

# STATEMENT OF INTENT

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CROWN LAW  
For the Year Ended 30 June 2012



May 2011

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For the year ended 30 June 2012

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## FOREWORD: ATTORNEY-GENERAL

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Government requires high level-legal services to ensure that its operations are conducted constitutionally and its chosen policies are implemented lawfully. As the Crown's legal advisor, Crown Law plays an important role across Government. Its whole of Government focus provides clarity and guidance for all ministries and departments.

This Statement of Intent outlines the objectives Crown Law has set for the year. As the Responsible Minister, I am satisfied that the Statement of Intent is consistent with the policies and performance expectations of the Government.



Hon Christopher Finlayson  
**Attorney-General**

### **Ministerial Statement of Responsibility**

I am satisfied that the information on the future operating intentions provided by my department in this Statement of Intent is in accordance with sections 38, 40 and 41 of the Public Finance Act 1989 and is consistent with the policies and performance expectations of the Government.



Hon Christopher Finlayson  
**Attorney-General**

# INTRODUCTION FROM THE SOLICITOR-GENERAL

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Crown Law is a government department which gives advice to and supports the Attorney-General and the Solicitor-General in the exercise of their statutory and constitutional functions. Crown Law operates as a legal practice providing legal advice to the Government and representation in the courts, with the role of taking a whole of government view and acting in the public interest.

Crown Law employs 100 counsel and 93 support and corporate staff. Each year we receive more than 400 new instructions for advice and over 500 new instructions in respect of litigation. In addition, Crown Law manages more than 500 criminal appeals each year.

Crown Solicitors are appointed to prosecute indictable crimes on behalf of the Crown. Each year, they handle more than 2,000 trials for indictable crime and 6,500 other criminal matters, including bail applications and appeals relating to summary prosecutions, on behalf of the Solicitor-General.<sup>1</sup>

Crown Law works with the justice sector agencies to support the Government's policy priorities of public safety and maintaining confidence in the criminal justice system, implementing initiatives that will reduce crime, volumes and cost and improving the performance of sector agencies. The prosecution of indictable crime and the representation of the Crown before Appellant Courts are two Crown Law functions that have a significant impact on the justice sector and its overall outcome "A safe and just society". Crown Law will continue its involvement in various justice sector projects and wider Government initiatives including:

- › the review of public prosecution services;
- › development of a jointly-owned set of performance indicators for the justice sector;
- › a review of the approach, structure and expertise Crown Law uses to monitor Crown Solicitor expenditure; and
- › a review as to how the Crown Solicitors' Regulations 1994 operate looking for practical improvements that can be made cost effectively.

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<sup>1</sup> Figures taken from Crown Law Annual Report for the year ended 30 June 2010.

This work will support the Government priority of "implementing initiatives that will reduce crime, volumes and cost across the justice sector".

In 2011/12 counsel and other staff in Crown Law will continue to manage a challenging and interesting portfolio of legal work. Crown Law regularly receives instructions to provide advice and/or to represent the Government in circumstances which present unique and professionally rewarding challenges to those employed at Crown Law. We will continue to meet these challenges and make full use of the expertise of our high-calibre staff.



Dr David Collins QC  
**Solicitor-General**

## Chief Executive Statement of Responsibility

In signing this statement, I acknowledge that I am responsible for the information contained in the Statement of Intent for Crown Law. This information has been prepared in accordance with the Public Finance Act 1989. It is also consistent with the proposed appropriations set out in the Applications (2011/12 Estimates) Bill, as presented to the House of Representatives in accordance with section 13 of the Public Finance Act 1989, and with the existing appropriations and financial authorities.



Dr David Collins QC  
**Solicitor-General**

Date: May 2011



Chris Walker  
**Chief Financial Officer**

# NATURE AND SCOPE OF FUNCTIONS

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Crown Law supports the Law Officers, the Attorney-General and the Solicitor-General, to undertake their constitutional duties. This requires Crown Law to:

- › provide legal advice to and legal representation for the Crown;
- › undertake functions required to manage the prosecution of indictable crime in New Zealand; and
- › support the execution of the principal Law Officers' functions. In providing these services, Crown Law contributes to the effective and lawful functioning of the Government and to the maintenance of a safe and just society.

The Crown is subject to the rule of law and has an obligation to ascertain what the law is and to comply with and enforce it. Crown Law supports the dual roles of the Attorney-General, who is both a Minister within Government and the senior Law Officer. Crown Law assists the Attorney-General to act as an independent legal advisor to the Crown free from political influence. This independence is critical in maintaining the integrity of the rule of law and is instrumental in minimising the risk of the Government acting unlawfully.

