
PERFORMANCE IMPROVEMENT FRAMEWORK

Formal Review of the Ministry of Justice (MoJ)

JULY 2012

State Services Commission, the Treasury and the Department of the Prime Minister and Cabinet

Lead Reviewers' Acknowledgement

As Lead Reviewers for this Performance Improvement Framework (PIF) Review for the Ministry of Justice ('the Ministry') we would like to acknowledge the open, interactive and thoughtful engagement from their leadership and staff throughout the PIF process. The Ministry recognised this as an opportunity to challenge itself in order to identify and make progress.

In addition, we had valuable input from a cross section of the Ministry's external stakeholders and partners who were equally committed to supporting and collaborating with it to improve justice sector outcomes. There is a clear alignment across the key participants in the sector to drive significant improvements.

We have been greatly assisted by the wise counsel of Sir Grant Hammond, President of the Law Commission, as the Expert Advisor for the Review.

Given the Ministry's role as justice sector leader, there was potential for conflicts of interest through our other responsibilities, including Ms Rebstock's previous role as Chair, Expert Panel on Probation Services and through the organisational development work she has undertaken with the Serious Fraud Office (SFO) and Dr Murray Horn's role leading the Expenditure Review, Department of Corrections. These interests were declared and managed, where relevant.

**Performance Improvement Framework
Formal Review: Ministry of Justice**

**State Services Commission, the Treasury, and the Department of the Prime Minister and Cabinet
Wellington, New Zealand**

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AGENCY'S RESPONSE

Acknowledgements

I would like to thank the wide range of stakeholders and staff who were interviewed as part of the Performance Improvement Framework (PIF) review for your contribution and honesty and the Lead Reviewers for their positive engagement and insight.

The review process looked at the Ministry's capability to meet its future objectives. It is clear change is needed. The public sector and fiscal environment we are working in has changed, society and public expectations have changed, justice sector results have changed – positively, and there are real opportunities available to us in terms of technology and modern work methods to think and work differently and utilise the scale and reach of our organisation. The PIF review, which very importantly incorporates the views of Ministry staff and the key people we work with, recognises that we are right to be changing and to be ambitious about what we do.

Platform for change

Our plan is to build a customer-focused, 21st century justice system and Ministry. Over the next four years the Ministry of Justice has two key tasks: to reshape itself as a modern organisation built around delivering better results and services to the public; and to lead the justice sector to do the same. It is critical that we are focused on what's important – a justice sector that really delivers value to New Zealand through improving public safety and providing better, more accessible public services.

Decreasing crime and volumes in the court system mean there is a substantially different and more positive outlook across the justice sector than in previous years and targets are in place to further reduce crime and reoffending. Technology provides the opportunity to transform both operations and services and to do things faster and cheaper than before and to move from such heavy reliance on physical infrastructure and face-to-face interactions to deliver services.

Supporting the enduring principles of justice – maintaining the rule of law, keeping the public safe and providing the framework that allows people to get on with their lives and invest and run businesses – doesn't mean that the way we're organised, the technology, processes and systems we use and how we work have to be old-fashioned and costly.

We cannot just modernise our current practices. In order to deliver the change required the Ministry will look, behave and think differently and we have to move quickly from where we are to that modern state.

The findings of the PIF review support our position and provide a strong case for change. We need to look outwards – to the customer and to enlist external support; to have a strategy, leadership, culture and organisation that is aimed at the customer and results for the public; and to significantly modernise the way that we operate and deliver services. That is what we are working on.

Specific next steps for change

The PIF process began in January 2012 after significant change had started and more has been initiated or concluded since the review finished in March.

There are three key areas of work that are progressing in parallel:

- 1 building new business and leadership structures and the foundations that support the Ministry's operations
- 2 continuing to support the Government's policy priorities to reduce crime
- 3 improving service delivery.

Within this wider change programme, we will address all areas that were identified as 'Weak' or 'Needing Development' through the review. Specifically, improvements will centre on:

- strengthening the Ministry's sector leadership position
- better defining the Ministry's purpose and refreshing its strategy
- enlisting external support
- stronger people leadership and management
- a proactive policy function with stronger linkages between policy and operations
- stronger operational performance with a real focus on the public as the customer.

Building leadership and business foundations

Last September a Justice Sector Leadership Board (the Leadership Board) of agency chief executives was established under my chair to ensure that the sector results are achieved, and resources are focused on frontline services and where they will best make a difference. At the core of this is achieving the Government's targets for the justice sector – reducing the rates of total crime, violent crime and youth crime, and reducing reoffending. In June 2012 Cabinet agreed the targets for the Better Public Service results areas.

An Interagency Sector Strategy Group, under a Deputy Chief Executive within the Ministry, was established to support the Leadership Board, which oversaw the creation of a sector four-year budget plan for this year's Budget.

The Ministry now has a new second-tier leadership structure in place and a new business strategy has been developed with the central purpose of creating a 21st century justice system and customer-focussed Ministry. This strategy will be socialised with staff during the rest of 2012.

As well as providing Ministry staff with a clear purpose and view of our customers, the strategy will set out the desired future state for the public and users of the justice system. We will know what this is because we will ask them – an in-depth survey of the Ministry's stakeholders and customers will be undertaken by 31 October 2012.

The Ministry must capitalise on the willingness of the judiciary, representatives of the legal profession and other groups who make the justice system work and ensure its integrity, to engage constructively and deliver better outcomes. Their support is critical for improving the performance of the system and for any change and by July 2012 we will implement an external engagement strategy to reinvent the relationship with key participants.

To support these shifts a number of organisational changes have already been put in place or are under way:

- a review of National Office is underway to ensure there is a direct view through to the customer and that we have the necessary support mechanisms to support our key strategic shifts and frontline services
- the Ministry has centralised its contract management, including the purchase of legal services for the provision of legal aid, and we will continue to move from contracts based on activity towards those focused on outcome and performance
- seven areas where services can be shared across justice agencies, including facilities and fleet management, have been identified
- implementing an ICT sourcing strategy to provide a better technology platform at lower-cost
- we are currently reviewing our websites so they can be redeveloped to provide better, more easily accessible information and services to customers.

The Ministry is also in the process of implementing a new Workforce Strategy. The strategy was developed to accompany the four-year budget plan and has three focus areas: customer-focused service delivery and design; exceptional leadership; and change management excellence. The strategy provides the substantive response to the results of the initial staff engagement survey. A Workforce Plan to 2015 was established by 30 June 2012.

Supporting policy priorities

A major shift in the Ministry is from legislative to sector and operational change, but there is still significant legislation to support. The Ministry is currently progressing a review of the Family Court and privacy law as well as supporting alcohol reform and legislation updating bail law.

Ensuring there is a much stronger link between policy and operations has been recognised as an area for focus in the review of National Office functions. We will establish a 'courts and justice services' policy group to develop and maintain a strategy for the courts built on an understanding of what works, both in New Zealand and internationally.

The new policy structure is deliberately designed for the exchange of expertise, perspectives and ideas. We expect this to support the innovative and results-driven culture that the Ministry is seeking and to develop strong connections with the judiciary and key stakeholders. Options for this include establishing a formal advisory board.

We will also dedicate resources to how the Ministry and the wider sector can best contribute to New Zealand, especially those areas outside of the criminal justice sector. The criminal justice sector is a priority for the Government and accounts for more than 80% of sector spend. However, civil justice protects our democracy and the way we live, and underpins our international reputation and our economy. Through the next 12 months we will develop an integrated work plan (with judicial and legal profession input) for civil justice.

The Ministry is currently considering how it can establish some standing arrangements for consultation with the legal profession and establish the basis for a dialogue and partnership that is able to mature and focus on bigger and longer-term issues.

The other dialogue that is critical to the Ministry – and to New Zealand’s future – is that with Maori. The Ministry will ensure that the increased momentum of Treaty negotiations continues. Through the Treaty negotiation process, the Ministry has developed a relationship with many iwi that provides a strong foundation for a more active conversation about contemporary and future Maori issues, including the difficult topic of the place of Maori in the criminal justice system.

We are currently refreshing the Drivers of Crime approach to focus on improved results for young Maori in the criminal justice system.

Improving service delivery

The Ministry is working on revitalising its operating model for courts, tribunals and legal services with a much sharper focus on the customer and access to justice services.

From 2011 through to early this year, a major operational focus was on restoring court services in Christchurch, making alternative arrangements for other courts identified as being of seismic risk, and implementing a regional way of working across the civil jurisdiction in Auckland’s six District Courts.

Lessons learned, particularly from Christchurch and Auckland, have helped shape our planning for a future service delivery model. We want our customers to:

- experience a common, consistent and high level of service irrespective of geography or jurisdiction
- get fast service and resolution and find any interaction simple and easy to understand
- be able to use a range of service options – in-person, web, phone, third-party, paper and remote (eg, audio visual links) – and payment channels.

We will need to invest in our frontline staff, new systems and technology to achieve much of this and the first changes will involve new ways of delivering existing court services and information to customers.

We need to work in partnership with the judiciary to deliver improvements in the accessibility, timeliness and predictability of justice delivered by courts and tribunals and to develop agreed, appropriate targets for these areas that are reported on publicly.

Through this year we will develop a plan for how various services will be delivered; what further targets are necessary; the appropriate infrastructure and resourcing model; and how change will be sequenced. By 31 August we will have a plan out to 2015. A new model for the way the Ministry operates its legal aid services is in design with implementation planned for July 2013. A new operating model for the Family Court will be developed (following Government approval) by December 2012.

Conclusion

While the Ministry has shown a capacity to make change while maintaining and enhancing ‘business-as-usual’ services over the last few years, the shifts that are underway and the changes that the Ministry will undertake are substantial.

In particular, the changes for the justice sector represent a new way of working for government agencies and require new whole-of-government mechanisms, protocols and central agency support.

However, the over-riding message from the PIF review is not one of challenge but of expectation. The next few years hold huge opportunity: to build a justice sector that further reduces crime and its cost and – by maintaining public understanding and trust and supporting the country’s business and civil relationships, economy and Treaty settlement process – adds value to New Zealand.

Andrew Bridgman

Secretary for Justice and Chief Executive

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LEAD REVIEWERS' VIEW

In undertaking this Review the Lead Reviewers considered: “What is the contribution that New Zealand needs from the Ministry of Justice and, therefore, what is the performance challenge?” This is a particularly tough test for the Ministry because what has been successful in the past is no longer sufficient. Indeed, what is now required – like a strong operating performance in the courts – relies on substantial improvements in a number of areas of greatest weakness within the Ministry. There are, therefore, more areas that require more performance improvement than would have been expected on the basis of recent performance (ie, a relatively successful reaction to a demanding legislative and Treaty of Waitangi (Treaty) settlement agenda).

Recent Context

In the last three years the Ministry has delivered a significant work programme, notably:

- a considerable legislative work programme to change court processes, ensure appropriate penalties and provide greater support to victims
- an increase in the number of Treaty settlement milestones achieved
- legal aid reform, including the integration of the former Legal Services Agency into the Ministry
- leading the establishment of a new vision and way of working for the sector
- implementing a number of business and process improvements.

These are important achievements. While the Ministry continues to progress a significant work programme, there is an opportunity and need for it to think about its overall business model. Focus should be placed on preparing for current and future challenges to better deliver justice services in New Zealand. This Review focuses on what is needed to meet that challenge.

The Performance Challenge

Effective justice is fundamental

Society works because the vast majority of people accept its rules as legitimate and are happy to abide by them. That legitimacy is created by the way rules are developed, administered and enforced – all areas where the Ministry plays a more or less central role. While this legitimacy is underpinned by the high level of public confidence in our institutions, maintaining this confidence requires both institutional integrity and strong institutional performance. The role of the Ministry is to support the continued integrity of the institutions that develop, administer and enforce society's rules, while strengthening their performance.

This implies a shift in the Ministry's focus to more emphasis on enlisting the active support of all those who can have a material impact on improving the operational performance in civil, as well as criminal justice, sectors in delivering for the public.

The Ministry's environment is improving and that creates exciting new opportunities....

Changes in policy and practice, along with increasingly favourable demographics, are starting to have a positive impact on crime rate trends, criminal prosecutions and imprisonment (ie, on the criminal volumes that drive cost in the largest areas of justice expenditure). This should deliver a substantial ongoing fiscal 'dividend'. Government has agreed to maintain a fixed expenditure baseline for the criminal justice sector agencies for the next four years (ie, Police, Justice (including Courts), Corrections, Crown Law and the Serious Fraud Office). This creates the opportunity for the sector to reconfigure its operating model to improve the service it delivers to the public, as long as it can reduce costs in line with falling criminal volumes and free up resources for reinvestment.

This creates real opportunities for the Ministry to shift its focus: from having to respond to the consequences of ever-increasing criminal volumes and costs to a more proactive consideration of how the justice sector can add most value to New Zealand. Other key participants in the sector seem keen to play their part. This creates a unique opportunity for the Ministry across at least four key areas:

- in making a further substantial improvement in public safety by strengthening the Ministry's sector leadership aimed at addressing the drivers of crime
- in improving the quality of justice by helping more people resolve issues without recourse to the courts and by working with the judiciary and legal profession to make the substantial operational improvements, that everyone accepts as available, in order to improve the accessibility, timeliness and predictability of justice delivered by courts and tribunals, while correct outcomes according to law continue to be delivered
- to use the experience it has accumulated in the Treaty settlement process to make a substantial contribution to the development of the Crown-Iwi relationship in a way that improves social cohesion
- to develop a broader and more proactive policy advice function less dominated by criminal justice and more focused on the policies that will maximise the contribution the justice sector can make to New Zealand society. This should include an articulation of the fundamental role effective justice plays in underpinning a successful market economy.

... that are clearly within the Ministry's reach

The Ministry needs to undergo a significant transformation in order to realise its full potential to capitalise on these opportunities. We have assessed the room for improvement against this very demanding standard: ie, what does the Ministry need to do to fully realise this potential?

The Ministry is reasonably well placed to deliver what it has been delivering in the environment it has been working in (ie, largely focused on delivering a demanding legislative agenda). That is not the challenge it now faces and so it is not the standard we have applied. The factors critical to the Ministry's success have changed. It is not surprising, therefore, that the Ministry has some significant weaknesses, especially relative to these new areas, and generally needs development in the areas that are critical to success in this new world.

We are confident the Ministry can meet the challenges it faces and realise the opportunities the new environment has opened up. We are confident because the leadership accepts the challenge and wants to realise these opportunities. We are confident because the partners so critical to success want to engage constructively in the mission. Most of all, though, we are confident because the people we have met who work for the Ministry want to make a difference.

The Ministry's challenge is to lead the wider sector to deliver improved performance

Government has mandated the Ministry to lead the wider sector in converting this 'dividend' from falling criminal volumes into an improved performance for the public. It has also given the Ministry leadership responsibility for two specific results announced as part of the Better Public Services package: reducing the rates of total crime, violent crime and youth crime; and reducing reoffending. Success in these areas requires enlisting the active support of independent participants in both public and private sectors across both the criminal and civil systems (eg, the judiciary, the Parole Board, relevant Crown agencies and entities, the legal profession and a range of non-government organisations).

