



**BRIEFING TO
THE
INCOMING
ATTORNEY-GENERAL**

This document has been proactively released. Redactions made to the document have been made consistent with provisions of the Official Information Act 1982.

INTRODUCTION

1. This briefing provides a summary of the significant matters arising in Vote Attorney-General in the immediate to medium term. It is intended to form the basis for a discussion with the Attorney-General as to how the Attorney wishes the Solicitor-General to assist him to discharge the Attorney's functions.
2. The briefing is in four Parts:
 - 2.1 Part 1 provides Crown Law's perspective on the portfolio's key priorities and identifies the work underway in respect of those priorities;
 - 2.2 Part 2 identifies the legal matters that are likely to come to the attention of the Attorney-General and the Government in the short-term (Part 2A) and medium-term (Part 2B);
 - 2.3 Part 3 provides information on the role of the Attorney-General and Solicitor-General; and
 - 2.4 Part 4 provides information on the role of Crown Law.
3. An Appendix provides a Government Legal Network summary of current themes of risks as identified by departments and the techniques departments are using to manage those risks.
4. Some of Part 1, all of Part 2 and the Appendix is legally privileged.
5. The briefing is supplemented by:
 - 5.1 The Public Services Briefing to the Incoming Government; and
 - 5.2 The Justice Sector Briefing to the Incoming Government.

PART 1: KEY PRIORITIES

MANAGEMENT OF CROWN LEGAL RISK

6. Crown Law will continue to lead the ongoing development of the Government Legal Network (GLN), and work to strengthen Crown legal services and the 'one Crown' approach to managing legal risk.
7. The Office is actively working on engaging earlier with departments to assist them in identifying, early, and managing legal risk so that the Government is not impeded in the implementation of its chosen policies by legal challenge. This is done both through active engagement with the GLN and through improving and maintaining close working relationships with departmental lawyers.
8. At any given time a variety of legal cases and judgments will have implications for policy and legislative initiatives across Government. The most important of these are discussed in Part 2 of this briefing. An Appendix to this briefing provides a GLN summary of current themes of risks as identified by departments and the techniques departments are using to manage those risks.

Government Legal Network

9. The GLN is a collaborative initiative designed to strengthen the delivery of legal advice and services to core government agencies, resulting in more effective management of the Crown's legal risk and thus enabling effective and efficient delivery of the Government's work programme.
10. The objectives of the GLN are to:
 - 10.1 Advance the quality and value of legal services to the Crown;
 - 10.2 Minimise and manage Crown legal risk more effectively;
 - 10.3 Enable the efficient sharing of legal knowledge, resources and experience amongst government lawyers;
 - 10.4 Enable more flexibility in the allocation of legal capability and capacity where and when it is needed;
 - 10.5 Facilitate professional development and legal careers for government lawyers; and
 - 10.6 Promote the role of the government lawyer as a preferred career choice for lawyers.
11. The GLN is the 800+ lawyers working for government in public and non-public service departments. Delivery of the GLN work programme is coordinated by the GLN Team within Crown Law, a team of four led by the GLN Director.
12. A GLN Board has also been established and is tasked with ensuring the GLN delivers its objectives. The Board provides advice to the Solicitor-General and also operates as a Significant Legal Risk Working Group to advise on strategies and responses to identified legal risk indicators. The Board consists of a departmental

Chief Executive (currently Carolyn Tremain from the New Zealand Customs Service), the Solicitor-General and Deputy Solicitor-General Crown Legal Risk, at least four Chief Legal Advisors (currently from the Department of Internal Affairs, the Treasury, Ministry for the Environment, Ministry of Social Development, Inland Revenue Department and the Ministry of Culture and Heritage) and a central agency representative (currently from the State Services Commission).

13. The work of the GLN is creating an environment where the Crown can increasingly harness its legal resources and capability flexibly, efficiently and effectively. With the right mix of collaboration and centre-led initiatives the GLN is making significant progress in achieving its objectives. Although there are many opportunities ahead the results to date are generating tangible and qualitative benefits.
14. GLN funding was agreed to by departments and endorsed by Cabinet for a period of three years ending 30 June 2016. The source of funding is a memorandum account held by Crown Law from historical over-recoveries on fees charged to departments.
15. The Attorney-General is due to report back to Cabinet by 30 June 2015 on progress with the GLN work programme, including a business case for funding GLN for 2016/17 and out years.

