

Vote Justice

Baseline Alignment Proposal

Version [5 March 2010]

8 March 2010

Submitted by:

Hon Simon Power

Section 1: Alignment to Government Priorities

I am responsible for leading the justice sector, through setting priorities and managing the Crown's ownership interest in the sector agencies, policy and legislation across domestic and international law, crime, public safety, youth and family justice, legal aid, civil justice, human rights, quality of regulation, contemporary Treaty of Waitangi issues, and the electoral system.

I intend to address the drivers of crime, improve public safety and reduce the cost of the criminal courts process. I also intend to achieve reform of other justice sector institutions, particularly in the electoral system.

Activities have been reprioritised within the Vote Justice baseline to ensure progress on my priorities. There are risks for 2010/11 from these reprioritisations.

Support to achieve my priorities is purchased from the Ministry of Justice. In effect, the bulk of the core service delivery of the Ministry of Justice outside the Courts area is to Ministers and Parliament but the effects are felt tangibly and immediately by the public in many areas including access to criminal and civil justice, regulation of alcohol and democratic participation.

Demand for justice services will continue to grow strongly. The justice sector reforms that I and my sector colleagues are leading will slow the rate of growth as well as improve cost effectiveness. These reforms require policy, legislative, operational and technological capability to be retained in the Ministry of Justice.

[Deleted in order to maintain the effective conduct of public affairs through the free and frank expressions of opinions].

Priority 1 – Improving the functioning and efficiency of court processes

- The Courts (Remote Participation) Bill, enabling audio-visual links to be potentially used in all court proceedings, should be progressed this year.
- A new Criminal Procedure Bill will be introduced to further improve efficiency in court proceedings. A draft 'exposure' bill will be released for consultation soon.
- Following the recent release of the fundamental review of New Zealand's legal aid system by Dame Margaret Bazley, work is now underway on the Government's response to the report.
- *[information deleted in order to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials].* In particular, the Bill will deal with the issues regarding the previous complaints of sexual violence victims, as well as more efficient methods for presenting complex expert evidence. Passage of the Trans-Tasman Proceedings Bill will implement the agreement between the Governments of Australia and New Zealand on Trans-Tasman Court Proceedings and Regulatory Enforcement, to ensure that the resolution of legal disputes across the Tasman is cheaper, more efficient and less complicated.

Priority 2 – Addressing the drivers of crime

- Addressing the drivers of crime is critical to reducing the flows into the criminal justice system and is an important element for managing cost pressures and improving value for money in the justice sector.
- Initial cross-government action on addressing the drivers of crime will focus on the following four priority areas: antenatal/maternity and early parenting support; treatment of behaviour problems in children and young people; reducing the harm caused by alcohol (see below); alternative approaches to managing low-level offenders and offering pathways out of offending.
- The Law Commission has provided me with its preliminary recommendations regarding its liquor review, and will provide me with a final report on liquor issues by 31 March 2010. Subject to Cabinet decisions, legislation will be introduced this calendar year and will be substantially progressed, if not passed, by the end of the year.

Priority 3 - Progressing electoral and constitutional reform

The Government has several significant commitments to fulfil in the electoral and constitutional sphere:

- Introduction and passage of a Bill to enable a referendum on MMP to be held in conjunction with the 2011 election
- Introduction and passage of a Bill to reform electoral finance law.
- The establishment of a group to consider constitutional issues, including Māori representation, as part of the Relationship and Confidence and Supply Agreement with the Māori Party.
- Passage of the Electoral (Administration) Amendment Bill to enable the amalgamation of the Electoral Commission and Chief Electoral Office into the new Electoral Commission. The second stage will involve another Bill to transfer the functions of the Chief Registrar of Electors to the new Electoral Commission.

Priority 4 - Improving the Responsiveness of the Justice System to Victims

- The introduction of a Bill amending the Victims' Rights Act 2002 is likely to result from the Enhancing Victims' Rights Review discussion paper.
- The implementation of the offender levy will commence in July 2010.
- The Child and Family Protection Bill, which aims to improve the responsiveness of the courts to domestic violence and enhance the protection of children and families, should be progressed.
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Priority 5 - Enhancing public safety

Although much of this work has been completed in 2009, a number of projects remain:

- The Crimes (Offences Against the Person) Bill will rationalise offences in Part 8 of the Crimes Act, which deals with offences against the person such as assaults, injury and homicide. Among other things, reform of Part 8 will strengthen the ability of the criminal law to respond to offending against children.
- Implementation of changes to the Criminal Investigations (Bodily Samples) Act 1995 will be phased in two stages. After the first stage in July 2010, a full review of the Act will also be completed prior to implementing the final stages of this reform in August 2011. This review will lead to a series of further proposed reforms to enhance this important criminal investigations tool.
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- An amendment to the Prisoners' and Victims' Claims Act 2005 will be sought to extend the Act's sunset clauses, which are currently due to take effect on 1 July 2010. This will enable victims of prisoner claimants to continue to have the opportunity to claim against any compensation awarded by a court or paid pursuant to a settlement agreement.
- Progressing the Search and Surveillance bill towards enactment as part of the Prime Minister's anti drug strategy.

