

Vote Courts

Baseline Alignment Proposal

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Submitted by:

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Section 1: Alignment to Government Priorities

To focus government activity on *better, smarter, front line services* in courts, I need to invest in the court processes and backroom systems that will deliver improvements to the front line. The Ministry of Justice delivers front line criminal and civil court services. This proposal describes striking the balance between maintaining the funding for these core services and reprioritising to invest in long term improvements. I have reprioritised operating funding to absorb cost pressures with as little impact to core service delivery as possible.

Developing a less costly model for running courts that is sustainable over the long-term is the top priority in this Vote. This is necessary if our court system is to cope with a sustained volume increase and still deliver acceptable levels of access to justice for New Zealanders at a sustainable cost for individuals and the state. The Minister of Justice has also made this a high priority area.

This is an ambitious priority with three major workstreams and that will require the cooperation of the entire justice sector and almost all the multiple players in the system. The workstreams are Criminal Procedure (Simplification) project (CPS), Audio-visual Links (AVL), and moving to an Electronic Operating Model (EOM).

These three workstreams, along with the Courts and Criminal Matters Bill (CCMB), are the Ministry's Performance Improvement Actions (PIAs).

My 2010 priorities are:

- Improving court services through work programmes such as CPS, AVL, and EOM
- The contribution of court services to addressing the drivers of crime
- Improving the collection of fines and infringements, including progressing the CCMB
- Implementing the Government's post election priorities.

Critical things that need to happen

Improving court services through work programmes

The criminal court process in New Zealand has not fundamentally changed in the last 50 years. Criminal courts cost half a billion dollars per year to operate across the justice sector. Three key factors inhibit efficient criminal procedure:

- Criminal procedure legislation is very prescriptive and requires the use of manual processes, and prevents the use of technology
- It requires the physical presence of all participants in one place (a courtroom) at the same time, with a range of paper-based supporting information
- There are no incentives or sanctions on participants to make the court appearance meaningful and progress the case.

The PIAs will address this with new legislation, and a major shift in operating processes and an investment in technology to enable efficiencies. The proposals are dependent on the

legislative process, the justice sector's continuing support and the availability of appropriate resourcing.

Criminal Procedure (Simplification) project

Under entirely new legislation, the CPS will fundamentally change the criminal justice process. Changes include:

- Requiring parties to progress case-related discussions outside of formal court events thereby reducing by 30-50% the average number of events per case. Eliminating unnecessary court events reduces the overall cost per case.
- Hearing cases in the appropriate jurisdiction, removing the need for expensive jury trial processes for straightforward and less serious matters.
- Providing clear obligations for parties, and sanctions when they do not comply.
- Enabling the use of technology in court processes

The benefits are 9,700 court sitting hours per annum freed up (equivalent to an additional 9%), with which courts can hear 6,500-7,000 more defended cases, or 550-600 more jury trials per annum. The *time to disposal* for trials will reduce by about 25%. Current modelling indicates that 300 remand beds will be saved by 2017. There are direct savings in jury fees, and property costs and judicial appointments are avoided.

Under the scaled option the timing of the proposals changes, however the scope and benefits are largely unchanged.

Audio Visual Links in Courts and Corrections (AVL)

Prisoners are currently transported from prisons to courts for all appearances. Where courts and prisons are set up for AVL, 50% of remand appearances will be conducted using AVL technology.

AVL facilities will generate transport savings and efficiencies, enhance public, judicial and prisoner safety, and enable the justice sector to absorb within baselines more of the costs associated with a growing remand population.

The average price of a remand appearance by AVL is \$21 compared to \$81 for an in-person appearance.

Under a scaled option, AVL facilities will be installed in two District Courts and one prison with a consequential reduction in cost and benefits.

Electronic Operating Model for the Court System

The courts system is one of the few examples today of a significant national service that still relies predominately on paper.