The immediate task is to realise the opportunities created in the four areas identified above. It is worth defining the first three in more detail here.

a Improving public safety

The aim is to deliver a substantial reduction in criminal behaviour and the harm that it does to people and property, over and above the reduction delivered by favourable demographics. The Ministry needs to lead the criminal justice sector to improve performance of existing activity while simultaneously shifting the focus of activity from managing the consequences of crime to addressing its causes.

This will require the Ministry (including courts), Police, and Corrections to work 'as one', and to work effectively with others who can influence the drivers of crime: from independent participants in the sector through to the wider community. Unity is essential to ensure that the forecast decline in crime is realised and reflected in real savings in existing activity that are then converted into new activity that reduces offending and reoffending.

Each step of this process will require real commitment: first, to realise the forecast decline in crime, then to reflect that in real savings – in positions and facilities – that can absorb cost pressures and leave enough over for reinvestment, and then to prioritise reinvestment in those activities that will make a real difference to further reducing crime and the harm that it causes.

The impact of restraining cost pressures, and reducing some existing positions and closing some facilities, will fall disproportionately across the sector. The resulting reinvestment will have an uneven impact. Successful reinvestment will also require innovation, including a more active and imaginative engagement with private providers and the wider community, to discover more effective interventions to address the causes of crime, especially serious crime and reoffending.

b Improving the quality of Justice

The Ministry has responsibility for ensuring that public funding and regulation of the system of justice works in a way that reduces unnecessary disputes – among citizens and between citizens and the State – and ensures that the disputes that do arise are settled in a way that best meets the needs of the parties within the rules established by society. In some cases this will mean supporting people in understanding their options and resolving their own disputes without recourse to courts and tribunals (eg, family counselling and community law centres). While most of the Ministry's attention will inevitably be focused on improving the performance of courts and tribunals, more thought could be given to early alternatives to reduce the risk of becoming locked into more formal processes.

Justice delivered by courts and tribunals needs to be accessible, timely, predictable and deliver correct outcomes according to law. The Ministry cannot deliver on its own. Judges are constitutionally independent and decide how a case is dealt with and what are correct outcomes according to law.

Moreover, the flow of cases through the courts is influenced by the parties involved in a case and their legal advisors, as well as the availability of other court participants, like witnesses and experts. The Ministry needs to work constructively with these groups, ensuring they have support, role clarity and incentives to continue improving the quality of justice delivered through courts and tribunals across these four dimensions. The legitimacy of courts and tribunals – including of raising the taxes that support them – depends on their performance as well as their integrity. The Ministry's accountability is not diminished because it is shared.

The courts have a unique and critical role because they are the final arbiters of what is a correct outcome according to law. Consistency and predictability of judgement reduces uncertainty about how the law will be applied, so providing a better framework for avoiding disputes and encouraging people to resolve problems without recourse to the courts. Delivering operational excellence is also critical because it allows for the available resources to be better applied to improvements in access to justice and expeditious resolution of cases, without compromising the correct outcome of cases. All participants have an interest and a role to play in delivering operational excellence.

Significant gains can be made in improving the overall operation of courts and tribunals and in reducing variability in that performance. Improvements in the courts operating model, like those being implemented as part of the Auckland Service Delivery project, are fundamental. Greater use of technology, eg, electronic document management and video links, will also make a significant contribution and may make sense for a range of potential future operating models. However, it is often the case that clarity around future operating models is necessary before the right technology decisions can be made and the benefits of technology investments realised. Ensuring that more important cases attract a proportionate share of attention is also important.

Improvements also need to be made in access to justice. The Ministry has recently given considerable attention to changes in legal aid and the development of the Public Defence Service in order to strengthen control over cost growth and improve the quality of legal representation to the beneficiaries of legal aid. While necessary, more attention needs to be given to the way these changes are implemented.

More weight needs to be given to improving the quality of justice for that half of the courts workload that is civil in nature; including commercial cases. Certainty of the law and how it will be applied is a foundation of the market economy. Improving the performance of the courts will also ensure that the right balance is struck with alternative dispute resolution services, which should help build the public precedent that improves certainty.

Success will require a step change in the way the Ministry manages externally and internally. Externally, it will require a substantially more productive relationship with the legal profession and the judiciary, as well as with non-government agencies and the users of courts and tribunals. Internally, it will require a substantial shift in:

- client orientation: with far more attention given to strengthening the Ministry's operational performance to deliver more efficient and timely court services for the public. The status of operational and corporate functions needs to be on par with policy and policy needs to be more strongly oriented to improving operational performance
- clarifying goals and reducing variability in performance: clearer targets for what matters to the client. Targets for access, timeliness and predictability need to be established and accepted by both the judiciary and the Ministry (with the judiciary asked to devise their own standards for measuring the extent to which all but final outcomes are 'correct') with performance against those targets measured and made transparent. This would establish the right performance

expectations and encourage better management across the system, including allowing a stronger focus on outliers of poor performance

- operational management: from a focus on where we are and where to go next to greater clarity about where we want to be and how to get there
- the overall quality of staff management: including performance and training, with a consequent step change in staff engagement
- realising the benefits of technology investments: which require a change in the way large numbers of people work and work together, and a change in the way the public engages with the courts.

While these are big changes and benefits will need to be realised quickly, it should be possible to find people with experience in managing the nature and scale of the required transformation.

c Improving the Crown-Iwi relationship

The durable resolution of historical Treaty grievances makes an important contribution to strengthening social cohesion. The Ministry's task is to work with claimants and the Crown to deliver this resolution in the foreseeable future.

There is a near-term risk that current timelines will slip and that the relativities underpinning durable settlement will come under strain. While the Ministry is generally seen to do a good job working with the Chief Crown Negotiators in advancing individual negotiations, it needs to do more to bring its experience to bear in helping Government advance its overall Treaty strategy as well as helping it build a clearer picture of future Crown-Iwi relationships. Making this bigger contribution requires a more active role in dealing with a range of potentially competing interests, not least of which are those of different agencies of state. An effective cross-agency response will be required and will require more urgent and determined leadership from the Ministry to achieve.

There a number of factors that are critical to success and require significant improvement

Realising the opportunity created by a more favourable environment requires the Ministry to undergo a transformation of its own to make it an effective sector leader, as well as more effective in its operational role. The new Senior Leadership Team has started to set the required course and this needs to be refined and reflected in a well articulated and widely shared strategy for the Ministry. The six most critical areas for improvement are:

a Strengthening the Ministry's sector leadership position

The criminal justice agencies are seen to be amongst the most advanced in interagency cooperation, with a lot of goodwill amongst the three chief executives on the Justic Sector Leadership Board (the Leadership Board) and the sector has produced a combined four-year budget plan. However, it is still early days and the relationships have not been seriously tested, most of the accountabilities and incentives are still arranged around individual departments reporting to their Ministers, and most of the focus to date has been on defining goals for each agency that they can execute individually. Agencies need to approach issues first of all from a sector perspective and be able to act 'as one' when the circumstances demand it. Given the importance of this issue, more should be done to strengthen collective leadership:

- chief executives need to have both collective and individual accountabilities and those collective accountabilities need to be well defined. For example, Ministers should be looking for the Board to provide them with formal assurance that policy settings are sufficient to achieve the objectives they have set for the sector and that the sector has the capacity, capability and credible plans to

deliver on the those objectives in the desired timeframe and with the budgeted resources (or advise the Minister that the objectives are unlikely to be achievable and should be changed). If the Board is unable to provide that assurance now, then it should be asked to identify what needs to be done so that it is able to do so

- central agencies need to ensure that Ministerial priorities, budget arrangements and chief executive performance agreements and assessments are all aligned to delivering the collective objectives
- the Board needs to be properly supported in its collective role. It needs the information and analysis to assess the impact of the key initiatives across the sector, set collective priorities and be confident that these are properly reflected in the plans of constituent agencies and that these agencies are properly incentivised, configured and resourced to deliver. The Ministry has reconfigured itself to provide at least some of the necessary resource (eg, with a Deputy Chief Executive role focussed entirely on the sector). The Board will also need to think through its relationship with the central agencies and how that changes the traditional relationship those agencies have with the constituent agencies
- given the Board will need to innovate to find the most effective ways to prevent offending or reoffending, or to help people resolve issues without recourse to the courts, it will also need to resolve how the required innovations will be assessed, managed and reviewed so that those most likely to succeed are supported and kept on track and those that disappoint are quickly stopped. This will require a change in culture at the Ministry itself, to be less risk averse, more innovative and to place a higher value on review.

These changes are aimed at strengthening the leadership role of the Ministry and the Secretary as Chair of the Leadership Board. At some stage, additional levers may be required. However, what this list does demonstrate is that the role of the central agencies with regard to the sector is quite different than their role relative to individual agencies. This needs to be better developed.

b Better defining the Ministry Purpose and refreshing the Strategy

The Ministry needs to be clearer about defining its purpose around ensuring the justice system delivers more of those things that New Zealanders value most, with a clearer vision of the desired future state (eg, public safety, the quality of justice, social cohesion). This sort of purpose is more closely aligned with the motivations of the Ministry's people and of others who it needs to enlist to deliver for the public. The current strategic direction is defined as 'fewer, faster, fit for purpose' and is seen to be largely about cost rather than value, is unclear about who the Ministry serves and is not well connected to the motivations of the people that need to be engaged. While 'fewer, faster and fit for purpose' are important things to achieve, they should be seen as a by-product of an effective strategy that is closely aligned with an agency's purpose and vision, rather than the strategy itself. The Ministry will know it is well placed when its staff engagement and stakeholder surveys reveal a strong alignment to its vision, strategy and purpose and a high level of satisfaction and respect for the justice system.

c Enlisting external support

The Ministry can only deliver in any of its priority areas if it is able to enlist active external support over and above the four other government agencies in the criminal justice sector. This is an area where the Ministry's current relationships are difficult (eg, the judiciary and the legal profession), weaker than they need to be (eg, other departments in the Treaty area as well as those who can influence the drivers of crime) or still emergent (eg, non-government agencies, like Community Law

Centres, and the wider community). However, this is also an area where the key counterparties seem to be ready to recognise the opportunities and constraints facing the Ministry and are keen to engage constructively with it to improve wider justice sector outcomes.

The Ministry needs to move quickly to seize this opportunity. It needs to demonstrate to these key external parties that it recognises the important role they have to play and can and will work constructively with them to deliver better services to the public.

d A proactive policy function with stronger linkages between policy and operations

The Ministry has been through an intense period of policy development that has been largely aimed at completing the legislative agenda of its Minister. While perfectly legitimate, it now needs to devote some time to developing its own view about how the Ministry, and wider justice sector, can best contribute to New Zealand across the whole scope of activity in its purview; especially those areas outside of the criminal justice system.

In the short term, there needs to be a real acceleration of recent moves to better integrate the policy and operational activities of the Ministry and to pay more attention to implementation issues more broadly. The status of operations needs to be on par with policy and have a real influence on the policy agenda. Moreover, the input of the legal profession and the judiciary, along with others that are critical in the implementation of any policy change, needs to be sought much earlier and in a more substantive way in the policy development process.

Some thought also needs to be given to identifying the issues that will have the greatest impact on strengthening the contribution the justice sector can make to New Zealand society longer term, especially in improving the way society's rules are developed, administered and enforced.

e Stronger operational performance with a real focus on the public as the customer

The desired operating model for courts and tribunals, and to a far lesser degree for collections, is not well developed. The focus has been on where we are and where we need to go next, rather than on where we want to be and how we get there. While the current initiatives aimed at modernising the courts and improving operational performance all look sensible, there is not a strong enough sense that they are collectively sufficient, or of how they should be sequenced or prioritised, to deliver the sorts of gains in efficiency and quality that will meet Government objectives. Neither is there sufficient clarity about what real difference they will make to court and tribunal users (eg, the impact on access, timeliness or predictability of justice).

While a clear view of the desired future operating model would help, so would a:

- better articulated framework for considering when the government is best to fund, rather than provide, a service. Government is finding itself owning and operating more activity, when it may be better to meet more of the relevant objectives through a combination of funding and regulation. That will require smarter contracting. Smarter contracting will also be required to improve the contribution of other non-government organisations: like Community Law Centres and Victim Support
- clearer view of the key operational targets and measures that were agreed with all those who must work together to achieve them, especially the judiciary. Those targets and measures have to be to deliver the things that matter most to the public, ie, to the customer. While neither the Ministry nor the judiciary will have sufficient influence to deliver these targets on their own, collective commitment to the targets will encourage the degree of partnership that is essential to success.

Given the need to absorb cost pressures and reinvest in new activity, this work needs to proceed in parallel with operational changes aimed at generating early savings, including operational changes aimed at reducing variability in performance. The longer savings are delayed, the larger they need to be.

f Stronger people leadership and management

The staff engagement survey undertaken in May 2011 pointed to some deep-seated weaknesses in the Ministry's leadership and management of its people that must be addressed as a matter of priority. While this has been recognised, a determined effort is required across the business and across all tiers of leaders and managers. Strengthening operational performance and enlisting the required external support are both impossible without substantially stronger people management, especially in the support of frontline managers and staff. Moreover, poor operational performance will undermine the Ministry's credibility in providing sector leadership to Police and Corrections, two large operational agencies.

Success requires the disciplined application of standard leadership and management techniques: better articulation of the Ministry's purpose and mission, clearer definition of goals and performance targets, a more supportive culture and more effective delegation of authority in pursuit of those targets, stronger performance incentives in terms of both recognition of good performance and addressing poor performance and better training and development. Managers have to manage. Most of these techniques would be easier to execute through a simpler management structure, with fewer layers.

Management must respond effectively to the issues raised in the engagement survey in order to deliver a significant improvement in staff engagement across the whole business.

None of these issues stand alone – the Ministry must make significant gains across all of these areas in order to meet the performance challenges facing it. That will require strong leadership from the senior executives acting as a team, so it will be critical to ensure the right appointments are made in a timely manner.

Desired Future State – Four-Year ‘Excellence’ Horizon

Environment

The environment has changed dramatically; from trend growth in criminal volumes and even stronger growth in overall expenditure to a trend fall in these volumes and fixed nominal budgets. The challenge is no longer to meet increasing demand from a growing budget. The challenge now is to reduce costs in line with reducing demand and to free up resources for reinvestment in crime prevention and court modernisation, all within a fixed budget. Given inevitable cost pressures, the clock is ticking.

The Ministry has a sector leadership mandate and the three main state sector chief executives are new to their roles and have signed up to working constructively together. Moreover, many of the other actors that the Ministry needs to enlist in helping it meet its performance challenge are keen to engage constructively with it. Success will require the Ministry to address a number of serious inherited weaknesses, albeit readily addressable weaknesses. The ball is at the Ministry’s feet.

Business Strategy

The Ministry has been focused on delivering a very demanding Ministerial legislative agenda in the criminal justice arena; positioning courts with the information and basic management tools, and starting a process of modernisation, aimed at managing increased volumes; and delivering Treaty settlements. This focus is largely inward and upward. The emphasis is on policy development and the key Ministerial relationships.

