

# The Treasury

## Budget 2011 Information Release

### Release Document

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In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

**Vote Courts**

Four Year Budget Plan

Version 2.1

10 February 2011

Submitted by:

**Ministry of Justice**

## Section 1: New Baseline and Summary of Changes

### *Direction of Change*

Over the next four years, the priorities for justice sector Ministers are to focus on maintaining public confidence in the justice system, continuing to implement performance improvement actions across the sector, and to progress new initiatives which will reduce volumes and cost across the justice sector.

In Budget 2011, there are a number of justice sector cost pressures which require immediate funding to ensure that existing services are maintained and Government policy priorities are implemented – including legal aid, Community Law Centres, Crown Solicitor services, Serious Fraud Office, electoral activities, the constitutional review, audio-visual links and [2]

Justice Sector Ministers have signed a "Justice Sector Budget Overview" document addressed to Budget Ministers, which:

- proposes an allocation of the justice sector operating allowance of \$160 million
- [2]
- 

Over the next four years Vote Courts activity will be focused on improving delivery and support for core court services through:

- High quality, fiscally sustainable front line services
- Efficient support functions
- Implementing improvements to processes and services that are either fiscally neutral or generate benefits

Particular priorities are in the following areas:

- Improving the functioning and efficiency of the court process, with a particular emphasis on implementing reforms to criminal procedure
- Implementing a specific strategy for Auckland to meet the needs of this growing region
- Making better use of technology to support the operation of the courts
- Collecting more fines and reparation through a comprehensive package of legislative, operational and technology improvements
- Supporting targeted initiatives aimed at reducing re-offending (such as problem solving courts) provided they have a minimal fiscal impact, and an increased focus on improving responsiveness to victims
- [2]

These priorities will be managed within the context of the current fiscal environment.

### *Operating changes*

For Vote Courts the key operational changes will be:

- Implementing the legislative reforms arising from the Criminal Procedure (Reform and Modernisation ) Bill
- Reconfiguring the service delivery model for the Auckland district courts, including a hub-and-spoke model for the family and civil jurisdictions
- Implementing business and technology solutions to support the improved utilisation of courtroom assets
- Completing work on the segmentation and workflow management in the collections unit, which represents a transformational change to how the collections operating model works
- Implementing the Courts and Criminal Matters Bill (if passed) which modernises collections related legislation and creates new enforcement measures

### *Capital*

Capital to support the courts is funded from within Vote Justice. An approach to long term capital planning for the court system has been agreed that is significantly weighted to investment in technology reducing the need for investment in property.

### *Overall Impact*

<b>Operating</b>	<b>Impact (\$000s)</b>				
	<b>2010/11</b>	<b>2011/12</b>	<b>2012/13</b>	<b>2013/14</b>	<b>2014/15</b>
Current Baseline	722,336	727,651	686,672	686,801	686,969
Cost of new/increased activities	0	18,943	27,429	29,141	41,247
Amount reprioritised	(15,000)	(8,943)	(22,429)	(29,141)	(41,247)
New baseline	707,336	737,651	691,672	686,801	686,969

## Section 2: Vote Priorities and Pressures

### *Priorities for Vote Courts*

Set out in Section 1 are the broad priority areas to be agreed with the Prime Minister. These priorities are consistent with the Government's focus on driving better performance across the public sector, encouraging innovation, reforming regulations, boosting infrastructure and making communities safer.

### *Cost Drivers within the Ministry of Justice*

Costs within the Ministry of Justice are primarily driven by:

- *Volumes entering the court system (Vote Courts)*. Over the last five years, district court criminal case volumes, the key factor in this cost driver, have increased by 14%. While actions in the sector have reduced growth over the last 12 months, criminal volumes entering the courts remain the key cost driver in the courts and the biggest risk to future sustainability.
- *The operational processes within courts and tribunals (Vote Courts)*. Policy decisions from either within the justice sector or across government can have material flow-on impacts on the volume and type of cases entering the court system. In addition, courts and tribunals have evolved over many years to be highly complex, with operational processes set out in prescriptive legislation, limiting the ability to effect operational changes (such as greater use of technology).
- *Decisions of independent actors in the justice system (Vote Courts)*. The court system features independent actors including Police, prosecutors, and the judiciary. [2]
- *Configuration of the courts estate (Votes Courts and Justice)*. For operational and historical reasons, the courts network is based around having a court in most towns in New Zealand. This is because the court system has always required court users to be in the courthouse, in person, for most processes. Courts must also be accessible for local Police and Corrections. [2]
- *Public expectations of access to justice (Votes Courts and Justice)*. The requirement to fund those who cannot afford adequate legal representation and the need to resource courts and tribunals to a level that allows matters to be dealt with in a timely manner.
- *Policy work programme (Vote Justice)*. Expectations of integrated and responsive policies and legislation which are in step with public opinion and corresponding need for change.
- *Electoral requirements (Vote Justice)*. A three year election cycle and the need to run other democratic processes, combined with an agreed programme of electoral reform.

