

The Treasury

Budget 2011 Information Release

Release Document

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- [1] 9(2)(a) - to protect the privacy of natural persons, including deceased people
- [2] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [3] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
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- [6] 9(2)(j) - to enable the Crown to negotiate without disadvantage or prejudice
- [7] 6(a) - to prevent prejudice to the security or defence of New Zealand or the international relations of the government
- [8] 9(2)(h) - to maintain legal professional privilege
- [9] 6(c) - to prevent prejudice to the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial
- [10] 9(2)(d) - to avoid prejudice to the substantial economic interests of New Zealand
- [11] 9(2)(i) - to enable the Crown to carry out commercial activities without disadvantage or prejudice.

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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 Attorney-General

Budget Sensitive

Four-year Budget Plan

Version [1]

10 February 2011

Submitted by:

The Solicitor-General and Crown Law

Section 1: New Baseline and Summary of Changes

Direction of Change

The priorities for Vote Attorney-General over the next four years are:

- Review of funding of the Crown prosecution service;
- Review of the structure of the Crown prosecution service;
- Legislative reform that promotes the rule of law in New Zealand;
- Investigation of changes to civil procedure;
- Maintaining and enhancing the capacity of Crown Law to defend legal challenges to Government decisions (including challenges to tax assessments).

These priorities are aligned to the Justice Sector and Government priorities. The priorities will maintain public confidence in the justice system and help address cost pressures. The priorities are discussed in more detail in section 2.

Additional baseline funding is sought for 2010/11 and 2011/12 to meet existing volume-driven cost pressures and maintain the prosecution services provided by the Crown Solicitors.

JUSTICE SECTOR OVERVIEW

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 criminal procedure simplification.

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;
- confirms the residual fiscal pressures through to 2014/15, and
- outlines the proposed strategic options to manage the residual pressures through to 2014/15, which Cabinet Domestic Committee will consider on 16 March 2011.

Overall Impact

| Operating | Impact (\$000s) | | | | |
|----------------------------------|-----------------|---------------|---------------|---------------|---------------|
| | 2010/11 | 2011/12 | 2012/13 | 2013/14 | 2014/15 |
| Departmental Revenue | 22,900 | 22,900 | 22,900 | 22,900 | 22,900 |
| Crown Revenue | 43,067 | 42,688 | 42,864 | 42,400 | 42,394 |
| Current Baseline | 65,967 | 65,588 | 65,764 | 65,300 | 65,294 |
| Cost of new/increased activities | 10,675 | 11,775 | - | - | - |
| Amount reprioritised | - | - | - | - | - |
| New baseline | 76,642 | 77,363 | 65,764 | 65,300 | 65,294 |

| Capital | Impact (\$000s) | | | | |
|---|-----------------|----------|----------|----------|----------|
| | 2010/11 | 2011/12 | 2012/13 | 2013/14 | 2014/15 |
| Capital proposals seeking new funding in Budget 2011. | 3,227 | - | - | - | - |
| Capital proposals seeking decisions in Budget 2011 funded within baselines. | - | - | - | - | - |
| Total capital intentions | 3,227 | - | - | - | - |

Section 2: Vote Priorities and Pressures

The Law Officers and Crown Law:

- ensure that government is conducted constitutionally and implemented lawfully, and
- work with the justice sector agencies to address the priorities in criminal and civil justice.

PRIORITIES AND PRESSURES IN VOTE ATTORNEY-GENERAL

Review of Crown Prosecution Service

A review of the Crown Prosecution services is proposed, which will review the current structure for the conduct of all state criminal/regulatory prosecutions, having regard to effectiveness and efficiency, together with maintenance of high professional standards.

Funding of the Crown Prosecution Services

Funding is required for the Supervision and Conduct of Crown Prosecutions to meet increased demand and associated cost. Funding is being sought for the 2010/11 and 2011/12 years only. Longer term funding pressures on the Supervision and Conduct of Crown Prosecution Service is intended to be addressed by the proposed review of Crown Prosecution Services.

For the financial year ended 30 June 2010 Crown Law sought authorisation in terms of s26A and s 26B Public Finance Act (PFA) for the unexpected increase in demand. After the end of the financial year the total expenditure required validation in terms of s 26C of the PFA.

Expenditure in excess of the level approved in the Supplementary Estimates of Budget 2010 was funded out of Crown Law's taxpayers' funds. As a result of this expenditure the actual level of taxpayers' funds has been reduced to an unsustainable level. In Budget 2011, a capital injection is sought to restore the level of taxpayers' funds to a prudent level.