The future will require the Ministry to translate the criminal justice ‘dividend’ into better service to the public. The focus will need to be downward (on strong frontline performance in the courts) and outward (leading the criminal justice agencies to control costs and switch focus to prevention and enlisting the active support of the wider sector). Supporting stronger frontline performance requires more distributed leadership, greater goal and role clarity, stronger performance incentives and a culture that values and supports frontline operational performance. Enlisting active external support – including in the wider public sector supporting public safety or Treaty settlements – will require stronger leadership externally and a more open and engaging culture that is less risk averse and more innovative.

Operating Model

The current business strategy is delivered by the Ministry acting more or less on its own, with policy and operations largely independent of one another. The courts operating model would be recognisable by Charles Dickens: ie, it is still largely paper-based and delivered on a jurisdictional basis tied to specific locations. There is also a tendency to own and operate.

The future will require the Ministry’s policy and operational functions to be far more integrated and for those to be more actively engaged with outside actors in delivering the Ministry’s objectives. While the future courts operating model is not yet well articulated, it will need to make much better use of electronic document management and audio visual technology; be less dependent on both paper and place (with correspondingly lower fixed costs); with less duplication and waste (eg, by more centralisation of services that are better provided nationally or regionally). The Ministry is also less likely to rely on owning and providing services to achieve Government objectives and rely more heavily on smart purchasing (possibly supplemented by better occupational regulation, even if that is audited self-regulation).

Change Capability

While many transformational changes are required, they are not novel and should be readily achievable by people who have had experience in managing transformations of a similar nature.

The difficulty will be around the sequencing of change necessary to deliver immediate savings (to offset cost pressures and make room for reinvestment) inside a change programme that will take a number of years to complete, while managing the inevitable shocks associated with such diverse and potentially contentious areas of public policy.

What will success look like in four years?

The Ministry would have successfully lead the criminal justice agencies to ensure that crime and the cost of crime were reducing faster than currently forecast because they have been able to reduce costs in line with falling volumes and successfully switched emphasis from managing the consequences of crime to addressing its causes.

The judiciary and the legal profession would be actively engaged in partnership with the Ministry in improving the accessibility, timeliness and predictability of justice delivered by courts and tribunals, with an even stronger public confidence that cases are consistently determined with respect to the principles of the law. While it is the role of an independent judiciary to determine disputes in accordance with the law, these three groups share a common understanding of how well the system is performing and are working constructively together to improve the quality of justice delivered by courts and tribunals.

More people would be resolving their problems without recourse to the courts.

Public confidence in the integrity and performance of the institutions responsible for developing, administering and enforcing the law would ensure that the vast majority of people were happy to abide by society's rules.

The Ministry would be seen to be providing real operational excellence in its area of direct operational responsibility and thought leadership in areas of direct responsibility and on those cross-agency issues that are essential to improve the performance in both civil and criminal jurisdictions.

There would be a high level of confidence amongst Maori and the wider community that historical Treaty grievances will be resolved in a durable way within the next decade. Social cohesion would be improved as the focus of the Crown-Iwi relationship shifts towards a post-Treaty settlement arrangement.

Murray Horn
Lead Reviewer

Paula Rebstock
Lead Reviewer

CENTRAL AGENCIES' OVERVIEW

The Government's clear priority is to deliver better public services to New Zealanders, within the tight budget the Government is operating under. Government agencies are expected to review and change how they operate to focus on the most effective and efficient use of resources and to deliver better public services to New Zealanders.

The Performance Improvement Framework is used by a small group of respected lead reviewers to review agencies to provide insights into how well the agency is positioned for the future. Chief executives value the opportunity to engage with lead reviewers to discuss those insights, as do we.

We, as central agency chief executives, also benefit from lead reviewers' insights about the state sector and the opportunities that exist to improve its operation.

Ministers, the public and agency stakeholders are entitled to information about agency and sector performance and to know what is being done to lift that performance.

Our lead reviewers for the Ministry of Justice review posed the question: *"What is the contribution that New Zealand needs from the Ministry of Justice and, therefore, what is the performance challenge?"* They then set out in "Four Year Excellence Horizon" what the Ministry would look like if it was performing as an excellent organisation four years from now.

The Ministry plays a vital role in ensuring New Zealand is a safe and just society through its leadership of the justice sector and its diverse policy and operating functions. The PIF review affirms the Ministry's important achievements in recent years, including its success in establishing a strong justice sector leadership forum.

The review identifies the changing environment the Ministry needs to respond to, notably, ensuring the Government's Better Public Service results to reduce crime and reoffending are met, and focusing on operational excellence in collaboration with its partners. The Ministry's Agency Response lays out a plan of action to address findings from the PIF review. Implementation of the plan is underway resulting in progress in a number of areas, notably, in improving engagement with the judiciary and legal profession

From our engagement with the lead reviewers during and after the review we have identified areas where we, as central agencies working together, need to support the Ministry. These include working with the Ministry and other public sector agencies to collectively achieve the Government's reducing crime results, supporting the Ministry's organisational development programme, and working with it and other agencies contributing to Treaty settlements to ensure better cross-agency responses.

The Ministry has had some significant achievements to date. We are committed to working with them to further lift their performance in response to new challenges and opportunities they now face.






Iain Rennie
State Services Commissioner















Gabriel Makhlouf
Secretary to the Treasury

Andrew Kibblewhite
Chief Executive Department of the
Prime Minister and Cabinet

SUMMARY OF RATINGS

Results






GOVERNMENT PRIORITIES	RATING
Progress electoral and constitutional reform	
Improve the justice system's responsiveness to victims	
Improve public safety and maintain public confidence in the criminal justice system	
Reduce volumes and cost across the justice sector	
Progress the aspirational goal of settling historical Treaty of Waitangi claims by 2014	





CORE BUSINESS	RATING (EFFECTIVENESS)	RATING (EFFICIENCY)
Policy Advice		
Sector leadership and support		
Provision of legal services		
Collection and enforcement of fines and civil debt services		
Court and tribunal services		
Treaty of Waitangi negotiations		
Crown entity monitoring		
	RATING	
Regulatory impact		




Rating System






 Strong	 Well placed	 Needing development	 Weak	 Unable to rate/not rated
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Organisational Management

LEADERSHIP, DIRECTION AND DELIVERY	RATING
Vision, Strategy & Purpose	
Leadership & Governance	
Culture & Values	
Structure, Roles and Responsibilities	
Review	

EXTERNAL RELATIONSHIPS	RATING
Engagement with the Minister(s)	
Sector Contribution	
Collaboration & Partnerships with Stakeholders	
Experiences of the Public	

PEOPLE DEVELOPMENT	RATING
Leadership & Workforce Development	
Management of People Performance	
Engagement with Staff	

FINANCIAL AND RESOURCE MANAGEMENT	RATING
Asset Management	
Information Management	
Efficiency	
Financial Management	
Risk Management	

Rating System

 Strong	 Well placed	 Needing development	 Weak	 Unable to rate/not rated
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AGENCY CONTEXT

The overarching purpose of the Ministry of Justice is to ensure a safe and just society by contributing to three outcomes:

- safer communities
- maintaining and improving the integrity of the justice system
- maintaining New Zealanders' civil and democratic rights.

The Ministry contributes to these outcomes through its three core functions: leadership of the justice sector, provision of policy advice across diverse issues and delivery of a range of operational services.

As leader of the justice sector it works collaboratively with other sector agencies to drive sector performance in relation to the criminal justice system and ensure sector key performance indicators (KPIs) and initiatives are achieved. Current KPIs are focused on working together to reduce the number of people entering the justice system, reducing the time a person spends in court proceedings, reducing reoffending and ensuring fiscal sustainability of the sector.

The Ministry provides policy advice across a broad range of issues, including constitutional, civil and criminal law, foreshore and seabed policy and Treaty of Waitangi negotiation advice. Its diverse policy role is accompanied by responsibility for a large body of legislation, over 166 Acts of Parliament, it administers jointly or solely.

The major operational services it delivers are:

- support for the work of courts and tribunals
- collection of fines and civil debts
- provision of legal services, including the administration of legal aid and representation of defendants through the Public Defence Service.

It has other notable responsibilities, including support for judicial and other statutory appointments and monitoring a cluster of Crown entities and other agencies.


A significant feature of the Ministry is that it supports an independent judiciary, while preserving the constitutional independence of judicial decision-making.

Approximately 3,000 full-time equivalent staff are employed by the Ministry, operating from over 100 locations across New Zealand. Its 2011/12 budget is \$1,617 million, including \$542 million Departmental Output Expenses and \$684 million Non-Departmental Expenses. The Ministry supports three Votes and four Ministerial portfolios.

RESULTS SECTION


Part One: Delivery of Government Priorities

This section reviews the agency’s current ability to deliver on its strategic priorities agreed with the Government. It is based on the completeness of the agency’s plans, the stage at which the priority is at and the capability and capacity of the agency to deliver on the priority. This Review is also informed by consideration of identified risks.

Progress electoral and constitutional reform	
<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Well placed</p> <p>The objective of Electoral Reform was to free up the Ministry to take a more strategic perspective but also to think about how well services are delivered and how they could be improved. The establishment of the Electoral Commission and the shift of the electoral enrolment function are in the final stages. While there have been some difficulties along the way, the amalgamation is now working well. The last election was widely seen as well run and the Election Inquiry, and any necessary legislative change, will now take place.</p> <p>While it is still early days there are question marks on how well the Ministry is able to support the Commission with information technology (IT) and administrative support given its own deficiencies in these areas. This represents an ongoing risk to both agencies. Finally, to realise the benefits of the establishment of the Electoral Commission, the Ministry will need to develop its monitoring capability to shape expectations and monitor the performance of the Commission effectively and to independently provide strategic policy advice. To assist in this transition, the Ministry has seconded several staff to the Commission to ensure it has the institutional knowledge to undertake its role.</p> <p>As consideration is given to e-voting, the Ministry is aware it will need to consider any necessary changes to the legislative framework, which is heavily framed on paper-based processes. In addition, the Ministry will need to carefully manage any risks around the costs of e-voting, particularly during a potentially long transition where both paper and electronic systems will run side-by-side.</p> <p>Preparation is under way for the Mixed Member Proportional representation review. Once completed, the Ministry will need to be ready to advise Government on the review.</p> <p style="text-align: right;">contd...</p>


	<p>The constitutional reform work is also just getting under way led by an independent Constitutional Advisory Panel appointed by the Deputy Prime Minister and the Minister of Māori Affairs and supported by the Ministry. While public law work of this nature is fundamental to the underpinnings of the rule of law, and is therefore seen as necessary and important work in the Ministry, it may be challenging to keep it as a priority within the Ministry’s work programme, given the political pull of the criminal justice sector issues. While the constitutional review is just getting underway, the Ministry is currently seen as providing appropriate secretariat support. It is also separately gearing up to advise the Government on the review once it is completed.</p> <p>Looking forward, the Ministry is aware of a number of risks. Any policy changes need to be robust and enduring and transcend party political lines. Working within the Terms of Reference of the constitutional review will be important to help support consensus, rather than division. Finally, given the responsible Ministers are not those the Ministry normally reports to, the Ministry will need to develop and maintain quality and timely communication with those Ministerial offices in order to provide effective policy advice.</p>
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Improve the justice system’s responsiveness to victims