The proposal would begin to replace the paper based system with an electronic system, starting with the high volume criminal summary jurisdiction. This means the entire process from filing through to case management and disposal of the approx 330,000 criminal summary charges will occur electronically. The system would link Police, Corrections and

the courts electronically. A lower unit cost for processing cases better positions agencies to deal with future demand.

The benefits include 3,500 sitting hours freed up per annum, allowing the courts to hear 14,000 - 15,000 more administrative events. Not handling paper will free up 32,000 Police hours, 48,000 court registry hours and 12,000 counsel hours per annum.

Under the scaled option the scope, costs, risks and benefits are substantially reduced.

Court's Contribution to Addressing the Drivers of Crime

The courts are taking the lead in attempting to link defendants to appropriate support services as a step to reducing re-offending. A number of initiatives in this arena are small in scale, judicially led and will be supported by the Ministry of Justice's existing baseline.

Improving the collection of fines and infringements

This priority makes monetary penalties more credible and generates crown revenue. Monetary sanctions are crucial to the overall operation of the justice system. If they are not enforceable and collected, they are replaceable with costlier sanctions administered by the Department of Collections.

Implementing the Courts and Criminal Matters Bill (CCMB)

Changes being made through the CCMB include:

- Introducing the enforcement tools of Credit Reporting and Driver Licence Stop Orders will create substantial leverage for those who value their credit rating or drivers licence to pay overdue fines. This will result in an additional \$20m (Crown revenue) of penalties collected each year once fully implemented.
- Changes to the most commonly used civil enforcement processes will deliver a simple and inexpensive civil enforcement service for both creditors and debtors.
- Modernising the enforcement legislation to remove the requirement for face to face and paper based transactions.
- Amending the legislation around reparation, to permit an offender to be resentenced if they received a reduced sentence but subsequently do not pay the promised reparation.

Implementing the Government's post election priorities

The legislation enabling our post-election priorities has been passed, or has made significant progress in the House.

In conjunction with the legislative workstreams, the Ministry has been working to successfully implement six pieces of legislation, and was funded through Budget 2009 to do so.

Risks arising from my intentions

The PIAs lead to a scale of the change to the criminal court system that is ambitious. The nature of the system is that there are multiple independent players. The Ministry is managing these risks through the involvement of sector agencies in the design process of the PIAs, gaining joint support for the work as well as having a detailed understanding of the impacts of the PIAs.

To not proceed with the PIAs is also a risk. The wider court system will continue to use the current, expensive model for delivering services.

Priorities that I have deferred to 2011 or beyond

Instead of deferring any of the PIA, I have chosen to reduce the scope of the work or spread the implementation out over several years. This has enabled these all to proceed within the funding options discussed in this proposal.

Priorities and opportunities that I am not pursuing

The following will not be funded in 2010/11:

- The full implementation of the Family Court matters Bill, notably funding for Senior Family Court Registrars and non-Judge led mediation in the Family Court. These are both championed by the Principal Family Court Judge.
- *[information deleted in order to protect the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials].*
- The continuation of the court-assisted mediation pilot in the Auckland High Court. This pilot commenced in 2009 and covered court ordered mediation for some civil disputes.

Section 2: Reprioritisation

Justice Sector Overview

The justice sector's reports for Budget 2010 Phase 1 and Phase 2 highlighted that the justice sector cannot cope with ongoing volume pressures in a fiscally sustainable way. In Budget 2010, the immediate service delivery risks and Vote Ministers' priorities that the justice sector cannot absorb or defer currently amount to \$189.688m operating (excluding operating expenses relating to the Prison Capacity Business Case and the Courts and Criminal Matters Bill). Aside from these pressures, in Budget 2010 the justice sector proposes to absorb \$624m pressures within baselines and has identified fiscal risks for future Budgets of \$614m.

Over the past decade the demand for justice sector services has substantially increased and is reflected in higher volumes of prosecutions, court cases, prisoners, and offenders managed in the community. The current business model is underpinned by an extensive legislative and policy framework (often built on legislation that is over 50 years old). This model cannot cope with continued increases in demand.

