparedness to provide certain assets as Treaty of Waitangi settlement redress. The case has since been appealed to the Supreme Court and judgment is reserved.

In *Te Aroha Maunga Settlement Process Report* (Wai 663, 2014) the Waitangi Tribunal conducted an urgent assessment of Crown negotiation decisions against the principles of the Treaty of Waitangi. The Crown conduct was given clearance by the Tribunal on being satisfied that the Office of Treaty Settlements followed the approach recommended in its earlier Tāmaki Makaurau report (Wai 1362, 2007).

An arbitration has continued to adjudicate on the amounts payable from the Crown to Waikato Tainui and to Ngāi Tahu under the relativities mechanisms agreed in the settlements of historical claims reached with those iwi in 1995 and 1997

respectively. Under those settlements the mechanism operates until 2044.

Crown Law's Treaty of Waitangi teams have responded for the Crown to 14 applications for urgent Waitangi Tribunal inquiries. Most of these have been concerned with proposed settlements between the Crown and large natural groups of historical claims under the Treaty. In 13 instances the Tribunal has declined to inquire urgently. An illustration is the Tribunal's decision declining an application brought on behalf of Araukuku hapū challenging the Treaty settlement reached with Ngāruahine (Wai 552, #2.35 7 May 2015). An urgent inquiry was granted in relation to the Crown's recognition of the mandate submitted on behalf of Ngāpuhi to negotiate a settlement of historical claims. And a priority inquiry was initially granted by the Tribunal, but later revoked, in response to an application for an urgent inquiry into the prohibition on prisoners voting.

#### ***Challenges to the Waitangi Tribunal's approach to recommending remedies and to urgent inquiries***

In *Haronga v Waitangi Tribunal* [2015] NZHC 1115 the High Court granted an application for judicial review from claimants dissatisfied with the Waitangi Tribunal's approach to remedies in *Tūranganui-a-Kiwa* (Gisborne). That case is under appeal to the Court of Appeal. Subsequently, in *Flavell v Waitangi Tribunal* [2015] NZHC 1907 another application for judicial review was granted, although questions of relief have yet to be determined at the time of writing. That case resulted from Ngāti Kahu claimants who were dissatisfied with the Waitangi Tribunal's report on recommended remedies for that tribe.

In *Turahui v Waitangi Tribunal* [2015] NZHC 1624 the High Court declined an application for judicial review of the Tribunal's decision mentioned above concerning Araukuku hapū concerns with the settlement between the Crown and Ngāruahine. That case has also subsequently been appealed to the Court of Appeal.

#### ***Challenges to Crown decision-making after the Rena maritime disaster***

In the aftermath of the MV *Rena*'s collision with Otaiti Reef the Crown negotiated a settlement with the ship's owner. Subsequently a number of claimants to the Waitangi Tribunal sought and obtained an urgent inquiry alleging that the Crown's actions in reaching settlement were in breach of Treaty principles. The inquiry was held in the year under review. The Tribunal found the

Crown's consultation process has breached the principles of good faith and partnership, and active protection particularly in relation to taonga (The Final Report on the MV *Rena* and Motiti Island Claims (Wai 2391, 2015)). On 30 May 2014 the *Rena*'s owner lodged an application for resource consent to leave the wreck in place, which the Crown partially opposed. In its final report the Tribunal found that the wreck removal had the potential to significantly affect Māori interests and that the Crown had failed to adequately consult with Māori. The Tribunal recommended the Crown play an active role in the resource consent process to fulfil its Treaty obligations, and that the Crown provides Motiti Māori with adequate support to participate in the resource consent process. The resource consent application will be heard before independent commissioners in Tauranga in early September 2015.

#### ***Māori sovereignty, autonomy and rangatiratanga***

The Waitangi Tribunal released two reports in this period examining the relationship between Articles 1 and 2 of the Treaty of Waitangi. In the report *Whaia te Mana Motuhake / In Pursuit of Mana Motuhake: Report on the Māori Community Development Act Claim* (Wai 2417, 2014) the Tribunal upheld claims that the Crown's review of Māori Community Development Act 1962 breached the principles of the Treaty. The Tribunal's view was that the legislation was part of a system to recognise and to give Māori institutions powers of self-government in recognition of the long pursuit by Māori seeking recognition of *mana motuhake*. The Tribunal report contains analysis of the Declaration on the Rights of Indigenous Peoples in considering applicable principles under the Treaty of Waitangi.

In its stage 1 report on claims in the Northland region *Te Paparahi o te Raki* (Wai 1040, 2014) the Tribunal reported that when the Treaty of Waitangi was under negotiation at Waitangi the Crown did not obtain a cession of sovereignty by the Māori signatories despite that term's use in the English language text of Article 1 of the Treaty.

#### ***After district inquiries the kaupapa inquiry programme***

The Waitangi Tribunal has commenced a programme of inquiries into remaining claims on its register that can be grouped by subject matter or kaupapa. These kaupapa inquiries are scheduled to occur over 10 years to 2025 under the Tribunal's programme. The first of these inquiries has commenced into claims that have yet to be settled concerning military veterans.

## 2 D Output expense: THE EXERCISE OF PRINCIPAL LAW OFFICER FUNCTIONS

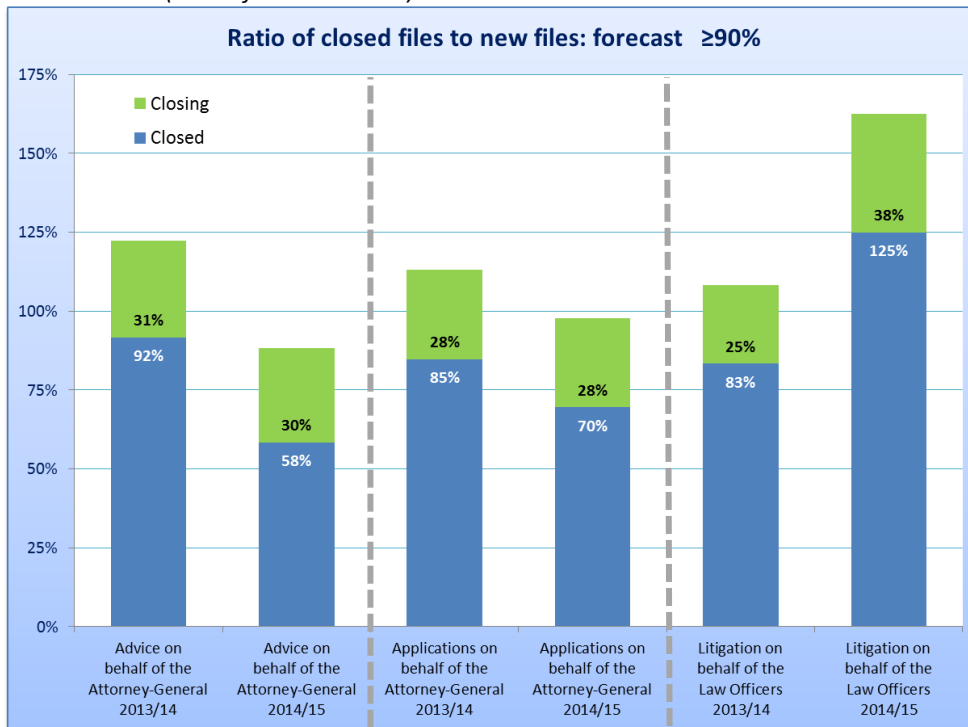
Scope - This appropriation is limited to providing legal advice, representation services and administrative services to the Attorney-General and Solicitor-General to assist them in the exercise of their Principal Law Officer functions, and the provision of legal and constitutional advice to the Government, Ministers, and the judiciary.

*Audited service performance (see page 9 regarding performance measures withdrawn)*

QUANTITY	<ul style="list-style-type: none"> <li>New matters</li> </ul>
	<ul style="list-style-type: none"> <li>Clearance rate (ratio of closed to new)</li> </ul>

Performance measure	Actual 2013/14	Forecast 2014/15	Actual YTD 2014/15	Comment
<i>New matters (On page 25 are the average numbers of hours assigned to these kinds of matters)</i>				
Advice on behalf of the Attorney-General	110	100 – 120	137	<i>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.</i>
Applications <sup>7</sup> processed on behalf of the Attorney-General	46	30 – 60	46	
Litigation on behalf of the Law Officers <sup>8</sup>	11	5 – 10	8	

*Clearance rate (ratio of closed to new)*



<sup>7</sup> These include applications for second coronial inquiries, special patient reclassification, discharge of adoption orders, trust variations, interventions in respect of alleged contempt and breach of name suppression.

<sup>8</sup> Updated to reflect Litigation can be on behalf of the Attorney-General and/or the Solicitor-General.

<b>TIMELINESS</b>	<ul style="list-style-type: none"> <li>• <b>Average total life (hours) of matters closed</b></li> </ul>
	<ul style="list-style-type: none"> <li>• <b>Ministerial services</b></li> </ul>

Performance measure	Actual 2013/14	Forecast 2014/15	Actual YTD 2014/15	Comment
<i>Average hours worked per disposed case</i>				
Advice on behalf of the Attorney-General	119	≤ 50	25	<i>This measure includes total hours (across all years) assigned to a case when it closed in 2014/15. Note: in 2013/14 a small number of advice files increased the average hours to 119 (the median was 22 hours).</i>
Applications processed on behalf of the Attorney-General	39	≤ 50	48	
Litigation on behalf of the Law Officers	54	≤ 75	62	
<i>Ministerial services – proportion of responses on time</i>				
Ministerial letters	97%	95%	100%	<i>The forecasts of 95% and 100% for these responses are based respectively on (i) setting a high standard for responding promptly to Ministerial and Parliamentary requirements and (ii) the deadlines set out in the relevant legislation.</i>
Parliamentary Questions	100%	95%	100%	
Official Information Act 1982 and Privacy Act 1993 requests	100%	100%	93%	

<b>QUALITY</b>	<ul style="list-style-type: none"> <li>• <b>Attorney-General's feedback</b></li> </ul>
<p>Additional information: Role of the Attorney-General</p> <p>The current Attorney-General is the Honourable Christopher Finlayson QC. The Attorney-General is the senior Law Officer, and has constitutional responsibility for the Government's administration of the law. This function is exercised in conjunction with the Solicitor-General, the junior Law Officer.</p> <p>The Attorney-General has an obligation to act on some matters independently, free of political considerations. The Solicitor-General, as the non-political Law Officer, has traditionally assumed responsibility for the exercise of those functions that should be undertaken independently of the political process, most notably the prosecution functions.</p>	

Performance measure	Actual 2013/14	Forecast 2014/15	Actual YTD 2014/15	Comment
<i>Responses to annual questionnaire</i>				
Responses (ratings) either <i>good</i> or <i>excellent</i>	100%	>90%	100%	<i>The Attorney-General provides responses to a questionnaire about the services provided by Crown Law to the Attorney-General, the Government and government departments.</i>

## 2 E Audited financial performance (GST exclusive)

Actual 2014 \$000		Actual 2015 \$000	Main Estimates 2015 \$000	Supplementary Estimates 2015 \$000
<b>Revenue</b>				
1,834	Crown	1,974	2,874	1,974
63	Other	43	50	50
<b>1,897</b>	<b>Total revenue</b>	<b>2,017</b>	<b>2,924</b>	<b>2,024</b>
<b>Expenditure</b>				
<b>1,762</b>	<b>Expenditure</b>	<b>1,892</b>	<b>2,924</b>	<b>2,024</b>
<b>135</b>	<b>Net surplus/(deficit)</b>	<b>125</b>	<b>-</b>	<b>-</b>

The variance from the main estimates is due to the transfer of \$0.900 million to the MCA - Criminal Law and Advice Services.

### ADDITIONAL measures reflecting the 2014 Statement of Intent

Indicators	Baseline	Previous Actual	Actual 2014/15	Comment
<b>Outcomes – RULE OF LAW AND GOVERNANCE</b>				
<b>Focus: Increased trust in the justice system, through the performance of the Principal Law Officers' constitutional and other duties</b>				
World Justice Project Rule of Law Index: New Zealand's criminal justice system:				
• is free of corruption	2012 score 0.94	2014 score 0.94	2015 score 0.93	<i>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 factors. The effectiveness of the criminal justice system is one of the factors. Within the factors are sub-components, three of which are reported here. The Index is based on household and expert surveys. These results reflect the rule of law as experienced by New Zealanders.</i>
• is free of improper government influence	2012 score 0.91	2014 score 0.83	2015 score 0.87	
• has due process of law and rights of the accused	2012 score 0.84	2014 score 0.82	2015 score 0.82	
<b>Focus: Reduced legal risks to the Crown, through protecting the Crown's interests and ensuring any risks are managed well</b>				
Bertelsmann Foundation Sustainable Governance Indicators Status Index: New Zealand's effectiveness in:				
• corruption prevention	2009 score 10/10	2014 score 10/10	2015 score 10/10	<i>The sustainable governance indicators (SGI) 2015 report looks at 41 OECD and EU states. The focus on democracy relates to institutional and organisational democracy and participation in the political and justice systems. Within the broader theme of democracy is the focus on the rule of law. The SGI report's key indicators for rule of law are shown in this table.</i>
• legal certainty	2009 score 10/10	2014 score 10/10	2015 score 10/10	



Indicators	Baseline	Previous Actual	Actual 2014/15	Comment
• judicial review	2009 score 10/10	2014 score 10/10	2015 score 10/10	<i>New Zealand was rated amongst the top (10/10) for three of the indicators. For appointment of Justices the SGI report reflected on the opportunity to strengthen transparency in the appointment of Justices (noting here that no issues were otherwise raised).</i>
• appointment of Justices	2009 score 8/10	2014 score 8/10	2015 score 8/10	
<b>Outcomes – JUSTICE SECTOR</b>				
The Ministry of Justice reports performance and progress with regard to the relevant Better Public Services targets and justice sector indicators. Such outcome measures can include the results of international indexes such as those reported above.				

## Impact 3 ► Reduced legal risks to the Crown

### Appropriation

This work links to the appropriation for *Legal Advice and Representation*.

#### 3 A What we intended to achieve

##### **Responsibility to provide legal advice and representation**

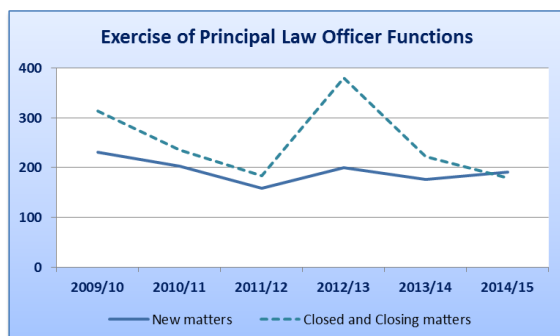
As chief legal advisors to the Government and chief advocate for the Government in the courts, the Principal Law Officers have the responsibility of ensuring that the Government is not prevented through legal process from lawfully implementing its chosen policies and discharging its governmental responsibilities.

##### **Crown Law's advice and representation activities**

Crown Law supports the Law Officers by providing legal advice and representation *to ensure the Crown's legal risks are managed well and its interests protected*. Crown Law advises and provides representation on services related to the Crown infrastructure, its commercial interests, the regulation of those interests, and the protection of revenue.

#### 3 B Performance overview

We take a “one Crown” approach to protect the Crown’s legal interests. In looking after the Crown’s legal interests we must look beyond the interests of individual departments, even when a department is the client initiating the work. This approach provides assurance to the Attorney-General and Solicitor-General that the Crown’s legal risk is being identified early and managed well. The following graph shows the numbers of new matters opening across the financial years and likewise the closure of matters. Further information about service delivery is in section 3D.



