

4 February 2009

Attorney-General

VOTE: ATTORNEY-GENERAL (CROWN LAW) LINE BY LINE REVIEW.

Departmental chief executives have been asked to carry out a line by line review of expenditure in the Votes they administer. Crown Law administers Vote: Attorney-General.

Summary of review

The Crown Law Management Board, Team Leaders, and Corporate Management have investigated all categories of expenditure and identified some areas where immediate savings (direct and indirect) can be made and highlighted areas for further investigation.

Crown Law charges its clients fees for the legal services provided. In relation to this Appropriation (Legal Advice and Representation) we intend to hold our current fee structure for this financial year, and will investigate further the ability to reduce these fees for the 2009/10 financial year. This will indirectly contribute to the savings that other Departments are able to make.

Subject to the volume and complexity of instructions received from clients, we expect to hold the current staffing level for this financial year.

In addition to the indirect savings identified above, the direct savings identified to date, in Crown revenue funded appropriations, available for Budget 2009 (2009/10 financial year) are \$6,000.

Because of the split-funding source, the direct savings identified above need to be allocated to the correct Appropriation. Due to the short timeframe to undertake the review, together with the annual renewal of some business-as-usual contracts, the opportunity to make savings in respect of these contracts has been limited. We will evaluate these contracts over the remaining period with the intention of realising further savings. In the longer term, savings may be possible in the Appropriation: Supervision and Conduct of Criminal Prosecutions, however this will need a coordinated approach by all Justice Sector agencies.

The review has identified areas where information technology will assist in achieving efficiencies; some of these projects are nearing implementation (ie: Thomson Elite 3E integrated Practice Management and Finance application). The Electronic Records Management component of this implementation is underway. A second Expression of Interest is about to be issued. It is not expected that these efficiencies will create immediate savings, but rather will improve the quality and timeliness of services we provide to our clients.

Background

The Minister of Finance asked for the line by line reviews to:

- identify expenditure that does not align with the government's priorities to free up savings for Budget 2009

- identify areas where there are opportunities for improved efficiency and effectiveness (to inform future reviews)
- build government confidence that chief executives and the state sector management system are well placed to meet the shift that the government is expecting the state sector to make (to inform future reviews).

Vote: Attorney-General Appropriations

Crown Law has no general responsibility for policy formation, nor for the development of legislation. Accordingly, it does not have a Work Programme, as most policy and operational agencies do, which can be scrutinised for consistency with the Government's priorities and for efficiency and effectiveness.

However, Crown Law undertakes work, in four Appropriations, that indirectly contributes to the Government's Law and Order priorities:

Appropriation (Programme)	Linking to Government Priorities	\$ (000)
Supervision and conduct of Crown Prosecutions	Crown Law is responsible for prosecuting indictable crime throughout New Zealand, and contributes to effective Crown Prosecution Services and the justice sector outcome for safer communities that require that offenders be held to account. By its conduct of Crown prosecutions Crown Law also contributes to the outcome of a trusted Justice system in which civil and democratic rights and obligations are enjoyed.	35,742
Conduct of Criminal Appeals	By conducting criminal appeals Crown Law contributes to the Justice sector outcome for safer communities that requires that offenders be held to account. By its conduct in criminal appeals Crown Law also contributes to the outcome of a trusted Justice system in which civil and democratic rights and obligations are enjoyed.	3,274
The Exercise of the Principal Law Officer Function	By supporting the Law Officers, who have a constitutional role in the lawful conduct of Executive Government, Crown Law contributes to democratic government under the law and in the public interest, and to the Justice sector outcome of effective constitutional arrangements.	3,178
	Total Funded by Crown Revenue	42,189
Legal Advice and Representation	Crown Law contributes to the outcomes of its clients and the wider public sector by protecting the Crown's legal interests and	21,110

Appropriation (Programme)	Linking to Government Priorities	\$ (000)
	supporting the responsibilities of the Crown, so that the Government is able to lawfully implement its chosen policies and Executive Government is conducted lawfully. This, in turn, contributes to the outcome of democratic government under law and in the public interest.	
	Total Funded by Revenue Department	21,110
	2008/09 Total Expense Appropriation	63,324

Note: The Capital Appropriations have been excluded.