When providing advice and representation, Crown Law takes a whole of government view and acts in the public interest while aiming to act as a model litigant. This approach forms the basis of our purpose to:

**“Provide legal advice and representation from a whole of government perspective so as to ensure the Government does and can act lawfully in achieving its objectives and undertaking its constitutional duties.”**

There are two main functions undertaken by Crown Law:

## Supporting the Principal Law Officers

Crown Law supports the Legal Officers of the Crown, the Attorney-General and the Solicitor-General, by providing legal advice and assisting them in the performance of their statutory and constitutional functions. Specific activities include the supervision of charitable trusts, representation of

the public interest, vexatious litigant proceedings, consideration of Bills for Bill of Rights Act consistency (vetting), extraditions, conduct of criminal appeals and the supervision and conduct of Crown Prosecutions.

Crown Solicitors are appointed under warrant of the Governor-General and undertake work for the Solicitor-General who has responsibility for prosecuting indictable crime. Crown Law administers the Crown Solicitors' network, guiding and sharing prosecution practice and knowledge, and reviewing practices to ensure high quality, value for money services are provided. Crown Law also conducts all criminal appeals heard by the Court of Appeal and the Supreme Court, and oversees the prosecution work of the Serious Fraud Office.

## Legal Advice and Representation

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

- › **Category 1:** Must be referred to the Solicitor-General.
- › **Category 2:** Departments and government agencies may choose other legal advisors to assist them to resolve Category 2 matters.

Category 1 work includes:

- › Representation or advice in relation to actual or imminent litigation to which the government or agency is or may become a party.
- › Legal services involving questions of the lawfulness of the exercise of government power.
- › Constitutional questions including Treaty of Waitangi issues.
- › Issues relating to the enforcement of the criminal law.

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

- › Legal issues relating to the protection of the revenue.

When providing legal services in either Category 1 or 2, Crown Law charges clients for the service. The Cabinet Directions provide guidelines on who is responsible for paying for services when more than one department is involved or when the Attorney-General or Solicitor-General have directed the service be provided because of whole of government and/or public interest factors.

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

## Appropriations

Crown Law administers 4 appropriations:

- › Conducting appeals arising from criminal trials on indictment and from Crown appeals (**\$3.329 million**).
- › Providing legal advice and representation services to central government departments and Crown agencies (**\$22.9 million**).
- › The provision of a national Crown prosecution service that undertakes criminal trials on indictment and appeals to the High Court; the supervision of the network of Crown Solicitors who deliver the prosecution service; and the provision of advice on criminal law matters to other government agencies and Crown Solicitors (**\$48.196 million**).
- › 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 function and the provision of legal and constitutional advice to the Government, Ministers, and the judiciary (**\$2.938 million**).

## Justice Sector Collaboration

Justice sector Ministers have agreed on a collective set of priorities for future decisions through to 2014 in the justice sector:

- › public safety and maintaining public confidence in the criminal justice system (the top priority);
- › implementing initiatives that will reduce crime, volumes and cost across the justice sector; and
- › improving the performance of sector agencies.

To measure their progress towards these priorities, justice sector Ministers have designed a balanced set of jointly-owned performance indicators that will assess whether justice policy is heading in the right direction and doing so in an affordable way:

- › **The inflow of first time offenders into the criminal justice system** – will show the prevalence of crime and whether social and justice sector interventions are effective.
- › **The time it takes for a case to proceed through the court system** – will indicate where there are opportunities to improve its functioning and efficiency.
- › **The rate of recidivism** – will show the effectiveness of rehabilitation and reintegration services and existing sanctions.

Once relevant measures for Crown Law have been agreed, these measures will be incorporated into Crown Law's accountability reports to support monitoring of non-financial performance. The Justice Sector Overview will incorporate all measures to provide a more comprehensive explanation of the complex and interconnected transactions within the justice system and between justice sector agencies. Once the sector is in a position to collect and analyse the measures that contribute to the jointly-owned performance indicators, it will be able to provide an evidence base for trade-offs required to ensure the system remains effective and sustainable.

It is anticipated that measures related to the Justice Sector jointly owned performance indicators will be incorporated into the Statement of Intent and Justice Sector Overview documents from 2012.