Paragraphs 16-25 of this Briefing are withheld under s 9(2)(h) of the Official Information Act 1982

SUPERVISION AND OVERSIGHT OF PUBLIC PROSECUTIONS

26. The Public Prosecutions Unit (PPU) was established in October 2012 in response to the 2011 *Review of Public Prosecution Services* and 2012 *Review of the Role and Functions of the Solicitor-General and the Crown Law Office*. These reviews found that Crown Law held insufficient information to understand the costs of public prosecutions and were critical of inconsistencies in the quality of those prosecutions. It was recommended the PPU be established within Crown Law to provide greater oversight of public prosecutions.
27. An immediate priority for the PPU is a review of the delivery of Crown prosecution services in Auckland. The review commenced in April 2014 and is now largely complete. The impetus for the review was the vacancy in the Auckland warrant holder position arising from the appointment of then Auckland Crown Solicitor, Simon Moore QC, to the High Court bench, combined with the implementation of the new funding model for Crown Solicitors and the enactment of the Criminal Procedure Act 2011. Those developments provided an opportunity to consider if one large warrant covering the Auckland warrant region serviced by one private firm was the best approach for the future, or if a different model would better deliver those services. Recommendations from the review have been provided to the Attorney-General.
28. Initiatives put in place by the PPU to date have provided the Solicitor-General with oversight of the Crown Solicitor network and other public prosecutions to a level not previously available. Key priorities for the short to medium-term are:
 - 28.1 Monitoring the effects of the bulk funding model for Crown Solicitors in respect of Crown prosecutions. This replaces the previous invoice based system and is designed to manage a 25 per cent reduction in fees. The

model has proven successful to date in managing the delivery of services within reduced funding.

- 28.2 Implementation of a more regular and structured performance review framework to monitor the Crown Solicitor network and any perceived changes in service delivery as a result of the funding reductions.
 - 28.3 Implementation of a reporting framework in which Crown Solicitors report monthly and annually to Crown Law. This enables Crown Law to regularly monitor financial and performance measures connected with prosecutions.
 - 28.4 Implementation of a reporting framework for prosecuting agencies. There are currently 37 departments and Crown entities with a prosecution function. Phase One of the reporting framework, encompassing the 14 largest agencies, was implemented from 1 July 2014 with the first monthly reports provided in August. The information obtained will assist to identify unacceptable inconsistencies between agencies in the exercise of the prosecution function and areas in which efficiencies may be achieved. It is expected that all prosecuting agencies will be reporting to Crown Law on a monthly basis by August 2015.
 - 28.5 Introduction of the Public Prosecutions Advisory Board comprising representatives from a selection of prosecuting agencies. The Board will guide Crown Law on the information to be provided back to prosecuting agencies from the reporting framework and will act as a vehicle for communications between prosecuting agencies and Crown Law.
29. The Solicitor-General's oversight of the Crown Solicitor network will be further enhanced as information obtained from regular reviews and the reporting framework is analysed over the coming year. As greater oversight of prosecutions conducted by departments and Crown entities is also achieved, Crown Law will take a stronger leadership role to ensure the quality of those prosecutions. This includes working with relevant agencies where data indicates inconsistent or inefficient practices, issuing guidance about the Solicitor-General's expectations with respect to the conduct of prosecutions and providing centralised educational material for all prosecutors via an online platform.

ONGOING COLLABORATION WITH THE JUSTICE SECTOR

30. Although the work Crown Law does contributes to all sectors of government, its home is the justice sector. Crown Law works actively with other justice sector agencies to respond to the key challenges facing the sector, as outlined in the sector's combined briefing to the incoming Government. Crown Law participates in the governance of the sector and has made a real contribution to the sector's sustainability through the structural and other changes it has implemented over the past 2½ years (see paragraph 32).
31. Crown Law contributes to justice sector outcomes through the performance of the Principal Law Officers' constitutional and other duties, which contributes to increased trust in the justice system, and work to reduce legal risk to the Crown. Crown Law also supports progress towards the justice sector Better Public Services targets to reduce crime (total crime, violent crime and youth crime) and re-offending by ensuring offenders are held to account through high quality prosecutions and appeals.

