



# Cabinet

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## Summary of Paper

21 June 2013

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### Enhanced Approach to Government Legal Services

**Portfolio** Attorney-General

**Purpose** This paper seeks agreement to the key features of an 'all of government' approach to government legal services and seeks endorsement of funding arrangements for three years, effective from 1 July 2013.

**Previous Consideration** None.

**Summary** The Government Legal Network (GLN) began in July 2011 and is designed to promote professional collegiality, facilitate greater sharing of resources, expertise and information across legal functions as well as improve the management and minimisation of risk. The GLN is a collaborative initiative by departmental Chief Legal Advisors and the Solicitor-General, supported by the Attorney-General.

The proposed enhancement of the GLN will address three primary issues:

- the extent to which the predominantly independent operation of departments, and consequently of their legal systems, is a source of risk or lost opportunity for the Crown;
- the lack of a practical framework for strong sector-wide professional leadership and support of government lawyers;
- an insufficiently dedicated and centre-led resource to create and maintain the momentum, systems and framework required to address the first two issues.

More detail is provided on these issues on **pages 2 - 4**.

Four options were considered for dealing with government legal services. The proposed 'all-of-government' approach to government legal services will build upon the current GLN, drive efficiency and effectiveness gains in the management and delivery of quality legal services to the Crown, and improve the identification of Crown legal risk (see Appendix 1 on **page 13**).

The proposed enhancement of government legal services will:

- provide more tangible recognition of the constitutional and professional leadership role of the Solicitor-General across the sector;

- introduce a range of 'all-of-government' initiatives which enable stronger professional linkages and increased leverage for the resources and expertise of the GLN, including combined initiatives in the development of legal capability, joint procurement and shared services and resources;
- expansion of the GLN dedicated resource (GLN network) from one fulltime equivalent, up to four fulltime equivalents as the primary resource through which the Solicitor-General, in conjunction with departments, will implement the 'all-of-government' initiatives.

The GLN Centre will be established as a separate operational business unit within Crown Law.

Appendix 2 on **page 15** contrasts the characteristics of a departmental focus with an 'all-of-government' focus for legal services.

Appendix 3 on **page 16** shows examples of initiatives that will impact on systems issues.

**Regulatory  
Impact Analysis**

None.

**Baseline  
Implications**

No new funding is required to meet the cost of the proposal. The GLN will be funded for the period from 1 July 2013 to 30 June 2016 from the Crown Law Office Memorandum Account, Legal Advice and Representation. Treasury and departments have been consulted on the use of the Memorandum Account and agree with it.

A business case for ongoing funding will be submitted to Cabinet by 30 June 2015.

**Legislative  
Implications**

None.

**Timing Issues**

None.

**Announcement**

None outside departments.

**Consultation**

The Attorney-General indicates that the Prime Minister and the Minister of Justice have been consulted. The Attorney-General indicates that discussion is not required with the government caucus or with other parties represented in Parliament.

Paper prepared by the Crown Law Office. All public services departments, and Police, NZDF and NZSIS have been consulted. DPMC and PCO have been informed.

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**The Attorney-General recommends that the Committee:**

**Government Legal Network**

- 1 note that an enhanced, 'all of government' approach to legal services is needed to improve the efficiency and effectiveness of the management and delivery of quality legal services to the Crown and to reduce Crown legal risk;

- 2 endorse the following key features of the enhanced approach:
- 2.1 enabling the Solicitor-General, as the professional leader for government lawyers, to provide support and guidance to departmental chief executives and chief legal advisors;
  - 2.2 introducing sector-wide systems and initiatives, including system wide information, performance and monitoring frameworks, practice management tools and systems, capability development, and shared services;
  - 2.3 enhancing the Government Legal Network (GLN) governance and functions:
    - 2.3.1 the Solicitor-General will participate as a member of the GLN Board that includes a chief executive representative, several chief legal advisors and a central agency representative;
    - 2.3.2 the Board will provide advice and support to the Solicitor-General, and maintain and overview of government legal services and risk issues;
  - 2.4 strengthening the GLN Centre:
    - 2.4.1 this would be a small, operationally separate business unit within the Crown Law Office headed by the GLN Director;
    - 2.4.2 the unit's functions, without limitation, would relate to knowledge management, systems design and development, risk reporting, training coordination, programme management and departmental liaison;