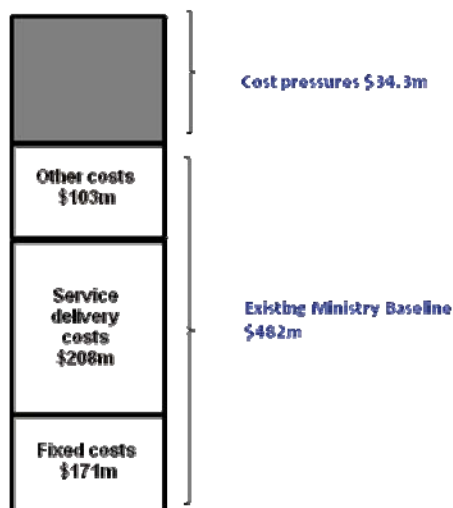
The justice sector has considered a range of strategic options that will help to transform its business model to be more fiscally sustainable. The key strategic choices are the Police, Courts and Corrections' Performance Improvement Actions (PIAs) that aim to reduce volumes through the courts and prisons, and improve the efficiency and effectiveness of the criminal justice system – thus contributing to the Government's drive for 'better, smarter public services for less'. Sector Ministers have agreed that these PIAs are an important priority for the justice sector.

The sector is proposing to allocate operating funding in Budget 2010 for criminal justice PIAs – Criminal Procedure Simplification (CPS), Electronic Operating Model (EOM) and Audio-Visual Links (AVL) – these initiatives will improve efficiency in the courts and provide other benefits, at a lower level, for Police and Corrections. These PIAs also complement and support important aspects of other sector PIAs – the Police Comprehensive Approach to Policing Excellence (CAPE), such as the alternative resolutions and case management initiatives, and Corrections' The Way Forward, in particular the Community Probation Service change programme and the focus Corrections is taking in relation to rehabilitation and reintegration.

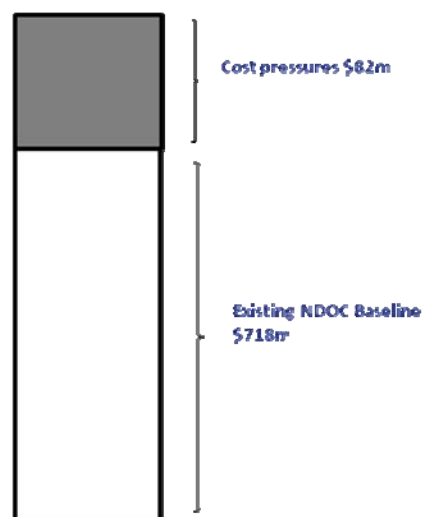
The sector has developed scaled-back options for funding CPS, EOM and AVL in Budget 2010 and out-years, and will sequence implementation in a coordinated way. Funding for CAPE is not sought in Budget 2010 and Corrections proposes to self-fund the initial implementation of The Way Forward in 2010 from efficiency savings, however funding for these PIAs may be required in Budget 2011 and future Budgets.

In phase one of the Budget process, the Ministry of Justice identified significant cost pressures in both its baseline and non departmental expenditure in 2010/11. The Ministry has completed further work to quantify these cost pressures and current figures are shown below:

Ministry Baseline



Non Departmental



To address these combined cost pressures of \$116.3 million, the Ministry has applied a number of funding sources and strategies. These are:

- Application of the justice sector allocation (\$50.8m)
- Absorbing costs within existing baselines (\$12.9m)
- Transfer of 2009/10 efficiency savings (\$7.4m)
- Reducing the scope and cost of initiatives (\$14m)
- Deferred to be dealt with in the November report back on options to establish a sustainable and affordable baseline for legal aid (\$24.5m)
- Application of justice sector savings (\$2.4m)

[information deleted in order to protect the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials].

As directed by Cabinet [Cab Min (10) 6/5], the funding source for settlement of Treaty claims by 2014 (\$3.4m) has been referred for consideration to the broader budget process.