One of the ways in which Crown Law is providing leadership and working with other departments is through the Government Legal Network (GLN). The Network is a collaborative endeavour led by

the Principal Law Officers in conjunction with Chief Legal Advisors. Its purpose is to enhance the effective and efficient delivery of legal advice and services to the Crown and facilitate the systemic oversight of Crown Legal Risk. The Network is functioning very well with significant achievements to date. Please refer to the section on pages 35-36 for further information about recent progress.

#### 3 B Significant and illustrative legal advice and representation matters concluded

##### **Commissioner of Inland Revenue v Trustpower Ltd**

The Court of Appeal determined that the Commissioner was correct in disallowing expenditure in obtaining resource consents for four potential generation projects on the South Island as it was a capital expenditure. The Court of Appeal applied the principles for the capital/revenue distinction – looking at what the expenditure was calculated to effect from a practical and business point of view rather than a juristic classification of legal rights: Was the expenditure for the extension of a business organisation (and thus capital) or for the carrying on of a business (and thus revenue)? The Court concluded that the expenditure was incurred to obtain valuable capital assets. TrustPower Ltd has applied for leave for appeal to the Supreme Court.

##### **ASB v Commissioner of Inland Revenue**

This significant proceeding has been resolved. The issue that was before the High Court was the tax deductibility of foreign exchange losses arising in a transaction known as the “Yen Transaction”. A key issue was the purpose and effect of the hedging arrangement that formed part of the Yen Transaction. The Commissioner considered that the Yen Transaction was part of a tax avoidance arrangement.

##### **Vector Ltd v Commissioner of Inland Revenue**

Vector had certain property rights over a tunnel it built in Auckland and various other land in a transmission corridor. It entered into an agreement with Transpower granting it rights over the land, to allow Transpower access to work on or develop its transmission network, in return for which it received payments of \$53 million. Vector treated the amounts as capital rather than income, and therefore not liable to tax. The High Court found for Vector. The Commissioner has appealed to the Court of Appeal and that appeal is scheduled to be heard in April 2016.

### ***Jennings Roadfreight Ltd (in liq) v Commissioner of Inland Revenue***

This case concerned PAYE that had been deducted by a company but not yet paid to the Commissioner when the company was liquidated. The Court of Appeal (by a majority) had held that the PAYE amount was held in a statutory trust for the Crown. On appeal the Supreme Court unanimously held that, unless PAYE has been held in a separate bank account or paid to the Commissioner at the time liquidation occurs, it falls to be distributed to creditors in accordance with the priorities contained in Schedule 7 of the Companies Act. However, PAYE payments due after liquidation remain subject to the statutory trust.

### ***Olliver Trustee Ltd and Anor v Minister for Land Information***

These Environment Court proceedings involved objections to the compulsory acquisition of land in Paraparaumu, Wellington, for the new SH1 Northern Corridor. Olliver Trustee Ltd and St Heliers Capital Ltd (sole director and shareholder being Gregory Martin Olliver) each owns a parcel of land in Paraparaumu. Those parcels are adjoining and total some 32.5 hectares. The Minister ultimately decided parts of that land are to be compulsorily acquired for the new SH1. Olliver Trustee Ltd and St Heliers Capital Ltd objected to that acquisition. In dismissing those objections the Environment Court applied the law set down by the High Court in *Waitakere City Council v Brunel* [2007] NZRMA 235. The Environment Court emphasised at [124] of its decision that “[t]he trade off between the factors which we have identified in para [123] (above) and the additional cost which acquiring the more valuable land involves (whatever that might be) is properly a matter for the Minister.”

### ***Chatham Rock Phosphate – Marine Consent Application***

Chatham Rock Phosphate Limited (CRP) applied for a marine consent under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 to mine phosphorite from within a 5,000 square kilometre area of the Chatham Rise over 400km east of Christchurch at depths from 250m to 450m. The application term was 35 years. The application was extensive and ultimately supported by 31 experts and associated briefs of evidence, covering all matters from project description, economic impacts and benefits, through environmental assessment and potential effects on interests such as fishing, to conditions.

In June 2014 Ministers of the Crown filed a neutral “all-of-Government” submission with the Environmental Protection Authority (EPA) and asked to be heard. The Crown’s submission raised a number of matters relevant to the EPA’s decision-making responsibilities.

The EPA’s decision-making committee declined CRP’s application.

### ***Quake Outcasts v Minister for Canterbury Earthquake Recovery***

On 13 March 2015 the Supreme Court found decisions concerning offers to purchase vacant, commercial and uninsured properties in the Residential Red Zone were unlawful. The majority directed the Chief Executive of the Canterbury Earthquake Recovery Authority to reconsider the decisions to make those offers.

In response to the Court’s directions, by Gazette notice dated 23 April 2015, the Minister for Canterbury Earthquake Recovery directed the Chief Executive to prepare a Residential Red Zone Offer Recovery Plan. A Preliminary Draft was publicly notified on 5 May 2015 and the public, including the appellants in the Supreme Court, were given ten working days to provide written responses. Over 800 submissions were received.

The Gazette notice required a draft Recovery Plan to be publicly notified by the Minister in accordance with section 20 of the Canterbury Earthquake Recovery Act. The public were then given ten working days to provide written comments and the Minister would then decide in accordance whether to approve the Recovery Plan, with or without amendments. If approved, a Recovery Plan would guide the Chief Executive in making decisions under section 53 of the CER Act to make new offers to buy vacant, commercial and uninsured properties in the Red Zone.

On 26 May the Chief Executive announced the deadline for publication of a draft Recovery Plan had been extended and a Gazette notice was published extending the deadline for the Minister to decide whether to approve a Recovery Plan to 31 July 2015. The Minister has approved a Recovery Plan with some changes to the draft Plan prepared by the Chief Executive. Some of the appellants in the Supreme Court have signalled they will seek leave to apply to that Court for further orders.

***Pub Charity Inc v Secretary for Internal Affairs & Gambling Commission***

In June 2011 the Secretary imposed a one day suspension on Pub Charity for a breach of Limit D of the Gambling Act. Limit D requires a minimum percentage of gambling proceeds to be paid to authorised purposes. A series of appeals followed and ultimately the Court of Appeal remitted the question whether Pub Charity should serve a sanction back to the Gambling Commission for fresh consideration.

In order for that to happen the Court of Appeal reinstated the Secretary's first decision to give the Commission jurisdiction to hear the appeal. Pub Charity then withdrew its appeal and argued that the Commission could no longer determine the reinstated appeal and that the Secretary had no power to re-set the suspension date, which by then had long since passed. The Secretary disagreed and, relying on section 16 of the Interpretation Act, set a new suspension date. Pub Charity sought to judicially review the Secretary's decision.

The High Court (Mallon J) dismissed Pub Charity's application, holding section 16 enabled the Secretary to reset the date without reconsidering whether the initial breach should result in the imposition of a sanction. Her Honour ordered the suspension be served on 30 March 2015.

***NZSKI Limited v Director-General of Conservation***

NZSki operate the Remarkables ski field pursuant to a lease from the Department of Conservation. The parties have been unable to agree the rent on the latest rent review and the matter has gone to arbitration. As part of the arbitration a question of law arose and was referred to the High Court for determination. The issue was whether the lease was renewable or permanently extendable. This may have an effect on the calculation of rent on review.

The question also has considerably broader significance. The current lease is an older style Reserves Act lease. If extendable, less than current commercial terms will continue to apply. If renewable, any renewed lease will be required to be a concession under the Conservation Act, and more commercial terms will be implied.

The High Court held the lease was renewable. NZSki have appealed that decision to the Court of Appeal.

***Independent Fisheries Ltd v Minister for Canterbury Earthquake Recovery***

Independent Fisheries judicially reviewed the Minister for Canterbury Earthquake Recovery's decision to approve the Canterbury Land Use Recovery Plan (LURP). The plan includes noise contours around Christchurch International Airport which affect the development potential of Independent Fisheries' land.

In dismissing all grounds of challenge the High Court held the airport noise contours were within the scope of a Gazette notice directing the development of the LURP. The evidence made it clear the Minister considered the relevant statutory test and applied it, and the Minister and the regional and local councils made admirable efforts to consult, engage and communicate widely.

### 3 D Output expense: LEGAL ADVICE AND REPRESENTATION

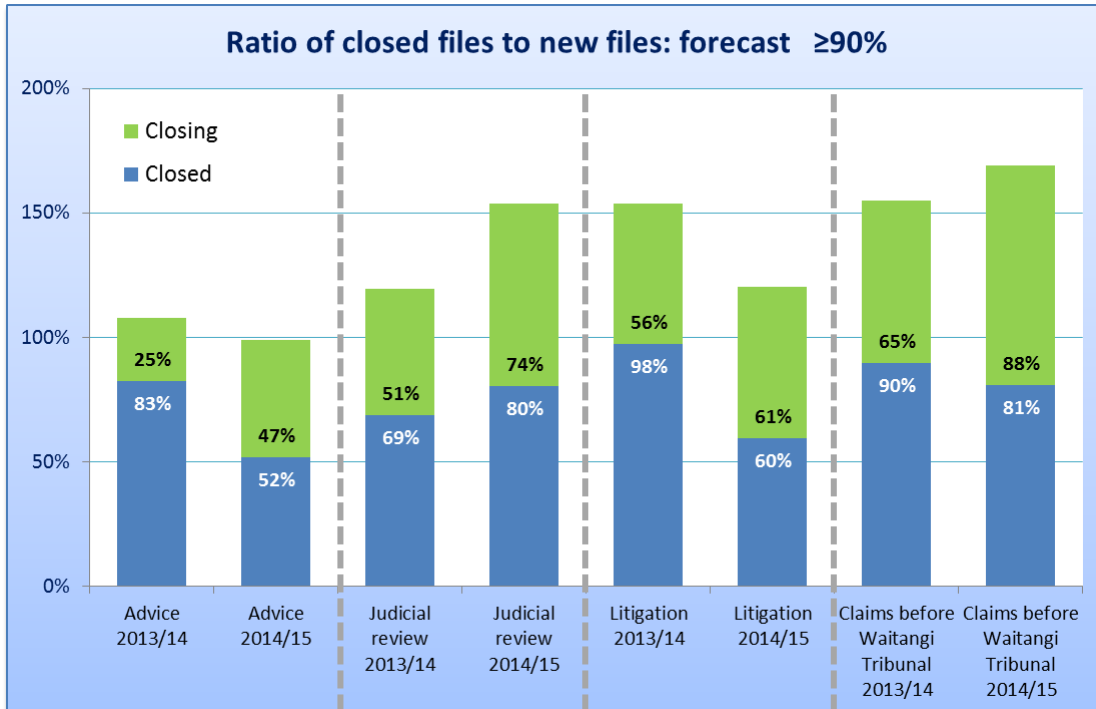
Scope - This appropriation is limited to providing legal advice and representation services to central government departments and Crown agencies.

*Audited service performance (see page 9 regarding performance measures withdrawn)*

QUANTITY	• New matters
	• Clearance rate (ratio of closed to new)

Performance measure	Actual 2013/14	Forecast 2014/15	Actual 2014/15	Comment
<i>New matters (On page 32 are the average numbers of hours assigned to these kinds of matters)</i>				
Advice	397	380 – 430	415	<i>From year to year the inflow of new matters may vary slightly or significantly. New matters mostly arise from circumstances external to Crown Law, but in which Crown Law must subsequently become involved.</i>
Judicial review	110	75 – 125	102	
Litigation	280	300 – 350	354	
Claims before Waitangi Tribunal	49	25 – 50	42	

*Clearance rate (ratio of closed to new)*



<b>TIMELINESS</b>	<ul style="list-style-type: none"> <li>• <b>Average total life (hours) of matters closed</b></li> </ul>
	<ul style="list-style-type: none"> <li>• <b>Client feedback</b></li> </ul>
	<ul style="list-style-type: none"> <li>• <b>Service performance</b></li> </ul>

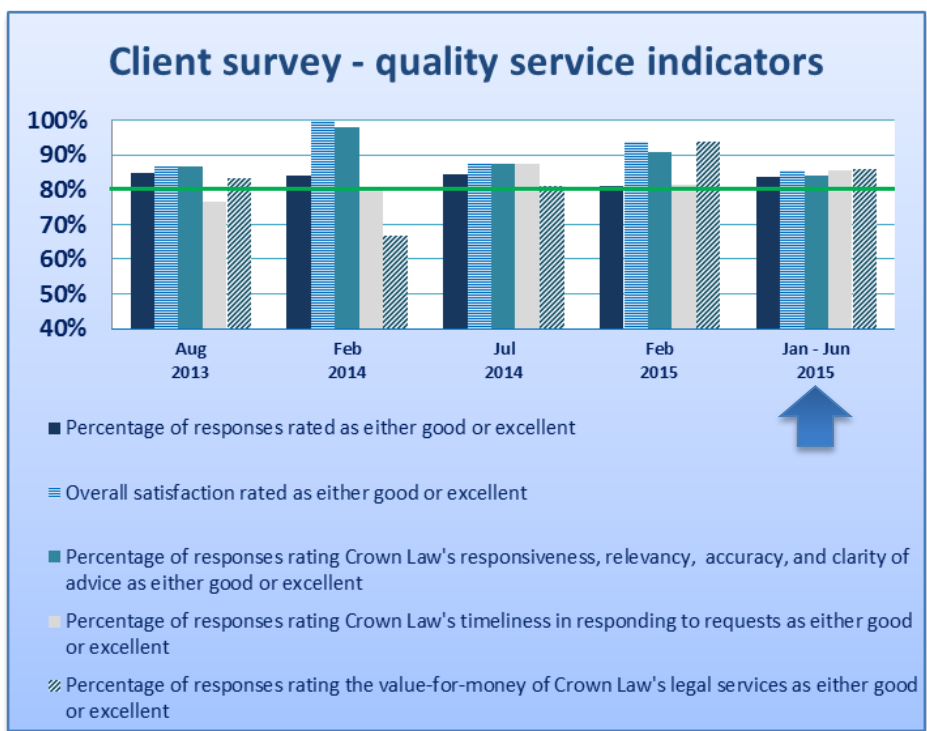
Performance measure	Actual 2013/14	Forecast 2014/15	Actual 2014/15	Comment
<i>Average hours worked per disposed case</i>				
Advice	55	≤ 50	43	<i>This measure includes total hours (across all years) assigned to a case when it closed in 2014/15. For 2014/15 the disposal of a few long-running Claims increased the relevant average (from 92 to 661 hours; the median was 98 hours).</i>
Judicial review	73	≤ 100	104	
Litigation	158	≤ 200	171	
Claims before Waitangi Tribunal	212	≤ 500	661	
<i>Client perceptions and service performance (%)</i>				
Responses to the client survey that consider timeliness in responding to requests is either <i>good or excellent</i>	88%	80%	86%	<i>(covers Jan – Jun 2015)</i>
Written opinions/advice (final or draft) completed by the due date	51%	80%	71%	<i>The large change from 2013/14 reflects an updated definition (correcting the calculation involved)</i>
Litigation Management Plans completed by the due date	82%	100%	73%	<i>Completion dates can vary while a matter is being progressed.</i>

<b>QUALITY</b>	<ul style="list-style-type: none"> <li>• <b>Peer reviews and consultation</b></li> </ul>
	<ul style="list-style-type: none"> <li>• <b>Client feedback</b></li> </ul>

Performance measure	Actual 2013/14	Forecast 2014/15	Actual 2014/15	Comment
Written opinions and advice that are peer reviewed	66%	80%	94%	<i>The difference between 2013/14 and 2014/15 is primarily due to an improved reporting process implemented in 2015.</i>



Performance measure	Actual 2013/14	Forecast 2014/15	Actual 2014/15	Comment
Responses to the client survey that consider the advice and service received overall is either <i>good</i> or <i>excellent</i>	88%	80%	86%	(covers Jan – Jun 2015)
Responses to the client survey that consider the responsiveness, relevancy, accuracy, and clarity of advice are either <i>good</i> or <i>excellent</i>	88%	80%	84%	(covers Jan – Jun 2015; this category is an average: see page 40 for individual category results)
Percentage of responses to the client survey that consider the service received represents value for money is either <i>good</i> or <i>excellent</i>	81%	80%	86%	(covers Jan – Jun 2015)



**Client Survey – quality service indicators charted over time**

Respondents to our survey usually are Chief and Senior Legal Advisors of government departments we worked with during the period of time to which the survey applies (in this case January to June 2015).