Discretionary Funding

After eliminating Departmental Revenue, and the costs of the Crown Solicitors, the funding remaining is \$8.407 million, which represents 13.3% of the total expense Appropriation. This amount funds the legal team costs in the Exercise of the Principal Law Officer Functions, Conduct of Criminal Appeals, Corporate Office Costs, Depreciation and Capital Charge.

The line by line review considers only the corporate and legal team discretionary expenditure. Savings and other costs are passed on to clients through regular fee structure reviews.

	\$ (000)
Total Appropriations for Output Expenses	63,324
Less Revenue Department (Legal Advice and Representation)	(21,110)
Less Payments to the Crown Solicitors for the prosecution of Indictable charges (Supervision and Conduct of Crown Prosecutions)	(33,452)
Less Payments to the Crown Solicitors for the Conduct of Criminal Appeals	(355)
Residual funding available to provide:	
Criminal Appeals; Advice to the Principal Law Officers; Corporate costs, ie office accommodation, IT infrastructure, legal library services, finance, human resources, practice management, depreciation and capital charge	8,407

Cost Accounting Policy

As Crown Law receives funding from the Crown and clients, it is important to identify how savings from the line by line review will be apportioned.

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

- Direct costs, being client matter cost and legal team direct costs are directly attributed to an output expense.
- Indirect costs, being all other costs, referred to as corporate costs including depreciation and capital charge, are those costs that cannot be identified in an economically feasible manner, with a specific output. Indirect costs are charged to outputs based on cost drivers and related activity/usage information. Indirect costs are assigned to outputs based on the proportion of direct staff time for each output expense.

The direct staff time by appropriation as at 31 January 2009 is as follows:

Appropriation (Programme)	% of time	Budget
Supervision and conduct of Crown Prosecutions	6.18	7.0
Conduct of Criminal Appeals	10.64	12.0
The Exercise of the Principal Law Officer Function	8.72	8.0
Legal Advice and Representation	74.47	73.0

The percentage of time for Legal Advice and Representation is expected to increase by the end of the financial year to be in the range of 75 to 80 percent of total time, with a corresponding reduction across the other categories. The year to date time is impacted by the timing of annual leave of legal staff.

The outputs of the identified savings need to be determined to ensure the saving is correctly allocated as either Revenue Crown or Departmental Revenue.

Crown Prosecution Costs

Crown Solicitors' fees are paid in accordance with the Crown Solicitors Regulations 1994. The cost of prosecuting indictable crime is inextricably linked with the wider criminal justice process and the need to provide effective legal representation to prosecute serious crime. No immediate reductions in costs can be identified for the purpose of the line by line review, but in the longer term there may be opportunities to significantly reduce the costs to the state of conducting criminal trials. Crown Law can assist the Ministry of Justice, Law Commission and other sector agencies in the policy work that would underpin such major initiatives.

Financial risks

Crown Law did not report any specific financial risks in the Pre-election Economic and Fiscal Update.

There are no specific financial risks at present. However, there are significant delays in the criminal justice system, and actions taken to resolve this issue pose a financial risk to Crown Law. In previous years the judiciary and courts have taken initiatives, or proposed policy and

operational changes, that had a significant impact on the costs of the Crown Prosecution services. There was no scope for Crown Law to fund these increased costs from within its baselines, and in previous years additional funding has been sought.

Without additional funding the Crown Prosecution service are obliged by the Public Finance Act to cease all prosecutions once the funding is extinguished until such time as funding is made available or the commencement of the new financial year.

It is expected that any temporary cessation of criminal prosecutions would receive significant adverse public comment and be inconsistent with the Government's stance on law and order issues.

We anticipate that some contracts (ie accommodation and electricity etc) will result in cost increase at the contract renewal.

Cheryl Gwyn
Acting Solicitor-General