**Funding arrangements**

- 3 agree that the Crown Law Office (Legal Advice and Representation) Memorandum Account be used to fund the enhancements referred to in paragraph 2 above up to a maximum of \$2.2 million over a three year period effective from 1 July 2013;
- 4 approve the following changes to appropriations to give effect to the policy decisions in paragraphs 2 and 3 above, with no impact on the operating balance:

	\$m – increase/(decrease)				
	2013/14	2014/15	2015/16	2016/17	2017/18 & Outyears
<b>Vote Attorney-General</b>					
<b>Attorney-General</b>					
Departmental Output Expense: Legal Advice and Representation (funded from Balance Sheet – Legal Advice and Representation memorandum account)	0.500	0.800	0.900	-	-
<b>Total Operating</b>	<b>0.500</b>	<b>0.800</b>	<b>0.900</b>	-	-

- 5 agree that the proposed changes to appropriations for 2013/14 above be included in the 2013/14 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;

**Next steps**

- 6 invite the Attorney-General to report to the Cabinet Committee on State Sector Reform and Expenditure Control by 30 June 2015 on progress, including a business case addressing a permanent funding solution for year 2016/17 and outyears.

Bob Macfarlane  
for Secretary of the Cabinet

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**Distribution:**  
The Cabinet  
Hon Dr Pita Sharples  
Hon Tariana Turia

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In confidence

Office of the Attorney-General

Cabinet State Sector Reform and Expenditure Control Committee

## ENHANCED APPROACH TO GOVERNMENT LEGAL SERVICES

### Proposal

1. This paper sets out the key features of an 'all of government' approach to government legal services and seeks endorsement of funding arrangements for 3 years, effective from 1 July 2013.

### Executive summary

2. An 'all of government' approach will:
  - build upon and advance more quickly the work of the current Government Legal Network (GLN), a collaborative initiative by departmental Chief Legal Advisors and the Solicitor-General, which I support
  - drive further efficiency and effectiveness gains in the management and delivery of quality legal services to the Crown
  - improve the identification and management of Crown legal risk.
3. Implementation of the enhancements set out in this paper will contribute to the following outcomes:
  - Prevention and reduction of Crown Legal risk
  - The lawful delivery of the government's programme of work
4. The aim of the proposed enhanced approach is to build a strongly engaged, well informed and connected network of government lawyers supported by the right leadership, systems, processes, professional development and resources.
5. The essential changes from the status quo involve:
  - More tangible recognition of the constitutional and professional leadership role of the Solicitor-General across the sector
  - Introduction of a range of 'all of government' initiatives which enable stronger professional linkages and increased leverage from the resources and expertise of the GLN, including:
    - Combined initiatives in development of legal capability
    - Joint procurement
    - Shared services and resources
  - Expansion of the GLN dedicated resource (the 'GLN Centre') from 1 full-time-equivalent up to 4 full-time-equivalents as the primary resource through which the Solicitor-General, in conjunction with the Departments, will implement the 'all of government' initiatives

6. The scope of the enhanced approach affects the legal teams of all Public Service departments and the NZ Defence Force, the NZ Police and the NZ Security Intelligence Service (in this paper all referred to as 'the Departments'). In designing the implementation details, care will be taken not to cut across the independence of chief executives on matters relating to individual employees.
7. The enhancements proposed in this paper will require additional funding, which for the next three years can be met from the Crown Law Memorandum Account, Legal Advice and Representation.
8. A report on progress, including an assessment of the impact of the changes proposed in this paper, and a business case for permanent funding mechanisms from 2016/17 will be submitted to Cabinet by 30 June 2015.

## **Background**

### *Introduction*

9. The Government's focus on delivering better public services and producing tangible results is at the heart of what is being proposed in this paper.
10. The GLN can be enhanced to deliver better and more tangible outcomes for relatively little investment. It is necessary to consider how the departmental legal function, as a key strategic and operational advisory service, can best support delivery of better public services in an environment which increasingly is operating on an 'all of government' basis. At the same time the complexity of legal issues and associated risks inherent in the delivery of the Government's programme of work must be robustly managed.