ENSURING THE CONTINUED EFFICIENCY AND EFFECTIVENESS OF CROWN LAW FUNCTIONS

32. Crown Law has recently completed a 2½ year change programme in response to three external reviews: the 2011 *Performance Improvement Framework Formal Review of the Crown Law Office* (and the follow up review in 2013), the 2011 *Review of Public Prosecution Services* and the 2012 *Review of the Role and Functions of the Solicitor-General and the Crown Law Office*. Key elements of the change programme were:
- 32.1 A redesign of Crown Law’s strategy, corporate and legal functions to ensure the Office is structured in the most efficient way and delivering the best value and service to its clients. A review of the 1993 *Cabinet Directions for the Conduct of Crown Legal Business* also required Crown Law to refocus its legal resources and functions on the delivery of “core Crown legal work” as that term was defined in the new 2012 *Directions*.
 - 32.2 Initiatives to ensure Crown Law can sustainably operate within its appropriations to deliver high quality legal advice and services. These initiatives included the establishment of the PPU and its implementation of the new funding model for Crown Solicitors and Crown Law’s relocation to new premises.
33. Crown Law’s focus has now shifted to embedding the gains that have been made and looking for opportunities for continued improvement. Work will continue on:
- 33.1 The development and implementation of Crown Law’s People Strategy to ensure Crown Law has the right mix of skills to deliver on its purpose, to develop its high performance culture and to contribute fully to the performance lift sought across the state sector;
 - 33.2 Managing Crown Law’s cost pressures: remuneration, mutual assistance and extradition legal services and, from 2016/17, the funding of the GLN;
 - 33.3 The expansion of mobile ways of working, without restrictions of physical location or reliance on carrying vast volumes of printed documents; and
 - 33.4 The Auckland office pilot, providing Crown Law with a physical presence in Auckland to service core Crown legal work in that region and the growing proportion of Crown litigation that is conducted in the Auckland courts.

Part 2 of this Briefing is withheld under s 9(2)(h) of the Official Information Act 1982

PART 3: THE ROLE AND FUNCTIONS OF THE LAW OFFICERS

THE ATTORNEY-GENERAL

134. The Attorney-General has two roles in Government:
- 134.1 The first is that of a Minister of the Crown with ministerial responsibility for Crown Law and the Parliamentary Counsel Office;
 - 134.2 The second is that of the senior Law Officer of the Crown with principal responsibility for the Government's administration of the law. This function is exercised in conjunction with the Solicitor-General, who is the junior Law Officer.
135. The fundamental responsibility of the Attorney-General, when acting as Attorney, is to act in the public interest. The management of the inevitable conflicts of interest that arise is facilitated in New Zealand by the fact that the Solicitor-General is the non-political Law Officer, available to advise and assist on and, where appropriate, to discharge Law Officer functions.
136. Most of the Attorney-General's functions, duties and powers can be exercised or performed by the Solicitor-General thereby clearly isolating, when that is considered desirable, Law Officer decision-making from the appearance of political influence. This applies only to Law Officer and not to Ministerial functions. The exercise of power is an original exercise, not a delegation by the Attorney-General.
137. When the Attorney-General is overseas, unwell, or temporarily unavailable:
- 137.1 Another Minister may exercise the Attorney-General's ministerial functions (but not Law Officer functions) under section 7 of the Constitution Act 1986; and
 - 137.2 The Solicitor-General may exercise the Attorney-General's Law Officer functions under section 9A of the Constitution Act 1986.
138. In exercising this constitutional role the Attorney-General seeks to ensure that:
- 138.1 The operations of Executive Government are conducted lawfully and constitutionally; and
 - 138.2 The Government is not prevented through use of the legal process from lawfully implementing its chosen policies.
139. These constitutional responsibilities, which support New Zealand's commitment to democratic government under law, are reflected in the functions of Crown Law.

Role and functions

Principal legal adviser

140. The Attorney-General is the principal legal adviser to the Government. In that capacity the Attorney has similar responsibilities to those of any legal adviser towards a client. The Attorney-General is also a member of the Government and is usually a member of the Cabinet. In Cabinet and Cabinet Committee meetings, the Attorney-

General's role includes giving legal advice and encouraging Ministerial colleagues to seek appropriate legal advice in the course of government decision-making.