The benchmark is 80% of responses being good or excellent.

**VALUE FOR MONEY**

- **Cost per hour (average)**

Performance measure	Actual 2013/14	Forecast 2014/15	Actual 2014/15	Comment
Cost per hour of client services (i.e. the average cost per hour of providing legal advice and representation services)	Approx. \$166	≤ FY13/14 cost per hour	Approx. \$155	<i>This is an annual average.</i>

**3 E Audited financial performance (GST exclusive)**

Actual 2014 \$000	Actual 2015 \$000	Main Estimates 2015 \$000	Supplementary Estimates 2015 \$000
<b>Revenue</b>			
15,129 Other	14,998	22,365	22,365
<b>Expenditure</b>			
16,601 Expenditure	15,346	22,365	22,365
<b>(1,472) Net surplus/(deficit)</b>	<b>(348)</b>	-	-

The appropriation is made up of two memorandum accounts, the Legal Advice and Representation (LAR) and the Government Legal Network (GLN). The net deficit of \$0.348 million for the appropriation is comprised of a net surplus of \$0.507 million for the LAR memorandum account and a net deficit of \$0.854 million for the GLN memorandum account. Please refer to Note 20A and 20B (page 78) for more detailed information about these two memorandum accounts.

# Government Legal Network

## Background

As part of our role in promoting a ‘one Crown’ approach to the management of legal risk we actively support and participate in the Government Legal Network (GLN). The Solicitor-General is the Head of Profession and is supported in this role by a Board, the Director and the network of government lawyers. The Network, formed in 2011 and linking more than 800 lawyers across all government departments, is an initiative designed to strengthen the quality and delivery of legal advice and services to core government agencies, resulting in more effective management of the Crown’s legal risk and enabling lawful delivery of the Government’s programme of work.

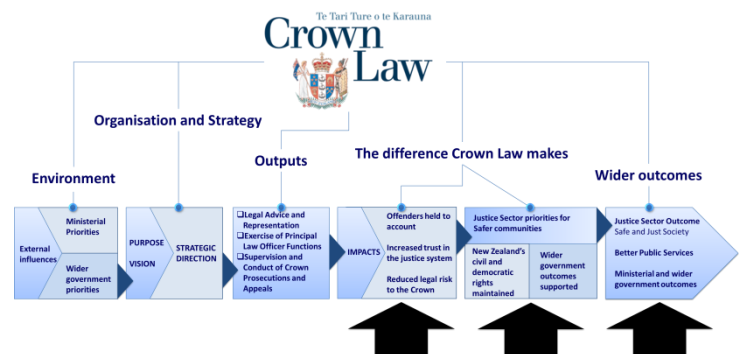
The GLN is a centre-led collaborative initiative creating an environment where the Crown can increasingly harness its legal resources and capability more flexibly, efficiently and effectively. The objectives of the Network are to identify, minimise and manage cross-Crown legal risk, create opportunities for better knowledge sharing and networking, better enable sharing of services, information and resources, assist the professional development of government lawyers, and promote the government lawyer as a career choice.

## Highlights for 2014/15

Although there are many opportunities ahead *the results to date are generating tangible and qualitative benefits*. Some highlights include:

- review and further development of the Legal Risk Reporting System resulting in earlier identification and reporting of risk themes and trends;
- the inaugural summer clerk programme attracted 160+ applicants for 11 internships involving 10 agencies and raising the profile of government legal careers in Law Schools;
- design and launch of the GLN graduate programme resulting in 170+ applications for 4 positions;
- the GLN Talent Group and talent management initiative was established to identify and moderate nominations for likely successors to key legal positions;

## Performance Framework



- ongoing access to the GLN Online resources and services drives ongoing efficiencies;
- development of a secondment framework, which will facilitate greater flexibility and movement of legal capacity across agencies;
- practice groups established in key areas such as procurement/commercial and ICT; and
- increased networking and training opportunities for government lawyers in Auckland.

## Ongoing Priorities

While increased visibility and management of Crown legal risk remains the primary focus for the GLN other related objectives for 2015 include:

- increasing the flexibility and adaptability of the government legal workforce;
- identifying successors for key legal positions;
- ongoing promotion of the career of the government lawyer;
- building legal capability and capacity across the sector; and
- identifying opportunities for system-wide efficiencies in the delivery of legal advice and services to the Crown.

The GLN programme in place to achieve the ongoing priorities above includes:

- ongoing review and refinement of the Crown legal risk reporting system and Legal Deployment system;
- establishing and developing practice groups in key legal risk and subject areas;
- continuation of the GLN ‘Introduction to being a government lawyer’ programme, a course for all lawyers new to government;

- implementing succession plans for the key legal positions as nominated (under the State Sector Act) by the Solicitor-General;
  - continuation of the GLN Talent Group to assess nominations for key legal positions and guide thinking and actions for a sector approach to development of the legal workforce;
  - ongoing co-ordination and promotion of the GLN summer intern programme;
  - implementation of the newly-launched GLN Graduate programme;
  - continuation of the Auckland GLN networking and training initiatives; and
- delivery of an annual programme of GLN training and events, including continuation of the 'Lessons Learned' seminar series.

### Reporting

The activities listed above create opportunities for better legal risk identification and management and also for continuity planning. To see the effect of these opportunities over time the GLN, in the context of the Treasury-administered Better Administrative and Support Services (BASS) report, developed a set of criteria against which legal functions may be assessed. Introduction of such criteria was an important step in better aligning BASS measures with the essential elements of the in-house legal function and providing a stronger basis for tracking capability improvement within agencies.

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<http://www.gln.govt.nz>

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# Quality of our legal advice and services

## Holistic approach to quality

Crown Law strives to maintain the highest possible levels of legal advice and services. Our quality is our reputation. The quality of legal advice and services provided by Crown Law and the Crown Solicitor Network is founded on formal guidance, regulations, systems and knowledge of the Crown's core business and key legal risks. Complementing the more-formal mechanisms are everyday practices that invite the sharing of knowledge and development challenges for Crown Counsel of all levels of experience. Crown Law is fortunate to attract some of the best legal practitioners who share their skills. The quality of these professionals is highlighted by those who are appointed to the Bench (that is, they become a Judge). Others have been appointed to significant roles like the Inspector-General of Intelligence and Security, the Deputy Inspector-General of Intelligence and Security and the Director of the Public Defence Service.

The achievement of high quality does not happen by chance but is supported by an organisational culture of high performance. What we do is aligned with our vision to be the Crown's trusted legal advisor and for our clients to value our services. We have the right people with the right technical skills. We have implemented secure mobile ICT to enable our staff to provide services to clients where and when they need us. Quality for us extends to the strength of our relationships with clients. We are never complacent about this, and value positive and constructive client feedback.

In the pursuit of excellence we maintain standards that conform to external requirements regarding compliance, integrity and accountability. While there is a level of security around the work we do we still need to demonstrate how we can be confident in the quality of our legal advice and services. To do this we need credible mechanisms that either confirm quality or logically lead to the provision of high quality.

## Drivers of quality

Our legal staff are required to maintain continuous professional development, and they receive feedback from within Crown Law about opportunities to improve. The rules for continuous professional development (CPD) are set out by the New Zealand Law Society. CPD

must be purposeful and structured, allow for interaction and be verifiable. In addition to external CPD opportunities Crown Law provides in-house opportunities for continuous professional development and education on various topics. These include the Crown Law Seminar Series, run by our Education Group to provide continuing legal education within the Office, and the Crown Law Practice seminar series/workshops.

Crown Law's Professional Standards Committee keeps our practice under review, ensuring policies and guidelines are up to date so that staff can be assured they are implementing best practice. Advice provided to clients is provided on behalf of the Solicitor-General. All advice, whether it is written or oral and if written (whether it is provided by way of formal advice or in email) must be provided within the framework of principles set out in Crown Law's policies and guidelines. Our policy on the provision of timely, relevant and robust advice includes our peer review process and litigation management planning.

## Peer review and consultation

The peer review process involves staff with expertise in the relevant legal areas working together to reach professional consensus. It is not 'marking of assignments' (and no grade is produced) but rather the introduction of 'fresh expert eyes' into the workflow. All *substantive* Crown Law advice must be peer reviewed. The law can be very technical and complex and Crown Law must also have regard for where laws of today are going and how they might be interpreted in the future. Not all substantive advice will be able to be peer reviewed through the normal process as some advice will be delivered under urgency. Under these conditions we make clear the status of the advice having been delivered urgently. Otherwise if the situation permits we will seek agreement to finalise the advice in due course at which time it can be peer reviewed. The diagram on page 38 summarises how client feedback, expertise of Crown Counsel, our internal peer review guidelines and practice contribute to high quality legal advice and services.

In the preparation of less substantive legal advice, the accuracy of which is nevertheless important, we may consult with fellow staff. An example is the quick review of information prepared by another agency, checking a particular point or definition before proceeding.

## Peer review: helping maintain high quality



### Litigation Management Planning

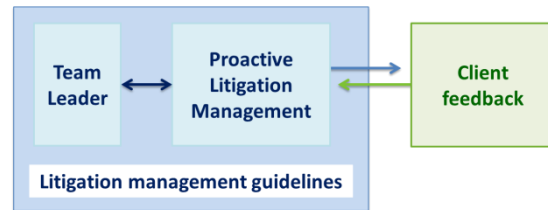
Case management helps to establish a framework for the effective and efficient commissioning and running of a case. This will enhance the prospects of a successful outcome. Our litigation management planning principles focus on being proactive, effective and efficient while strengthening relationships with our clients and stakeholders. As with all of our work, the outcome should be consistent with wider Crown interests.

When we receive a case a legal team manager grades the matter on its significance and complexity. The number and seniority of Counsel assigned to the case will reflect the significance and complexity of the case. Some of the key factors for determining the grade of significance and complexity include:

- the sensitivity
- fiscal implications
- important points of principle
- wider implications and impact
- focus on policy or facts
- consequences of a loss
- factual complexity
- legal complexity
- first instance hearing or appeal
- volume of work anticipated
- number of parties involved
- scale of document management.

The following diagram summarises the case management process contributing to high quality legal advice and services.

## Litigation Management: helping maintain high quality



The process will have the greatest value if communication is well-established and the case management plan is up-to-date. Planning will be reviewed and updated if, for instance, there are significant events or developments that need to be factored into the case management.

At the conclusion of a case we consider, through debriefing, what we and the client can learn from the experience. Our debriefing revolves around the following questions:

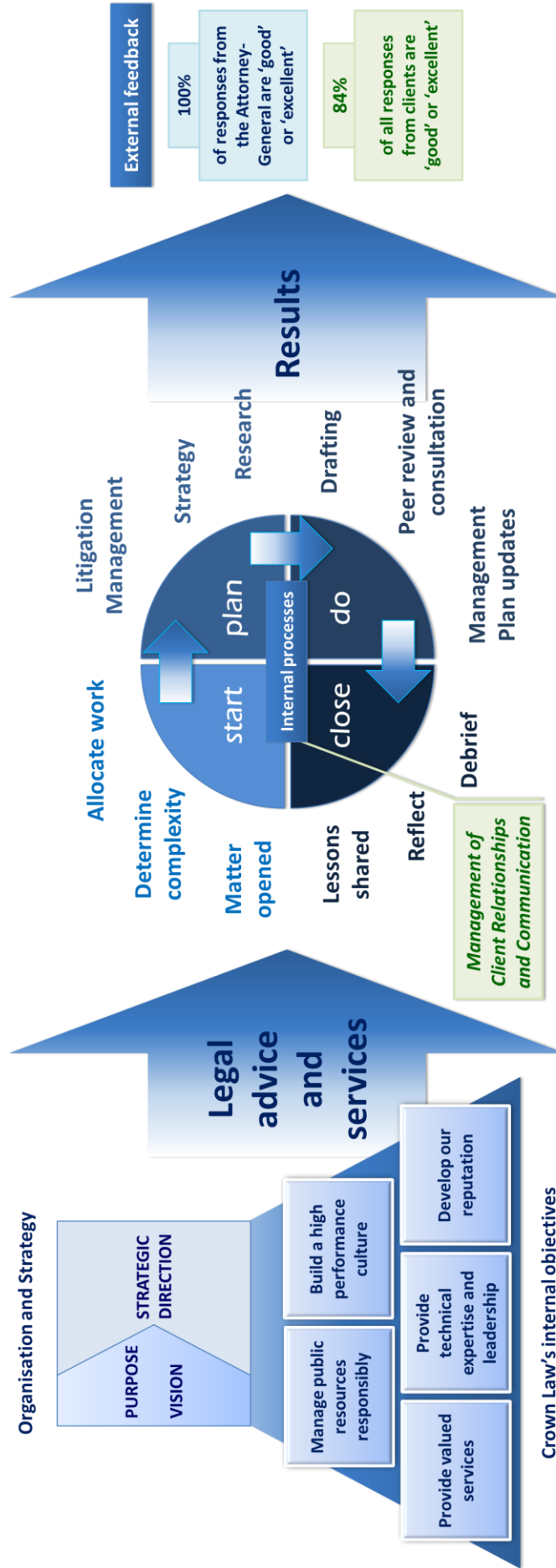
- What did we set out to do?
- What actually happened?
- Why was there a difference?
- What can we learn from this?

That then helps to inform the conduct of future litigation.

### Victims' Rights Act 2002

Changes have been made in 2014 to the Victims' Rights Act 2002. The changes are intended to ensure the experience, within the criminal justice system, of victims of crime is what would be expected of high quality justice sector services. The first year to be reported on will be the 2015/16 financial year. Crown Law has, in late 2014/15, developed a reporting process to gather this information so that, as required, our performance in this area can be reported in the 2015/16 annual report. We anticipate that both the absence of complaints and the professional and respectful handling of any complaints will reflect the high quality of relevant legal services provided by Crown Law and the Crown Solicitor Network.

# GENERAL OVERVIEW – translating objectives into action and quality of service



This diagram is a high level overview to help readers unfamiliar with Crown Law and legal work to see quickly the broad linkages between performance intentions, internal processes concerned with producing legal advice and services, and the quality of our performance. In the background of our internal processes, less visible outside of Crown Law, is the support provided by our Legal Support Services, Law Librarians and Historical Research Team. In addition is the work of our Information and Technology team, providing Crown Law with secure, stable and mobile digital systems contributing to enhanced service.