The cost pressures in this output class, similar to those for criminal legal aid, are driven by:

- 1.1 increasing volumes of indictable prosecutions (4.5% p.a. over the past 4 years) that flow through the pipeline from policy changes and operational decisions at other points in the criminal justice sector (e.g. in relation to apprehension, charges, jury election, committal, court capacity).
- 1.2 Increasing complexity (e.g. sentencing submissions, sentencing options, victim needs, forfeiture applications, judicial warnings regarding three strikes, sentence indication hearings, call over memoranda, evidence issues, criminal disclosure, longer jury deliberation, more Youth Court prosecutions, hearings on fitness to plead, length of cognitive interviewing evidence).

[2]

Justice sector agencies predict a 10.3% increase in the number of indictable prosecutions over the next four years.

To maintain a trusted Justice system that is effective and efficient requires that funding be provided to address the current service delivery problems. One of the outcomes sought from the review of Crown Prosecution services will be the long term sustainable funding of the service.

There is a risk in the 2012/13 year and out years as no funding is available to meet the currently expected level of demand for prosecution services. Justice sector initiatives, such as Policing Excellence, aiming at reducing volumes in the pipeline may flow through to indictable prosecutions. The impact on cost pressures for Crown Solicitors is dependent on how this affects the split between summary and indictable workloads. Further modelling and analysis is planned to identify the flow-on cost benefits and realisable savings across the justice system. Crown Law will continue to work with other Justice Sector agencies as the proposals are finalised and the impacts become clear.

Legislative reform that promotes the rule of law in New Zealand

The Attorney-General is responsible for promoting the rule of law in New Zealand. This includes protecting the judicial process from abuse and improving access to the law.

The Attorney General has initiated a review of the law of contempt, with an emphasis on addressing the current issues and changes in the law of contempt. [2]

Capacity to Defend against Legal Challenges to Government

It is vital to the Crown's legal, fiscal and policy interests that it retains the capacity to defend itself against legal challenges. In particular, legal challenges to tax assessments have a significant potential to affect the Crown's fiscal position, as illustrated by the \$2.2 billion settlement with the banks last year. The Solicitor-General has been tasked with responsibility to ensure that the Crown's capacity to defend itself against legal challenges is maintained and enhanced within existing baselines.

Section 3: Proposed Changes for Budget 2011 (Reprioritisation)

There are no new activities proposed for Budget 2011.

The challenges for the Justice Sector are the current cost pressures and the projected increase in indictable prosecutions over the budget period.

As outlined above there are unavoidable cost pressures in the Supervision and Conduct of Crown Prosecutions. Measures aimed at reviewing and containing these costs include:

[2]

In addition, cost pressures totalling \$4.05m have been or will be absorbed in 2010/11 and 2011/12 totalling: \$3.05m in the Law Officer Appropriation (including law of contempt project and the increasing costs of extraditions and mutual assistance) and \$1.4m in Legal Advice category (anticipated) by holding fee rates charged to Government clients. Costs of \$8.9m in criminal prosecution costs have been deferred (including by holding Crown Solicitor rates).

Section 4: Summary of Financial Movements

Summary of 2011 Budget Initiatives for Vote: Attorney-General

| ID | Theme | Sub | Minister | Title | Description | Operating (\$ millions) | | | | | Capital (\$ millions) | | | | |
|--------------------------|--------------|--------------|---------------------------|---|--|-------------------------|---------------|----------|----------|----------|-----------------------|----------|----------|----------|----------|
| | | | | | | 2010/11 | 2011/12 | 2012/13 | 2013/14 | 2014/15 | 2010/11 | 2011/12 | 2012/13 | 2013/14 | 2014/15 |
| 6732 | Not Required | Not Required | Hon Christopher Finlayson | CAB Min (10) 38/11 Allocations of the Operating Allowance | CFISnet need to be advised once this split between votes is agreed - \$40 million for the Justice sector Votes (which includes Votes Justice, Courts, Corrections, Police, Attorney-General, Serious Fraud, and Treaty Negotiations) | - | - | - | - | - | - | - | - | - | - |
| 6865 | Not Required | Not Required | Hon Christopher Finlayson | Supervision and Conduct of Crown Prosecutions | Funding is required to meet the increased demand and associated costs in 2010/11 and 2011/12 years only. Long Term funding for the Supervision and Conduct of Crown Prosecution Service is expected to be addressed by the proposed review of the Crown Prosecution Service. Capital Injection | 10.675 | 11.775 | - | - | - | 3.227 | - | - | - | - |
| Total Initiatives | | | | | | 10.675 | 11.775 | - | - | - | 3.227 | - | - | - | - |