<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Well placed</p> <p>The Government has looked to the Ministry to deliver a substantial agenda of initiatives in this area and delivery is largely on track and meets a high standard. However, the indicators we have would suggest that more development is needed before we can be satisfied with the results for victims. The agenda to date has been heavily weighted to policy and legislative change and a greater focus on operational delivery is likely to be required to realise the benefits and improve the lives of victims.</p> <p>It is difficult to measure the effectiveness of the progress made to date. The Ministry looks at indicators of confidence in the justice system and the satisfaction of users with the justice system. However, these indicators are not direct measures of the responsiveness of the justice system to victims in particular.</p> <p>Where there are related indicators, the results are mixed. A little over 60% of people feel safe in their neighbourhoods and there are reasonable levels of satisfaction with basic court services (although there is reasonable anecdotal evidence of victims feeling bewildered and re-victimised by their court experience). However, only about a third of crime is reported and, although about half of that was due to what victims considered the relatively trivial nature of the crime, about a quarter of those who did not report a crime thought that police would not deal with it. Moreover, victimisation is heavily concentrated, with only 6% of adults experiencing 54% of all crime.</p> <p style="text-align: right;">contd...</p>
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	<p>Improved service delivery is likely to require a number of changes:</p> <ul style="list-style-type: none"> • a more sophisticated approach to funding the provision of services to victims (provided either publicly or by non-government organisations). More emphasis needs to be placed on rewarding effective outcomes rather than simply funding activity • better understanding of the type of interventions likely to give the best results • more proactive service, better targeted and better coordinated across the relevant social agencies in reaching the people who need it most • fuller understanding of the factors that lead to repeated instances of victimisation for some individuals and their families and the appropriate responses to that • services better tailored to the needs of the victim and less dependent on the quality of the individual provider. <p>None of this is particularly novel and other social service agencies are trying to improve their service delivery by moving in a similar direction.</p>
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Improve public safety and maintain public confidence in the criminal justice system	
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<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Well placed</p> <p>The aim of this Government Priority is to deliver a substantial reduction in criminal behaviour and the harm it does to people and property, over and above the reduction delivered by favourable demographics. The Ministry needs to lead the criminal justice sector to improve performance of existing activity, while simultaneously shifting the focus of activity from managing the consequences of crime to addressing its causes.</p> <p>This will require the Ministry (including Courts), Police, and Corrections to work ‘as one’ as well as work effectively with others who can influence the drivers of crime; from independent participants in the sector through to the wider community. Unity is essential to ensure that the forecast decline in crime is realised and reflected in real savings in existing activity that are then converted into new activity that reduces offending and reoffending.</p> <p>Each step of this process will require real commitment to the overall goal and a shared understanding of what is likely to work best to achieve it, especially when this requires shifting funding and disinvestment in some existing activity, and the facilities and staff supporting that activity. It will also require innovation, including a more active and imaginative engagement with private providers and the wider community, to discover more effective interventions to address the causes of crime, especially serious crime and reoffending.</p> <p style="text-align: right;">contd...</p>
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	<p>The following initiatives are the work programme agreed between the Ministry of Justice and Government and, while extensive, it is largely on track:</p> <ul style="list-style-type: none"> • Search and Surveillance Bill • Review of Home Detention • Review of Bail • Crimes Amendment Bill (including 'claim of right') • Sentencing (aggravating Factors) Amend Bill • Knife Crime Implementation • Criminal Investigations (Bodily Samples) Amendment Act Review • Privacy (Information Sharing) Amend Act • Development of an Organised Crime Strategy and Action Plan. <p>Until recently, the work programme has been clearly heavily weighted towards policy/legislative change and the work has met Government expectations to a high standard. Operational components have not been the focus, but will be increasingly important in the future in order to realise benefits.</p> <p>The degree of confidence in the criminal justice system can be gleaned from a variety of survey information that paints a mixed picture. Some key statistics are:</p> <ul style="list-style-type: none"> • the number of people entering the criminal justice system is reducing for the first time in 20 years and sector forecasts show a continuing decline: <ul style="list-style-type: none"> ◦ the recorded crime rate in 2010 was 9,761 per 100,000 population, the lowest it has been since 1982, however the number of serious offences has increased ◦ prosecution levels in 2010 were 13% lower than in 2009. • the most recent crime and safety survey (2009) found: <ul style="list-style-type: none"> ◦ crime remained stable between 2006 to 2009 ◦ 64% of adults did not experience any crime, 36% did experience crime ◦ 63% thought there was no crime problem in their neighbourhood ◦ a high proportion of crime is concentrated on a relatively small part of the population (6% of adults experience 54% of all crime) ◦ only 32% of identified crime was reported in the most recently available crime and safety survey (2009). The main reasons for not reporting were because victims thought the crime was too trivial (53%) or the Police could not or would not act (24%) or the matter was private (21%). • the most recent court user satisfaction surveys shows 77% indicated they were fairly or very satisfied with the services and facilities provided at the court. These findings are comparable to similar surveys in Scotland, England and Wales. The overall satisfaction varied by type of court user. <p style="text-align: right;">contd...</p>
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	<p>We gained some interesting insights from stakeholders about the importance of prevention to improve public safety and some areas for improvement going forward, including:</p> <ul style="list-style-type: none"> • while many were relieved to see the Ministry initiate discussion about drivers of crime and prevention, the dialogue with stakeholders/partners appears to have gone into a hiatus for some period of time • the Ministry is not seen as knowing how to engage communities to take responsibility in their communities. There is concern that too much control is taken away from the community and that restorative justice has been marginalised. There is a sense that the Ministry approach has not been strategic, systematic and did not take sufficient heed of the evidence • when going from small community-based projects to big initiatives, the Ministry is seen as institutionalising them in ways that kill the things that made them successful • the Ministry was seen as needing to take a longer-term view, even though this may require courage and leadership.
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Reduce volumes and cost across the justice sector	
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<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Needing development</p> <p>This is a Ministerial priority for the justice sector, so the Ministry has a leadership responsibility for the overall outcome, as well as specific responsibility for delivering its share of volume and cost reduction.</p> <p>At a sector level, the chief financial officers from the five agencies work together with a Treasury advisor to put in place the mechanisms necessary to provide budget and financial management advice to the Justice Sector Leadership Board (the Leadership Board). They need to be able to identify the likely gaps between cost and reinvestment pressures, on one hand, and the available budget on the other; inform sector priority setting (including assessing the sector-wide impact of alternative initiatives); identify key risks; provide individual agencies with the information to assess each other’s plans; and monitor progress against those plans. We understand that a four-year plan has been agreed, with only a relatively small gap remaining (most of which is in the Ministry’s area).</p> <p>While initial progress has been encouraging, this is all very new and the development of this sector-wide capability is still in its early phases. For example, there is some concern that the sector-wide impacts of individual initiatives are difficult to assess with sufficient accuracy. Moreover, the degree of insight into each department’s business is still relatively limited, which makes assessment of potential for additional savings hard for others to determine. While the Board has been able to set priorities, and secure an agreed position on recommendations to shift funding from one agency to another, this process is yet to face the sort of difficult test that is likely in coming years.</p> <p style="text-align: right;">contd...</p>
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	<p>Moreover, there are a number of emerging issues that will need careful management in order for the recent success in reducing crime volumes to be sustained and favourable demographic factors built on. While the Ministry-specific issues are covered elsewhere in this Review (eg, courts, legal aid and financial management) there are number sector-wide issues that will need to be carefully managed.</p> <ul style="list-style-type: none"> • The significant reductions in prosecutions do not appear to be having a proportionate effect on court volumes or imprisonment rates. While this was always likely given the disproportionate impact on prosecutions for low-level offending, very close attention will need to be given to monitoring this downstream impact and to adjusting policy and practice to ensure that the overall anticipated decline in volumes in courts and prisons is actually delivered and sustained. • There has not yet been sufficient work done to ensure the sector will actually realise the full benefits from falling criminal volumes and from the change initiatives currently under way, even if they are well implemented. This requires the finance team work closely with the relevant businesses in each agency to convert the resulting reduction in demand for parts of many positions and facilities into reductions in whole positions and facility closures, so that cash savings can be made to meet wage and cost pressures and to reinvest in the innovations that will generate even lower rates of offending and reoffending. • There is inevitably risk associated with the implementation of what is a large number of changes across the sector that threaten benefit realisation and may have unanticipated downstream consequences. Mitigating this risk requires a deeper understanding of how all of the affected parties – like judges and lawyers – are likely to react. The unanticipated negative fiscal impact of new committal rules on the Crown Law Office illustrates the point. Realising the significant savings in legal aid is also likely to require an effective response to the legitimate issues being raised by the profession about the implementation of those reforms. Understanding the behavioural and downstream impacts is especially important when you need to rely on real innovation to achieve your objective. • In the Ministry’s own area of direct responsibility, there is a real risk that good initiatives are being considered in too piecemeal a way, with inadequate attention to the ultimate vision of what the future state should look like, or to the sequencing of changes to deliver that future state. Elsewhere we suggest that securing reduced volumes and costs are better seen as the by-product of an effective strategy that is closely aligned with the Ministry’s purpose and vision. <p style="text-align: right;">contd...</p>
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	<p>The risks are not all one way. There are areas, like tribunals, that have not received the same focus as courts and where many believe reform would improve effectiveness and efficiency. However, the above list does reinforce our emphasis on the need for earlier and more substantive involvement of both operations and external parties, like judges and lawyers, in policy development. The current patchy understanding of the operational and behavioural implications of policy change risks creating unintended consequences and undermining planned savings.</p>
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Progress the aspirational goal of settling historical Treaty of Waitangi claims by 2014

<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Well placed</p> <p>This Government Priority area overlaps with the Core Business area: ‘Treaty of Waitangi Negotiations’ below. We have addressed the ‘Negotiation of Specific Historical Claims’ in this section and wider issues around Treaty of Waitangi Negotiations in the Core Business section below.</p> <p>The durable resolution of historical Treaty grievances makes an important contribution to strengthening social cohesion. The Ministry’s task is to work with claimants and the Crown to deliver this resolution in the foreseeable future. We found a high level of Government and stakeholder satisfaction with the effectiveness of the Office of Treaty Settlements (OTS) in progressing specific claims, though most stakeholders were of the view that efficiency improvements were necessary and available and the OTS could work smarter. While Government and Iwi were largely satisfied with the work of OTS, there was significant frustration with the engagement and input from other parts of the Crown that are important to the resolution of claims. OTS needs to leverage assistance from central agencies and senior Ministers to help resolve these long-standing constraints. The Crown is one agent and must be seen to act as one if Treaty settlements are to be reached in a timely and respectful manner that puts the Crown-Iwi relationship on a new footing. A clearer vision of what the future Crown-Iwi relationship will be post settlement would assist in this. The Ministry has a leadership role to play on this and this is discussed further in the ‘Core Business’ section below.</p> <p>There is a near-term risk that current timeframes will slip and that the relativities that underpin durable settlements will come under strain. While the Ministry is generally seen to do a good job in advancing individual negotiations, it needs to do more to bring its experience to bear in helping the Government advance its overall Treaty strategy. This is discussed more fully below.</p>
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RESULTS SECTION

Part Two: Delivery of Core Business

This section reviews the agency’s effectiveness and efficiency in delivering its core business. The report is based on a judgement about the current performance of the agency and the trend that they have demonstrated over the last 3 – 4 years.

<p>Policy advice</p> <p>Policy advice, legal advice, research and evaluation in relation to civil, criminal and constitutional law, foreshore and seabed policy and treaty negotiation advice and services to Ministers (Justice, Courts and Treaty of Waitangi Negotiations).</p>	
<p>PERFORMANCE RATING</p> <p>Effectiveness</p>  <p>Efficiency</p> 	<p>Performance Rating (Effectiveness): Needing development</p> <p>Performance Rating (Efficiency): Well placed</p> <p>Over the past year the Ministry delivered a heavy criminal justice system work programme, as set out in the Government Priorities section above. There was a high degree of Government satisfaction with the legislative and policy work undertaken. However, it is still too early to know the extent to which the criminal justice legislative change will result in the desired impacts.</p> <p>The civil jurisdiction has received comparatively less attention, yet is critical to economic performance. Delays, costs and uncertainty have led many parties to market disputes to exit the formal court system in favour of alternative dispute resolution mechanisms. This has the potential to have long-term negative consequences, ie, due to a lack of precedence, and therefore prevention, effect as well as reduced access to justice for small and medium-sized business. The civil jurisdiction is complex. Access to justice in this jurisdiction is often via channels such as the Disputes or Employment Tribunals and these are usually resolved in a timely and cost-effective manner. In addition, there is a level of ‘gaming’ in the system. There are often perverse incentives for parties to delay the resolution of civil matters and a proportion are resolved “<i>on the steps of the Court</i>” as a hearing date draws near. There have been some early attempts to consider reprioritising some of the Ministry’s focus on this area, but this needs strategic focus and support from the Ministry’s Strategic Leadership Team.</p> <p>The Review of Family Law is under way and provides an opportunity to take heed of lessons learnt through the criminal justice reforms, including early and genuine consultation with the profession, judiciary and the public; well integrated input from the operational arms of the Ministry; greater focus on incentives and practical considerations; and establishing clearly specified outcomes and a means to monitor impacts and capture benefits, etc.</p> <p style="text-align: right;">contd...</p>

There has been growth in tribunals and specialist courts. Many stakeholders have identified this as an area overdue for review and fresh thinking.

The focus of historical Treaty of Waitangi work has been on achieving Agreements in Principle and Deeds of Settlements. The Ministry was proactive in finding solutions to the legislative log-jam and in providing advice on settlement-wide affordability and timeline milestones to Ministers. However, as strategic advice on the Crown-Iwi relationship is at a critical juncture, the Ministry has an untapped leadership role to play if it can bring its operational experience, institutional knowledge and legal capability to bear on identifying the desired post settlement state.

In the area of legal advice, the Ministry's work has been highly rated, though there is a sense that it could be improved further by seconding more lawyers with practical experience throughout the Ministry.



Finally, on the limited benchmarks that are available on the quality of policy advice, the Ministry is relatively well placed. The New Zealand Institute of Economical Research Inc (NZIER) rating was 'good' and the Ministry was amongst the best benchmarked.

In order to move from 'Needing development' to 'Well placed' on the effectiveness of policy advice, the Ministry needs to:

- take a strategic, partnership approach to co-creating policy and carrying stakeholders with them, especially the judiciary and legal profession. Consideration should be given to developing an equivalent to Inland Revenue's Generic Tax Policy Process
- engage and align input from policy and operations, eg, for court reform and the Family Court Review
- move from reactive to proactive in giving free and frank advice, helping to set the policy agenda and identifying the flow-on impacts of policy on other areas
- continue to build its ability to lead sector-wide policy advice.



On the efficiency side the Ministry is well placed and has consistently benchmarked well. In particular:

- in the review of expenditure and policy advice findings: NZIER found the Ministry maintained quality and reduced unit costs 14% over 2007/08 – 2009/10 period
- this Review found the Ministry had a good policy work programme management system (work items by priority with resourcing costs, deliverables and deadlines); and has a time recording system that tracks time spent on each item in the work programme
- in the NZIER paper 'Costing Policy Advice – Initial Measures for Five Agencies': the Ministry benchmarks well and was noteworthy for its attempts to set up measures to look at cost efficiency, allocative efficiency and dynamic efficiency.

<p>Sector leadership and support</p> <p>Advice and services focused on the Ministry’s leadership role in the justice sector (covers enhancing coordination with other sector and government agencies, advice and information about judicial and statutory appointments and monitoring specific crown entities).</p>	
<p>PERFORMANCE RATING</p> <p>Effectiveness</p>  <p>Efficiency</p> 	<p>Performance Rating (Effectiveness): Well placed</p> <p>Performance Rating (Efficiency): Well placed</p> <p>The justice agencies are seen to be amongst the most advanced in interagency cooperation. A sector leadership board has been established to take joint decisions on strategy and planning and to achieve the three sector priorities: reducing crime, modernising the justice system, and reducing reoffending. The Justice Sector Sustainability Programme set some ambitious targets, with flat baselines until 2020. It is not clear if each agency sought and got buy-in from other agencies on these targets and this poses risk to achievement and ownership.</p> <p>To date sector leadership and support appears to have been provided in an efficient manner, consistent with the methods used by the Ministry in other areas of policy advice.</p> <p>The current approach relies on the goodwill of chief executives and alignment of Ministerial interests. However, it is still early days and the relationships have not been seriously tested, most of the accountabilities and incentives are still arranged around individual departments reporting to their Ministers, and most of the focus to date has been on defining goals for each agency that they can execute individually. Agencies need to approach issues first of all from a sector perspective and be able to act ‘as one’ when the circumstances demand it. Given the importance of this issue, more should be done to strengthen collective leadership, including:</p> <ul style="list-style-type: none"> • chief executives need to have both collective and individual accountabilities and those collective accountabilities need to be well defined. For example, Ministers should be looking for the Board to provide them with formal assurance that policy settings are sufficient to achieve the objectives they have set for the sector and that the sector has the capacity, capability and credible plans to deliver on the those objectives in the desired timeframe and within the budgeted resources (or advise the Minister if the objectives are unlikely to be achieved and should be changed). If the Board is unable to provide that assurance now, then it should be asked to identify what needs to be done so that it is able to do so • central agencies need to ensure that Ministerial priorities, budget arrangements and chief executive performance agreements and assessments are all aligned to delivering the collective objectives <p style="text-align: right;">contd...</p>

	<ul style="list-style-type: none"> the Leadership Board needs to be properly supported in its collective role. It needs the information and analysis to assess the impact of the key initiatives across the sector, set collective priorities and be confident that these are properly reflected in the plans of constituent agencies and that these agencies are properly incentivised, configured and resourced to deliver. Some of this resource will need to be provided by the Ministry, although the Board might also need to look to the central agencies to provide some assurance (which would change the traditional relationship those agencies have with the constituent agencies) given that the Board will need to innovate to find the most effective ways to prevent offending or reoffending, or to help people resolve issues without recourse to the courts, it will also need to resolve how the required innovations will be assessed, managed and reviewed so that those most likely to succeed are supported and kept on track and those that disappoint are quickly stopped. This will require a change in culture at the Ministry itself, to be less risk averse, more innovative and to place a higher value on review. <p>These changes are aimed at strengthening the leadership role of the Ministry and the Secretary, as Chair of the Leadership Board. At some stage, additional levers may be required. However, what this list does demonstrate is that the role of the central agencies with regard to the sector is quite different than their role relative to individual agencies. This needs to be better developed.</p> <p>Finally, the Leadership Board, under the leadership of the Chair, needs to be externally facing to position a compelling need for reform, modernisation and better services for the public.</p>
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Provision of legal services
 Administration of legal services, including legal aid and related schemes; the management and collection of legal aid debt; and representation for defendants in criminal cases at specified courts through the Public Defence Service (PDS).