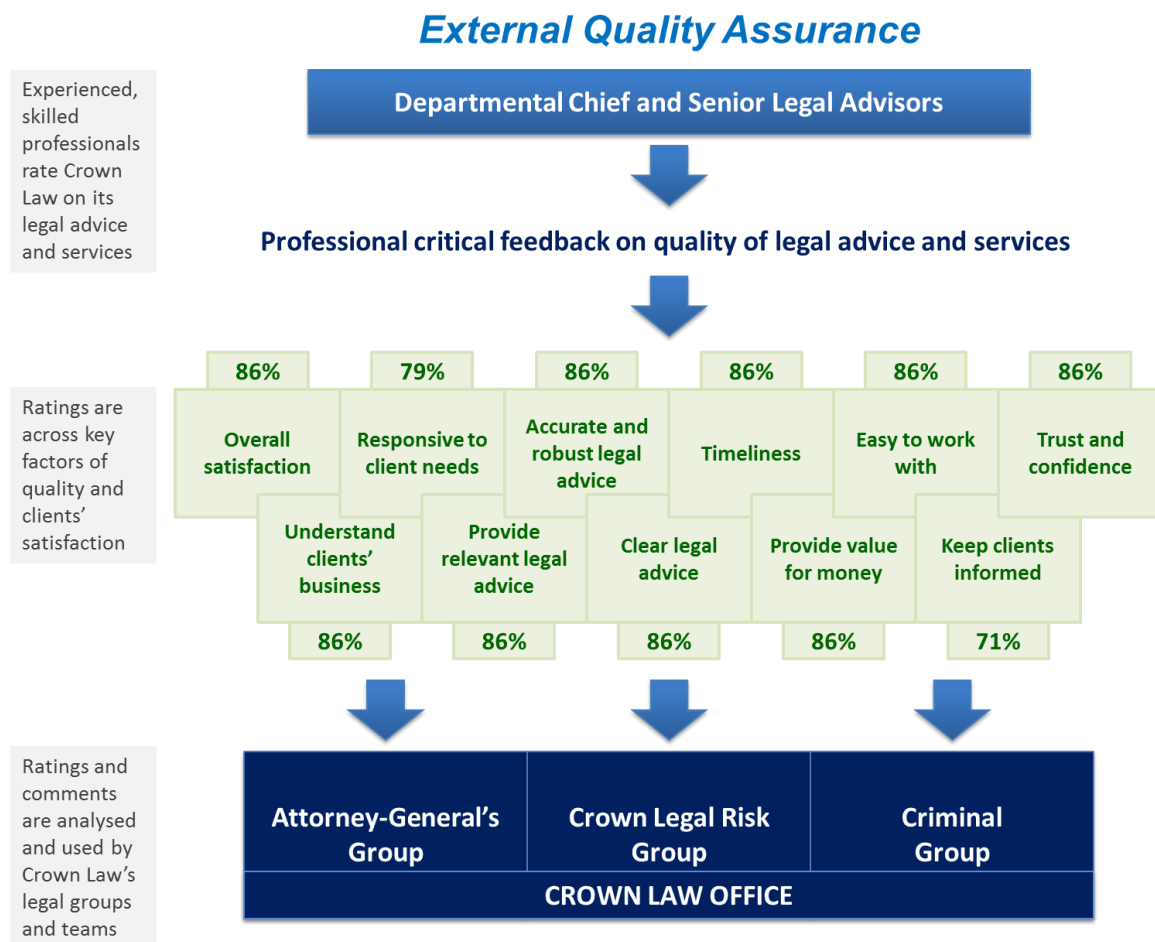
## Feedback from our clients

In the provision of legal advice and representation, we receive feedback from our clients so that we can identify any opportunities for improving the value of our services. This includes feedback from the Attorney-General about the legal services Crown Law provides (see page 25). We also report annually on the results of a client survey. Our clients are, more often than not, senior government lawyers. Therefore the feedback comes from experienced and technically-knowledgeable professionals. The survey offers an opportunity to rate important factors of service and to provide comments on each of these. Open-ended questions also invite comments about what we did well and what we can do to improve our legal advice and services. The survey is reviewed

by our Management Board and legal teams, who use the results to identify areas where we can work with our clients to strengthen our service.

Client feedback identified greater effectiveness in communication as an area we can work on to strengthen the quality of our service. Overall the survey feedback reflects the high quality of legal advice and services provided by Crown Law.

We will continue to strengthen our client relationships. Our strategic objectives focus on being proactive, efficient, practical, relevant, providing solutions, on budget and on time. It is important that we ensure clients' objectives are understood, their business needs are met and that the work done for them is of a high standard.



### Overall Results

Our forecast performance is based on achieving at least 80% of the responses being 'good' or 'excellent'. The survey rating scale: very poor; poor; satisfactory; good; excellent (for 1 January 2015 – 30 June 2015).

## High quality internal support for legal teams

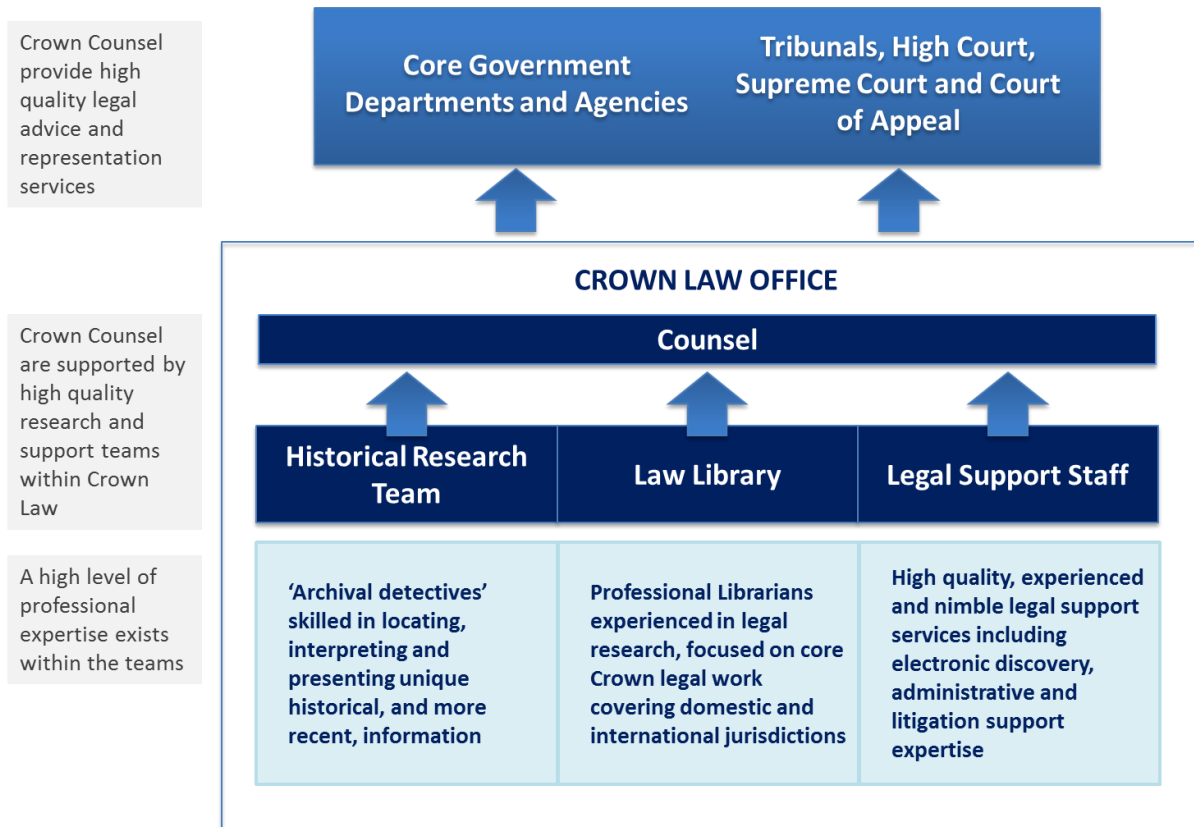
The depth of work behind high quality legal advice and services provided by Crown Law includes support for legal teams. This includes the highly experienced Historical Research Team, Law Librarians and Legal Support staff. The services provided in-house by these teams is consistently of the very high standards needed by Crown Law’s Counsel. Reflecting that high quality, one of our Law Librarians is the recipient of a New Zealand Law Librarian Association 2015 Scholarship. Also, towards the end of 2014/15 our Research and Library Services Manager took up a new external challenge, to share her expertise and leadership, with the Supreme Court.

When these teams consider the information they are providing, they also think about the possible

implications of the resources they locate. For instance the resources found could lead to wider relevant information. This could help Counsel to be aware of possible alternative strategies and to be prepared for evidence that others might be basing their legal views on.

The Historical Research Team has also developed an in-depth understanding of the historical administration of New Zealand’s land. As such this Team’s research has supported Crown Law’s contribution to Treaty of Waitangi matters and settlements. The Historical Research Team also uses mapping software to increase our effectiveness (when historical land information can be seen as a map rather than described in words). In addition the Historical Research Team is also able to provide expert witness testimony.

### Support For High Quality Legal Work



## Public Prosecutions Reporting Framework (PPRF)

The PPRF is the principal mechanism by which the Solicitor-General is being provided with greater oversight of public prosecutions (Crown prosecutions and non-Crown prosecutions conducted by NZ Police, Departments and Crown Entities). There are two levels of reporting, monthly and annual. Monthly reporting is at the level of individual cases and provides information about the type and cost of the service provided. Annual reporting provides higher-level statistical information about the structure and resource applied to the prosecution function.

The PPRF was successfully introduced firstly with the Crown Solicitor Network in 2013/14. In 2014/15, 14 agencies adopted the reporting framework. Already the framework has provided a level of insight not previously available and by July 2015 all 37 agencies with a prosecution function will have become part of the PPRF. The reporting from the initial 14 agencies indicates the PPRF will support identification and sharing of best practices, and help to ensure appropriate levels of consistency across prosecution work by government, creating efficiencies for the justice sector. At present the PPRF has not been in place long enough to draw conclusions but trends have been tentatively identified, and further data across 2015/16 will strengthen the understanding of the prosecution function, costs, related practices and decision-making by government agencies.

## Crown Solicitor Network Background

The Crown Solicitor Network (CSN) delivers prosecution services and is comprised of Crown Solicitors appointed by the Governor-General, on the recommendation of the Attorney-General, by warrant. The CSN is funded through the Conduct of Crown Prosecutions appropriation. Oversight and supervision of the CSN is through the Public Prosecutions Unit (PPU) established in 2012 within Crown Law.

The PPU is headed by the Public Prosecutions Manager who is responsible to the Deputy Solicitor-General (Criminal). The initial focus of the PPU has been on managing Crown Solicitor funding within the appropriation. The PPU is now focusing on the longer-term goal of providing the Solicitor-General with greater oversight of all

public prosecutions (which includes prosecutions commenced by Departments and Crown entities with a prosecution function). A significant aspect of that work is improving the methodology for reviewing the performance of Crown Solicitors.

The 2011 review (refer to diagram below) concluded there was a need for greater oversight of public prosecution services and transparency of the costs of those services. The 2012 review focused on giving effect to the Solicitor-General's role in the conduct and oversight of public prosecutions. Once in place the PPU's initial priorities were to manage Crown Solicitor funding within the 2012/13 budget, and to design and implement a long term funding model to manage Crown Solicitor funding within baseline from 2013/14 onwards.

A timeline of key dates related to the establishment and ongoing work of the PPU with respect to Crown Solicitors follows:

<b>2011</b> Review of Public Prosecution Services
<b>2012</b> Review of the Role and Functions of the Solicitor-General and the Crown Law Office
<b>2012 November</b> Public Prosecutions Unit established
<b>2013 July 1</b> new Terms of Office for Crown Solicitors take effect, including: <ul style="list-style-type: none"> <li>▶ new funding model</li> <li>▶ reporting requirements</li> </ul>
<b>2013-2014</b> First three survey-based reviews, interview-based review, and annual questionnaire conducted
<b>2014-2015</b> Public Prosecutions Reporting Framework adopted by initial cohort of 14 agencies with a prosecution function

## Standards of service

The Crown Solicitors Regulations 1994 were repealed from 1 July 2013 and replaced with new Terms of Office, drafted by Crown Law, setting out the Solicitor-General's expectations of Crown Solicitors as well as the new funding arrangements. The Terms of Office clearly state

that Crown Solicitors and Crown Prosecutors are expected to uphold the highest standards of personal and professional conduct and are subject to the Lawyers (Conduct and Client Care) Rules. Crown Solicitors must also comply with all directions and instructions and observe guidelines issued by the Solicitor-General.

This includes, for example, the Solicitor-General's Prosecution Guidelines. The guidelines are intended to ensure the principles and practices regarding prosecutions in New Zealand are underpinned by core prosecution values. These values aim to achieve consistency and common standards in key decisions and trial practices, supporting open and fair processes that are reflected in results of the international indexes such as the World Justice Project Rule of Law Index.

### Reporting – quality of the CSN

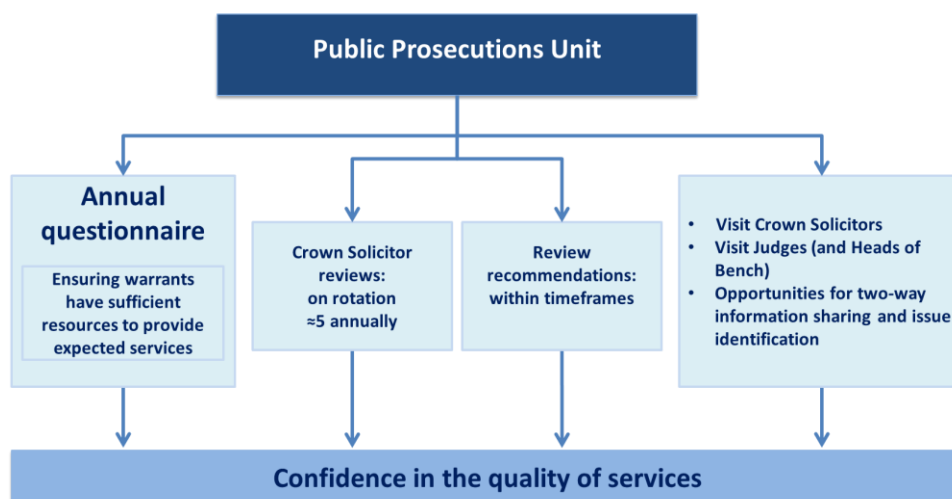
In 2014/15 the PPU continued its focus on reporting framework, new in 2013/14, for Crown Solicitors. The Terms of Office for Crown Solicitors include periodic reviews to ensure high standards are achieved and maintained. Reviews may

examine the legal acumen and performance of Crown Solicitors and their staff, the management of the work, and how the relationship with others is conducted in the justice sector.

The reporting framework is providing information about Crown Solicitor workloads, and also lends itself to gauging the value for money provided by the network.

In addition to the amount of work being handled by the CSN we need to have confidence in the quality of the services being provided. In the first instance there are professional standards that apply to all lawyers. For Crown Solicitors there are also the Terms of Office, the Solicitor-General's Prosecution Guidelines, and other relevant guidance related to the conduct of Crown Prosecutions. Again, because of the complexity of the services provided, a holistic approach to quality is used to gauge the status of service provided. By virtue of the professional requirements of the services provided, there are a range of factors from different sources at different levels of scrutiny that can be used to gauge quality. This is shown in the following diagram.

### Crown Prosecutions – quality of service: reporting



Assessing the quality of complex technical services requires the judgement of professionals who take into account a range of relevant factors to form an expert opinion about standards of quality. This gives us a level of assurance about the quality of legal services provided by Crown Solicitors by answering the question: *Is the legal service provided of the standard expected?* To answer this

question the PPU uses a tiered system, reflecting the reporting framework implemented in 2013/14.