141. In practice it is the Solicitor-General (either directly or through Crown Counsel) who gives legal advice to the Government. But that advice is always subject to the opinion of the Attorney-General, whose opinion prevails in the event of conflict.
142. In addition, the Attorney-General has overall responsibility for the conduct of all legal proceedings involving the Crown, and can be expected to keep his or her fellow Ministers generally informed of the initiation, progress and outcome of such proceedings against or by the Government.
143. The Attorney-General is, in constitutional terms, the client for all legal advice provided to the Crown (from whatever source). It is for the Attorney-General to determine whether to release legal advice that has been provided to the Government, or to refer to the content of that advice and waive (or potentially waive) legal privilege. The process for seeking the Attorney-General's consent to release advice is detailed in the Cabinet Manual 2008 at [4.65]-[4.68] and, in respect of draft legislation, in Cabinet Office Circular CO (14) 4.
144. In exercising Law Officer functions neither the Attorney-General nor the Solicitor-General is subject to the Official Information Act 1982.

Representation in the courts

145. The Attorney-General is the principal plaintiff or defendant on behalf of the Government in the courts, although judicial review proceedings usually name the relevant Minister of the Crown or other decision-maker involved. Generally proceedings involving Ministers and departments will be handled by Crown Law for the Attorney-General and governmental interests directly affected (although the Solicitor-General will brief particular matters to outside counsel in appropriate circumstances). In addition, the Attorney-General has a separate responsibility to represent the public interest on behalf of the general community. In doing so, the Attorney-General may intervene in proceedings which affect the public interest.
146. All proceedings brought against the Crown are served on Crown Law, and the Solicitor-General (or allocated Crown Counsel) acts as counsel. The Attorney-General has occasionally appeared personally as counsel for the Crown, including appearances before the Court of Appeal and the Privy Council. There are, however, some risks in doing so, particularly in criminal proceedings. The Attorney-General has also appeared before the International Court of Justice.

Principal Law Officer of the Crown

147. As the Law Officers, the Attorney-General and the Solicitor-General exercise powers, functions and duties related to the proper administration of justice and the public interest. The Attorney-General's functions with respect to the criminal justice system are discussed separately below (at paragraph 164 and following).

Protector of charities

148. The Attorney-General's responsibilities in relation to charities, outlined in the Charitable Trusts Act 1957, are routinely exercised by the Solicitor-General or by a Deputy Solicitor-General under a delegation. There are two main aspects to these protective responsibilities:

- 148.1 The notion that charitable purposes need protection by an officer acting in the public interest as there may be no beneficiaries to enforce them; and
- 148.2 The need for charitable bodies to be scrutinised in the public interest.
149. The Solicitor-General, on behalf of the Attorney-General, reports on or approves schemes to vary charitable trusts; may appear as a party to charity proceedings and act for the beneficial interest to enforce charitable purposes; monitors and, on request, may advise persons and select committees on legislation involving charitable trusts; and in the public interest investigates the management and administration of charitable trusts.

Litigation involving the public interest

150. The Attorney-General through the Solicitor-General traditionally lends assistance to citizens seeking to enforce the law in circumstances where there is no individual right to initiate proceedings (relator proceedings). The relaxed requirements of legal standing mean relator proceedings are now uncommon. The Attorney-General also has a responsibility to ensure that lawful avenues of redress are not abused by vexatious litigants. Those who are declared to be vexatious litigants are limited in their ability to pursue court actions. In addition, there are various types of proceeding that can be taken only with the Attorney's consent.
151. The Attorney-General can also seek leave to intervene in the public interest in proceedings to which the Attorney-General is not already a party.
152. The Attorney-General can represent the public interest in the administration of justice and, where appropriate, take legal action to see that the law is observed and justice is done in both criminal and civil proceedings. An illustration of this role with respect to civil proceedings is the case of *Attorney-General v Māori Land Court* [1999] 1 NZLR 689 (CA). An application for judicial review was brought with respect to the jurisdiction of the Māori Land Court to deal with land owned by a local authority.

Miscellaneous statutory functions

153. There are many powers, duties and functions conferred or imposed on the Attorney-General under particular statutes. A list of these powers can be provided and elaborated on if you wish.

Representation on bodies

154. The Attorney-General is a member of various bodies such as the Rules Committee, which is charged with responsibility for developing the District Courts, High Court and Court of Appeal Rules, and the Council for Law Reporting, which has responsibility for the publishing of the New Zealand Law Reports. In all cases the Solicitor-General is also a member and can undertake the task of representation in the Attorney-General's absence, either personally or by delegation. Ministerial commitments may preclude any more than an occasional attendance by the Attorney-General at such meetings. However, active participation in the deliberations of the Rules Committee could at some stage be desirable on specific issues involving significant policy content, especially if the Government and judiciary are likely to have different views.