PERFORMANCE RATING Effectiveness  Efficiency 	<p>Performance Rating (Effectiveness): Needing development Performance Rating (Efficiency): Well placed</p> <p>The aim of this activity is to improve access to justice, while controlling public expenditure in order to ensure value for money and the financial sustainability of the legal aid programme.</p> <p>Eligibility for legal aid is subject to affordability tests and may have to be repaid, either in whole or part (ie, for some people this aid is a loan). Legal aid services are provided either by contracted privately employed lawyers or Ministry-employed lawyers, the latter as members of the PDS.</p> <p style="text-align: right;">contd...</p>
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About one fifth of legal aid granted is recoverable as a normal commercial debt. Of that amount, a little over 28% is actually recovered (ie, about \$9.3 million or 5.8% of total aid granted). The amount collected per dollar spent on collection exceeds the Ministry benchmark (and is better than fines collection – see below). The recovery rate is broadly comparable to that expected of the private collection agencies that are used to collect the difficult legal aid debts on behalf of the Ministry.

The Ministry’s current approach to improving access to, and quality of, legal advice for people who cannot afford it is to regulate the certification of lawyers eligible to provide legal aid services, while expanding the PDS and, therefore, the public provision of legal aid services. Setting maximum fees is aimed at controlling public expenditure on legal aid, although it may also improve access for those people who would have to repay the aid and would be discouraged from applying because of the cost.

The PDS was evaluated by independent consultants who concluded that: it had a lower average cost per case than contracted private providers (an advantage that increased with case complexity); it provided a higher quality of service (client experience, case handling and outcomes and stakeholder perceptions); and it also tended to have a favourable wider impact on the courts. Our interviews supported the notion that the PDS provided a quality service.



It was always unlikely that legal aid lawyers would welcome these changes. There is a high level of dissatisfaction amongst legal aid providers with the way the legal aid reforms are being implemented. More troubling is that implementation of these reforms is running into problems that could have been foreseen during policy development and that could well frustrate the Government’s objectives. There are transitional problems that damage credibility (eg, around timely payment of service providers). It also seems likely that at least some of the better quality privately employed lawyers will no longer seek to provide legal aid in part because the new certification criteria discourages or actually prevents their ongoing involvement and, in part, because of the new fee structure. If this becomes widespread, it may weaken the competitive pressure on the PDS at the same time as it encourages that service to expand. The government could well end up owning and operating a much larger PDS, providing more costly and lower quality services than it had anticipated.

It is not inherently obvious that the provision of subsidised legal services will always be best provided by a publicly owned institution. Getting the public-private balance right may well mean that some changes in the organisation of private provision are required to make it more competitive and that the way the profession is regulated, or legal aid funding is structured, would help the private sector evolve to a more efficient form. These are issues that require some attention if we are to end up with the right balance between public and private provision in this area.

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	<p>It is likely that the Ministry will need to rethink at least some of the aspects of the recent changes. Earlier and more substantive engagement with the profession – as now seems to be happening in some areas, should be encouraged, as should a closer involvement of the policy team with those in the Ministry who need to implement policy. Indeed, the Ministry might consider adopting a ‘generic policy process’ that requires this engagement as a normal part of policy development. The Ministry might also like to emphasise what could be done to encourage people to resolve their problems without recourse to the courts, including those people currently eligible for legal aid.</p>
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<p>Collection and enforcement of fines and civil debt services Collecting and enforcing fines and civil debts.</p>

<p>PERFORMANCE RATING</p> <p>Effectiveness</p>  <p>Efficiency</p> 	<p>Performance Rating (Effectiveness): Needing development Performance Rating (Efficiency): Well placed</p> <p>The Ministry is involved in collection of what are essentially commercial obligations like legal aid debt, above, and the enforcement of sanctions, like court-imposed fines. These should have different objectives and be assessed by different criteria.</p> <p>The collection and enforcement of court-imposed fines needs to be assessed in terms of the effectiveness of fines compared to other sanctions that are typically socially more costly to enforce (ie, including the wider private costs, eg, on families and employers, as well the public costs of alternative sanctions, especially imprisonment). The extent to which the courts are prepared to impose fines rather than feel they have to resort to more costly alternative sanctions is the critical measure of their effectiveness. This will depend in part on the confidence judges have that fines are likely to be paid. Efficiency needs to be assessed in terms of delivering an effective sanction, rather than just the normal commercial debt recovery metrics on their own.</p> <p>The <i>Statement of Intent</i> (SOI) measures ‘public satisfaction with paying fines or getting information about fines’ (which had a small increase to 57%) and ‘the proportion of people who have not paid or made an arrangement to pay their fines, infringement or reparation at 30 June’. This latter measure is low, albeit improving slightly, with compliance with monetary sanctions increasing from 43% in 2007/08 to 48% in 2009/10.</p> <p style="text-align: right;">contd...</p>
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This low level of reported compliance is likely to undermine the perceived effectiveness of this sanction and risks a shift in the mix of sanctions to those that are more effective, even though they may be socially more costly. On the face of it, it is troubling that the trend in the total value of fines and reparation imposed has reversed and is down in both 2010 and 2011 (and is forecast to decline again in 2012). While there are a number of factors at work, this change is at least suggestive that more needs to be done to improve the effectiveness of fines as sanctions. Recent and prospective legislative changes aimed at strengthening the Ministry's ability to enforce fines should help. More attention is also required on devising a better measure of the reported effectiveness of this sanction type.

While it is difficult to assess the overall efficiency of fines enforcement, the evidence we do have suggests that New Zealand is not out of line with comparable performance in the Australian states. There have been a number of relatively recent changes that will have improved the internal efficiency of fines collection and are yet to show through in the annual numbers. Moreover, recent and prospective changes that strengthen the range of sanctions that can be applied to potential defaulters will improve efficiency still further (eg, the ability to influence credit ratings and, from next year, to suspend drivers' licences). Taking all of these factors into consideration, we have rated efficiency as 'Well placed'.



The efficiency measures the Ministry uses are very partial and need to be improved. The Annual Report reports on the percentage of court-imposed and infringement fines collected or placed under arrangement within four months, as well as total amount collected. While it is possible to compare this data with total expenses, the result suggests a relatively high cost of collection (ie, far less is collected here than what is collected for every dollar spent in recovering legal aid debt). While there may be good reasons for the difference, the Ministry should develop better benchmarks for assessing efficiency of fines collection. This should draw on a range of public and private indicators (adjusting the private indicators for the fact that the Ministry has much stronger enforcement powers on the one hand but will probably want to collect more than is commercially justified on the other).

<p>Court and tribunal services Services for District Courts; Higher Courts, Specialist Courts, Tribunals and other Authorities; and the Waitangi Tribunal.</p>	
<p>PERFORMANCE RATING</p> <p>Effectiveness</p>  <p>Efficiency</p> 	<p>Performance Rating (Effectiveness): Needing development Performance Rating (Efficiency): Weak</p> <p>The Ministry has responsibility for ensuring that public funding and regulation of the system of justice works in a way that reduces unnecessary disputes, among citizens and between citizens and the State, and ensures that the disputes that do arise are settled in a way that best meets the needs of the parties within the rules established by society. In some cases this will mean supporting people in understanding their options and resolving their own disputes without recourse to courts and tribunals (eg, family counselling and community law centres). While most of the Ministry’s attention will inevitably be focused on improving the performance of courts and tribunals, more thought could be given to this broader context.</p> <p>Justice delivered by courts and tribunals needs to be accessible, timely, predictable and deliver correct outcomes according to law. The Ministry has direct operational responsibility for working with the judiciary and the legal profession to continue improving the quality of justice delivered through the courts and tribunals across these four dimensions.</p> <p>The courts have a unique and critical role because they are the final arbiters of what is a correct outcome according to law. Consistency and predictability of judgement reduces uncertainty about how the law will be applied, so providing a better framework for avoiding disputes and encouraging people to resolve problems without recourse to the courts. Delivering operational excellence is also critical because it allows for the available resources to be better applied to improvements in access to justice and expeditious resolution of cases, without compromising the correct outcome of cases, ie, it reduces the tension amongst these different considerations. All participants have an interest and a role to play in delivering operational excellence.</p> <p>There are a large number of projects under way to modernise courts, including adopting new technology, centralising shared services, improving case management, rationalising property, etc. However, there is not an overarching strategy that starts with a clear future state vision and a cohesive operating model premised on a clear focus on delivering to the public/court users but work is underway on this. While some court staff are working collaboratively across court jurisdictions, this is piecemeal and not systematically pursued. Some innovative things are happening but they are not consistently applied, and there is no clear mechanism for taking innovations and rolling them out more broadly. It is also not clear how the Ministry will realise benefits (crystallise efficiency dividends) from investments already under way.</p> <p style="text-align: right;">contd...</p>

	<p>The area of tribunals/specialist courts has not received the same focus on operational excellence as the courts have, although their smaller scale has meant they have some operating advantages. Each tribunal, however, is led separately judicially, while all tribunals are administered by the Tribunals Unit. Tribunal and court staff are working collaboratively to improve courtroom usage, and the Ministry has initiated some improvements in response to the Law Commission’s review of tribunals but there may be scope to further consider the Commission’s proposals. Some efficiencies may also remain elusive until tribunals have a ‘Head of Bench’ or some other mechanism with an explicit mandate and accountability for driving operational excellence.</p> <p>Significant gains can be made in improving the overall operation of courts and tribunals and in reducing variability in performance. Improvements in the courts operating model, like those being implemented as part of the Auckland Service Delivery project, are fundamental. Greater use of technology – like electronic document management and video links – will also make a significant contribution and may make sense for a range of potential future operating models. However, it is often the case that clarity around a future operating model is necessary before the right technology decisions can be made and the benefits of technology investments realised. Ensuring that more important cases attract a proportionate share of attention is also important. Success will require a step change in the way the Ministry manages externally and internally. Externally, it will require a substantially more productive relationship with the legal profession and the judiciary. Internally, it will require a substantial shift in:</p> <ul style="list-style-type: none"> • client orientation: with far more attention given to strengthening the Ministry’s operational performance to deliver more efficient and timely court services for the public. The status of operational and corporate functions needs to be on par with policy and policy needs to be more strongly oriented to improving operational performance • clarifying goals and reducing variability in performance including clearer targets for what matters to the client. Targets for access, timeliness and predictability need to be established and accepted by both the judiciary and the Ministry (with the judiciary asked to devise their own standards for measuring the extent to which all but final outcomes are ‘correct’), with performance against those targets measured and made transparent. This would establish the right performance expectations and encourage better management across the system, including allowing a stronger focus on outliers of poor performance • operational management: from a focus on where we are and where to go next to greater clarity about where we want to be and how to get there • the overall quality of staff management: including performance and training, with a consequent step change in staff engagement • realising the benefits of technology investments: which require a change in the way large numbers of people work and work together, and a change in the way the public engages with the courts. <p style="text-align: right;">contd...</p>
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	While these are big changes and benefits will need to be realised quickly, care will need to be taken to find people with experience in managing the nature and scale of the required transformation, with the requisite knowledge and experience in the justice sector.
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<p>Treaty of Waitangi negotiations</p> <p>Advice on generic Treaty issues and specific historical Treaty claims; negotiation of specific historical Treaty claims; support for the transfer of settlement assets; management, transfer and disposal of Crown-owned property for settlement purposes; and research into historical Treaty grievances to support Waitangi Tribunal hearings.</p>


<p>PERFORMANCE RATING</p> <p>Effectiveness</p>  <p>Efficiency</p> 	<p>Performance Rating (Effectiveness): Needing development</p> <p>Performance Rating (Efficiency): Needing development</p> <p>This core business area overlaps with the Government Priority: ‘Progress the aspirational goal of settling historical Treaty of Waitangi claims by 2014’.</p> <p>While the Ministry is generally seen to do a good job in advancing individual negotiations, it needs to do more to bring its experience to bear in helping Government advance its overall Treaty strategy. Leadership at a senior level within the Ministry, working alongside central agency colleagues, is time critical for the Ministry. The Ministry needs to use its collective institutional knowledge from several decades of work to help steer the path forward.</p> <p>Looking forward, there is a yet to be realised opportunity to build a clearer picture of what the future post-settlement Crown-Iwi relationship will look like. As momentum to conclude settlements has increased (and the number left to conclude decreases) an increasing focus on the legacy of settlements in the future Crown-Iwi relationship needs to be advanced. Ministers have understandably wanted the Office of Treaty Settlements (OTS) to focus on its core business (historical Treaty settlements) while not losing sight of the contribution that settlements make to help transform the economy and enhance social cohesion. Leadership regarding the role of settlements in the Crown-Iwi relationship will be a key role for the Ministry.</p> <p>New institutional arrangements may be necessary to support the relationship going forward and some Iwi are already finding current arrangements insufficient to deliver on Iwi or Crown aspirations. Making this bigger contribution requires a more active role in dealing with a range of potentially competing interests, not least of which are those of different agencies of State. An effective cross-agency response will be required and will require more urgent and determined leadership from the Ministry to achieve it.</p> <p style="text-align: right;">contd...</p>
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	<p>There are a number of other matters that arise under this Core Business area that we briefly comment on below:</p> <ul style="list-style-type: none"> • while the management of Crown land for disposal appears to be well managed, some properties are deteriorating significantly as time to resolution lengthens, underscoring the imperative to find ways to speed up negotiations • another risk to manage is the significant Waitangi Tribunal call on research capability, while also needing to prioritise the research needs of individual Treaty settlements. <p>Looking forward, OTS will need to find more effective and efficient means to support the Government’s aspirational goal of settling historical Treaty claims by 2014 (even if just with those Iwi who are ready to settle). A range of strategies to do this were drawn to our attention by OTS and other stakeholders, including:</p> <ul style="list-style-type: none"> • better scheduling of negotiations to take account of the Crown and Iwi readiness to negotiate, giving priority to those ready and willing to negotiate • looking at strategies used by different Chief Crown Negotiators to facilitate resolution and test if they could be used in other negotiations, including considering the appropriate timing for offers to be put on the table • engaging Crown negotiators in strategic discussion, including resourcing discussions across the whole OTS workload • ensuring local territorial authorities are involved as early as practical • engaging as early as possible with other Crown agents at an operational and policy level • involving senior central agency officials where blockages amongst Crown agents occurs, with timely escalation to Ministers, if required • timing historical research to support the resolution of claims. While this work appears to be well prioritised, there is a need to manage the timing risk arising from a tendency for the historical accounts to become longer • ensuring historical research on overlapping claims is at an advanced stage, before negotiations begin • using fewer but more senior staff to attend face-to-face meetings, allowing others to progress supporting work • careful forecasting of future cost of settlements is required to allow corrective action where required • once a longer-term vision for the Crown-Iwi relationship is clear, that view should further inform strategies used in individual settlements.
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Crown entity monitoring