At the very highest level of the system is environmental feedback. Crown Solicitors conduct prosecutions in public within the framework of the justice system and as officers of the court. Within this environment, professionals and interested parties may volunteer feedback about the

performance of Crown Solicitors. Ensuring the validity of comments requires a certain amount of triangulation. As such Crown Law, and in particular the PPU, talks to members of the judiciary and prosecuting agencies to gain insight into how other professionals and interested parties view the performance of Crown Solicitors. Crown Law representatives also visit Crown Solicitors, Judges and Heads of Bench.<sup>9</sup> Normally the PPU will visit each Crown Solicitor and a Judge in each warrant annually. In 2014/15 the division of the large Auckland warrant, into the smaller but significant Auckland and Manukau warrants, placed a high demand on resources. Where resource constraints made it unfeasible to reach all areas of the network, discussions with the Heads of Bench contributed to assurance regarding the quality of the network. Through these meetings we gather feedback and discuss current issues. This enables feedback to be passed to, and discussed with, Crown Solicitors immediately.

At the next level, Crown Solicitors complete an Annual Questionnaire in which they provide, among other things, information about the resources being applied to support the warrant. This ensures firms supporting Crown Solicitors have the resources necessary to service the warrant. Having and using the necessary resources is a cornerstone of being able to provide prosecution services that are of the standards expected by the Solicitor-General. This information also allows the PPU to compare different structures and identify opportunities for efficiencies within the CSN.

The final level involves reviews of individual Crown Solicitors. There are two types of review. The first is a survey-based review, in which key stakeholders provide high-level feedback on a range of topics to Crown Law. This type of review is designed to confirm there are no areas of serious concern and to reveal any issues for further investigation. The second type of review is interview-based. These reviews are resource-intensive, and may be guided by the environmental feedback and survey-based reviews. The purpose of this in-depth review is to support the Crown Solicitor in identifying areas for improvement and development. Using a

combination of these two types of reviews, Crown Law aims to review every Crown Solicitor at least once every three to four years. Prior to the establishment of the PPU, Crown Law's resources permitted only one review to be conducted per year, i.e. a 16 year rotation, so this is a significant step forward.

Changes in 2014 to the Victims' Rights Act 2002 direct Crown Law to report on complaints made to Crown Solicitors about their interactions with victims of crime. Information is being collected so that any complaints are reported formally in the 2015/16 Annual Report and onwards, as required.

### **High-level statement on quality of the Crown Solicitor Network (CSN)**

The high-level statement (see next page) is based on an approach that involves identifying areas of increased risk, accountability and potential for improvement. The identification of these may be from direct information about emerging and actual issues that are then verified. Otherwise the network status can be inferred from the absence of risks and issues.

This approach, as opposed to using specific direct measures of quality, is used as there are a host of environmental variables that we cannot control. These include the integrated impact introduced by, for example, types of cases, the quantity and quality of evidence available, witnesses, juries, rationale of decisions that may later be successfully appealed and unusual demands on resources in different warrants.

When assessing the basis for the high-level statement of the quality of the CSN, we take into account a range of factors that must be viewed together to give a reasonable overarching picture of the CSN. The sources of this information include an annual questionnaire, surveys of stakeholders and discussions with Judges. The factors include commitment of resources, good practice such as peer reviews and supervision of staff, communication, timeliness, trial preparation, engagement with stakeholders and decisions made in the performance of their duties. These factors are in addition to considering the general expectations and standards applicable to Crown Solicitors.

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<sup>9</sup> Each court is headed by a senior judge, usually described as the Chief Judge or Principal Judge of that court. Such positions are often referred to as Heads of Bench.


## Statement

The following high-level statements are a scale allowing us to describe how, with regard for the information above, we view the overall quality of the CSN.

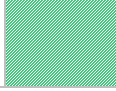
- For 2014/15 the Deputy Solicitor-General (Criminal Group) with the Public Prosecutions Unit determined that there are no serious issues (see statement 1 in the scale below)
- This reflects an improvement from statement 2 in 2013/14, based on resolving isolated issues

### SCALE: High-level statements on the quality of the Crown Solicitor Network

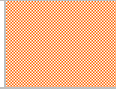
#### 1.

<p><i>No serious issues identified</i> <b>THIS STATEMENT APPLIES TO 2014/15</b></p>	<p>Network quality overview:</p>	
<p>Our current view is the network as a whole is operating sustainably<sup>10</sup> and the conduct of Crown Solicitors (and their employees representing them) is consistent with expectations and standards applicable to them as Crown Solicitors and lawyers.<sup>11</sup></p>		


#### 2.

<p><i>No serious issues identified; areas for improvement verified</i> <b>This statement applied in 2013/14</b></p>	<p>Network quality overview:</p>	
<p>Our current view is the network as a whole is operating sustainably and the conduct of Crown Solicitors (and their employees representing them) is consistent with expectations and standards applicable to them as Crown Solicitors and lawyers. Areas needing improvement were identified, verified, and are being managed appropriately.</p>		

#### 3.

<p><i>Serious isolated issues identified</i></p>	<p>Network quality overview:</p>	
<p>Our current view is the network as a whole is operating sustainably. While overall the wider conduct of Crown Solicitors (and their employees representing them) is consistent with expectations and standards applicable to them as Crown Solicitors and lawyers, serious isolated issues were identified, verified, and are being managed appropriately.</p>		

#### 4.

<p><i>Serious issues affecting the wider network identified</i></p>	<p>Network quality overview:</p>	
<p>Serious issues that are impacting or potentially could impact the sustainability or service performance of the network were identified, verified, and are being treated appropriately. Actions are being taken to reduce the possible impact of serious risks that have emerged or become known.</p>		

<sup>10</sup> 'Sustainably' means applying appropriate resources and doing so within the bulk funding model in the given year. This is a retrospective view and is not a financial forecast for the next financial year and outyears.

<sup>11</sup> 'Consistent' means no serious departure from the expected conduct and service performance was indicated and verified (which would then be managed through a review process or appropriate channels).



# Pacific Islands Law Officers' Network

## Crown Law's education role in the Pacific legal community

New Zealand and Australia have a commitment to the rule of law in the Pacific. One of the ways that Crown Law contributes to this is by coordinating Litigation Skills Programmes (LSPs) for Pacific lawyers. 253 Pacific lawyers have participated in the programmes since they began in 1996. Members of the Pacific judiciary have noted the distinct improvement in the litigation and advocacy skills of Pacific lawyers who have undertaken the programmes. Some programme participants have later become Resident Magistrates, Attorneys-General, Solicitors-General and Chief Ombudsmen. There is also the benefit of programme participants then being involved in the provision of continuing legal education in the Pacific. New Zealand's leadership and support in this area generates immense goodwill and greatly enhances our relationships with Pacific nations.

### The Litigation Skills Programmes (LSPs)

The LSPs are part of wider continuing legal education. Participation in continuing legal education is recognised internationally as crucial for lawyers to keep up-to-date with ongoing developments in the law. In particular the LSPs provide more training opportunities for lawyers to develop expertise in Court work. In turn this contributes to the function of justice systems in the Pacific and the rule of law internationally.

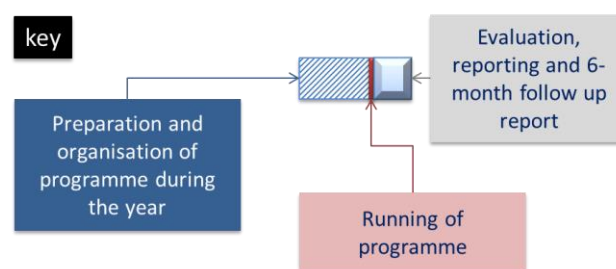
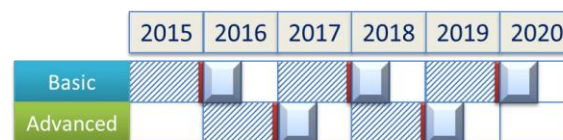
The LSPs, designed in New Zealand, are adapted from programmes developed by the US National Institute for Trial Advocacy. There are two programme levels:

- Basic level for lawyers 2-5 years in practise (running since 1996)
- Advanced level for lawyers 6-10 years in practise (first run in 2012)

### Programmes across the next five years

In January 2015 a memorandum of understanding was signed with the Ministry of Foreign Affairs and Trade (MFAT) to provide three Basic and two Advanced level programmes over the next five years (2015 – 2019). The first Basic level programme will be in Samoa at the end of 2015. The budget for the five years is approximately \$1.7 million and is to be funded by MFAT. Crown Law will provide the coordination, labour and experience to produce the programmes. Programme materials will be owned by the New

Zealand Law Society. Below is an overview of the intended five-year cycle for the programmes.



### Economic benefit of the LSPs

Past performance would suggest that the LSPs contribute to the overall rising standard of the legal profession in the Pacific. We expect that the overall rising standard of the legal profession in Pacific states will help demonstrate internationally their fair, efficient and modern legal systems. Good legal systems will help Pacific states to be recognised as good places to invest and do business with. This is necessary for Pacific nations to be able to strengthen their international trade and develop their economies.

### Future need for LSPs

There are far fewer lawyers per capita across the Pacific by comparison with countries like Australia and New Zealand. As such Pacific lawyers with comparatively fewer years of experience must undertake heavy workloads and serious, complex legal work. As the amount and complexity of legal work continues to grow so does the stress on the profession. Ever-increasing recourse to the Courts means Pacific governments must have access to indigenous lawyers who can match the legal resources business and international interest groups can bring. Crown Law is committed to assisting the Pacific judiciary in ensuring continuing legal education opportunities are available to the Pacific nations, so that they have the high-quality indigenous legal expertise needed now and in the future.



# How we work and our value for money

## Our operating environment

There are a number of factors that influence Crown Law's work management programme. The entire government sector is operating within tight financial constraints that require us to do more with less. This means that Crown Law must be able to operate sustainably within available funding. We must be cost-effective in everything we do, in order to provide value-for-money services for our clients and the public. Justice sector costs are expected to increase although the volume of cases going through the criminal and civil justice systems is declining. The challenge is to realise savings from this reduction in volume while ensuring public safety is maintained and services are accessible. The Government expects agencies to demonstrate that they are effective and efficient, and that they contribute to the relevant outcomes the Government is seeking. There is a much greater expectation that agencies will work together within and across sectors to improve the services they deliver and be more cost-effective.

Crown Law is involved in matters that cover a wide range of issues and areas of law. Our work covers and is affected by most aspects of government. We must anticipate and manage legal risks and respond as circumstances change. We must be flexible and maintain a broad perspective to provide effective legal services.

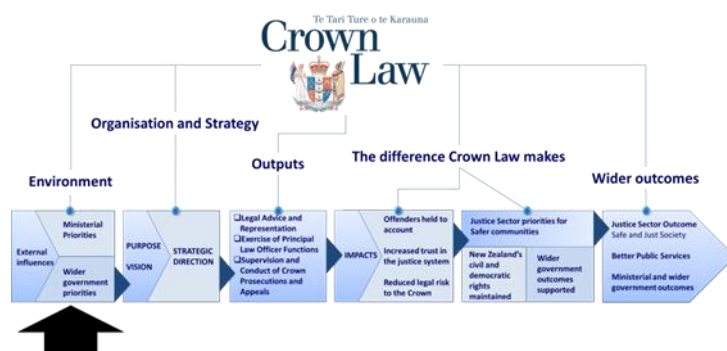
We must also be flexible if we are to continue to respond to unanticipated events. Crown Law will continue to play a significant role in the Government's response to, for example, large-scale disasters.

### Responding to our environment

Crown Law is committed to improving its performance and capability. This includes maintaining the appropriate mix of legal roles and experience and enabling greater flexibility to deploy legal resources across teams and legal matters.

An Auckland office (established on a pilot basis in 2012/13, and now on a permanent footing) is providing service in response to the prevalence of core Crown legal work in the Auckland region. Many of our clients have offices in Auckland and a growing proportion of Crown litigation is done in the Auckland courts. The office is funded and

## Performance Framework



staffed through Crown Law's current baseline and staffing levels. Intended benefits of an ongoing presence include:

- increased efficiency in the management of the large volume of Auckland criminal work
- accessibility to our Auckland clients
- collaboration with wider stakeholders and accessing network and talent pools

### Client Relations

Our strategic objectives focus on being proactive, efficient, practical, relevant, providing solutions, on budget and on time. We will ensure we understand our clients' objectives and their business needs and that the work we do for them is of a high standard. Our organisation is intent on demonstrating to clients how we are best-placed to effectively and efficiently provide the services they need.

### Our leadership and governance

The Management Board recognises that enhanced collective leadership and management capability is essential for Crown Law's success. The Management Board, individually and collectively, are committed to improving the leadership, strategic focus, and management of Crown Law.

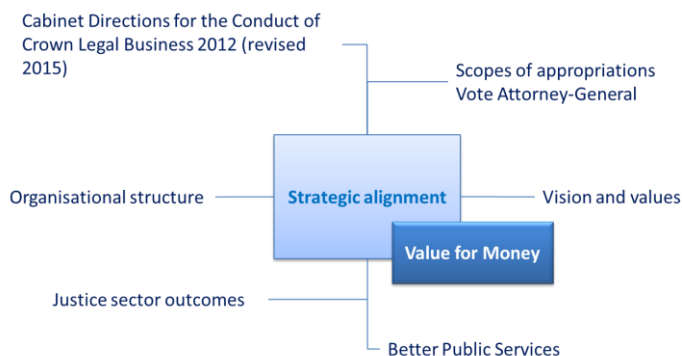
Our leadership and governance is supported by our governance framework. The framework distinguishes between strategic leadership and operational management. This ensures we are directing the right capability to the right level of governance. This approach helps us to maximise the use of our resources without jeopardising the appropriate level of oversight, management and monitoring. The strength of our main governance

bodies, such as the Management Board and Operational Management Committee, is enhanced by groups and committees such as Project Steering Committees and a Professional Standards Committee.

An integrated system of monitoring and reporting supports our governance bodies to demonstrate Crown Law’s performance. Our business data and associated measures will continue to provide assurance of our performance for internal management and external stakeholders.

### Strategic alignment

Crown Law’s purpose is to serve the Crown and uphold the rule of law and our vision is that we are the Crown’s trusted legal advisor and our clients value our services. We are achieving this within the bounds of the *Cabinet Directions for the Conduct for Crown Legal Business 2012* (revised in 2015). In addition, as described previously, our work is aligned with the scopes of the appropriations. We participated in three external reviews in 2011/12: the *Performance Improvement Framework Formal Review of the Crown Law Office*, the *Review of Public Prosecution Services* and *A Review of the Role and Functions of the Solicitor-General and the Crown Law Office*. The *Performance Improvement Framework Follow Up Review of the Crown Law Office* was undertaken in 2012/13. Crown Law reviewed what constitutes its core work and what the organisation’s work programme should look like in the future to ensure the organisation’s funds and resources are put to best use. Crown Law also reviewed its strategy, corporate and legal functions to align with core Crown legal work, and to ensure the organisation is structured in the most efficient way and delivering the best value and service to its clients. Our organisation then assumed a new structure in 2013/14, improving its position to support the Government’s priorities, justice sector outcomes and Better Public Services. The following diagram is a high-level view of strategic factors contributing to strengthened value for money:



### Our risk management

Crown Law is involved in a wide range of legal issues and areas spanning core government operations, functions and intentions. Inherent in our work is the anticipation and management of legal risks. This is important for retaining and strengthening the trust New Zealanders have in the justice system, the rule of law and in government. We must also be flexible if we are to continue to respond to unanticipated events and matters, including natural disasters.