## Crown Law's Performance

### GOVERNMENT PRIORITIES

- › Public safety and maintaining public confidence in the criminal justice system
- › Implementing initiatives that will reduce crime, volumes and cost across the justice sector
- › Improving the performance of justice sector agencies

### CROWN LAW OBJECTIVES

- › The Government is supported to fulfil its democratic duties under law and in the public interest
- › The principal Law Officers are enabled to perform their constitutional duties

### IMPACTS

- › The Crown's responsibilities are lawfully carried out
- › The Crown's interests are protected
- › The Crown's risks arising from the operation of government departments and legal policy development are well managed
- › Leadership of high quality, effective government legal services is provided

### OUTPUTS

1. Conduct of Criminal Appeals	2. Legal Advice & Representation Services	3. Supervision & Conduct of Crown Prosecutions Services	4. The Exercise of Principal Law Officer Functions Services
<ul style="list-style-type: none"> <li>› Crown appeals</li> <li>› Accused appeals</li> </ul>	<ul style="list-style-type: none"> <li>› Instructions for legal advice</li> <li>› Instructions for litigation matters</li> <li>› Development of legal capability of government lawyers</li> <li>› Judicial reviews</li> </ul>	<ul style="list-style-type: none"> <li>› Trials for indictable crime</li> <li>› Criminal matters conducted by Crown Solicitors</li> <li>› Review of Crown Solicitors' practices</li> <li>› Mutual assistance</li> <li>› Extraditions</li> <li>› Applications from Crown Solicitors for special fees, approval of extra counsel and classification of counsel</li> <li>› Legal advice/applications received on criminal matters</li> <li>› Processing of expert witness applications</li> <li>› Ministerial and Parliamentary questions, Official Information Act (OIA) requests</li> <li>› Appeal requests from prosecuting agencies</li> </ul>	<ul style="list-style-type: none"> <li>› Applications or requests for advice received on behalf of the AG</li> <li>› Support and advice to AG, CEs and Chief Legal Advisors</li> <li>› Interventions in the public interest</li> <li>› Charitable trust investigations and variations</li> <li>› Vetting of bills for Bill of Rights Act consistency</li> <li>› Vexatious litigant proceedings</li> <li>› Ministerial and Parliamentary questions, OIA requests</li> <li>› Adoptions</li> <li>› Coroners</li> <li>› Development of legal structures and capability of Samoa</li> <li>› Intervention requests regarding contempt and name suppression</li> </ul>

### OVERALL JUSTICE SECTOR OUTCOME – A SAFE AND JUST SOCIETY

#### Justice Sector Agency Outcomes

› Impact of crime reduced	› Accessible justice services › Durable settlements of Treaty claims › Effective constitutional arrangements › Internationally connected	› Offenders held to account – Outputs 1, 2 & 3 › Trusted justice system – Outputs 3 & 4 › Crime reduced – Outputs 1 & 3
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#### Crown Law's Impact on Justice Sector Agency Outcomes

› Crown Law has no direct impact	› Crown Law has a low level direct impact	› Crown Law has mid level impact
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## STRATEGIC CONTEXT

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The ability to measure and anticipate the level of Crown Law's performance is constrained by the reactive nature of our services. For example, Crown Law has no control over:

- › the number of appeals of indictable convictions;
- › the number of committals or scheduling of criminal trials;
- › the need for legal advice and representation sought by Ministers and government departments; or
- › disasters that create demand for large volumes of urgent advice such as Pike River disaster and the Christchurch earthquake.

Despite the reactive nature of our role, the following factors are seen as critical to the success of our work:

- › We deliver high quality services which minimise the length and amount of litigation required to be undertaken by the Government.
- › We deliver timely services which minimise the cost of each service.
- › We deliver services which support the Cabinet Directions for the conduct of Crown legal business, to minimise the potential risk (and subsequent cost) of unlawful actions by the Government.

For external monitoring, we undertake a client survey with all our clients annually to monitor the quality of our service. We participate in an annual independent commercial survey which gives us an external view of both our quality and cost effectiveness as compared across New Zealand's legal sector.

Our economic viability is dependent on payment for the legal advice and representation which we provide to government departments. The tight fiscal environment has seen the anticipated change in the way clients are using our services. There is now a greater demand for estimates before commencing work and for more comprehensive ongoing financial reporting to monitor incurred costs. Some clients have reduced their internal legal resource and rely more on Crown Law while others are making best use of their internal resource using Crown Law only when necessary.

Our vision and four top initiatives have been chosen to place a greater focus on the service we provide to clients to ensure they do continue to use Crown Law for their legal services.