- *Honouring settlement commitments (Votes Treaty and Justice)*. The aspirational goal of settling historical claims within a specific timeframe and doing this through an agreed negotiation process.

When considering cost pressures and the response to be made to them the Ministry has reviewed these drivers and is continuing to implement a range of activities which provide a pathway to constraining cost growth and developing a sustainable Ministry baseline. The strategies for addressing cost pressures are discussed in the section entitled *measures to address operating cost pressures* (page 7).

#### *Major Pressures Facing the Vote*

The cost drivers identified above generate cost pressures across Votes Justice, Courts and Treaty as set out in the table below. The current financial environment requires a constant focus on these drivers in order to control or reduce volumes and minimise cost rather than an increase in expenditure to meet demand across the sector.

<b>Operating Cost Pressure Description</b>	<b>Note</b>	<b>Vote</b>	<b>Pressure to 2014/15 \$M</b>
Legal aid and community law centres – costs associated with growth in legal aid and a reduction in baseline funding.	1	Justice	416
Contractually committed salary adjustments	2	All	84
<b>[2]</b>			
General election and electoral referenda	4	Justice	35
Family and Youth Court professional fees (volume growth)		Courts	10
Coronial services (volume growth)		Courts	6
<b>[2]</b>			
Other cost pressures	5		21
<b>Total</b>			<b>592</b>

#### **Notes:**

##### 1. Legal Aid and Community Law Centres

Legal aid is forecast to increase from \$166m per annum in 2010/11 to \$207m per annum by 2014/15. By this time legal aid would be \$106m per annum over appropriation. This growth has been as a result of increases in the price per grant, the number of grants and the amount of legal aid repaid and flows in large part from policy changes to the granting of legal aid made by the previous government.

Revenue for community law centres is drawn from the Lawyers and Conveyancers Special Fund. The performance of the fund is linked to the housing market and is therefore highly volatile. Additional funding of \$14m over the forecast period is required to ensure that community law centres are returned to a sustainable funding model.

## 2. Salary Adjustments

The Ministry has settled collective employment agreements which will result in defined salary increases for most staff over the next three years. The Ministry has committed to paying these modest increases provided staff reach certain levels of performance relative to their position in their pay band. The collective employment agreement was settled within the agreed government negotiation parameters and, despite these increases, Ministry staff will remain significantly under the median public sector salary levels.

[2]

## 4. General election and electoral referenda

Electoral Commission pressures over the forecast period have three components. The first component of these pressures relates to the funding of the Electoral Enrolment Centre (EEC).

The EEC has not had an increase in baseline funding since 1999. This pressure is [2] to cover the volume and price pressures and to maintain the current levels of enrolment services. [2]

There are choices about the levels of enrolment and accuracy of the rolls that can be achieved with different levels of funding.

The second component of the electoral pressures relates to preparing and managing the second part of the referendum on MMP [2]

[2] This pressure may not eventuate as it is dependent on the outcome of the first part of the referendum. If the second part of the referendum is required, options will be available regarding the service levels to be provided to voters and the quality of the education campaign.

A third component is the cost of the Representation Commission in [2]

The work of the Representation Commission is not funded in baselines because it occurs once every five years.

## 5. Other cost pressures

This includes the estimated costs of the constitutional review arising from the supply and confidence agreement [2], increases to rent, rates and other property costs (\$8m) and a variety of other costs including enhanced victim services (arising from the victims' rights review), increased demand for interpretation services and [2]

## *Capital Cost Pressures*

In previous years, the Ministry has signalled the likely need for significant investment of capital to address demand growth in Auckland. [2]

This capital cost pressure was based on a traditional view of property based solutions to address workload issues. It did not fully consider better asset utilisation opportunities or the benefits that service design and technology changes can bring.

This approach has now been fully revised and a new approach developed based on detailed volume analysis and the need to be agile in an evolving environment. This revised strategy requires no external capital funding.