#### Assurance and Risk Committee

In 2015 the Solicitor-General appointed the two independent members of our Assurance and Risk Committee (ARC). The Deputy Chief Executive of Crown Law is the third committee member. The ARC will advise the Solicitor-General on governance, risk management, internal controls, compliance, financial and other external reporting. A primary benefit of the ARC is its independence. At the time of this report the independent committee members appointed are Kevin Simpkins as ARC Chair – Adjunct Professor of Accounting at Victoria University (and previously a Deputy Auditor-General) – and Commander Ross Smith – Chief of Staff at the NZDF Headquarters.

### Future-proofing for sustainability

Crown Law is committed to living within its baseline and has put considerable effort into better understanding its cost pressures and implementing measures to address these. These initiatives target our largest areas of expenditure: personnel, accommodation and Crown Solicitor services. From 2014 the long-term funding model (implemented in 2013) for Crown Solicitors is being monitored to improve our management of Crown prosecutions and ensure that costs remain within baseline. Our organisational structure, working environment and accommodation arrangements implemented in 2013 provide significant ongoing savings for Crown Law.

From time to time we review and assess our contract management system and arrangements. In 2015 Crown Law is participating in several All-of-Government (AoG) contracts and we are engaged in the functional leadership process for property. We are committed to continuing to take up other AoG contracts as appropriate. We may also participate in shared services arrangements, if appropriate, for back office functions.

# ICT and Capability

## Our technology and information management

### *Strategic approach*

We aim to establish a technology environment that builds integrity through security, privacy and business continuity, while improving productivity through solutions that enable flexible, mobile and collaborative working. Our ICT Strategy outlines the benefits we expect from a strategic and coordinated approach to developing and using technology, focusing on four overarching ICT priorities: Mobile, Secure, Digital and Stable. Over the past three years we have invested in a way that has significantly lifted our security and resilience, allowed us to introduce mobile and flexible working solutions and positioned us well to respond to the rapidly changing technology landscape. We have a secure and robust infrastructure that provides a stable foundation, fit for purpose to securely host our systems and services. The result is a leaner, slicker and more effective technology estate for Crown Law. We are also very well aligned to NZ Government ICT Strategic Direction (“*Destination 2017*”) and have already adopted numerous ‘Common Capability’ AoG panel services.

### *Progress in 2014/15*

In 2014 significant progress was made during stage 1 of our Security Remediation programme. This included participating in the Protective Security Requirements pilot and a maturity assessment against the 2014 New Zealand Information Security Manual. Looking forward we will continue to focus on ICT security and assurance, ensuring we get best use of the technology changes and maximising value-for-money gains from our ICT investments.

We will also complete the migration to Desktop-as-a-Service, including a move away from

traditional desktops to a more cost effective and flexible thin client solution.

In May 2015 the upgrade to the Practice and Financial Management System marked the start of Business Improvement Phase 2. A post-upgrade review will be undertaken to leverage the system enhancements for improved management information, performance reporting and accessibility solutions.

These priorities will continue to drive value and best use of our ICT while aligning Crown Law ICT to *Destination 2017*.

## People and capability

To achieve our vision of being the Government’s trusted advisors, we need to be passionate about what we do and our employees need to be engaged in the organisation. Crown Law has in recent years had strong staff engagement. The continuity of high levels of staff engagement is a priority for the Management Board. During 2014/15 we continued to implement our organisational development strategy. The strategy will help ensure Crown Law has the right ongoing capacity and mix of skills. Crown Law’s structure, introduced in 2013, is allowing our senior lawyers to assume roles best suited to their core skills, while also allowing junior Counsel to take on greater responsibilities. What we do and the quality of our work is supported by the ongoing reaffirmation of Crown Law values which were developed with staff in 2013.

As a public sector employer, we continue to provide equal employment opportunities in line with current government requirements.

The table on page 50 sets out non-financial measures related to people and capability. The measures reflect information provided in our Statement of Intent 2015 – 2018 (available on our website <http://www.crownlaw.govt.nz>).

Indicators	Baseline benchmark	Previous Actual	Actual 2014/15	Comment
<b>Organisation – PEOPLE AND CAPABILITY</b>				
Staff engagement (Level of Agreement method)	2011/12 71%	2011/12 71%	2014/15 70%	The justice sector engagement index (Level of Agreement method) is 67%.
Average hours per employee spent on training and education	2013/14: 40.36 hours per legal employee	2013/14: 40.36 hours per legal employee	2014/15: 54.99 hours per legal employee	<i>Measure was redefined in 2013/14 and a new baseline established.</i>
Unplanned staff turnover	The capability information (about departments) on the State Services Commission's website provides greater detail and more useful contextual information. Turnover and further capability information is reported in greater detail through Select Committee processes. Therefore this measure is withdrawn from the annual report.			
Percentage of performance plans and reviews completed	This volume metric is one of multiple factors contributing to staff engagement. In isolation this process-focused measure does not provide meaningful information. Therefore this measure is withdrawn from the annual report.			

## Our performance management

We understand the need for monitoring what we deliver and how well we deliver it, as this contributes to our understanding of how we can strengthen our value. As a provider of specialised publicly-funded services, and a manager of such services provided by others, we have an ongoing responsibility to ensure public money is being used responsibly to achieve effective and timely results.

Crown Law is accountable to Ministers and Parliament, and is responsible for demonstrating its value for money through the effectiveness of its management and transparency in its performance. The achievement of this kind of value supports the Government's priorities for economic growth, justice sector outcomes and Better Public Services. It is dependent on a range of factors, including:

- alignment of outputs with strategic priorities
- quantity and quality of outputs
- outcomes/impacts
- efficiencies and effectiveness in the use of resources and processes implemented

- assessment and management of risk
- protection of public assets
- compliance with authorities, legislation and Parliament
- planning to meet future demand within forecast baseline funding.

This is a comprehensive view and to demonstrate Crown Law's value for money we have described in this report what we did, alignment with priorities, whether it made a difference, the quality, the cost, insights into our organisation's structure and function, our ability to manage risk, and how prepared we are for the future. Taking the report as an integrated overview of these factors we are confident Crown Law provides a high level of value for money for New Zealand, in providing the efficient and effective high quality legal advice and services that are expected of Crown Law.

# Statement of Responsibility

Pursuant to section 45 and section 45C of the Public Finance Act 1989, I am responsible, as the Chief Executive of Crown Law, for the preparation of the Financial Statements and the judgements expressed in them.

I have the responsibility for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of the financial reporting.

In my opinion, the Financial Statements in this report fairly reflect the financial position of Crown Law as at 30 June 2015 and its operations for the year ended on that date.

In my opinion, the forecast financial statements in this report fairly reflect the forecast financial position of Crown Law as at 30 June 2016 and its operations for the year ending on that date.

I am also responsible, as the Chief Executive of Crown Law, for 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.

In my opinion, end-of-year performance information provided by Crown Law fairly reflects the operations, progress and organisational health of Crown Law.



Michael Heron QC

**Solicitor-General and Chief Executive**

30 September 2015



# Independent Auditor's Report



## Independent Auditor's Report

### To the readers of the Crown Law Office's annual report for the year ended 30 June 2015

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

- the financial statements of the Department on pages 55 to 79, that comprise the statement of financial position, statement of commitments, statement of contingent liabilities and contingent assets as at 30 June 2015, 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 2015 on pages 10 to 20, 24 to 28, 31 to 34 and 37 to 45;
- the statements of expenses and capital expenditure of the Department for the year ended 30 June 2015 on pages 81 and 82; and
- the schedule of non-departmental activities which are managed by the Department on behalf of the Crown on page 80 that comprises the schedule of trust monies for the year ended 30 June 2015.

#### Opinion

In our opinion:

- the financial statements of the Department:
  - present fairly, in all material respects:
    - its financial position as at 30 June 2015; and
    - its financial performance and cash flows for the year ended on that date.
  - comply with generally accepted accounting practice in New Zealand and have been prepared in accordance with Public Benefit Entity Reporting Standards.
- the performance information of the Department:
  - presents fairly, in all material respects, for the year ended 30 June 2015:
    - 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.
  - complies with generally accepted accounting practice in New Zealand.
- the statements of expenses and capital expenditure of the Department on pages 81 and 82 are presented fairly, in all material respects, in accordance with the requirements of section 45A of the Public Finance Act 1989.
- the schedule of trust monies, which are managed by the Department on behalf of the Crown, for the year ended 30 June 2015 on page 80 presents fairly, in all material respects, in accordance with the Treasury Instructions.

Our audit was completed on 30 September 2015. This is the date at which our opinion is expressed.

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

### **Basis of opinion**

We carried out our audit in accordance with the Auditor-General's Auditing Standards, which incorporate the International Standards on Auditing (New Zealand). Those standards require that we comply with ethical requirements and plan and carry out our audit to obtain reasonable assurance about whether the information we audited is free from material misstatement.

Material misstatements are differences or omissions of amounts and disclosures that, in our judgement, are likely to influence readers' overall understanding of the information we audited. If we had found material misstatements that were not corrected, we would have referred to them in our opinion.

An audit involves carrying out procedures to obtain audit evidence about the amounts and disclosures in the information we audited. The procedures selected depend on our judgement, including our assessment of risks of material misstatement of the information we audited, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the Department's preparation of the information we audited 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.

An audit also involves evaluating:

- the appropriateness of accounting policies used and whether they have been consistently applied;
- the reasonableness of the significant accounting estimates and judgements made by the Solicitor-General;
- the appropriateness of the reported performance information within the Department's framework for reporting performance;
- the adequacy of the disclosures in the information we audited; and
- the overall presentation of the information we audited.

We did not examine every transaction, nor do we guarantee complete accuracy of the information we audited. Also, we did not evaluate the security and controls over the electronic publication of the information we audited.



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

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

The Solicitor-General is responsible 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 and Public Benefit Entity Reporting Standards.
- 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.
- 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's responsibilities arise from the Public Finance Act 1989.

The Solicitor-General is responsible for such internal control as is determined is necessary to ensure that the annual report is free from material misstatement, whether due to fraud or error. The Solicitor-General is also responsible for the publication of the annual report, whether in printed or electronic form.

### **Responsibilities of the Auditor**

We are responsible for expressing an independent opinion on the information we are required to audit, and reporting that opinion to you based on our audit. Our responsibility arises from the Public Audit Act 2001.

### **Independence**

When carrying out the audit, we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the External Reporting Board.

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



S B Lucy  
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 2015

Actual 2014 \$000		Notes	Actual 2015 \$000	Unaudited Budget 2015 \$000	Unaudited Forecast 2016 \$000
<b>Revenue</b>					
43,659	Crown		42,337	41,879	41,647
15,208	Other revenue	2	15,044	22,415	15,954
<b>58,867</b>	<b>Total income</b>		<b>57,381</b>	<b>64,294</b>	<b>57,601</b>
<b>Expenses</b>					
16,944	Personnel costs	3	16,592	18,360	18,287
929	Depreciation and amortisation expense	4	767	941	919
165	Capital charge	5	165	165	165
33,770	Crown Solicitors' fees		32,768	33,392	33,160
7,703	Other expenses	6	6,412	11,436	5,070
<b>59,511</b>	<b>Total expenses</b>		<b>56,704</b>	<b>64,294</b>	<b>57,601</b>
(644)	Net operating surplus/(deficit)		677	-	-
<b>(644)</b>	<b>Total comprehensive revenue and expense</b>		<b>677</b>	<b>-</b>	<b>-</b>

Explanations for major variances against budget are provided in Note 22.

The accompanying notes form part of these financial statements.

## Statement of Financial Position

As at 30 June 2015

Actual 2014 \$000		Notes	Actual 2015 \$000	Unaudited Budget 2015 \$000	Unaudited Forecast 2016 \$000
<b>Assets</b>					
<b>Current assets</b>					
5,328	Cash and cash equivalents		5,313	4,328	3,955
387	Prepayments		561	350	350
2,878	Debtors and other receivables	7	3,062	3,800	3,000
706	Debtor Crown	8	-	-	-
<b>9,299</b>	<b>Total current assets</b>		<b>8,936</b>	<b>8,478</b>	<b>7,305</b>
<b>Non-current assets</b>					
3,074	Property, plant and equipment	9	2,407	2,674	2,444
45	Intangible assets	10	40	130	301
<b>3,119</b>	<b>Total non-current assets</b>		<b>2,447</b>	<b>2,804</b>	<b>2,745</b>
<b>12,418</b>	<b>Total assets</b>		<b>11,383</b>	<b>11,282</b>	<b>10,050</b>
<b>Liabilities</b>					
<b>Current liabilities</b>					
5,107	Payables and deferred revenue	11	5,397	4,015	5,151
1,494	Employee entitlements	12	1,041	1,500	1,500
706	Provisions	13	-	-	-
829	Return of operating surplus	14	1,011	-	-
<b>8,136</b>	<b>Total current liabilities</b>		<b>7,449</b>	<b>5,515</b>	<b>6,651</b>
<b>Non-current liabilities</b>					
188	Employee entitlements	12	174	200	200
<b>188</b>	<b>Total non-current liabilities</b>		<b>174</b>	<b>200</b>	<b>200</b>
<b>8,324</b>	<b>Total liabilities</b>		<b>7,623</b>	<b>5,715</b>	<b>6,851</b>
<b>4,094</b>	<b>Net assets</b>		<b>3,760</b>	<b>5,567</b>	<b>3,199</b>
<b>Equity</b>					
2,063	Taxpayers' funds	15	2,062	1,767	2,063
2,031	Memorandum accounts	20	1,698	3,504	1,136
-	Revaluation reserve	15	-	296	-
<b>4,094</b>	<b>Total equity</b>	<b>15</b>	<b>3,760</b>	<b>5,567</b>	<b>3,199</b>

Explanations for major variances against budget are provided in Note 22.

The accompanying notes form part of these financial statements.

## Statement of Changes in Equity

For the year ended 30 June 2015

Actual 2014 \$000		Notes	Actual 2015 \$000	Unaudited Budget 2015 \$000	Unaudited Forecast 2016 \$000
5,567	<b>Balance at 1 July</b>		4,094	5,567	3,199
(644)	Total comprehensive revenue and expense		677	-	-
296	Transfer of Revaluation Reserve to Retained Surplus		-	-	-
(296)	Movements in revaluation reserve		-	-	-
(829)	Return of operating surplus to the Crown	14	(1,011)	-	-
<b>(1,473)</b>	<b>Movements for the year</b>		-	-	-
<b>4,094</b>	<b>Balance at 30 June</b>	15	<b>3,760</b>	<b>5,567</b>	<b>3,199</b>

The accompanying notes form part of these financial statements.

## Statement of Cash Flows

For the year ended 30 June 2015

Actual 2014 \$000	Notes	Actual 2015 \$000	Unaudited Budget 2015 \$000	Unaudited Forecast 2016 \$000
<b>Cash flows from operating activities</b>				
<b>Cash was provided from:</b>				
45,827	Receipts from Revenue Crown	42,353	41,879	41,647
16,685	Receipts from other revenue	14,860	22,415	15,954
62,512		57,213	64,294	57,601
<b>Cash was applied to:</b>				
17,690	Payments to employees	17,062	18,319	18,287
46,486	Payments to suppliers	39,953	44,869	38,230
(1,087)	Goods and services tax (net)	(186)	-	-
165	Payment for capital charge	165	165	165
63,254		56,994	63,353	56,682
<b>(742)</b>	<b>Net cash flow from operating activities</b>	<b>219</b>	<b>941</b>	<b>919</b>
	16			
<b>Cash flows from investing activities</b>				
<b>Cash was provided from:</b>				
-	Receipts from sale of property, plant and equipment	-	-	-
<b>Cash was disbursed for:</b>				
413	Purchase of property, plant and equipment	71	240	545
39	Purchase of intangible assets	24	140	140
452		95	380	685
<b>(452)</b>	<b>Net cash flow from investing activities</b>	<b>(95)</b>	<b>(380)</b>	<b>(685)</b>
<b>Cash flows from financing activities</b>				
<b>Cash was provided from:</b>				
-	Capital injection	-	-	-
<b>Cash was disbursed for:</b>				
690	Repayment of operating surplus	139	-	-
<b>(690)</b>	<b>Net cash flow from financing activities</b>	<b>(139)</b>	<b>-</b>	<b>-</b>
<b>(1,884)</b>	<b>Net (decrease)/increase in cash</b>	<b>(15)</b>	<b>561</b>	<b>234</b>
7,212	Cash at the beginning of the year	5,328	3,767	3,721
<b>5,328</b>	<b>Cash at the end of the year</b>	<b>5,313</b>	<b>4,328</b>	<b>3,955</b>

Explanations for major variances against budget are provided in Note 22.