# STRATEGIC DIRECTION – FIRST CHOICE PUBLIC SECTOR LAWYER

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## Overview

Crown Law’s strategic direction is influenced by:

- › The Government’s priorities to implement its chosen policies lawfully, with a whole of government focus and in the public interest;
- › Justice sector outcomes; and
- › Crown Law’s objectives.

## Vision

Crown Law’s vision is “being the first choice public sector legal advisors”. This vision focuses Crown Law on providing high quality service to reinforce Crown Law’s role as clients’ trusted legal advisor in Category 1 work and ensures clients choose to use Crown Law for the discretionary Category 2 work. The strategic priorities for this vision are fundamental to our sustained high performance.

## Strategic Priorities

### *Top four initiatives for 2009-2012*

**Initiative 1** – “Build the understanding and acceptance of the role of Crown Law and the Law Officers” which will support:

- › development of clients’ understanding and support for a whole of government view, acting in the public interest;
- › an improved understanding of the leadership role of lawyers in government for clients and stakeholders;
- › the Law Officers performing their constitutional duties with support from clients and stakeholders; and
- › an improved understanding of the rationale for interventions by the Law Officers.

**Initiative 2** – “Demonstrate to staff that they are truly valued; develop roles and structures that support the development of all staff which will retain and attract the best staff from all sectors” sets the foundation for high staff engagement and commitment. These two factors have been identified in research as critical to support the retention of a high level of expertise.

**Initiative 3** – “Measure the effectiveness of client services and then act on feedback to improve client relationship management (CRM) at Crown Law” ensures that Crown Law has satisfied clients. These measures support:

- › continuous improvement in client relationships;
- › the Government’s priority of better public services;
- › a better understanding of clients’ needs;
- › delivery of high quality and timely services; and
- › clients’ continued use of Crown Law for all Category 1 work and more Category 2 work.

**Initiative 4** – “Facilitate the establishment of Government Legal Services (GLS)” directly supports the achievement of all three of our objectives through its primary focus on strengthening the legal services (both in-house and from Crown Law) provided to the Government. This project was commenced in 2008, when the Attorney-General requested a review of the delivery of government legal services.

## Crown Law’s Strategic Direction

### PURPOSE

Provide legal advice and representation from a whole of government perspective so as to ensure the Government does and can act lawfully in achieving its objectives and undertaking its constitutional duties.

### VISION – Being the first choice public sector legal advisors

#### KEY CHARACTERISTICS OF THE VISION

All staff know they are truly valued	We know the needs of and respond appropriately to our clients	We have simply and easily understood systems and structures	An understanding and acceptance of our role and the role of lawyers in government is developed and maintained	Our staff have high levels of professional expertise and are people of the highest calibre; that expertise and calibre is developed and maintained	Our alumni are positive and supportive of us and we demonstrate our commitment and loyalty to our alumni	We continue to enjoy the respect of the judiciary
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#### FOUR TOP INITIATIVES FOR 2009-2012

Build the understanding and acceptance of the role of Crown Law and the Law Officers	Demonstrate to staff that they are truly valued; develop roles and structures that support the development of all staff which will retain and attract the best staff from all sectors	Measure the effectiveness of client services and then act on feedback to improve client relationship management at Crown Law	Facilitate the establishment of Government Legal Services
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### OBJECTIVES

- › The Government of the day is supported to fulfil its democratic duties under law and in the public interest
- › The principal Law Officers are enabled to perform their constitutional duties

# OPERATING INTENTIONS

**Objective 1: The Government is supported to fulfil its democratic duties under law and in the public interest**

This objective is fundamental to the role of Crown Law. As the Government’s lawyer, Crown Law must take into account the Crown’s legal obligations and protect its interests along with the public interest when providing legal advice.

*What we will do to achieve this*

**Chart 1:** Services provided to achieve Objective 1: The Government is supported to fulfil its democratic duties under law and in the public interest.