<p>PERFORMANCE RATING</p> <p>Effectiveness</p>  <p>Efficiency</p> 	<p>Performance Rating (Effectiveness): Well placed</p> <p>Performance Rating (Efficiency): Well placed</p>
	<p>The Ministry has responsibility for providing the Responsible Minister with support and advice in relation to the oversight of six Crown Entities: Electoral Commission, Human Rights Commission, Independent Police Conduct Authority, Law Commission, Privacy Commissioner and Real Estate Authority. The Minister is provided with advice about performance, financial planning and monitoring of financial performance, risk management and entity capability.</p> <p>The performance indicator used to assess this function is the level of Ministerial satisfaction with the quality of this support and advice. The Ministry met the ‘satisfactory’ standard in 2009/10 and was rated ‘good’ in 2010/11. There are no other available indicators of effectiveness, and efficiency standards need to be developed for this function. ‘Managing the Parliamentary electoral process’ had its own output class and was delivered by the Electoral Commission in a way that substantively met the performance standards for that activity.</p> <p>While the entities we spoke to were generally positive about their relationship with the Ministry, the Ministry seemed largely reactive and entities found it difficult to identify how the monitoring role really added value to what they were doing (an issue not confined to this Ministry and their Crown entities). In both of the cases we looked at in some depth, there has been real issues around financial planning and monitoring that indicated that the Ministry needed to improve its performance in this area.</p>


Regulatory impact


<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Needing development</p>
	<p>We interpret regulatory work in terms of designing, advising on, promoting and communicating about the justice system and legislation for which the Ministry has responsibilities – in other words, the quality of legislation and how this legislation is acted upon.</p> <p>The Ministry’s purpose is to ensure that the country has a fair and effective justice system. Over the last few years the Ministry was noteworthy for supporting the Government’s priorities to strengthen the criminal justice system through legislative change. It is still early days when considering the impact of these changes but there are signs that the Ministry will need to monitor the implementation of these reforms carefully and be prepared to advise Government on any necessary improvements. There has been considerable concern about whether the processes the Ministry followed leveraged the knowledge and experience of the judiciary, the legal profession, non-government organisations (NGOs) and its own operational arms sufficiently to ensure all downstream consequences of the reforms were understood.</p> <p style="text-align: right;">contd...</p>


	<p>The Ministry has considerable work to do to become ‘Well placed’ on ‘Regulatory impact’. It needs to consider doing customer impact modelling when undertaking significant reforms. It also should consider a policy process, akin to the Inland Revenue’s Generic Tax Policy Process to improve the quality of its interactions with key partners and stakeholders.</p> <p>While the focus of the Government, and therefore the Ministry, has been on the criminal justice system, the Ministry solely or jointly administers over 160 Acts of Parliament. The Ministry has had a mixed result on the quality of its Regulatory Impact Statements under the Regulatory Impact Analysis Regime, assessed as approximately 1/3 meeting requirements and 2/3 partially meeting requirements. This is important work but has largely been reactive.</p> <p>The commercial and regulatory team is heavily preoccupied with the administration of a substantial amount of occupational regulation, eg, regulation of security personnel, wills, real estate, etc. The quantum of this work effectively squeezes out any focus on strategic issues around commercial law. There is a big question mark about whether these regulatory responsibilities should sit with the Ministry or reside in other agencies.</p> <p>There is also an untapped opportunity to reprioritise the focus on the impact of the judicial system performance on economic performance. There is a need to look at the effectiveness of the civil system to help the economy grow. At the moment, the Ministry recognises that it has a capability gap to do this; while they have staff with a commercial law background, missing from the mix is an understanding of strategic regulatory frameworks, economics and commercial pragmatism. Early discussions are under way with the Strategic Leadership Team to address this.</p> <p>The Ministry will know it is ‘Well placed’ on ‘Regulatory impact’ when it is able to confirm:</p> <ul style="list-style-type: none"> • clear, effective and well understood justice policy and legislation • justice system users receive high levels of service and timely responses from good, technically competent and receptive people • finding information and receiving assistance is not a struggle for justice services users • it can anticipate and respond quickly to policy and administrative challenges • it effectively supports the integrity of the institutions that develop, administer and enforce society’s rules • the justice system is characterised by high levels of voluntary compliance, which is helped by the justice system being perceived as broadly fair, predictable, assessable, timely and affordable.
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ORGANISATIONAL MANAGEMENT SECTION

Part One: Leadership, Direction and Delivery

<p>Vision, strategy & purpose</p> <p>How well has the agency articulated its purpose, vision and strategy to its staff and stakeholders? How well does the agency consider and plan for possible changes in its purpose or role in the foreseeable future?</p>	
<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Needing development</p> <p>Refreshing the Ministry’s purpose, vision and strategy is fundamental to successfully addressing the issues raised in this Review. The Ministry needs to be clearer about defining its purpose around ensuring the justice system delivers more of those things that New Zealanders value most. This sort of purpose is more closely aligned with the motivations of the Ministry’s people and of others it needs to enlist to deliver for the public.</p> <p>It is very difficult to assess whether the Ministry’s strategy is having the desired impact in achieving the Ministry’s purpose, without a clear vision of the desired future state. While there is some promising work under way in a number of areas, it is not anchored in a clear statement of where the Ministry thinks it is headed. Examples include the Treaty Settlements work where the highly regarded day to-day work programme is not anchored around a vision of the post-settlement Crown-Iwi relationship. Another example is the work to modernise the courts, which is not clearly anchored around a clearly specified vision of what the court and justice system will look like in five years time.</p> <p>The current strategic direction is defined as ‘fewer, faster, fit for purpose’ and is seen to be largely about cost rather than value, is unclear about who the Ministry serves and is not well connected to the motivations of the people that need to be engaged. While ‘fewer, faster, fit for purpose’ are important things to achieve, they should be seen as a by-product of an effective strategy that is closely aligned with an agency’s purpose and vision, rather than the strategy itself.</p> <p>The Ministry’s strategy needs to identify how it will manage the mandate, people, relationships and resources it has to deliver those outcomes that have greatest value to the public it serves. This has to be more than the sum of the projects and legislative initiatives that are currently under way. It is likely to require more focus on strengthening operational performance through better support of frontline staff and more actively enlisting the support of external parties. While the Chief Executive is strongly repositioning the Ministry with staff and external stakeholders, a fundamental change of culture is required to support a refreshed purpose, vision and strategy. This, in turn, will require a Ministry-wide engagement and communications strategy.</p> <p>The Ministry will know when it is ‘Well placed’ on its vision, strategy and purpose because its staff engagement and stakeholder surveys will reveal a strong alignment to its vision, strategy and purpose and a high level of satisfaction and respect for the justice system.</p>


Leadership & Governance How well does the senior team provide collective leadership and direction to the agency?	
<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Needing development</p> <p>The incoming Chief Executive has recently reviewed and restructured the Strategic Leadership Team and a number of key appointments are not yet filled by permanent appointments.</p> <p>Previous arrangements emphasised individual accountability to the Chief Executive for individual business unit performance. Looking forward, more emphasis will need to be placed on the collective accountability of the Strategic Leadership Team for managing the Ministry. This is especially important as the Chief Executive will need to spend more time on sector leadership, at the same time as the demands on collective Ministry leadership increase.</p> <p>These increasing demands reflect the need to:</p> <ul style="list-style-type: none"> • give greater definition to the Ministry’s purpose and reflecting this in a refreshed strategy and associated set of cross-Ministry priorities • develop a clearer description of the desired operating model • focus on the organisational development needed, especially in the areas critical to success (ie, enlisting external support and stronger people leadership and management) • strengthen collective governance over the other critical success factors (ie, developing a more proactive policy function, with stronger linkages to operations, and delivering stronger customer-oriented operational performance) • ensure the Ministry continues to deliver on its immediate priorities, including in realising the benefits of reduced criminal volumes • recognise this represents a significant culture change in the business and this must be led strongly and consistently by the Strategic Leadership Team supported by a strategic internal and external communications strategy. <p>This is going to require developing clear objectives and measures of success for each business unit to enable greater delegation while providing all members of the Senior Leadership Team insights into each other’s business necessary to satisfy themselves that the Ministry is on track.</p> <p>It will also require stronger organisational development capability to support the requirement for more effective external engagement and communication, along with stronger people management.</p> <p>Governance arrangements will need to be designed to ensure the effective oversight of the required changes in the policy and operational units of the Ministry, as well as ensuring linkages between the two are strengthened. For example, that operational issues are given appropriate weight in setting the policy agenda and that operational considerations, along with the required external input, are considered early enough in the policy development process.</p>


<p>Culture & Values</p> <p>How well does the agency develop and promote the organisational culture, behaviours and values it needs to support its strategic direction?</p>	
<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Weak</p> <p>The Ministry’s self-review indicated that a “single defined culture is not apparent, given the disparate nature of its responsibilities and nationally spread frontline work force”. The Ministry has positioned the RISE (respect, integrity, service and excellence) values in part to be the unifying values that bring the Ministry together as a whole and underpin how the organisation operates to support its strategic direction. The RISE values statement are well sign posted around the Ministry and naturally resonate with many staff interviewed. However, the feedback we got on how well these values are translated into practice around the Ministry was, at best, a mixed story. Indeed the Ministry self-review acknowledged that “senior leadership and staff perceptions may differ in regard to how well leadership, systems, and processes promote and support the behaviours and values the Ministry needs to support its strategic direction”.</p> <p>Additionally, we found consistently expressed views that the culture around the Ministry is ‘risk averse, siloed, reactive; not valuing of staff; stressful and not in control, inward and upward focused’. Even senior leaders are sometimes seen to not always buy-in to the stated values, expected behaviours and strategic directions set by the agency. Behaviours across the agency are not consistent with the ambition or vision the new CEO has for the agency.</p> <p>Culture change of a significant scale is needed to support the business transformation that is required. It is unclear to what extent the agency has a well-developed strategy on how to lead the culture change required. Without it, much of the agency’s wider business strategies will remain largely at risk. It is essential that senior leaders set the tone and clear expectations and accountability around culture change.</p> <p>Looking forward, the culture of the Ministry will likely need to become open, respectful and downward and outward focused, innovative, accountable and collaborative. The Ministry will know when it has achieved this through its staff engagement and stakeholder surveys. To get to this state, the Ministry may need to consider quite formal accountability measures to ensure the importance of culture, values and behaviours is reflected in everyday practise in the business.</p>

Structure, Roles and Responsibilities

How well does the agency ensure that its organisational planning, systems, structures and practices support delivery of government priorities and core business?


How well does the agency ensure that it has clear roles, responsibilities and accountabilities throughout the agency and sector?


<p>PERFORMANCE RATING</p>	<p>Performance Rating: Needing development</p>
	<p>The Ministry of Justice is undergoing significant change and this is likely to require fundamental review and change to existing service delivery models, structures, roles and responsibilities. The Chief Executive has started this process with a recent review and restructuring of the Strategic Leadership Team. This new structure is designed to bring in innovation leadership at a senior level, a current weakness in the Ministry. Well led and implemented governance arrangements will be needed to capture the benefits of this structure. A new Deputy Chief Executive role, responsible for the Ministry’s sector strategy, has also been established to support the Chief Executive’s sector leadership role. Several key Strategic Leadership Team positions are still to be filled permanently and this will be an opportunity to bring in new thinking about organisational design.</p> <p>The next big issue will be how the new structure, roles and accountabilities at the Strategic Leadership Team level will cascade through the organisation. Frontline team leaders, managers and staff are not well aligned and connected to, or well supported by, the structure in place. Having nine layers in the organisation has resulted in problems associated with remoteness of decision making and poor communication and alignment. Staff-to-management ratios are about 4:1, but there is a sense at the front line that managers up the chain are not managing; they are focused up and inward, rather than downward and out. Careful consideration to the structure is therefore required, including potentially significant de-layering of management.</p> <p>Looking forward, staff need to have a clear line of sight of how their roles fit into the wider role and responsibilities of the Ministry. We acknowledge the comment from the self-review that while roles, responsibilities and accountabilities are set throughout the Ministry, they are perceived by some to be ineffective and inconsistent. Greater role clarity both in head office and the business units is required and the Ministry needs to ensure accountabilities and responsibilities are appropriate, transparent and well understood externally.</p> <p>In order to become ‘Well placed’ organisation-wide planning, systems, structures and practises have to support an aligned Ministry. Until this happens, the achievement of Government priorities and core business will remain at risk. Strong sector leadership from the Ministry will also require it to think further about sector KPIs that clarify sector roles, responsibilities and accountabilities as discussed elsewhere in this Review.</p>

<p>Review</p> <p>How well does the agency monitor, measure, and review its policies, programmes and services to make sure that it is delivering its intended results?</p>	
<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Needing development</p> <p>The first consolidated, Ministry-wide quarterly reporting on financial and non-financial performance, including risk, was discussed by the Strategic Leadership Team in November 2011 and covered the period ending September 2011. Each business unit has its own reporting content and format, and activity cannot be easily consolidated. Looking forward, the Ministry recognises the following improvements are needed: improved timeliness of reporting; improved governance arrangements and the introduction of consolidated reporting to staff at all levels.</p> <p>The quality and effectiveness of operational/project activity through regular reports to the third tier varies significantly and it is unclear how or whether it drives strategic decisions. The link back to <i>Statement of Intent</i>/strategic plan outcomes, including measurable actions to achieve them, is not clearly visible in all areas.</p> <p>The Ministry has a specified programme/project management methodology, which sets criteria requiring all business cases to have a formal review/evaluation process, a register of lessons learnt or mechanism to link the results into business improvement activity. The Ministry recognises there is significant variation in practice across the organisation in respect to post implementation re-evaluations and linking lessons learnt to business improvement. It is vital that this be rectified, particularly given the recent heavy policy/legislative change in the criminal justice sector and the emerging signs that intended impacts may be difficult to realise without timely follow-up review and corrective action, where that is necessary. This is also critical to improving the performance of the courts in a sustainable manner.</p> <p>The agency has a research and evaluation capability and undertakes a credible work programme but there are question marks about how well it links into policy and operations. We saw many instances where there was either insufficient evidence of a review culture or a lack of awareness about what review and research was being planned or undertaken in the Ministry.</p>

ORGANISATIONAL MANAGEMENT SECTION


Part Two: External Relationships

Engagement with the Minister(s) How well does the agency provide advice and services to its Minister(s).	
<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Well placed</p> <p>Over the previous three years there has been a good standard of engagement with justice sector Ministers and the Ministry has been well attuned to Government priorities. The Ministers responsible for the performance of the Ministry were canvassed for their assessment of Ministry performance according to three criteria: quantity, quality and timeliness and the Ministry received an overall ‘very good’ rating.</p> <p>The previous legislative work programme has been largely progressed and there has been a change in Ministerial responsibility. In addition, there are significant changes in the environment the Ministry operates in. Looking forward, the Ministry will need to:</p> <ul style="list-style-type: none"> • improve its proactive advice capability, including with respect to the civil jurisdiction and tribunals and specialist courts • after a long period of criminal reforms, take a fresh first-principles look at outcomes, operating models and where the greatest opportunities are for advancing the interests of New Zealanders across the justice sector • provide the sector leadership that is vital to achieve Government priorities and establish robust sector KPIs and accountabilities to support the achievement of sector outcomes • shift the nature of engagement with the Minister, the judiciary, the legal profession and the public as priorities change • shift the focus from policy and legislative change to operational implementation and excellence and thereby focus intensively on realising the full potential of Ministry staff in order to meet Government expectations.