### *The issues*

11. There are three primary and inter-related categories of issues this paper is intended to address:
  - First, the extent to which the predominantly independent operation of departments, and consequently of their legal functions, is a source of risk or lost opportunity for the Crown (called 'the system issues')
  - Second, the lack of a practical framework for strong sector-wide professional leadership and support of government lawyers (called 'the leadership issue')
  - Third, an insufficient dedicated and centre-led resource to create and maintain the momentum, systems and framework required to address the first two issues (called 'the resource issue')

### *The system issues*

12. The Departments employ an estimated 650 'full-time-equivalent' in-house lawyers across 32 public and non-public service agencies. Each of these department's legal functions are resourced from within, variously including; professional development and training, matter/case management tools, precedents, legal compliance systems and processes, recruitment and procurement of services. While there are agencies with excellent legal resources and capability the Crown remains vulnerable, through a lack of sector wide professional connectedness and

even professional isolation, to the risk of variable quality and consistency of advice, as well as variable practices and standards.

13. The system issues have an adverse impact on the ability of the Public Service to enhance efficiency and effectiveness through the collective efforts of departmental legal functions. Examples include:

- Professional linkages across departments are not strong, contributing to a narrow view of legal risk identification, management and consequences
- The lack of a system of assurance in relation to the identification, prevention, reduction and management of legal risk increases the likelihood of 'surprise' issues manifesting and resources being 'thrown' at problems in a crisis management mode
- The lack of a sector wide view of in-house lawyer capability and capacity can, from a sector perspective, lead to sub-optimum decision-making when departments individually address resourcing, training, systems and capability issues
- Departments each learn from their own mistakes or successes, however, with minimal opportunity for sharing this learning with colleagues across the sector.
- Performance measures and assessment, if any, are variable and applied inconsistently (this applies to technical areas and practice management efficiency / effectiveness)
- Inefficient use of existing expertise and legal precedents
- There is no sector wide framework or consistency in the requirements for legal roles of similar nature and seniority. The same variability applies to recruitment and training for such roles
- We are not taking full advantage of the leveraging power of the sector – the departmental legal functions establish their own support services and systems at a level that is allowed or constrained by individual departmental resource and budgets. For example in the areas of:
  - Training and professional development
  - Practice and knowledge management systems
  - Legal compliance systems and tools
- We are missing opportunities:
  - to leverage off joint procurement processes leading to continuation of multiple contracts with suppliers for similar products and services (e.g. compliance programmes, legal practice management tools, legal research services) at less than optimum prices and / or value
  - for improving career path and talent management on a sector wide basis
  - to attract and retain a wider talent pool when recruiting

*The leadership issue*

14. The role of the Solicitor-General as the legal professional leader, although theoretically understood by most government lawyers, is not widely recognised in a practical sense. Nor is there a practical framework for exercise of that role as it relates to support of departmental lawyers and legal functions.

*The resource issue*

15. The GLN, which commenced its establishment phase in July 2011, is designed to promote professional collegiality, facilitate greater sharing of resources, expertise and information across departmental legal functions as well as improve the management and minimisation of legal risk. To date this initiative has delivered the results noted in **Appendix 1**. Although the GLN has already achieved savings in this current year (an estimated minimum of \$670,000) and in 2013/14 (an estimated minimum of \$800,000) it is expected that further benefits will be generated from the initiatives proposed in this paper but with a mix of qualitative and financial gains.
16. However, I am concerned that the current GLN framework will not, without additional impetus and centre-led resource, be able to take full advantage of the opportunities of a more co-ordinated approach.

**Comment**

*Why adopt an 'all of government' approach?*

17. The adoption of an 'all of government' approach for Legal Services:
  - Is aligned with the objectives of the Better Public Service initiative and focuses attention on the opportunities available through a whole of sector approach to management and delivery of legal advice to the Crown
  - Highlights the need for more visible sector wide professional leadership and engagement
  - Facilitates development of an 'all of government' view of the legal risk landscape
  - Facilitates endorsement by all departments of standards of practice against which the performance of all legal functions can be measured thus creating a more robust environment of continuous improvement, knowledge sharing and progress towards leading practices, and
  - Enables greater leverage from the combined efforts of departmental legal functions through the medium of the GLN.
18. The diagram in **Appendix 2** contrasts the characteristics of a departmental focus with an 'all of government' focus for legal services. While maintaining and building on departmental strengths I strongly recommend a shift towards greater collaboration by the Departments through the following focus areas:
  - the ongoing development of the legal Network
  - the increased leadership role of the Solicitor-General
  - the expanded GLN Centre resource, and
  - the new initiatives proposed in this paper.
19. Such an approach will enable Ministers and their Departments to better leverage the scale, expertise and resources of the Government's legal resources.