Independence

155. In exercising the powers, functions and duties of the senior Law Officer, the Attorney-General is expected to disregard any political interest or partisan advantage/disadvantage to the Government or opposition parties. The same applies to the Solicitor-General. However the public interest on any given issue cannot be determined in isolation from practical realities, and that may require political factors to be considered along with others. The crucial point is that, in advising and making decisions, both Law Officers must not make decisions with the aim of securing any political or similar advantage.

Relationship with the judiciary

156. The Attorney-General carries the principal responsibility in government for the relationship of the Executive Government with the judiciary. The Attorney-General also has responsibility for the appointment of the judiciary.
157. In addition, by convention in New Zealand, the Attorney-General has a particular responsibility for protecting the judiciary from improper and unfair criticism; for example, by answering attacks on their decisions and by actively discouraging other Ministers from engaging in improper attacks or criticism.
158. It is also important to the effective functioning of the judiciary that people who act in a manner that interferes with the administration of justice in particular cases are made accountable. It is the Law Officers' responsibility (in practice undertaken by the Solicitor-General) to bring proceedings for contempt of court in such cases. The most common instance is pre-trial media publicity of a kind that tends to prejudice a specific criminal trial before a jury. This is separate from the power of the Police to charge any person with an offence under s 211 of the Criminal Procedure Act 2011 who publishes information in breach of a suppression order or which is automatically suppressed by operation of law.

Appointments to the Senior Courts

159. The Solicitor-General is responsible for advising the Attorney-General on appointments to the senior courts (the High Court, Court of Appeal and Supreme Court).
160. The details of the process for the appointment of senior judges are set out in a protocol republished in April 2014. The key features of the process for High Court judges are as follows:
- 160.1 The periodic publication of advertisements calling for expressions of interest for those interested in appointment to the High Court;
- 160.2 A requirement that all prospective candidates for appointment complete a formal expression of interest;
- 160.3 Consultation by the Solicitor-General on the suitability of particular candidates with the judiciary, represented by the Chief Justice, President of the Court of Appeal and Chief High Court Judge, and the profession, represented by the Presidents of the New Zealand Law Society and the New Zealand Bar Association.

161. The appointment of appellate court judges relies principally on consultation by the Attorney-General with the Chief Justice and interested persons and bodies about suitable candidates from the serving judiciary.

The Attorney-General and Parliament

162. The Attorney-General is answerable to Parliament for the actions of the agencies under the Attorney's ministerial control (Crown Law and Parliamentary Counsel Office) and for the exercise of Law Officer powers (although, by convention, matters such as decisions to prosecute are kept free of political influence).
163. The Attorney-General also has special responsibilities to Parliament in relation to legislation. These underscore the independence with which the duties of the Attorney-General must be exercised.
- 163.1 Under s 7 of the New Zealand Bill of Rights Act 1990, the Attorney-General reports to the House of Representatives any provision in a bill introduced to Parliament that is inconsistent with the Bill of Rights;¹
- 163.2 The Attorney may also approve the giving of legal advice by Crown Law to Parliamentary select committees if they seek legal assistance. The main role of Crown Law is to advise the Government, and the provision of advice to select committees accordingly should be in rare circumstances.

Attorney-General's functions in relation to the criminal justice system

164. The Attorney-General has constitutional responsibility for the Government's role in the administration of the criminal law. Section 185 of the Criminal Procedure Act 2011 (CPA) also codifies the Solicitor-General's responsibility for maintaining general oversight of the conduct of all public prosecutions and for the conduct of Crown prosecutions. The codification in the CPA of the Solicitor-General's responsibility for the oversight of public prosecutions does not affect the Attorney-General's constitutional responsibility for such matters (s 186).
165. A number of enactments, including the CPA, confer functions and powers on the Attorney-General in criminal justice matters. As a matter of practice, these functions and powers are exercised by the Solicitor-General to avoid actual or perceived political interference in the performance or exercise of such functions and powers. For example, the Solicitor-General usually exercises the statutory powers in the criminal justice process to approve those prosecutions which require the consent of the Attorney-General, to decide whether to stay prosecutions, to grant any witness or other person immunity from prosecution and to deal with requests from other countries for mutual criminal assistance.
166. There are some powers that only the Attorney-General can exercise. These include the powers under the Criminal Procedure (Mentally Impaired Persons) Act 2003 regarding the classification of special patients. Equally there are some functions which are specially vested by statute in the Solicitor-General. For example, only the Solicitor-General can consent to a Crown appeal against sentence.