The tables below summarise these cost pressures and how I propose to address them:

Departmental Cost Pressure	Amount	Addressed by	Amount
Electoral Reform (incl. MMP, Electoral Finance Act & conduct of general election)	\$5.8m	Justice sector allocation Ministry savings 2009/10 c/fwd Reduce costs of initiatives	\$2m \$3m \$0.8m
Cost pressures within the Ministry (incl. rent, rates, depreciation, pay)	\$17.3m	Absorb within baseline Ministry savings 2009/10 c/fwd	\$12.9m \$4.4m
PIA (as submitted 5 February 2010)	[deleted – confidentiality of advice]	Reduce scope / cost of initiatives Justice sector savings (1) Seeking capital funding (2)	[deleted – confidentiality of advice]
Other unfunded priorities (incl. constitutional review, EIP)	\$1.6m	Justice sector allocation	\$1.6m
Year one costs of meeting Treaty 2014 target	\$3.4m	[deleted – confidentiality of advice]	\$3.4m
Total	\$34.3m		\$34.3m
Non Departmental Cost Pressures	Amount	Addressed by	Amount
Legal Aid and Provider Remuneration	\$33m \$10m	Justice sector allocation – Legal Aid Justice sector allocation – Provider Remuneration Report back in November 2010 with revised forecast and policy options (4)	\$18m \$7m \$18m
Legal Aid Review Implementation	\$16m	Reduce scope / cost of initiatives Justice sector allocation	\$10m \$5.7m
CLCs	\$11m	Justice sector allocation Contribution from Special Fund	\$3.8m \$7.2m
Court Related Costs	\$12m	Justice sector allocation	\$12m
Total	\$82m		\$82m

Note (1): *[information deleted in order to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials].*

Note (2): *[information deleted in order to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials].*

Note (3): Cabinet has agreed in principle to increase the funding for Treaty settlements, however the source of this funding has not yet been confirmed. Cabinet agreed to explore whether the funding could be met from any other Vote as part of the current Baseline Alignment Process [deleted – confidentiality of advice [Cab Min (10) 6/5 refers] . As the Treaty negotiations sector is not part of the core justice sector, I do not propose savings to offset the additional funding required to meet the 2014 target.

Note (4): Cabinet has invited the Minister of Justice to report to Budget Ministers by 30 November 2010 with options to establish a sustainable and affordable baseline for legal aid and community law centres for consideration in Budget 2011. As a consequence, forecast legal aid cost pressures in 2010/11 have not been addressed in this proposal.

What would be new or different?

Performance Improvement Actions (PIA)

As stated above, the justice sector has agreed to give priority to funding performance improvement actions that will benefit the sector (Criminal Procedure Simplification “CPS”, Electronic Operating Model “EOM” and Audio Visual Links “AVL”).

While sector Ministers were invited to submit capital investment proposals to the capital process, I recognise that there are already high priority commitments against the Budget 2010 capital allocation. *[information deleted in order to protect the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials].*

This recognises the importance of the PIA in addressing demand pressures across the sector.

Initial proposals submitted to the capital process on 5 February have been scaled to take into account of recognised funding constraints and business cases will be revised to show the impact associated with funding PIA at the revised level. Although a reduced scope is proposed to that initially envisaged, significant benefits will still be achieved from these initiatives. A summary of the changes is set out in the table below:

PIA	Change from original business case	Impacts of Change
Criminal procedure simplification (CPS)	Spread the implementation differently over the two year implementation period.	Provides a greater level of certainty about the content of the regulations before detailed implementation commences. Allows further work to be completed with the sector to factor in the impact of other sector PIA on volumes. Core benefits will be retained.
Electronic Operating Model (EOM)	Implements the most significant aspect of the overall EOM model for criminal summary, the replacement of the criminal charge form.	Moves towards having an electronic court record, but reduces the fiscal and change impacts of implementation while focusing on a core element of current inefficiency.
Audio Visual Links (AVL)	Reduce the number of installations from 15 to 7.	Recognises fiscal impact on operating costs. A reduced number of key AVL installations will provide a strong demonstration of benefits.