The principles of the strategy are:

- Maximising investment of available capital in technology and minimising investment in property.
- Technology investment as the platform for achieving future value for money and improved service.
- Modifying the courts operating and service delivery model to maximise the use of capital assets where that delivers the most benefits.
- Property investments targeted first at critical fitness for purpose and security issues, and for modifications to enable maximum utilisation [2]
- Any investment in increased courtroom capacity is based on existing resources being fully used, and technology and service delivery improvements fully accounted for.

Based on these principles the Ministry has developed a set of inter-dependent initiatives to achieve a balanced capital budget over the forecast period while meeting currently projected demand pressures and investing in business improvement responsibly.

These key initiatives are:

- Reconfiguring registry services across Auckland in a jurisdictionally based hub-and-spoke management model, which creates critical mass efficiencies by consolidating jurisdictional management and expertise. This model also frees up key physical spaces in court buildings.
- Using technology such as audio visual links with prisons, the national transcription system and the electronic operating model (when it comes on stream) to lessen dependence on having all participants and support to the court process in the same location.
- Improved rostering and scheduling capability [2] to improve the utilisation of courtroom assets and people resources. [2]



[2]

Both are needed to achieve the necessary gains. The Ministry will re-assess volume demand at regular intervals to check that the approach remains effective and appropriate.

*Measures to Address Operating Cost Pressures*

Section 3 below discusses the areas of reprioritisation that are proposed to balance the four year cost pressures outlined above. These detailed proposals are part of a comprehensive range of initiatives to address the cost drivers within the Ministry and move to a sustainable funding path. The following table describes the key elements of the Ministry's comprehensive work programme to achieve sustainability:

Cost Driver (refer above)	Programme of Work
Volumes entering the court system (Votes Justice and Courts)	<p>Focused multi-agency work is underway to address the key cost drivers in the courts and wider justice system.</p> <p>Through cross-agency work on Addressing the Drivers of Crime, the Ministry is emphasising the importance of a balanced portfolio that includes prevention, reducing risk factors for offending, and firm consequences for offenders, combined with good pathways out of offending. The work is identifying service needs and prioritising delivery, especially in four areas that have a demonstrated link to crime: maternity and early parenting, conduct and behaviour problems, harm from alcohol, and low-level offending.</p> <p>[2]</p>
The operational processes within courts and tribunals (Vote Courts)	<p>Through legislative reform, Criminal Procedure Simplification re-designs, re-organises and simplifies how transactions in the criminal jurisdiction occur. Unnecessary procedural steps and court appearances will be hugely reduced, [2]</p> <p>The criminal courts are the largest jurisdiction and the most resource intensive for the Ministry of Justice and the justice sector, so that is where the major gains are. It is also where there have been capacity problems in the past, and could be again in the future. [2]</p>

Cost Driver (refer above)	Programme of Work
	<p>Investing in an electronic operating model in the criminal summary jurisdiction builds on the efficiency savings of the new re-designed criminal process. By applying an electronic operating model in place of having paper court records, it allows transactions to occur much more efficiently than they currently do. In that sense it magnifies the benefits derived from Criminal Procedure Simplification. <b>[2]</b></p> <p>Investing in audio visual technology for court appearances creates efficiency for court participants, delivers real public safety benefits for Corrections and contributes to improved asset utilisation.</p> <p>Planned changes to the service delivery model in Auckland will deliver efficiencies and enable the Ministry to meet population-driven demand increases in the medium term. <b>[2]</b></p> <p>The Ministry also has a comprehensive programme of work including new targeting programmes and legislative change to increase the collection of fines and reparation.</p> <p>Segmentation and workflow management will be completed in 2011. Segmentation is an internationally recognised ‘best practice’ model for debt management. It involves using available data to group the fines ‘population’ based on the individual’s willingness and ability to pay, and their attitude to compliance, enabling targeted fines collection to be carried out. This approach also allows all of the fines collection work to be prioritised on a national basis, and national workflow technology will support that.</p> <p>The Courts and Criminal Matters Bill creates new enforcement tools (credit reporting and driver’s license stop orders) and simplifies collections-related legislation.</p> <p>Once implemented, the collections reforms will increase the level of fines and reparation collected <b>[2]</b></p>
<p>Decisions of independent actors in the Justice system (Votes Justice and Courts)</p>	<p>The Ministry will support a fundamental review of prosecution services with a view to determining the most cost effective and sustainable arrangements for these. <b>[2]</b></p> <p style="text-align: right;">The Criminal</p> <p>Procedure Simplification Project includes legislation that</p>