Service	Demonstrating success	Service impacts
<b>Output – Legal Advice and Representation</b>		
<ul style="list-style-type: none"> <li>› Providing legal advice and representation to Ministers and government departments from a whole of government view and acting in the public interest.</li> <li>› Developing the legal capability of government lawyers.</li> <li>› Participating in judicial reviews.</li> </ul>	<ul style="list-style-type: none"> <li>› Advice is sought or litigation undertaken in all Category One matters where it is appropriately provided by Crown Law.</li> <li>› All activities conform with the quality assurance guidelines that support the application of Crown Law’s professional standards.</li> <li>› Litigation management plans are completed for litigation matters in accordance with Crown Law’s professional standards.</li> <li>› All advice and litigation matters are completed within appropriate timeframes.</li> <li>› No complaints are received in relation to the quality of Crown Law advice and litigation.</li> </ul>	<ul style="list-style-type: none"> <li>› The Government is able to achieve its objectives lawfully.</li> <li>› Individual departments receive services that take a whole of government view and are in the public interest.</li> <li>› Government departments’ in-house affairs are conducted lawfully to minimise the risk of illegal operation of government.</li> <li>› The public has the opportunity to challenge the use of public power through the judicial review process if they consider the Crown decision-maker has exceeded its constitutional powers.</li> </ul>

For information regarding measures and targets for the above information, refer to Information Supporting the Estimates page 8.

Service	Demonstrating success	Service impacts
<b>Output – The Exercise of Principal Law Officer Functions</b>		
<ul style="list-style-type: none"> <li>› Receiving and responding to requests for advice on behalf of the Attorney-General and the Solicitor-General.</li> <li>› Intervening in the public interest on behalf of the Attorney-General.</li> <li>› Vetting of bills for Bill of Rights Act consistency.</li> <li>› Supporting and advising Ministers, Chief Executives and Chief Legal Advisors of departments.</li> <li>› Briefing the Attorney-General on significant legal matters affecting the Crown.</li> <li>› Undertaking charitable trust investigations and processing charitable trust variation applications.</li> <li>› Managing special patient reclassifications.</li> <li>› Undertaking vexatious litigant proceedings.</li> <li>› Providing advice to coroners as requested.</li> <li>› Developing legal structures and capability in Samoa.</li> <li>› Providing legal advice and representation on interventions with respect to alleged contempt and breach of name suppression.</li> </ul>	<ul style="list-style-type: none"> <li>› Advice is sought from Crown Law in all appropriate cases with consideration given to constitutional regulations.</li> <li>› All opinions or advice conform to Crown Law’s professional standards for Crown Law advice.</li> <li>› The Attorney-General is kept informed of significant legal matters affecting the Crown.</li> <li>› Weekly written briefings are provided to the Attorney-General.</li> <li>› 90% of applications for interventions in litigation by the Attorney-General or Solicitor-General in the public interest are successful.</li> <li>› Charitable trusts operate within the law.</li> <li>› Support for the development of the rule of law in Samoa is provided.</li> <li>› Court time and resources are not wasted on matters raised by vexatious litigants.</li> </ul>	<ul style="list-style-type: none"> <li>› Law Officers provide consistently high quality advice and representation.</li> <li>› Legal affairs of the Government are conducted with consideration of the public interest.</li> <li>› In passing legislation Parliament is fully informed as to Bill of Rights Act consistency issues.</li> <li>› The Government operates within its constitutional powers.</li> <li>› Senior government officials operate within the law when undertaking their duties.</li> <li>› Coroners operate within the law when undertaking their duties.</li> <li>› The public can have confidence that charitable trusts operate according to the Charitable Trusts Act 1957, the Charities Act 2005 and Trustee Act 1956.</li> <li>› Samoa’s legal system is strengthened.</li> <li>› Public money used to fund the judicial process is not wasted on unnecessary proceedings.</li> </ul>

For information regarding measures and targets for the above information, refer to Information Supporting the Estimates pages 10 and 11.

The achievement of Objective 1 is also supported by the delivery of **Initiatives 1** “build the understanding and acceptance of the role of Crown Law and the Law Officers”, **3** “measure the effectiveness of client services and

then act on feedback to improve client relationship management (CRM) at Crown Law” and **4** “facilitate the establishment of a Government Legal Service (GLS)” described at page 8.

## **Objective 2: The principal Law Officers are enabled to perform their constitutional duties**

It is the function of Crown Law to support both the Attorney-General and the Solicitor-General in their respective roles of chief legal advisor to the Government and chief advocate for the Government in the courts. As Law Officers, the Attorney-General and the Solicitor-General are the principal legal advisors to the Government and are responsible for:

- › ensuring that government is conducted according to the law;
  - › the relationship of executive government with the judiciary;
  - › the appointment of members of the higher judiciary;
  - › protecting the judiciary from improper and unfair public criticism;
  - › the Government's role in the administration of criminal justice, including responsibility for prosecution of serious crime, the power to terminate prosecution, and the power to give any witness at a trial immunity from prosecution;<sup>3</sup>
- › acting on behalf of the Government in civil litigation;
  - › informing the House whether any provision in a Bill introduced to the House is inconsistent with the Bill of Rights Act 1990;
  - › ensuring the criminal law is enforced in a just and fair manner. The Law Officers have ultimate control of all prosecutions undertaken by the Crown. The Crown Solicitor network acts on behalf of the Solicitor-General to undertake this work;
  - › Crown representation in criminal appeals<sup>4</sup> including appeals against sentence after conviction on indictment;
  - › giving consent to:
    - › appeal against sentence and on questions of law arising out of summary proceedings;
    - › stay of prosecutions;
    - › prosecutions in certain instances defined in the relevant statute;
  - › bringing proceedings on behalf of the community to enforce the law.

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<sup>3</sup> The practice in New Zealand is that the Solicitor-General rather than the Attorney-General has charge of the prosecution of serious crime after committal for trial. The practice has become a convention, built on the perception that it is undesirable for there to be even an appearance of political decision-making in relation to public prosecutions.

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<sup>4</sup> Under s 390 of the Crimes Act 1961, the Solicitor-General (not the Attorney-General) is made responsible for Crown representation in criminal appeals.

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

**Chart 2:** Services provided to achieve Objective 2: The principal Law Officers perform their constitutional duties to the highest standard.

Service	Demonstrating success	Service impacts
<b>Output – Conduct of Criminal Appeals</b>		
<ul style="list-style-type: none"> <li>› Crown appeals.</li> <li>› Accused appeals.</li> </ul>	<ul style="list-style-type: none"> <li>› Appear on and conduct all appeals.</li> <li>› The success rate of Crown appeals is greater than 60% for Court of Appeal cases.</li> <li>› Feedback received from the judiciary reflects the high quality of Crown submissions and advocacy.</li> <li>› Key stakeholders are kept informed of significant legal impacts of judgments received.</li> <li>› Counsel with required expertise for the nature of the appeal are appointed to appear.</li> </ul>	<ul style="list-style-type: none"> <li>› Effective, efficient criminal appeals that comply with Prosecution Guidelines (January 2010) and meet the needs of the judiciary and the core justice sector agencies.</li> <li>› Crown Law Counsel support the judicial process through their expert professional representations.</li> </ul>

For information regarding measures and targets for the above information, refer to Information Supporting the Estimates page 7.

**Output – Legal Advice and Representation (same as for Objective 1)**

**Output – Supervision and Conduct of Crown Prosecutions**

<ul style="list-style-type: none"> <li>› Prosecuting criminal trials on indictment.</li> <li>› Conducting other criminal matters by Crown Solicitors.</li> <li>› Reviewing the Crown Solicitors’ practices.</li> <li>› Providing legal advice and representation on mutual assistance matters.</li> <li>› Providing legal advice and representation on extradition matters.</li> <li>› Processing applications from Crown Solicitors for special fees, classification of counsel and approval of additional counsel.</li> <li>› Providing legal advice or responding to applications on criminal law issues.</li> <li>› Processing expert witness applications.</li> </ul>	<ul style="list-style-type: none"> <li>› Appear on all trials set down by the courts.</li> <li>› No complaints are received in relation to compliance with prosecution guidelines and case management practices.</li> <li>› Feedback received from the judiciary reflects the high quality of Crown Solicitor submissions and advocacy.</li> <li>› Support is sought in mutual assistance matters where it is appropriately dealt with by Crown Law.</li> <li>› The standard of services provided on mutual assistance matters is consistently high.</li> </ul>	<ul style="list-style-type: none"> <li>› Crown Solicitors comply with the Crown Solicitors’ Regulations 1994.</li> <li>› Crown prosecutions are conducted effectively and efficiently, in accordance with Prosecution Guidelines (January 2010) and case management practices developed by the Solicitor-General and judiciary respectively.</li> <li>› Crown Solicitor practices are managed efficiently to maximise the value for money received from their services.</li> <li>› Oversight of the implications of legal precedents set through the judicial process maintains the integrity of the Crown prosecution process.</li> </ul>
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Service	Demonstrating success	Service impacts
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**Output – Supervision and Conduct of Crown Prosecutions (continued)**

<ul style="list-style-type: none"> <li>› Providing legal advice and representation in relation to requests from prosecuting agencies to appeal.</li> </ul>	<ul style="list-style-type: none"> <li>› All timeframes are met in relation to our Crown prosecution services or a justified reason is noted when timeframes are not met.</li> <li>› Support is sought in extradition matters where it is appropriately dealt with by Crown Law.</li> </ul>	
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For information regarding measures and targets for the above information, refer to Information Supporting the Estimates page 9.