PIA	Change from original business case	Impacts of Change
Courts and Criminal Matters Bill (CCMB)	Deliver the first, and most high profile lever (credit reporting) as planned.	Drivers Licence Stop orders would be delayed. This results in lower initial revenues but allows the consideration of legislative change in other areas to contribute to the implementation costs in the longer term.

Agencies within the sector have agreed to self fund the capital component of the PIA.

For the Ministry of Justice, this means a reduction in the property capital work programme. Projects that are already underway will be completed and only those projects that address critical capacity issues will remain on the work programme.

The Information and Communications Technology capital programme has also been reprioritised to focus on core systems maintenance, management of the more acute risks and establishing systems to support implementation of the PIA.

[information deleted in order to protect the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials].

As described above, to make this proposal more affordable, an option has been developed to deliver credit reporting in the initial phase and delay the implementation of drivers licence stop orders. This allows the Ministry to look at proposals for personal service of documents which require legislative change but are expected to deliver significant financial benefits. It also allows the Ministry to work with the other agencies to ensure coordination of system changes across agencies to minimize cost.

What would stop or decrease?

In order to ensure baseline funding is able to be allocated to areas of greatest need, I have agreed to the Ministry taking a range of cost reduction actions. Areas that do not directly and immediately affect front line service delivery have been targeted in order to maintain outputs at the same level as the 2009/10 year.

The Ministry has already commenced some of these cost reduction initiatives in order to make savings in 2009/10 to carry forward for 2010/11. On this basis, it is anticipated that the Ministry will maintain the same level of outputs in 2010/11 as 2009/10 although with a increased level of underlying risk.

Examples of these actions are set out below:

Area of cost reduction:	Likely impact:
Reducing staff costs. ²	Increased risk of service failure and extremely limited capacity to address changes in volume or undertake new activities.
Reducing travel, library, training and specialist services budgets (including judicial budgets).	Reduced capacity within the Ministry to undertake new projects, respond to unexpected events and to sustain existing service levels.
Reducing property maintenance budgets (3-5 years).	Slower response to non critical maintenance issues, condition of court properties will visually deteriorate.
Reducing capital spend by removing all property refurbishment and all non critical ICT spend from the capital plan in the foreseeable future (3-5 years).	Extremely limited capacity to respond to new technology requirements or refresh non critical infrastructure. ICT asset replacement will occur on a slower timeframe increasing the risk of breakages and unplanned down time.
Renegotiating major supplier agreements.	Reduces longer term contractual flexibility.
Resourcing the policy team to deliver a work programme that focuses on agreed Ministerial priorities only.	Limited capacity for additional activity.

I have looked at options for further cost reductions but consider that the impact of these actions would be detrimental to front line service delivery and the Ministry's ability to sustainably deliver on Government priorities.

² The Ministry carried out restructuring in 2009/10. Future plans to reduce staff costs may involve further restructuring but will initially focus on maintaining a vacancy lag of up to 150 positions.

Section 3: Summary of Financial Movements

Baseline Alignment Proposal - Financial Summary Report

Vote: Courts	2009/10	2010/11	2011/12	2012/13	2013/14
	\$,000	\$,000	\$,000	\$,000	\$,000
Baseline (2009/10 FBU)	706,964	724,941	726,533	726,829	726,858
Share Allocation	8,173	13,053	13,461	13,891	13,891
Centralised Saving	(3,650)	4,400	0	0	0
Reprioritisation	0	0	0	0	0
Total Reprioritisation	0	0	0	0	0
Transfers Outside Vote			[deleted – confidentiality of advice]		
Total Transfers Outside Vote			[deleted – confidentiality of advice]		
Total Changes	4,523		[deleted – confidentiality of advice]		
Total Proposed Baseline	711,487		[deleted – confidentiality of advice]		