Cost Driver (refer above)	Programme of Work
	frames decisions made by independent parties in relation to criminal court cases, and also the incentives on those parties. In addition, the Ministry will develop policy options for increasing the cost-effectiveness of the family justice system in 2011 [2]
[2]	
Public expectations of access to Justice (Votes Courts and Justice)	<p>An extensive programme of legal aid reform is underway. The Legal Services Bill has been introduced and when passed will substantially restructure and improve the quality of legal aid delivery. [2]</p> <p style="text-align: right;">These changes will</p> <p>balance cost reduction against access to justice issues and the need to ensure participants are appropriately represented in order to avoid additional cost in the form of delays, additional assistance required from court staff and the judiciary, and higher numbers of appeals of decisions. The Ministry will also review court fees. [2]</p>
Policy work programme (Vote Justice)	As the policy agenda moves from addressing a wide range of urgent changes in the justice system to a more targeted approach in key areas, the Ministry will reprioritise funding [2] to maintaining front line services. [2]
Electoral requirements (Vote Justice)	The Ministry will work with the Electoral Commission to identify options to minimise cost pressures in out years.
Settlement commitments (Votes Treaty and Justice)	The Ministry has undertaken a review of processes and the approach for settling Treaty claims. A new operating model and management regime for Treaty settlements is now in place.

### **Section 3: Proposed Changes for Budget 2011**

#### *New Activity*

The current mix of activity undertaken by the Ministry is set out in priority letters and accountability documents. Addressing cost pressures will require changes in scope in some areas and capacity in others. The overall emphasis is on ensuring that the Ministry is able to deliver sustainable justice services in the long term.

The Ministry is currently managing a staged approach to change the way a number of aspects of the justice system work. The nature, complexity and scale of this change cannot be underestimated and over the next four years the focus will be on managing and bedding-in change well, rather than initiating new activity.

Because of the size, speed and complexity of the changes outlined in Section 2 above, the Ministry will be concentrating on delivering the projects currently under way.

Key new activities include:

- A review of constitutional arrangements as agreed as part of confidence and supply arrangements with the Māori party. [2]
- A review of state criminal prosecution services. There is currently a range of agencies providing prosecution services: This review will consider these and identify areas where improvements and efficiencies can be obtained. The review will complement the review of defence services (legal aid) completed by Dame Margaret Bazley.
- Developing policy options for increasing the effectiveness of the family justice system in 2011 [2]
- Beginning a first principles review of court fees [2]

The electoral cycle will include conduct of the general election and electoral referendum in 2011.

#### *Reduced Activity*

To provide a medium term sustainable baseline and address cost pressures identified above, the Ministry has planned a wide ranging policy and operational change programme. This programme is built on realising the benefits of policy and legislative changes made over the last two years, smarter ways of working through increased use of technology [2]

This change programme will provide:

- A smarter, more efficient court system
- A leaner support infrastructure underpinned by modern technologies

- More efficient processes to settle Treaty claims
- Measures to enhance the efficiency and effectiveness of the family justice system.
- A pricing and legal aid regime for court services which maintains access to Justice while balancing personal responsibility, private good and cost recovery.

<b>Proposals to achieve a sustainable baseline/operating model</b>	<b>Note</b>	<b>Vote</b>	<b>\$M<sup>1</sup></b>
<b>Total cost pressures as identified above</b>		<b>All</b>	<b>592</b>
Policy changes	1	Justice Courts	(318)
Efficiency savings	2	All	(112)
<b>[2]</b>			
<b>Balance</b>			<b>142</b>
New Funding (from the B2011 justice sector allocation)		Justice Courts	(118)
<b>Residual cost pressures</b>	4		<b>24</b>

Notes:

1. Policy changes to reduce eligibility or demand for services are crucial to reducing cost over time. Legal aid is the most immediate cost pressure facing the justice sector. Cabinet has agreed to changes to legal aid for implementation from 2011/12. These changes are expected to reduce the cost of legal aid by \$138m over the forecast period. The changes represent the largest immediate change that can be made within the current intent of the scheme (that low-income people can receive legal advice for court cases with significant consequences), while ensuring the court system can function effectively.

**[2]**

Any further savings to be achieved from legal aid will be complex. They are likely to be best achieved by re-thinking the purposes of legal aid, and in the context of further analysis of how to control costs in the Family Court. **[2]**

The Ministry will implement administrative change to reduce volumes of Family and Youth Court professional services **[2]**

**[2]**

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<sup>1</sup> All savings amounts described in this section are totals across the four year forecast period covered by this budget plan.