**Output – The Exercise of the Principal Law Officer Functions (same as for Objective 1)**

All four of Crown Law’s impacts lead to the achievement of the two Crown Law objectives discussed above:

- › The Crown’s interests are protected.
- › The Crown’s risks for the operation of government departments and legal policy development are well managed.
- › The Crown’s responsibilities are lawfully carried out.

- › Leadership of high quality effective government legal services is provided.

All impacts are measured by:

- › the Crown achieving its democratic objectives without undue legal intervention; and
- › the Crown operating within the bounds of its constitutional powers.

## COST EFFECTIVENESS

Crown Law monitors cost effectiveness by assessing the cost per hour of client services, and predicts demand by analysis of cost drivers. Indicators such as the number of trials and the cost of trials are not a useful measure of cost effectiveness. This is because Crown Law is required to be reactive and has no control over the number or complexity of these undertakings.

The implementation of revised court practice notes and changes in the criminal process mean that cost comparisons over time are not meaningful.

Data collection for the justice sector key performance indicator measures such as “Total time to Court case disposal for the indictable jurisdiction” may provide some comparisons for cost effectiveness purposes.

The justice sector agencies have been working collaboratively to identify priorities for co-ordinated improvements to the criminal justice system to maintain its effectiveness and sustainability. The focus will be on reducing volumes moving through the system and reducing the time for a case to proceed through the system.

# MANAGING IN A CHANGEABLE OPERATING ENVIRONMENT

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## Key Trends and Issues

The significant trends that will continue to influence our strategic direction and delivery of services for 2010-2013 are:

- › **Increase in Crown prosecution costs:** Crown Law continues to experience an increase in the cost of Crown prosecutions. This cost increase is attributable to factors that are beyond the control of Crown Law including policy changes affecting the court process and investment in new court infrastructure.  
  
Crown Law has two internal reviews currently underway to look at ways to address the increasing costs in the medium term. They are a review as to how the Crown Solicitors' Regulations 1994 operate looking for practical improvements that can be made cost effectively; and a review of the approach, structure and expertise Crown Law uses to monitor Crown Solicitor expenditure.
- › **Inability to predict scheduling of criminal cases:** The courts have jurisdiction over the scheduling of criminal appeals and cases. Cases can be scheduled at any time and are often high profile and require significant legal resources. As the Crown has a legal requirement to respond, forecasting, budgeting and allocating scarce resources within appropriations is difficult. We expect this pressure to continue in the foreseeable future.
- › **Tight fiscal environment:** The effects of the adverse economic environment will continue into the foreseeable future. In particular:
  - › Retention of high expertise: Retaining a high level of expertise is critical for Crown Law to achieve its objectives and meet its purpose. The challenge will be to retain the high level of expertise required during a period of fiscal constraint.
  - › Contestable legal services: In a tight fiscal environment with an adverse economic outlook we have experienced increased competition from private law firms for public sector legal work. The maintenance of a high quality service providing value for money will be critical

to ensuring that Crown Law is instructed on all Category 1 and all appropriate Category 2 work.

- › **The justice sector agencies:** A number of initiatives are underway and will continue to be aimed at creating a more sustainable justice system. The criminal procedure simplification project has been underway for some time and aims to reform the complex and sometimes archaic nature of criminal procedure in New Zealand. Policing excellence has been underway for some time and aims to address the drivers that affect the volumes of people passing through the justice system. Potential flow-on impacts on Crown Law's costs and services are unknown at this stage.
- › **The Prosecution Review** is a large scale project that will begin in the first half of 2011. The purpose of this review is to determine if prosecutions brought by public sector agencies can be better delivered to achieve justice sector outcomes, cost effective services and high quality delivery. Impacts on Crown Law services and costs are unknown at this stage.
- › **The Canterbury earthquake** may have longer term impacts on the justice sector in that funding for proposed change initiatives may need to be reallocated to higher priority activities resulting from the earthquake.

## Internal Risks

Retaining the right people doing the right things is fundamental to the quality of the legal advice and representation and services offered by Crown Law.

New structures in document management are being implemented which will assist in reducing the loss of institutional and legal knowledge that is critical to the performance of Crown Law.