The accompanying notes form part of these financial statements.

## Statement of Commitments

As at 30 June 2015

### Non-cancellable operating lease commitments

Crown Law's office lease at 19 Aitken Street Wellington, is a sub-lease from the Ministry of Justice. It began on 1 July 2013, and the minimum term of the lease is for a period of six and a half years expiring on 31 December 2019.

Crown Law also leased a pilot office with the Serious Fraud Office in Auckland from 1 January 2013. The lease term has expired on 30 June 2015 and is currently being reviewed.

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 2014 \$000		Actual 2015 \$000
<b>Capital commitments</b>		
	- There were no capital commitments as at 30 June	-
<b>Operating leases as lessee (Inter-Entity)</b>		
The future aggregate minimum lease payments to be paid under non-cancellable operating lease are as follows:		
1,061	Not later than one year	1,051
4,203	Later than one year and not later than five years	3,678
525	Later than five years	-
<b>5,789</b>	<b>Total non-cancellable operating lease commitments (Inter-Entity)</b>	<b>4,729</b>
<b>5,789</b>	<b>Total commitments</b>	<b>4,729</b>

The accompanying notes form part of these financial statements.

## Statement of Contingent Liabilities and Contingent Assets

As at 30 June 2015

### **Unquantifiable contingent liabilities**

Crown Law has no unquantifiable contingent liabilities (2014: Nil).

### **Quantifiable contingent liabilities**

Crown Law has no quantifiable contingent liabilities (2014: Nil).

### **Contingent assets**

Crown Law has no contingent assets (2014: Nil).

The accompanying notes form part of these financial statements.



# Notes to the Financial Statements

For the year ended 30 June 2015

## **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 (PFA) and is domiciled and operates in New Zealand. The relevant legislation governing Crown Law's operations includes the PFA. Crown Law's ultimate parent is the New Zealand Crown.

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

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 financial reporting purposes.

The financial statements of Crown Law are for the year ended 30 June 2015 and were approved for issue by the Chief Executive of Crown Law on 30 September 2015.

### **Basis of preparation**

The financial statements of Crown Law have been prepared on a going concern basis, and 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 PFA, which include the requirement to comply with New Zealand generally accepted accounting practices (NZ GAAP) and Treasury instructions.

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

These financial statements comply with PBE accounting standards.

These financial statements are the first financial statements presented in accordance with the new PBE accounting standards. There are no material adjustments arising on transition to the new PBE accounting standards, other than presentation and terminology changes.

### **Presentation currency and rounding**

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

### **Standards issued and not yet effective and not early adopted**

In May 2013, the External Reporting Board issued a new suite of PBE accounting standards for application by public sector entities for reporting periods beginning on or after 1 July 2014. Crown Law has applied these standards in preparing the 30 June 2015 financial statements.

In October 2014, the PBE suite of accounting standards was updated to incorporate requirements and guidance for the not for profit sector. These updated standards apply to PBEs with reporting periods beginning on or after 1 April 2015. Crown Law will apply these updated standards in preparing its 30 June 2016 financial statements. Crown Law expects there will be minimal or no change in applying these updated accounting standards.

## Note 1: Statement of accounting policies (continued)

### Summary of Significant accounting policies

#### **Revenue**

Revenue is measured at the fair value of consideration received or receivable.

##### *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.

#### **Capital charge**

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

#### **Leases**

##### *Operating leases*

An operating lease is a lease that does not transfer substantially all the risks and rewards incidental to ownership of an asset.

Lease payments under an operating lease are recognised as an expense on a straight-line basis over the lease term.

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.

#### **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 three months or less.

#### **Receivables**

Short-term receivables are recorded at their face value, less any provision for impairment.

A receivable is considered impaired when there is evidence that Crown Law will not be able to collect the amount due. The amount of the impairment is the difference between the carrying amount of the receivable and the present value of the amounts expected to be collected.

#### **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.

## Note 1: Statement of accounting policies (continued)

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

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

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

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

#### *Additions*

The cost of an item of property, plant and equipment is recognised as an asset if 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:

Leasehold improvements	up to 6.5 years	up to 15.4%
Computer hardware	2 to 5 years	20% - 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.

### **Intangible assets**

#### *Software acquisition and development*

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

Staff training costs are recognised as an expense when incurred.

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

## Note 1: Statement of accounting policies (continued)

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

Costs associated with development and maintenance of the Ministry'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 period is recognised in surplus and deficit.

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

Acquired computer software	3 years	33.3%
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### **Impairment of property, plant and equipment and intangible assets**

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

### *Non-cash-generating assets*

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.

Property, plant, and equipment and intangible assets 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 a 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.

### **Payables**

Short-term payables are recorded at their fair value.

### **Employee entitlements**

#### *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; and

## Note 1: Statement of accounting policies (continued)

- 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.

### *Presentation of employee entitlements*

Annual leave, vested long service leave and non-vested long service leave and retirement leave expected to be settled within 12 months of balance date are classified as a current liability. All other employee entitlements are classified as a non-current liability.

### **Superannuation schemes**

#### *Defined contribution schemes*

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

### **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".

### **Equity**

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 and disbursements.

The balance of each memorandum account is expected to trend toward zero over time.

### **Commitments**

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.

### **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, then it is recognised as part of the related asset or expense.

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

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

Commitments and contingencies are disclosed exclusive of GST.

## Note 1: Statement of accounting policies (continued)

### **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.

### **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. Indirect costs are charged to outputs based on cost drivers and related activity or usage information. 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.

### **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:

#### *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 12.

### **Budget and forecast figures**

#### *Basis of the budget and forecast figures*

The 2015 budget figures are for the year ended 30 June 2015 and were published in the 2013/14 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 2014/15.

The 2016 forecast figures are for the year ending 30 June 2016, which are consistent with the best estimate financial forecast information submitted to Treasury for the BEFU for the year ending 2015/16.

The forecast financial statements have been prepared as required by the PFA 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 2016 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 31 March 2015. 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 2016 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 2015/16 year. The forecast figures have been compiled on the basis of existing government policies and Ministerial expectations at the time the

### Note 1: Statement of accounting policies (continued)

Main Estimates were finalised.

The main assumptions, which were adopted as at 31 March 2015, 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 151 full-time equivalent staff, which takes into account staff turnover.
- 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. Remuneration rates are based on current wages and salary costs, adjusted for anticipated remuneration changes.
- Estimated year-end information for 2014/15 was used as the opening position for the 2015/16 forecasts.

The actual financial results achieved for 30 June 2016 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: Other revenue

Actual 2014 \$000		Actual 2015 \$000
Legal fees and disbursements received from:		
15,124	Government departments / other government entities	14,995
44	Other clients	38
40	Court awarded costs	11
<b>15,208</b>	<b>Total other revenue</b>	<b>15,044</b>

## Note 3: Personnel costs

Actual 2014 \$000		Actual 2015 \$000
16,752	Salaries and wages	16,359
123	Other personnel costs	72
659	Employer contributions to defined contribution plans	628
(590)	Increase/(decrease) in employee entitlements	(467)
<b>16,944</b>	<b>Total personnel costs</b>	<b>16,592</b>

Employer contributions to defined contribution plans include contributions to the State Sector Retirement Saving Scheme, the KiwiSaver, and the Government Superannuation Fund.

## Note 4: Depreciation and amortisation expenses

Actual 2014 \$000		Actual 2015 \$000
<b>Depreciation of property, plant and equipment</b>		
95	Office equipment	92
165	Computer equipment	149
240	Leasehold improvements	245
253	Furniture and fittings	252
22	Library	-
<b>Amortisation of intangibles</b>		
154	Computer software	29
<b>929</b>	<b>Total depreciation and amortisation expenses</b>	<b>767</b>

## Note 5: Capital charge

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 2015 was 8.0% (2014: 8.0%).



## Note 6: Other expenses

Actual 2014 \$000	Actual 2015 \$000
54 Fees to Audit New Zealand for audit of the financial statements	56
- Debt impairment (note 7)	-
(7) Increase/(decrease) impairment for doubtful work in progress (Note 7)	-
843 Consultancy	346
1,137 Operating lease expenses (rent for office accommodation)	1,130
5,676 Other expenses	4,880
<b>7,703 Total other operating expenses</b>	<b>6,412</b>

## Note 7: Receivables

Actual 2014 \$000	Actual 2015 \$000
1,400 Debtors (gross)	1,675
- Less provision for impairment	-
<b>1,400 Net debtors</b>	<b>1,675</b>
1,477 Work in progress (gross)	1,385
- Less provision for impairment	-
<b>1,477 Net work in progress</b>	<b>1,385</b>
1 Sundry debtors	2
<b>2,878 Total receivables</b>	<b>3,062</b>
Total receivables comprise:	
2,877 Receivables from the sale of legal advice and representation services to other government agencies at cost recovery (exchange transactions)	3060
2 Receivables from miscellaneous expense recoveries	2

The carrying value of receivables approximates their fair value.

The ageing profile of receivables at year end is detailed as follows:

	2014			2015		
	Gross \$000	Impairment \$000	Net \$000	Gross \$000	Impairment \$000	Net \$000
Not past due	977	-	977	1,509	-	1,509
Past due 1-30 days	245	-	245	94	-	94
Past due 31-60 days	46	-	46	52	-	52
Past due 61-90 days	48	-	48	1	-	1
Past due >90 days	84	-	84	19	-	19
<b>Total</b>	<b>1,400</b>	<b>-</b>	<b>1,400</b>	<b>1,675</b>	<b>-</b>	<b>1,675</b>

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

Work in progress comprises mainly unbilled June 2015 fees and disbursements.

## Note 7: Receivables (continued)

Movement in the provision for impairment of work in progress is as follows:

Actual 2014 \$000	Actual 2015 \$000
<b>7 Balance at 1 July</b>	-
(7) Additional provisions made (Note 6)	-
- Work in progress written off	-
<b>- Balance at 30 June</b>	-

## Note 8: Debtor Crown

Actual 2014 \$000	Actual 2015 \$000
<b>4,174 Balance at 1 July</b>	<b>706</b>
(3,000) Debtor Crown: Conduct of crown prosecution	-
(1,174) Debtor Crown: Prior year capital injection	-
706 Debtor Crown: Conduct of criminal appeals	(706)
<b>706 Balance at 30 June</b>	-

## Note 9: Property, plant and equipment

Movements for each class of property, plant, and equipment are as follows:

	Leasehold improvements \$000	Office equipment \$000	Library \$000	Furniture and fittings \$000	Computer equipment \$000	Total \$000
<b>Cost</b>						
Balance at 1 July 2013	1,426	490	815	1,432	1,201	5,364
Additions	147	93	-	24	149	413
Disposals	-	-	(815)	-	(12)	(827)
<b>Balance at 30 June 2014</b>	<b>1,573</b>	<b>583</b>	<b>-</b>	<b>1,456</b>	<b>1,338</b>	<b>4,950</b>
Balance at 1 July 2014	1,573	583	-	1,456	1,338	4,950
Additions	33	-	-	5	33	71
Disposals	-	-	-	-	-	-
<b>Balance at 30 June 2015</b>	<b>1,606</b>	<b>583</b>	<b>-</b>	<b>1,461</b>	<b>1,371</b>	<b>5,021</b>
<b>Accumulated depreciation and impairment losses</b>						
Balance at 1 July 2013	1	86	793	208	840	1,928
Depreciation expense	240	95	22	253	165	775
Elimination on disposal	-	-	(815)	-	(12)	(827)
Impairment losses	-	-	-	-	-	-
<b>Balance at 30 June 2014</b>	<b>241</b>	<b>181</b>	<b>-</b>	<b>461</b>	<b>993</b>	<b>1,876</b>
Balance at 1 July 2014	241	181	-	461	993	1,876
Depreciation expense	245	92	-	252	149	738
Elimination on disposal	-	-	-	-	-	-
Impairment losses	-	-	-	-	-	-
<b>Balance at 30 June 2015</b>	<b>486</b>	<b>273</b>	<b>-</b>	<b>713</b>	<b>1,142</b>	<b>2,614</b>

Net carrying amount						
At 30 June and 1 July 2013	1,425	404	22	1,224	361	3,436
At 30 June 2014	1,332	402	-	995	345	3,074
<b>At 30 June 2015</b>	<b>1,120</b>	<b>310</b>	<b>-</b>	<b>748</b>	<b>229</b>	<b>2,407</b>

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

Given the nature of its library collection, Crown Law changed its accounting policy in 2014 for its library collection assets so that they are expensed rather than capitalised. This is expected to result in the financial statements providing reliable and more relevant information.

#### Note 10: Intangible assets

Movements for intangible assets are as follows:

	Acquired software \$000
<b>Cost</b>	
Balance at 1 July 2013	2,033
Additions	39
Disposals	(190)
<b>Balance at 30 June 2014</b>	<b>1,882</b>
Balance at 1 July 2014	1,882
Additions	24
Disposals	-
<b>Balance at 30 June 2015</b>	<b>1,906</b>
<b>Accumulated amortisation and impairment losses</b>	
Balance at 1 July 2013	1,873
Amortisation expense	154
Elimination on disposal	(190)
Impairment losses	-
<b>Balance at 30 June 2014</b>	<b>1,837</b>
Balance at 1 July 2014	1,837
Amortisation expense	29
Elimination on disposal	-
Impairment losses	-
<b>Balance at 30 June 2015</b>	<b>1,866</b>
<b>Net carrying amount</b>	
At 30 June and 1 July 2013	160
At 30 June 2014	45
<b>At 30 June 2015</b>	<b>40</b>

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

## Note 11: Payables and deferred revenue

Actual 2014 \$000		Actual 2015 \$000
<b>Payables and deferred revenue under exchange transactions</b>		
165	Creditors – Crown Solicitors’ fees	36
593	Creditors – Other	146
3,826	Other accrued expenses – Unbilled Crown Solicitors’ fees	4,445
387	Other accrued expenses	448
-	- Income in advance for cost recovered services	-
<b>4,971</b>	<b>Total Payables and deferred revenue under exchange transactions</b>	<b>5,075</b>
<b>Payables and deferred revenue under non-exchange transactions</b>		
136	GST payable	322
<b>136</b>	<b>Total Payables and deferred revenue under non-exchange transactions</b>	<b>322</b>
<b>5,107</b>	<b>Total payables and deferred revenue</b>	<b>5,397</b>

## Note 12: Employee entitlements

Actual 2014 \$000		Actual 2015 \$000
<b>Current liabilities</b>		
499	Personnel accruals	30
917	Annual leave	930
78	Retirement leave and long service leave	81
<b>1,494</b>	<b>Total current portion</b>	<b>1,041</b>
<b>Non-current liabilities</b>		
188	Retirement leave and long service leave	174
<b>188</b>	<b>Total non-current portion</b>	<b>174</b>
<b>1,682</b>	<b>Total employee entitlements</b>	<b>1,215</b>

Annual leave is calculated using the number of days owing as at 30 June 2015.