Other priorities

In addition to the five priorities set out above, there are a number of priorities relating to human rights and international obligations that need to be progressed in 2010:

- Passage of the Human Assisted Reproductive Technology (Storage) Amendment Bill
- Presentation of New Zealand's fifth report under the International Covenant on Civil and Political Rights to the United Nations Human Rights Committee in March 2010.
- Response to the recommendations of the United Nations Committee against Torture by May 2010
- Progress on accession to the Hague Convention on the Protection of Children, which aims to provide jurisdictional certainty in cross border matters involving children by clarifying which country's court or child protection authorities has jurisdiction to make decisions.
- *[information deleted in order to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials]*
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Justice staff also support the Attorney General in the review of the Foreshore and Seabed legislation which is a priority of the Government. The key priority for the forthcoming financial year is completion of legislative change with the balance of the year devoted to implementation and negotiation with Iwi.

In addition, as 2009 has shown, there is potential for a number of other, 'reactive' issues to arise and assume priority, such as compensation claims or requests for inquiries.

Risks arising from my intentions

The Criminal Procedure Simplification represents the most significant legislative and operational change made to the criminal justice process in the last 50 years. As outlined in the Minister for Courts Baseline Alignment submission, managing and implementing this change is an ambitious undertaking involving multiple agencies.

The implementation of Dame Margaret Bazley's review of legal aid represents a significant step change in improvement of publicly funded services to New Zealanders. Given the size of the challenge contemplated and the current fiscal environment, as well as the impact on stakeholders, the proposed changes are at the limit of what can be achieved in the year ahead. Further work involving other justice sector agencies may be possible in outyears.

Priorities that I have deferred to 2011 or beyond

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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.

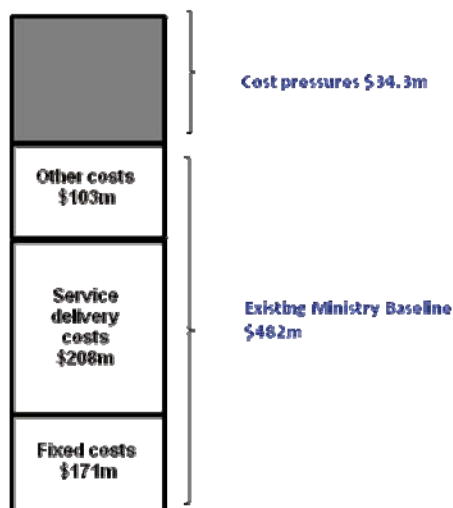
The justice sector has considered a range of strategic options that will help to transform its business model to be more fiscally sustainable. The key strategic choices are the Police, Courts and Corrections' Performance Improvement Actions (PIAs) that aim to reduce volumes through the courts and prisons, 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.

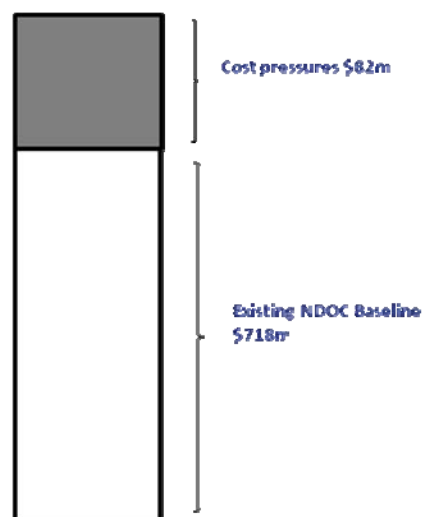
The sector has developed scaled-back options for funding CPS, EOM and AVL in Budget 2010 and out-years, and will sequence implementation in a coordinated way. Funding for CAPE is not sought in Budget 2010 and Corrections proposes to self-fund the initial implementation of The Way Forward in 2010 from efficiency savings, *[deleted – confidentiality of advice]*.

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 maintain 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], other baselines (3)	\$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 protect the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials].*

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

Note (3): *[information deleted in order to protect the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials].*

Note (4): Cabinet has invited me 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.

Funding to support implementation of the Courts and Criminal Matters Bill (CCMB) will be considered as part of the Budget capital process and is not funded as part of the proposed sector allocation. 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: Justice	2009/10	2010/11	2011/12	2012/13	2013/14
	\$0	\$0	\$0	\$0	\$0
Baseline (2009/10 FBU)	278,087	254,106	261,626	237,408	237,380
Share Allocation	19,448	37,712	11,206	1,251	1,157
Centralised Saving	(3,750)	3,000	0	0	0
Reprioritisation	0	0	0	0	0
Total Reprioritisation	0	0	0	0	0
Transfers Outside Vote	0	0	[deleted – confidentiality of advice]		
Total Transfers Outside Vote	0	0	[deleted – confidentiality of advice]		
Total Changes	15,698	40,712	[deleted – confidentiality of advice]		
Total Proposed Baseline	293,785	294,818	[deleted – confidentiality of advice]		