¹ For all bills apart from those for which the Minister of Justice has responsibility, the Attorney is advised by the Ministry of Justice, reflecting the view that in its preliminary stages the Bill of Rights vetting process raises policy matters. To avoid any perception of a conflict of interest, bills promoted by the Minister of Justice are vetted by Crown Law which then advises the Attorney-General. Crown Law will also advise in any case where an adverse report to the Attorney is contemplated.

SOLICITOR-GENERAL

Introduction

167. The Solicitor-General is:
- 167.1 Chief Executive of the Crown Law Office;
 - 167.2 Chief legal adviser to the Government, subject to any views expressed by the Attorney-General;
 - 167.3 The Government's chief advocate in the courts;
 - 167.4 Responsible for maintaining general oversight of the conduct of public prosecutions, and for conducting Crown prosecutions; and
 - 167.5 Responsible for the provision of constitutional advice to the Government and to the Governor-General.
168. In addition, the Solicitor-General has a number of statutory duties and functions, particularly in relation to the administration of criminal justice.

Roles and functions

169. Importantly, the office of the Solicitor-General is a non-political one.

Chief executive

170. As the head of an office which is a department of government, the Solicitor-General has the responsibilities of a chief executive under the State Sector Act 1988. The Deputy Chief Executive assists the Solicitor-General with departmental strategic and management functions. This reflects the reality that the Solicitor-General's responsibilities as the Government's chief legal adviser and advocate take up substantial time.
171. Unlike most other chief executives, the Solicitor-General is not appointed under the State Sector Act 1988. That Act recognises the Solicitor-General's independent status in Government as a Law Officer. Since 2013, the Solicitor-General's performance as Chief Executive of Crown Law has been reviewable by the State Services Commissioner. However, the Act explicitly excludes the Solicitor-General's performance of his or her independent and constitutional functions from the scope of that review.

Chief legal adviser and advocate

172. Subject only to the prior position of the Attorney-General, the Solicitor-General is the Government's chief legal adviser and its chief advocate in the courts. The Solicitor-General appears in court as counsel for the Government. Such appearances are in cases considered to be of particular significance and are usually at appellate level.
173. The role also involves the Solicitor-General personally giving legal advice to Ministers, departments and agencies of government covering the full spectrum of government functions. The Solicitor-General's advice is generally treated as definitive on legal questions coming before the Government. If a court later concludes the Solicitor-General's advice was wrong it is the Solicitor-General, rather

than the Government, who is then open to criticism. The Solicitor-General also exercises a number of specific functions within the Crown's prosecution process.

174. The Solicitor-General has a responsibility to give legal and constitutional advice to the Governor-General, a function which emphasises the Solicitor-General's non-political and constitutional role in government, and ultimate responsibility to the Crown.

Decision making

175. Sometimes questions arise as to who should exercise responsibilities which generally might fall to the Solicitor-General but which, due to the special circumstances of the particular case, might more appropriately be referred to the Attorney-General. For some years the practice has been for the Solicitor-General to exercise all Attorney-General functions unless there is a matter of public importance raising broader considerations beyond the administration of justice. Such matters are referred to the Attorney-General for consideration of whether the Attorney wishes to act personally.
176. The termination of prosecutions in the Rainbow Warrior case in November 1991 (following a decision not to seek extradition from Switzerland of a person to face charges in New Zealand) is an example of the exercise of power to terminate prosecutions by the Attorney-General. That course was followed as the reasons for the decision involved questions of international politics and trade rather than criminal law administration.
177. In any case of difference as to who should exercise powers, the view of the Attorney-General prevails as the senior Law Officer. On many issues the two Law Officers of the Crown will work together and the Attorney-General always has available to him or her the advice of the Solicitor-General and Crown Law. Even when acting independently it is the Solicitor-General's duty to keep the Attorney-General informed of significant decisions.