2. Efficiency savings of \$109m over four years will be achieved through a range of initiatives including targeting savings in 2010/11 which will be maintained into out years (\$18m). The Ministry will [2]

and implement a range of asset management and procurement process improvements that will generate savings (\$8m). Improvements to collections business processes [2]

are expected to save \$8m, and realising the benefits associated with implementing Criminal Procedure Simplification will reduce court operating costs [2]

Movements in property costs and settlement of future collective agreements mean cost pressures in out years are uncertain. The Ministry will monitor residual cost pressures and will confirm options to address these as they become more certain.

3. [2]

4. The Ministry will work with the Electoral Commission to identify options to minimise cost pressures in out years.

#### *Risks*

While savings have been generally targeted to areas with the least direct impact on frontline service delivery, the size of the savings required across all votes are such that a number of risks to ongoing service delivery cannot be avoided. In general, there are few effective mitigation strategies for the risks identified. The key risks are:

[2]

#### *Public dissatisfaction with changes*

Professionals whose income is tied to current operational and policy settings of the court system, may react negatively to any level of change. The services provided by these groups could be limited or withdrawn, which would have flow on impacts.

There are also risks around real or perceived reductions in access to justice by the public both in terms of cost of access and perception that efficiencies are more important than fairness.

### *Capacity and capability in the Ministry*

Courts are complex. Independent parties operate according to their own particular incentives. Any changes to court processes can have intended and unintended consequences. For this reason change programmes carry a high level of risk.

[2]

[2] will be implemented at a time when the Ministry will be managing its largest change programme in 50 years. Thorough policy and operational design mitigates this risk to an extent, however the risk does remain.

Capital budgets have also been reprioritised to the essential areas to maintain base services. Over time there is likely to be more break/fix activity in the court (and therefore downtime) rather than matters being dealt with ahead of time through planned maintenance.

[2]

### *Justice sector cost pressures*

In the event that the other agencies in the justice sector are unable to manage their out year cost pressures within baseline, there are likely to be significant funding or service delivery implications for the Ministry.

### *Changes to operating assumptions*

The strategy to balance the four year baseline operating expenditure relies on a number of key assumptions. If these change unfavourably for the Ministry then it is unlikely that the funding strategy will remain valid.

Key assumptions include:

- Volumes in the justice sector remain as modelled
- The impacts of [2], Criminal Procedure Simplification, electronic operating in courts and other volume and efficiency measures are largely as modelled.
- The justice sector legislative and operating environment remains stable (except for changes currently signalled).
- Resource modelling and assumptions about the realisation of operating efficiencies in Office of Treaty Settlements allow negotiations to progress as planned in order to meet the aspirational 2014 Treaty settlement goal.

## Section 4: Summary of Financial Movements

This section details the changes to appropriations (including new appropriations) which are required to implement all of the proposed changes in Section 3. This report has been generated from CFISnet.

<b>Four-Year Budget Plan - Financial Summary Report (Operating - Including Operating Associated with Capital Initiatives 2011)</b>					
Vote: Courts	2010/11	2011/12	2012/13	2013/14	2014/15
	\$000	\$000	\$000	\$000	\$000
Share Allocation	0	0	0	0	0
Operating					
Baseline (2010/11 OBU)	722,336	727,651	686,672	686,801	686,969
Changes:					
Centralised Saving					
Total Centralised Saving	0	0	0	0	0
Reprioritisation					
Additional Revenue	0	0	-4,000	-8,000	-8,000
Cost Pressures: Ministry of Justice	0	18,943	27,429	29,141	41,247
Efficiency savings carried forward	-15,000	10,000	5,000	0	0
Policy changes and efficiency savings	0	-18,943	-23,429	-21,141	-33,247
Total Reprioritisation	-15,000	10,000	5,000	0	0
Transfers Outside Vote					
Total Transfers Outside Vote	0	0	0	0	0
Total Changes	-15,000	10,000	5,000	0	0
Total Proposed Operating Baseline	707,336	737,651	691,672	686,801	686,969
<b>Four-Year Budget Plan - Financial Summary Report (Capital 2011)</b>					
Vote: Courts	2010/11	2011/12	2012/13	2013/14	2014/15
	\$000	\$000	\$000	\$000	\$000
Capital					
Baseline (2010/11 OBU)	0	0	0	0	0
Proposals for new Capital Funding					
Refurbish/Replace					
Total Refurbish/Replace	0	0	0	0	0
Improve Functionality					
Total Improve Functionality	0	0	0	0	0
Meet Demand					
Total Meet Demand	0	0	0	0	0
Capital Associated with Operating Initiatives					
Total Capital Associated with Operating Initiatives	0	0	0	0	0
Total Capital Proposals	0	0	0	0	0
Total Proposed Capital Baseline	0	0	0	0	0