## External Risks

The following risks might arise:

- › Crown Law is not able to achieve a public sector-wide understanding of our role and the role of the Law Officers, or coordinate and

- manage the legal outcome of policy and operational activities;
  - › legislative changes directly impact the costs associated with Crown Law’s output expenses (e.g. preparation and trial time in Crown prosecutions) and have the potential to expand legal activity in response to certain issues;
  - › new legislation is introduced or judicial decisions are made during the year e.g. judicial practice notes which establish requirements for which Crown Law has insufficient appropriation;
- › the funding received from departments paying for services may not be sufficient to cover Crown Law’s operating costs;
  - › the scale of change across the justice system as a whole is unprecedented and could pose potential delivery risks to the system;
  - › volumes drive increased workload resulting in a lack of capacity within Crown Law to defend against legal challenges to Government.

# ORGANISATIONAL HEALTH AND CAPABILITY

## Overview

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

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

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

What is needed and capability initiatives	Capability measures and standards
<p><b>Leadership</b></p> <p>The role of Crown Law in taking a whole of government approach and considering the public interest in all government legal activities requires leadership skills at all levels of Crown Law and particularly at the senior level.</p> <p><b>Initiatives:</b> Leadership and management development including the Future Leaders Programme.</p>	<p>To ensure we have this in 2011/2012 we will:</p> <ul style="list-style-type: none"> <li>› undertake 360 degree reviews of all members of the Management Group;</li> <li>› evaluate our Future Leaders Programme;</li> <li>› purchase the legal services survey of our key stakeholders which is undertaken annually by an external provider.</li> </ul>
<p><b>People</b></p> <p>To deliver its objectives, Crown Law needs people with a high level of expertise in their chosen area and a strong commitment to delivering a high quality service within the public sector environment.</p> <p><b>Initiatives:</b> Our people must have the required skills to perform. This focuses on implementing good practice standards for:</p> <ul style="list-style-type: none"> <li>› recruitment;</li> <li>› performance standards;</li> <li>› the sharing of expertise amongst staff; and</li> <li>› secondments in and out of Crown Law</li> </ul> <p>Crown Law also has significant in-house development programmes to support ongoing professional development for all staff.</p>	<ul style="list-style-type: none"> <li>› Standardised recruitment guidelines.</li> <li>› Evaluation of As and When process.</li> <li>› Secondments undertaken within the policy guidelines.</li> <li>› Presentations and publications supported in accordance with policy guidelines.</li> <li>› Evaluation of all programmes by participants to ensure the programme is meeting their development needs</li> <li>› Regular evaluation by the Education Group of the overall in-house development programmes to identify areas for improvement and possible gaps in the programmes.</li> </ul>
<p><b>ICT</b></p> <p>Crown Law needs good quality information and communication systems to achieve its objectives.</p> <p><b>Initiatives:</b></p> <ul style="list-style-type: none"> <li>› complete implementation and full integration of our ICT systems with practice management and document management systems;</li> <li>› development of external links to clients and key stakeholders; and</li> <li>› website redesign.</li> </ul>	<ul style="list-style-type: none"> <li>› Monitoring of progress against milestones in the ICT strategy.</li> </ul>

**Culture**

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

**Initiatives:**

- › The As and When process.
- › The Workplace Respect and Dignity programme.
- › Regular opportunities for all staff to take part in across the office networking, from the Solicitor-General to the most junior staff.
- › Initiative 2, “demonstrate to staff that they are truly valued” **has identified three themes:**
  - › improved communications;
  - › improvement of relationships between corporate and legal staff; and
  - › equality of access to pastoral care for all staff.

Working at the heart of government means staff are involved with senior levels of executive government and the judiciary on a regular basis. These opportunities are unique to Crown Law, create a deeper understanding of public law issues and are seen as unrivalled professional development by Counsel.

- › Periodic surveys of staff feeling valued.
- › Evaluation of the Workplace Respect and Dignity programme.
- › Measurement of compliance with professional standards which support the delivery of high quality, timely services.

**Relationships**

Crown Law takes a leadership role in the public sector to protect the legal interests of the Government. This role demands strong working relationships with the executive, Parliament, government departments and agencies and the judiciary.

**Initiatives:**

- › Client Relationship Management good practice protocols;
- › enhanced client reporting;
- › client seminars and newsletters;
- › secondments;
- › external peer networking groups; and
- › active involvement in the Justice Sector Agencies Group.

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

**Equal Employment Opportunities**

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

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

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

Work is ongoing under Initiative 2 in our strategic plan to ensure Crown Law continues to be an EEO employer and provides a working environment that people want to be part of and contribute to.