Sector Contribution How well does the agency provide leadership to, and/or support the leadership of other agencies in the sector?	
<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Well placed</p> <p>Over the recent period the Ministry has moved to establish a strong sector leadership forum, taking advantage of the opportunity presented by new leadership in many of the agencies. As a consequence of this leadership, the justice sector is widely seen as the most advanced cluster of government agencies. The justice sector has an agreed outcomes framework, produces an annual justice sector forecast and coordinates justice sector budget processes and policy priorities.</p> <p>Looking forward, the sector will need to further expand the quality and depth of collaboration in budgeting and strategic planning. The sector is taking joint decisions on strategy and planning and to achieving the three sector priorities, reducing crime, modernising the justice system and reducing reoffending. The sector does not yet have the framework or data-sharing infrastructure to enable it to demonstrate the collective impact of agency activities on justice sector outcomes. Work is currently under way to develop a shared performance and data-sharing system. The current collaboration stops short of taking collective responsibility for the achievement of outcomes outside each agency's direct line of responsibility under the Public Finance Act 1989 and State Sector Act 1988.</p> <p>The precise boundaries of the Ministry's sector leadership role are unclear. Recent stakeholder feedback resulted in a restructure of the Justice Sector Strategy Group and its work programme. The current lack of institutionalisation of arrangements, however, relies on goodwill of senior players and potentially puts its sustainability at risk if leadership changes occur that result in a reduction in the degree of cooperation. As sector leader, the Chief Executive of the Ministry will need to work closely with central agencies and Ministers to ensure he has the leverage required to deliver on Government expectations.</p> <p>The view from the sector is generally very positive about the recent leadership provided to it. There are mixed views, however, on whether the Ministry has pushed the boat out far enough. One view is it is early days and it is developing nicely. Consistent with our findings, other views are that the Ministry, as sector leader, has a wider role to play, including:</p> <ul style="list-style-type: none"> • as the honest broker, because there are still a lot of silos and self-interested behaviour in the sector. Patch protection needs to be broken down. There is cooperation, not collaboration. Until significant resources flow between agencies, the strength of the arrangements will not be fully tested • informing the debate around law enforcement by identifying what is done well, what could be done better, where priorities and resources need to move and the constraints to doing it • looking out at the horizon, not just responding to short-term priorities <p style="text-align: right;">contd...</p>


	<ul style="list-style-type: none"> • bringing a practical, real-world look at justice sector issues, including understanding public expectations that people are held to account and people should be able to feel safe in their communities. Commercial views are also missing • ensuring high-level goals are supported by accountability for specific timeframes by which specific things must be done. <p>For further comment, see Part Two: Delivery of Core Business: Sector Leadership and Support.</p>
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Collaboration & Partnerships with Stakeholders
 How well does the agency generate common ownership and genuine collaboration on strategy and service delivery with stakeholders and the public?

<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Weak</p> <p>The Ministry can only deliver in any of its priority areas if it is able to enlist active external support over and above the four other government agencies in the criminal justice sector. This is an area where the Ministry’s current relationships are difficult (eg, the judiciary and the legal profession), weaker than they need to be (eg, other departments in the Treaty area as well as those who can influence the drivers of crime) or still emergent (eg, non-government agencies, like community law centres and the wider community). However, this is also an area where the key counterparties seem to be ready to recognise the opportunities and constraints facing the Ministry and are keen to engage constructively with it to improve wider justice sector outcomes.</p> <p>The Ministry needs to move quickly to seize this opportunity. It needs to demonstrate to these key external parties that it recognises the important role they have to play and can and will work constructively with them to deliver better services to the public.</p> <p>Stakeholder feedback to this Review was extensive. Some insights were:</p> <ul style="list-style-type: none"> • the Ministry has few allies around it but it needs to find them; the new Chief Executive recognises this and is putting relationships on a new footing • the Ministry’s culture is not intuitively aligned to partnerships. It tends to look inward, rather than outward, tends to be defensive, non-responsive and bureaucratic; nothing happens at pace; the right hand does not know what the left hand is doing • the Ministry’s procurement approach with partners is old fashioned in that it is focused on inputs not outcomes. It is not clear who the client is • there is little rigour at the Ministry in asking hard questions on what it is delivering to the public and also what the opportunities are to work with other stakeholders <p style="text-align: right;">contd...</p>
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	<ul style="list-style-type: none"> • many stakeholders have been critical of the policy process followed by the Ministry. Looking forward, early engagement with stakeholders is vital. The Inland Revenue’s Generic Tax Policy Process may be a model to learn from • adversarial relationships will not get the best from providers. There needs to be a shared view of what is to be achieved and a willingness to look at other means of achieving things through contracting (eg, bulk funding) • stakeholders external to the Ministry have also played a significant part in the state of the current relationships: they are often hard pressed, slow and not always entirely cooperative • looking forward, a strategic approach to partnering needs to be driven from the top and cascaded to the front line.
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Experiences of the Public
 How well does the agency meet the public’s expectations of service quality and trust?


<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Needing development</p> <p>New Zealand benchmarks well with other jurisdictions regarding the public’s respect and trust of the justice sector. A number of business units within the Ministry carry out regular public perception surveys but there is no organisation-wide view of whether the public’s expectations of service quality and trust are being met. It is also not clear how or whether public experiences feed into policy and operational design.</p> <p>Many functions do not start off with a clear focus on the public as the customer and a notion of ‘in the public service’ and use this to design and test business processes, legislation and policy design. As a consequence, the public and other stakeholders experience a range of everyday frustrations in their encounters with the justice sector. This lack of focus on respect for the customer gives rise to a wide range of experiences, from a sense there is little accountability for missing deadlines, to little urgency to modernise and systemise basic activities, such as online filing and case management. If the public does not feel respected in its interactions with the justice system, it is difficult to see how respect for the justice system can be achieved to the high standard necessary in a democratic society.</p> <p>Encouragingly, the closer you get to frontline staff, the more consistent is the understanding that it is the public of New Zealand the Ministry is there to serve. Court, tribunal and PDS staff go a long way to make up for the difficulties experienced, especially in the busy courts, such as the District Court. In our experience this happens despite not because of the support the Ministry provides to the front line to ensure the public are well served.</p> <p>The most recent court user satisfaction surveys show 77% of court users indicated they were fairly or very satisfied with the services and facilities provided at the court. These findings are comparable to similar surveys in Scotland, England and Wales.</p> <p style="text-align: right;">contd...</p>
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External Relationships

	<p>The overall satisfaction varied by type of court user. Those visiting court for administrative matters or bringing information or forms about a case were the most satisfied (88%), whereas those taking part in a case were the least satisfied (72%). In relation to the type of case, those taking part in a tenancy or disputes tribunal case were the most satisfied (88%), whereas those taking part in a criminal or traffic case were the least satisfied (71%). Māori respondents were less likely to be satisfied (72%) than other ethnicities.</p> <p>The Ministry has a long way to go to improve the public's experience of the judicial system. Enabling technology is a critical component of this. So is systematising the support provided to the courts to improve access, timeliness, reduce costs, etc. It should not be left up to each registrar, team leader or local manager to find ways to deliver effective justice services to the community.</p>
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ORGANISATIONAL MANAGEMENT SECTION


Part Three: People Development

<p>Leadership & workforce development</p> <p>How well does the agency develop its workforce (including its leadership)?</p> <p>How well does the agency anticipate and respond to future capability requirements?</p>	
<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Needing development</p> <p>The recent staff engagement survey pointed to some deep-seated weakness in the Ministry’s leadership and management of its people. While the Strategic Leadership Team accepts the need for action, the response is uneven across the Ministry. A sustained and determined effort is required across the whole Ministry in order for it to successfully respond to what is a very clear message from its people. Strengthening operational performance and enlisting the required external support are both impossible without substantially stronger people management, especially in support of frontline managers and staff.</p> <p>A two-phase review is under way to look at relevance, effectiveness, impact and financial viability of learning and development and training initiatives and solutions, which is to be completed 2012/13. While useful, this may miss the target. The good training collateral the Ministry already has is not consistently used. The self-review conducted by the Ministry found that the range of development programmes available are often put aside in the face of high workloads and to meet business-as-usual requirements. While managers need to have the training and the time to manage, they also need to be held accountable, first and foremost, for the quality of their management. That includes the effectiveness of their staff development. In terms of measuring effectiveness, much training and development activity is distributed and better information systems are required to measure its impact.</p> <p>The review will also address how the Ministry should strategically prioritise its expenditure in this area. The People Strategy includes a section on planning for future workforce needs and a section on attracting talented people. While the strategy is generally reported to be supported by staff, it is also seen as having stalled and lost focus. The Ministry’s self-review noted an implementation risk to the People Strategy due to the changing nature of what is required and the fact that forward planning happens on an ad hoc basis, often at a team or business unit level. There needs to be a clear link between the sorts of critical success factors identified in the ‘Performance Challenge’ above and the training and development priorities (eg, enlisting external support; stronger customer-oriented operational performance and stronger people leadership and management).</p> <p style="text-align: right;">contd...</p>

	<p>Succession planning guidelines exist and the Strategic Leadership Team is reported to be looking at an enhanced approach for the third tier.</p> <p>It is noteworthy that the Auckland service delivery model is focusing on planning requirements for 20 years – one part of which is the people strategy. Looking forward, and across the whole agency, it is vital the new workforce strategy reflects a clear future state vision for the Ministry, anchored in the outcomes to be achieved for the public of New Zealand. This will necessitate a focus on developing judicial administration capability.</p>
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Management of People Performance
 How well does the agency encourage high performance and continuous improvement among its workforce?
 How well does the agency deal with poor or inadequate performance?


<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Weak</p> <p>Performance development plan (PDP) processes and guidelines are in place but the process is generally regarded as cumbersome, of little value, and treated as a compliance exercise. It is not clear that there are significant consequences/accountability if PDPs are not completed. At the time of the Performance Improvement Framework self-assessment, there was evidence that PDPs were not consistently implemented and in place across the Ministry, even at a senior level.</p> <p>Currently, there is a new PDP process being rolled out. Key changes include:</p> <ul style="list-style-type: none"> • the alignment of individual performance with organisational outcomes • using the Lominger Competency Framework as part of performance and development planning • best practice development planning principles (including 70/20/10 and strengths-based development). <p>This presents an opportunity to re-boot this key tool but its success will depend on its relevance, its implementation and the follow up to it.</p> <p>Most staff are assessed as meeting expectations, very few as not meets or exceeds expectations. In addition, there appears to be little recognition of what it takes to get ahead in the Ministry, though this is variable across the Ministry. There is not a culture of dealing with poor performance, particularly in the operational and support areas. There is evidence that managers think the processes for managing poor performance are robust, but are too complex and many managers push performance breaches into the ‘too hard basket’. Human Resources (HR) has recorded an increase in the number of follow-up actions taken in response to cases where staff do not meet expectations. Where follow-up has occurred, managers report they are well supported by HR and senior management.</p> <p>Looking forward, managing poor performance needs to be seen as a core management competency and that responsibility needs to be backed up with accountability for implementation.</p>
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<p>Engagement with Staff</p> <p>How well does the agency manage its employee relations?</p> <p>How well does the agency develop and maintain a diverse, highly committed and engaged workforce?</p>	
<p>PERFORMANCE RATING</p> <p></p>	<p>Performance Rating: Weak</p> <p>The Ministry of Justice staff are reported to be one of the lowest paid in the public sector. Turnover is 15% and 50% of staff leave the Ministry within three years. There is not a culture where staff feel valued or effort is recognised. People are not encouraged to do more than do the job. The perception is success is seldom celebrated. In addition, the last bargaining round in 2009 with court staff was a bruising affair, with court staff electing to take strike action.</p> <p>The Ministry has two unions, the PSA (1,600 members) and NUPE (120 members). A productivity initiative with the unions is currently under way, as well as consultation on all major change programmes. The Employment Relations Strategy 2007 still sets the parameters for the Ministry’s strategy for negotiating with the unions. The approach taken to unrepresented/non-union staff is seen as by ‘necessity secondary’ to this. This is, in the main, intentional and alluded to in the Employee Relations Strategy. Issues with non-unionised staff tend to be raised and dealt with on an individual basis, through their managers. In 2010, however, non-union staff were surveyed for the first time on the Ministry’s contract offer.</p> <p>The Ministry is due to bargain with the PSA in 18 months. In advance of that, it is timely to renew the people strategy and employment relations strategy in light of the Ministry’s likely future operating environment and implement any necessary changes at the earliest possible date. The Ministry also needs to think more strategically about how it engages with its non-union staff.</p> <p>The observation was made to us that the ingredients for a high-performance environment are right. That staff will respond to a well-run, respectful workplace. We agree the Ministry has a highly committed workforce, there is an open opportunity for the Ministry to realise its potential. Unfortunately, the agency’s People Strategy, as reported in the self- review, is in an apparent hiatus and is seen to have lost profile and focus and needs to be reinvigorated. Until recently staff have tended to have low visibility of senior leaders either through direct contact or other forms of communication. In addition to the current initiatives at the Chief Executive level, the Strategic Leadership Team should consider a coherent, refreshed and deliberate engagement process that can more effectively underpin the change programmes under way.</p> <p>Overall, the people management capability of the Ministry is at the transactional rather than strategic enabler end of the scale. This is clearly reflected in the low staff engagement scores in the Ministry compared with others in the public service. The figures are compelling – the Ministry has the lowest level of engagement (12%) and highest level of disengagement (29%) of the 20 State sector agencies surveyed. It is very worrying that there is evidence that follow-up action to improve staff engagement has been quite variable across the agency. Looking forward, the single most powerful asset the Ministry has is its people; the focus of the Ministry’s leadership needs to consistently reflect this.</p>


ORGANISATIONAL MANAGEMENT SECTION


Part Four: Financial and Resource Management

<p>Asset Management</p> <p>How well does the agency manage agency and Crown assets, and the agency balance sheet, to support delivery?</p>	
<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Well placed</p> <p>The Ministry of Justice has been undergoing an extensive period of catch-up with respect to asset management. When the Department of Courts came into the Ministry, a baseline review was undertaken to begin that process. Unfortunately, the requirements were most likely significantly underestimated. However, the Ministry moved rapidly to address the condition of a number of its strategic provincial sites and commenced work on the longer-term Auckland Strategy.</p> <p>The Ministry has a good knowledge of the state of its property and, until recently, was arguably ahead of the public service in terms of its capital asset management plan but this has now been overtaken by the need to respond to previously unrecognised seismic risk and new business operating requirements. The current 10-year asset management model reflects the current operating model (including Auckland), even though the Ministry now expects major shifts in that model over the next three to five years. The existing strategy is very facility heavy and predicted on volume growth, while at same time underinvested in information technology (IT). While there are changes to the operating model on the horizon, they are in turn dependent on IT capability. The Ministry is aware it must establish what the precise trade-off is between IT investment and property spend and what the desired end state is.</p> <p>Corporate Finance is working with the Information and Communications Technology (ICT) team, the Property team and Operations Finance to develop an organisation-wide asset management plan and to set the longer-term capital plans.</p> <p>As a consequence, the Ministry is moving towards the strategic enabling, rather than transactional, end of the continuum with respect to asset management.</p> <p>The Ministry is responsible for managing a large land bank of properties (with a book value of \$386 million as at December 2011) held for Treaty settlement purposes. Currently, the revenue received on these properties is sufficient to pay for their maintenance and from an asset management perspective is seen to do a reasonable job in this area, though there are wider policy/perception risks to the Ministry and government in the case of properties where maintenance is an issue due to the age or state of the properties. The Ministry is working closely with Iwi on the best options, including demolition, to address these issues.</p>