PART 4: CROWN LAW

ROLE AND FUNCTIONS

178. Crown Law is a government department that provides legal advice and representation to the Government (in particular, departments and Ministers) in matters affecting the Crown. In common with many other departments there is no statutory basis for the establishment of Crown Law.
179. Crown Law's purpose is to serve the Crown and uphold the rule of law. Its vision is to be the Crown's trusted legal advisor and for clients to value its services.
180. Crown Law's work programme and priorities are developed to reflect the overall priorities of the Government and Attorney-General. Its current strategic objectives are to:
 - 180.1 Manage public resources responsibly;
 - 180.2 Provide valued services;
 - 180.3 Provide technical expertise and leadership;
 - 180.4 Build a high performance culture; and
 - 180.5 Develop our reputation.
181. Broadly, it is the function of Crown Law to support the Attorney-General and the Solicitor-General in performing their roles. In particular, Crown Law is responsible for:
 - 181.1 The provision of legal advice and representation services to Ministers of the Crown and government departments;
 - 181.2 Supporting and assisting the Attorney-General and the Solicitor-General in the performance of their statutory and other functions as Law Officers of the Crown;
 - 181.3 Assisting the Solicitor-General with the conduct of criminal appeals; and
 - 181.4 Assisting the Solicitor-General in the supervision and oversight of public prosecutions.
182. In essence, Crown Law is the Government's law firm, although it does not provide the full range of legal services. Crown Law's focus is on core Crown legal work as that term is defined in the *Cabinet Directions for the Conduct of Crown Legal Business* – essentially, the core legal work for which the Attorney-General and Solicitor-General are constitutionally responsible.
183. Crown Law has no general responsibility for policy formulation or legislation. However, its role includes to provide advice to Ministers and departments on the legal implications of legislative policy proposals. For this reason the Solicitor-General is a member of the Legislation Advisory Committee. Crown Law also retains a small policy capacity to support the Attorney-General and to contribute to

policy work undertaken by other agencies that is relevant to the functions of the Law Officers and Crown Law.

MANAGEMENT AND ADMINISTRATION

Organisational structure

184. The Solicitor-General and Chief Executive Officer of Crown Law is Michael Heron QC.
185. Reflecting the core functions of the Office, Crown Law's structure is organised into four groups:
 - 185.1 Attorney-General's Group comprising the Constitutional and Human Rights Team and Treaty Teams – led by Virginia Hardy, Deputy Solicitor-General;
 - 185.2 Criminal Group comprising the Criminal Teams and Public Prosecutions Unit – led by Brendan Horsley, Deputy Solicitor-General;
 - 185.3 Crown Legal Risk Group comprising the Public Law Teams and Revenue Team – led by Una Jagose, Deputy Solicitor-General;
 - 185.4 Strategy and Corporate Group comprising the Policy, Human Resources, Finance and Performance, Information and Research, and Legal and Support Services Teams – led by Kevin Allan, Deputy Chief Executive/Chief Operating Officer.

Funding

186. Crown Law is funded by Vote Attorney-General. Funding for 2014/15 is \$64.294m comprising the following:
 - 186.1 \$22.365 million (35% of the Vote) for the provision of legal advice and representation services to government departments and Crown agencies on a full cost-recovery basis;
 - 186.2 \$2.924 million (5% of the Vote) for 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 with the provision of legal and constitutional advice to the Government, Ministers and the judiciary;
 - 186.3 \$39.005 million (60% of the Vote) for the supervision and conduct of Crown prosecutions and appeals. This covers:
 - 186.3.1 conducting appeals arising from Crown prosecutions;
 - 186.3.2 the provision of advice on criminal law, mutual assistance and extradition matters to other government agencies and Crown Solicitors;
 - 186.3.3 the oversight of public prosecutions and supervision of the network of Crown Solicitors who deliver prosecution services; and
 - 186.3.4 the provision of a national Crown prosecution service (\$33.2m).

187. Crown Law has a Permanent Legislative Authority (PLA) for capital expenditure, and is forecast a total of \$380,000 for the 2014/15 financial year.
188. Crown Law has recently completed a review of the fees it charges government departments in order to recover the costs of legal advice and representation services. New fees are to be implemented by 1 October 2014. They reflect an increase in the fees previously charged but remain well below the rates of All-of-Government legal panel members. The fees have been held since 2008/09.

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