The Collective Employment Agreement came into effect from 22 April 2010. The Collective Employment Agreement and individual employment contracts provide for one week’s long service leave after completing 10 years’ service with Crown Law. A small number of employees have grand-parented long service leave arrangements prior to the above agreement.

The retirement and long service leave from an old expired contract are maintained for six staff as at June 2015(2014: six).

The measurement of the long service leave and retirement gratuities obligations depend 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 are 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 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 discounts rates in year 1 of 2.93% (2014: 3.70%), year 2 of 2.81% (2014: 4.04%), and year 3 and beyond of 4.39% (2014: 5.50%), and a long-term salary inflation factor of 3% (2014: 3.50%) were used. The discount rates and the salary inflation factor used are those advised by the Treasury.

### Note 13: Provisions

Actual 2014 \$000	Actual 2015 \$000
Current portion	
706 Conduct of criminal appeals from Crown prosecutions	-
<b>706 Total provision</b>	<b>-</b>

Movement for the provision is as follows:

Conduct of criminal appeals from Crown prosecutions	\$000
<b>Balance at 1 July 2014</b>	<b>706</b>
Additional provisions made	-
Amounts used	(706)
Unused amounts reversed	-
<b>Balance at 30 June 2015</b>	<b>-</b>

At 30 June 2014, Crown Law made a provision for a court awarded cost and the settlement was paid in August 2014.

### Note 14: Return of operating surplus

Actual 2014 \$000	Actual 2015 \$000
(644) Net surplus/(deficit)	677
806 Add (surplus)/deficit of memorandum account: legal advice and representation	(507)
666 Add (surplus)/deficit of memorandum account: government legal network	854
1 Add (surplus)/deficit of memorandum account: processing of Queen's Counsel applications	(14)
<b>829 Provision for repayment of surplus to the Crown</b>	<b>1,011</b>

Approval was obtained in April 2015 for an in-principal expense transfer of up to \$1.0 million from 2014/15 to 2015/16 for the MCA – Provision of a National Crown Prosecution Service. The actual surplus is \$0.897 million.

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

Note the total provision for repayment of surplus to the Crown includes rounding of \$1,000 resulting from the summation of surpluses and deficits in the memorandum accounts.

## Note 15: Equity

Actual 2014 \$000		Actual 2015 \$000
<b>Taxpayers' funds</b>		
1,767	<b>Balance at 1 July</b>	2,063
296	Transfer from Revaluation Reserve	-
(644)	Net surplus/(deficit)	677
1,473	Transfer of memorandum accounts net (surplus) /deficit for the year	333
	- Capital injections	-
(690)	Creditor Crown (Approved in-principal transfer)	(897)
(139)	Return of operating surplus to the Crown	(114)
<b>2,063</b>	<b>Balance at 30 June</b>	<b>2062</b>
<b>Memorandum account: Legal advice and representation</b>		
3,222	<b>Balance at 1 July</b>	1,916
(500)	Transfer to Memorandum Account: Government Legal Network	(800)
<b>2,722</b>	<b>Adjusted opening balance at 1 July</b>	<b>1,116</b>
(806)	Net memorandum account surpluses/(deficits) for the year	507
	- Return of surplus to the Crown	-
<b>1,916</b>	<b>Balance at 30 June</b>	<b>1,623</b>
<b>Memorandum account: Government Legal Network</b>		
261	<b>Balance at 1 July</b>	95
500	Transfer from Memorandum Account: Legal advice and representation	800
<b>761</b>	<b>Adjusted opening balance at 1 July</b>	<b>895</b>
(666)	Net memorandum account surpluses/(deficits) for the year	(854)
	- Return of surplus to the Crown	-
<b>95</b>	<b>Balance at 30 June</b>	<b>41</b>
<b>Memorandum account: Processing of Queen's Counsel applications</b>		
21	<b>Balance at 1 July</b>	20
(1)	Net memorandum account surpluses/(deficits) for the year	14
	- Return of surplus to the Crown	-
<b>20</b>	<b>Balance at 30 June</b>	<b>34</b>
<b>Revaluation reserves</b>		
296	<b>Balance at 1 July</b>	-
(296)	Transfer of Revaluation Reserve to Retained Surplus	-
	- <b>Balance at 30 June</b>	-
<b>4,094</b>	<b>Total equity as at 30 June</b>	<b>3,760</b>

## Note 16: Reconciliation of net surplus/deficit to new cash flow from operating activities

Actual 2014 \$000	Actual 2015 \$000
<b>(644) Net surplus/(deficit)</b>	<b>677</b>
929 Depreciation and amortisation expense	767
<b>929 Total non-cash items</b>	<b>767</b>
<b>Add/(less) items classified as investing or financing activities</b>	
- Net (gain)/loss on disposal of property, plant and equipment	-
<b>Add/(less) movements in statements of financial position items</b>	
5,896 (Increase)/decrease in receivables	522
(7) (Increase)/decrease in prepayments	(174)
(6,876) Increase/(decrease) in payables and deferred revenue	(400)
550 Increase/(decrease) in provision	(706)
(590) Increase/(decrease) in employee entitlements	(467)
<b>(1,027) Total net movement in working capital items</b>	<b>(1,225)</b>
<b>(742) Net cash flow from operating activities</b>	<b>219</b>

## Note 17: Financial instrument

### Note 17A: Financial instrument categories

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

Actual 2014 \$000	Actual 2015 \$000
<b>Cash and receivables</b>	
5,328 Cash and cash equivalents	5,313
2,878 Receivables	3,062
<b>8,206 Total cash and receivables</b>	<b>8,375</b>
<b>Financial liabilities measured at amortised cost</b>	
5,107 Payables	5,397
<b>5,107 Total payables</b>	<b>5,397</b>

### Note 17B: 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.

## Note 17B: Financial instrument risks (continued)

### 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 (Standard & Poor's credit rating of AA-), a registered bank with 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 7). 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 \$000	6 months- 1 year \$000	1-5 years \$000	Over 5 years \$000
<b>2014</b>							
Payables	11	5,107	5,107	5,107	-	-	-
<b>2015</b>							
Payables	11	5,397	5,397	5,397	-	-	-

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

## Note 18: Capital Management

Crown Law's capital is its equity, which comprise taxpayers' funds, 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, 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 19: 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 condition 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.

### Collectively, but not individually significant, transactions with government-related entities

The Cabinet Directions for the Conduct of Crown Legal Business 2012 (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 2015, Crown Law has provided legal services to departments and government entities in the amount of \$14.995 million (2014: \$15.124 million).

### Transactions with key management personnel

#### Key management personnel compensation

Actual 2014 \$000		Actual 2015 \$000
1,876	Salaries and other short-term employee benefits	1,786
69	Post-employment benefits	58
<b>1,945</b>	<b>Total key management personnel compensation</b>	<b>1,844</b>
<b>5</b>	<b>Full-time equivalent staff</b>	<b>5</b>

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

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

Post-employment benefits are employer contributions for State Sector Retirement Savings Scheme, KiwiSaver, and the Government Superannuation Fund.

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

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

## Note 20: Memorandum accounts

The sub-sections below summaries the financial information for each of Crown Law's memorandum accounts relating to the accumulated surpluses and deficits incurred in the provision of statutory information and performance of accountability reviews by Crown Law to third parties on a cost recovery basis.

The transactions are included as part of Crown Law's operating income and expenses in the surplus/deficit, however, effective 1 July 2011, these transactions will be excluded from the calculation of Crown Law's return of operating surplus (refer Note 14). The cumulative balance of the surplus/(deficit) of the memorandum accounts is recognised as a component of equity (refer Note 15).

The balance of each memorandum account is expected to trend toward zero over a reasonable period of time, with 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.

## Note 20: Memorandum accounts (continued)

### Note 20A: Memorandum account: Legal advice and representation

Actual 2014 \$000	Actual 2015 \$000
3,222	1,916
Opening balance at 1 July	
(500)	(800)
Transfer to Memorandum Account: Government Legal Network	
15,117	14,951
Revenue	
(15,923)	(14,444)
Less expenses	
(806)	507
Surplus/(deficit) for the year	
<b>1,916</b>	<b>1,623</b>
<b>Closing balance at 30 June</b>	

The opening balance of \$1.916 million is made up of the retentions from 2007/08 surplus of \$870,000, 2008/09 surplus of \$946,000, 2009/10 surplus of \$878,000, 2010/11 surplus of \$1.174 million, 2011/12 surplus of \$1.538 million, 2012/13 deficit of \$2.069 million, and 2013/14 deficit of \$806,000, arising from legal advice and representation services, and a transfer of \$115,000 in 2012/13 and \$500,000 in 2013/14 to the memorandum account: Government Legal Network. The account made a surplus of \$507,000 in 2014/15.

#### 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.

Transfers of \$500,000, \$800,000 and \$900,000 have been approved respectively for the last two financial years and the next financial year from this memorandum account to the memorandum account: Government Legal Network to cover the set up and operating costs of the Government Legal Network.

### Note 20B: Memorandum account: Government Legal Network

Actual 2014 \$000	Actual 2015 \$000
261	95
Opening balance at 1 July	
500	800
Transfer from Memorandum Account: Legal advice and representation	
12	47
Revenue	
(678)	(901)
Less expenses	
(666)	(854)
Surplus/(deficit) for the year	
<b>95</b>	<b>41</b>
<b>Closing balance at 30 June</b>	

This memorandum account was established during 2012/13.

Transfers of \$500,000, \$800,000 and \$900,000 have been approved respectively for the last two financial years and the next financial year from the memorandum account: Legal Advice and Representation to this memorandum account to cover the set up and operating costs of the Government Legal Network.

## Note 20: Memorandum accounts (continued)

### Note 20C: Memorandum account: Processing of Queen's Counsel applications

Actual 2014 \$000	Actual 2015 \$000
21 Opening balance at 1 July	20
38 Revenue	35
(39) Less expenses	(21)
(1) Surplus/(deficit) for the year	14
<b>20 Closing balance at 30 June</b>	<b>34</b>

This memorandum account was established during 2012/13.

### Note 21: Events after balance date

There have been no significant events after the balance date.

### Note 22: Explanation of major variances against budget

Explanations for major variances from Crown Law's budgeted figures in the Information Supporting the Estimates are as follows:

#### Statement of Comprehensive Income

##### *Income from the Crown*

Income from the Crown was greater than budgeted by \$458,000, mainly due to an in-principal transfer of \$690,000 from 2013/14 to 2014/15 and the transfer of \$232,000 for Alcohol and Other Drug Court funding back to the Justice Sector Fund as our involvement in the related programme of work concluded.

##### *Personnel costs*

Personnel costs were less than budgeted by \$1.768 million because of unfilled vacancies, and secondment recoveries from other government agencies.

#### Statement of Financial Position

##### *Cash and cash equivalents*

Cash and cash equivalents were more than budgeted by \$958,000, mainly due to

- an in-principal transfer of \$690,000 from 2013/14 to 2014/15, resulted in a \$690,000 reduction in repayment of 2013/14 surplus to the Crown, and
- an improved debt management processes resulting in more debtors are collected than budgeted.

##### *Debtors and other receivables*

Debtors and other receivables were less than budgeted by \$738,000 due to improved debt management processes during the year.

### Note 23: Adjustments on transition to the new PBE accounting standards

There are no recognition and measurement changes arising from the implementation of the new PBE standards, other than some presentation changes.

## Schedule of Trust Monies

For the year ended 30 June 2015

Actual 2014 \$000		Actual 2015 \$000
<b>Crown Law Office Legal Claims Trust Account</b>		
<b>206</b>	<b>Balance at 1 July</b>	<b>284</b>
848	Contributions	340
(772)	Distributions	(370)
2	Revenue	4
-	- Expenditure	(5)
<b>284</b>	<b>Balance at 30 June</b>	<b>253</b>

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 2015

Unappropriated Expenditure	Actual 2015 \$000	Supplementary Estimate 2015 \$000	Unappropriated Expenditure 2015 \$000
<b>Vote Attorney-General</b>			
Supervision and conduct of Crown prosecutions and appeals MCA			
747	Output class: Conduct of criminal appeals from Crown prosecutions	2,993	3,285
<b>747</b>	<b>Total</b>	<b>2,993</b>	<b>3,285</b>
			<b>61</b>

### Expenses to be approved under section 26C of the Public Finance Act 1989

Crown Law incurred unappropriated expenditure of \$61,000 in 2014/15 in the MCA - Conduct of Criminal Appeals from Crown Prosecutions due to the Pora appeal being heard in front of the Privy Council on 4 and 5 November 2014.

The expenses incurred were outside the scope of the appropriation. The scope statement now covers appeals to the Privy Council, and it has been updated from:

'This output is limited to the conduct of appeals in the High Court, the Court of Appeal and the Supreme Court arising from criminal trials on indictment including Crown appeals'

to

'This category is limited to conducting appeals arising from Crown prosecutions'.

The above scope statement change was approved by joint ministers on 17 October 2014 and subsequently authorised as part of the Supplementary Estimates. The costs incurred after 17 October and prior to the approval of the Supplementary Estimates were temporarily authorised by imprest supply. The \$61,000 of costs incurred prior to 17 October are deemed to be unappropriated expenditure and will be validated under section 26C of the Public Finance Act 1989.

## Statement of Departmental Expenses and Capital Expenditure against Appropriations

For the year ended 30 June 2015

Actual 2014 \$000		Actual 2015 \$000	Main Estimates 2015 \$000	Supp Estimates 2015 \$000	Section 26a 2015 \$000	Section 26C 2015 \$000	Appropriation Voted 2015* \$000	In principal transfer 2015 \$000
<b>Vote Attorney-General</b>								
<b>Appropriations for output expenses</b>								
16,601	Legal advice and representation	15,346	22,365	16,601	(101)	-	22,264	-
<b>41,148</b>	<b>Supervision and conduct of Crown prosecutions and appeals MCA</b>	<b>39,466</b>	<b>39,005</b>	<b>40,363</b>	-	<b>61</b>	<b>40,363</b>	<b>897</b>
2,683	<i>Criminal law advice and services</i>	2,952	1,488	2,388	-	-	2,388	-
3,875	<i>Conduct of criminal appeals from Crown prosecutions</i>	2,993	3,285	3,285	-	61	3,285	-
820	<i>Oversight and Supervision of Public Prosecutions and the Crown Solicitor Network</i>	753	840	840	-	-	840	-
33,770	<i>Provision of a National Crown prosecution service</i>	32,768	33,392	33,850	-	-	33,850	897
1,762	The exercise of Principal Law Officer functions	1,892	2,924	2,024	101	-	2,125	-
<b>59,511</b>	<b>Total appropriations for output expenses</b>	<b>56,704</b>	<b>64,294</b>	<b>58,988</b>	-	<b>61</b>	<b>64,752</b>	<b>897</b>
<b>Appropriations for capital expenditure</b>								
452	Capital investment	95	380	680	-	-	680	-
<b>59,963</b>	<b>Total appropriations</b>	<b>56,799</b>	<b>64,674</b>	<b>59,668</b>	-	<b>61</b>	<b>65,432</b>	<b>897</b>

\* This includes adjustments made in the Supplementary Estimates and the additional expenditures incurred under section 26C 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 2013/14 financial year, which implies that the actual expenditure incurred was equal to the expenditure after remeasurement.

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