<p>Information Management</p> <p>How well does the agency utilise information & communications technologies to improve service delivery?</p>	
<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Weak</p> <p>Until 18 months ago the Ministry’s information management was conducted in a devolved environment. Business units told IT what to do and while there were some good strategies, the Ministry often failed to deliver them. Relationships were adversarial. Business unit systems teams have now collapsed to one and the Ministry is moving towards a more collaborative approach.</p> <p>The current Document Management System is problematic. Information is not managed nor governed as a key asset. Looking forward, the Ministry is aware it must deliver a document management strategy where business units classify information, assemble it, keep it up to date and trust it.</p> <p>The aim of the current IT capital expenditure strategy is twofold: a sustainable and fit-for-purpose system that can support business transformation. To realise this, a step change in infrastructure is required, as the current infrastructure is a hand-brake on business performance. Looking forward, it is anticipated it will take 2 1/2 years to implement the changes required, if the changes are well led. These initiatives are targeted at providing a platform for future delivery rather than the delivery itself.</p> <p>To move from a ‘Weak’ rating to a ‘Well placed’ rating in four years would mean users have access to information anywhere, anytime, that is classified and accurate, and there would be strong information management governance in place. In order to achieve this, the Ministry will need to manage a number of risks, including: the need to re-engineer business processes and operating models at the same time; managing the scale of change required; the need to be ruthless on identifying which projects to initiate and stop; and the potential scope creep of the Electronic Operating Model Project (EOM). The latter risk is accentuated because the Ministry still cannot articulate what a courtroom will look like in the future and prioritisation and sequencing is still unclear even though the EOM Project has been going since 2006. Furthermore, there are cross-jurisdiction issues to work through in Phase Two of the project.</p> <p>Finally, the Ministry does not benchmark well for ICT, case management systems or Better Administration and Support Services (BASS) metrics relative to peers, although its BASS metrics reflect a re-investment phase intended to improve performance.</p> <p>For these reasons the Ministry is assessed as still operating towards the transactional/operational end, rather than the strategic/enabling end of the information management continuum.</p>

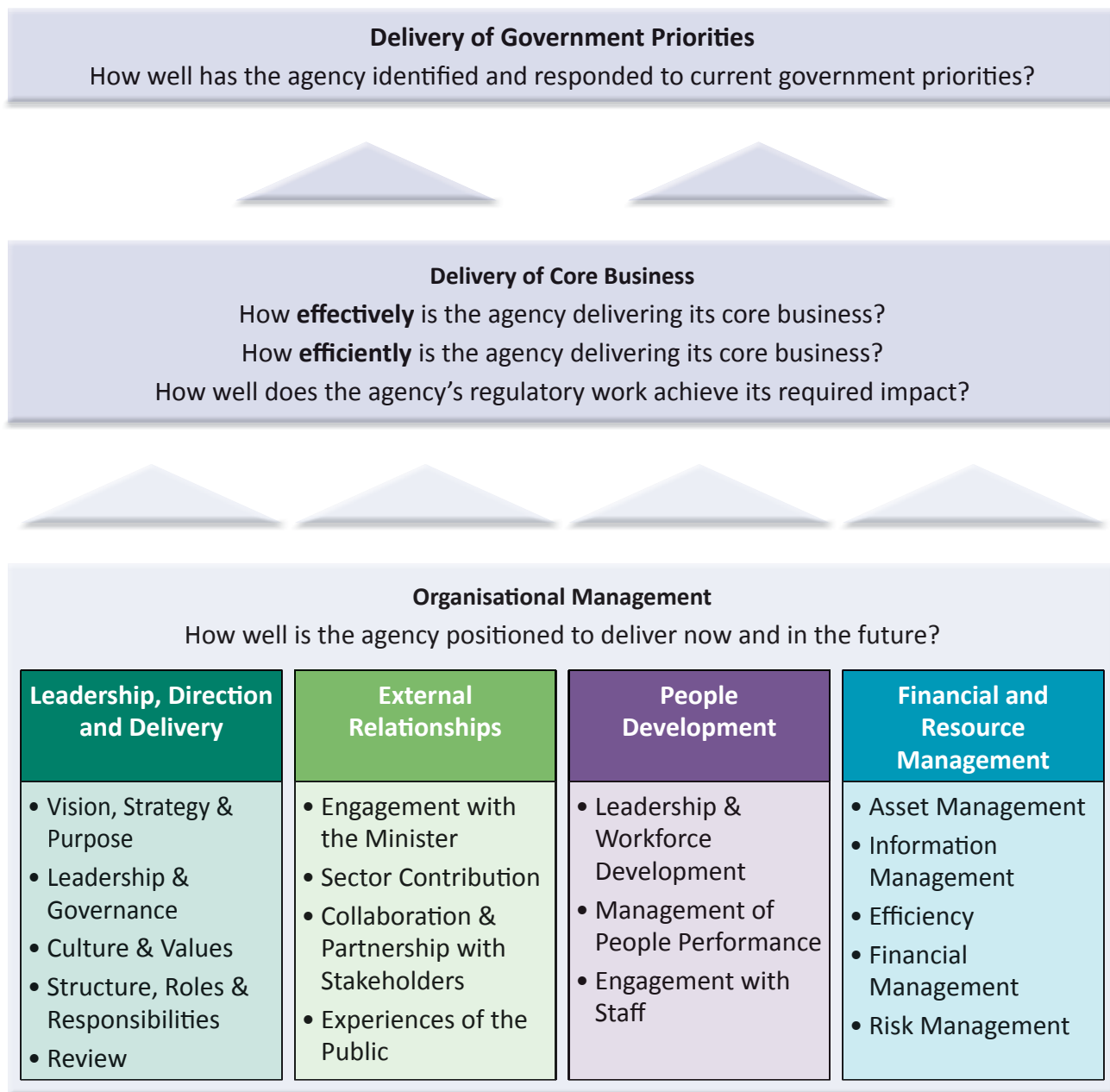
<p>Efficiency</p> <p>How robust are the processes in place to test for efficiency and make efficiency improvements? How well does the agency balance cost and quality when considering service delivery options?</p>	
<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Needing development</p> <p>The Ministry needs to ensure it consistently tests the efficiency of all key aspects of the business and provides transparent accounting of its performance to key stakeholders, including Ministers, the judiciary and the public. There is a wide range of practice across business units and sometimes within them, ranging from very good performance to needing significant improvement.</p> <p>When considering service delivery options the Ministry utilises a business case model to compare costs and benefit. Benefit realisation strategies exist in some areas but are not always followed up and specified clearly enough to ensure efficiency dividends can be captured. This is a critical area for the Ministry going forward. Business cases will need to explicitly demonstrate how changed business operating models and processes will precisely translate into reduced FTEs and other savings and service improvements.</p> <p>The various court and tribunal jurisdictions have some efficiency measures in some areas of practice, though this is not comprehensive or consistently applied.</p> <p>Areas such as policy advice have processes that test for efficiency and effectiveness and these are monitored closely and benchmarked against other large policy shops.</p> <p>To move to a ‘Well placed’ rating, the Ministry will need to take a consistent, systematic and linked-up approach to identifying the efficiency and effectiveness of its operating models in order to maximise their impact. This will require it to: focus on well specified outcomes and activities; establish clear accountabilities; set, monitor and report on agreed performance measures for activities; employ sound business processes and business support tools; use review mechanisms, evaluations and benchmarking; and employ effective governance arrangements.</p> <p>The current four-year justice sector budget constraint will put a premium of developing these disciplines for use within and across the Ministry but also across the sector.</p>

<p>Financial Management</p> <p>How well does the agency manage its financial information and ensure financial probity across the business?</p>	
<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Well placed</p> <p>The Ministry has a strong finance team, with generally good engagement with the business, which is well placed to address the financial challenges facing the Ministry. The largest single area of challenge is likely to be in ensuring the Ministry is able to realise the benefits from falling criminal volumes and from the 17 change initiatives it currently has under way.</p> <p>The basics of the finance function are sound. Finance costs are comparable to their peer group. The BASS management practice indicators suggest a significant recent improvement in performance of this function to leave it 'Well placed' relative to its peer group. Audit NZ rated the management control environment, financial systems and controls and service performance information (and associated systems and controls) as 'good'.</p> <p>While not fully through its transition to being a full value-added business partner at the individual business unit level the finance team is well advanced, with early engagement in most areas and, typically, good use of the information and support the finance team provides.</p> <p>The Ministry appears to have a well formulated process for setting four-year budgets (with clear assumptions), assessing the impact of various initiatives aimed at closing the gap between cost pressures and the available budget, informing the Strategic Leadership Team on priority setting (which facilitates targeted responses to close the gap) and for monitoring performance against budget (although there was a significant underspend in 2009/10 in project areas). This process has been tested by the need to close significant gaps in both departmental and non-departmental expenditure and with the need to find significant targeted savings in low priority areas (eg, the area of 'cutting and tucking' to make Budget 2009). The Ministry is confident that Ministers will be provided with doable options that will close the remaining gap in its four-year plan.</p> <p>The two biggest challenges facing the Ministry that require a strong performance from the finance team are ensuring the:</p> <ul style="list-style-type: none"> • Ministry's financial decisions are well integrated with the financial decisions that need to be taken across the criminal justice sector • Ministry is able to realise the benefits from falling criminal volumes and from the 17 change initiatives it currently has under way. This requires the finance team to work closely with the business to be able to identify how to convert the reduction in demand for parts of many positions and facilities into the reductions in whole positions and facility closures so that cash savings can be made to meet wage and cost pressures and to reinvest in the business. <p>If the finance team is able to play its full role in helping the Ministry meet both of these challenges, then this function would be rated 'Strong'.</p>

<p>Risk Management How well does the agency manage agency risks and risks to the Crown?</p>	
<p>PERFORMANCE RATING</p> 	<p>Performance Rating: Needing development</p> <p>This function has been overwhelmingly focused on compliance and internal audit review. Although this area has been hampered by limited resourcing and high turnover, Audit New Zealand evaluated the internal control environment in 2011 as 'good', which provides the Treasury with the required confidence in the Ministry's financial reporting.</p> <p>In the last six months, the new head of Risk and Assurance has started a process aimed at developing a comprehensive and proactive risk management function while strengthening the assurance function by entering into a 'co-source' arrangement with Deloitte. The latter effectively gives the Ministry access to a wider range of specialist assurance expertise for the same expenditure (ie, by converting two positions into a service contract that provides access to specialist audit expertise covering the full range of audit needs: eg, ICT, financial, operational and so on).</p> <p>While the Risk and Assurance function is being developed in the right direction, it is still very early days and a great deal of development is required before the Ministry can be considered to have a well placed and resourced risk management capability. The Strategic Leadership Team approved an action plan in November last year that identifies eight initiatives that need to be successfully executed before this objective can be achieved. Some of the elements of this plan point to significant deficiencies in the current arrangements and these will take time to address.</p> <p>The risk management function is still essentially a single person. They need to develop a coherent understanding and oversight of the assurance activities undertaken by the various groups within the Ministry and to then map that against the requirements of a refreshed risk management framework. While the plan points to the desirability of greater resourcing for the function, even then they will need the active support of the new Strategic Leadership Team and their direct reports in developing the right risk management culture throughout the Ministry. Better risk management will be necessary to underpin the transition to a more innovative and less risk averse organisation.</p> <p>The Ministry needs a function that can provide the Chief Executive with independent written assurance as to the quality of risk management and internal control. While the current Audit and Risk Committee has an independent chair and has the required duties and responsibilities, it only meets four times a year and is advisory only (as is the case with all government departments).</p>

APPENDIX A

Overview of the Model



Lead Questions

Results		
Critical Area		Lead Questions
Government Priorities		1. How well has the agency identified and responded to current government priorities?
Core Business		2. How effectively is the agency delivering this core business area? 3. How efficiently is the agency delivering this core business area? 4. How well does the agency's regulatory work achieve its required impact?
Organisational Management		
Critical Area	Element	Lead Questions
Leadership, Direction and Delivery	Vision, Strategy & Purpose	5. How well has the agency articulated its purpose, vision and strategy to its staff and stakeholders? 6. How well does the agency consider and plan for possible changes in its purpose or role in the foreseeable future?
	Leadership & Governance	7. How well does the senior team provide collective leadership and direction to the agency? 8. How well does the board lead the Crown Entity? <i>(For Crown Entities only)</i>
	Culture & Values	9. How well does the agency develop and promote the organisational culture, behaviours and values it needs to support its strategic direction?
	Structure, Roles & Responsibilities	10. How well does the agency ensure that its organisational planning, systems, structures and practices support delivery of government priorities and core business? 11. How well does the agency ensure that it has clear roles, responsibilities and accountabilities throughout the agency and sector?
	Review	12. How well does the agency monitor, measure, and review its policies, programmes and services to make sure that it is delivering its intended results?
External Relationships	Engagement with the Minister(s)	13. How well does the agency provide advice and services to its Minister(s)?
	Sector Contribution	14. How well does the agency provide leadership to, and / or support the leadership of other agencies in the sector?
	Collaboration & Partnerships with Stakeholders	15. How well does the agency generate common ownership and genuine collaboration on strategy and service delivery with stakeholders and the public?
	Experiences of the Public	16. How well does the agency meet the public's expectations of service quality and trust?
People Development	Leadership & Workforce Development	17. How well does the agency develop its workforce (including its leadership)? 18. How well does the agency anticipate and respond to future capability requirements?
	Management of People Performance	19. How well does the agency encourage high performance and continuous improvement among its workforce? 20. How well does the agency deal with poor or inadequate performance?
	Engagement with Staff	21. How well does the agency manage its employee relations? 22. How well does the agency develop and maintain a diverse, highly committed and engaged workforce?
Financial and Resource Management	Asset Management	23. How well does the agency manage agency and Crown assets, and the agency balance sheet, to support delivery?
	Information Management	24. How well does the agency utilise information & communications technologies to improve service delivery?
	Efficiency	25. How robust are the processes in place to test for efficiency and make efficiency improvements? 26. How well does the agency balance cost and quality when considering service delivery options?
		Financial Management
	Risk Management	28. How well does the agency manage agency risks and risks to the Crown?

APPENDIX B

List of Interviews

This review was informed by input provided by a number of Ministry of Justice staff, relevant Ministers, and by representatives from the following businesses, organisations and agencies.

Agency/Organisation
Chief Crown Negotiators
Coalition of Community Law Centres Aotearoa
Constitutional Advisory Panel
Criminal Bar Association
Crown Law Office
Department of Corrections
Department of the Prime Minister and Cabinet
Electoral Commission
Human Rights Commission
Iwi organisations
Law Commission
New Zealand Bar Association
New Zealand Law Society
New Zealand Parole Board
New Zealand Police
Public Service Association
Restorative Justice Network
Senior members of the judiciary (District Court, High Court, Court of Appeal and Supreme Court)
Serious Fraud Office
State Services Commission
Te Puni Kokiri
The Treasury
Victim Support
Waitangi Tribunal