*Sector wide leadership*

20. I am of the view we need clear sector wide leadership in the promotion and support of legal function performance and assessment, standards of practice and development of legal capacity and capability.
21. The constitutional role of the Solicitor-General as the legal professional leader is not widely recognised in a practical sense. Nor is there a practical framework for the exercise of that role as it relates to the above matters.
22. The Cabinet Directions, recently reviewed to reflect a greater focus on core Crown legal work by the Crown Law Office, allows the Solicitor-General to exercise certain powers which could impact on departmental legal functions. In addition, particular instruments, such as the Cabinet Office Circular on legal advice and legal professional privilege (CO (05) 5), clearly state that it is the Attorney-General who has the right to obtain copies of all legal advice provided to the Crown (from whatever source), the right to determine whether to release that advice, as well as the right to instruct all lawyers acting for the Crown. The Solicitor-General, as second Law Officer, may perform a function or duty imposed, or exercise a power conferred, on the Attorney-General (section 9A of the Constitution Act 1986). There are, therefore, important indications of the leadership role of the Law Officers in respect of Crown legal business overall. But beyond the scope of these instruments there is no clearly understood framework within which the Solicitor-General might address any areas of concern that may arise more generally with regard to the management of legal risk and the delivery of legal services.
23. It is therefore the Solicitor-General's intention to work with departmental Chief Executives and their Chief Legal Advisors collaboratively and professionally to effect such engagement. To do this efficiently and effectively, the Solicitor-General requires a small 'centre led' dedicated resource and supporting governance framework and systems. The GLN Centre is the vehicle through which I propose this broader role be implemented.

**Main features of enhanced approach**

*Introduction*

24. The main features of the enhanced approach are listed in Table 1 (Primary Solutions) below. Table 1 illustrates, at a macro level, the link between the primary issues identified and the solutions proposed.

Table 1:

Primary issues	Primary Solutions
System issues	<ul style="list-style-type: none"><li>• Further development of a strong joined up professional network of government lawyers</li><li>• Investigation and establishment of sector wide systems for enhanced legal risk monitoring and reporting</li><li>• Investigation and establishment of a range of efficiency and effectiveness initiatives examples of which are noted in <b>Appendix 3</b></li></ul>

Leadership issue	<ul style="list-style-type: none"> <li>• Practical recognition of the role of the Solicitor-General as the professional leader of government lawyers</li> <li>• Establishment of a framework and resource to enable the Solicitor-General to exercise that leadership role with the support of the GLN Centre across a spectrum of engagement with Departments from: Support and guidance <math>\rightleftharpoons</math> Collaboration <math>\rightleftharpoons</math> Centre-led <math>\rightleftharpoons</math> Oversight</li> </ul>
Resource issue	<ul style="list-style-type: none"> <li>• Expansion of the GLN Centre resource from 1 fte to a maximum of 4 fte's</li> <li>• Development, management and maintenance of the existing GLN Online shared workspace and resources</li> <li>• Provision of interim funding for 3 years, during which time a longer term plan of action will be developed and the effectiveness of the approaches proposed in this paper will be assessed. A business case for ongoing funding based on savings and efficiencies generated from the proposed initiatives will then be prepared</li> </ul>

*Solicitor-General – the professional leadership role and parameters*

25. Currently, other than through the Crown Law Office there is no government wide overview of how legal services are delivered. Even the current Crown Law view of this is a snapshot of the legal services that are provided to departments. Nor is there sector wide information available which assesses the level of performance in terms of management of legal risk, efficiencies and effectiveness.
26. I therefore propose that the Solicitor-General, as the professional leader for government lawyers, be enabled, through the GLN framework, to engage with Chief Executives and Chief Legal Advisors of Departments over the design and introduction of various 'all of Government' initiatives as noted in **Appendix 3**.
27. The Solicitor-General's leadership will include promoting a more strategic approach to investment in resources and services required for the delivery of legal services to the Crown, promoting excellence, raising sector awareness of legal risk management and reduction, and initiating or exploring system-wide improvements.
28. The extent and nature of the Solicitor-General's leadership and consequently the role of the GLN Centre and Departments will vary depending on the area of focus.
29. **Appendix 3** demonstrates the spectrum of engagement between the two poles of full departmental autonomy and full central control. While there is an expectation that the Solicitor-General will play a more active leadership role, there is no intention to impact on departmental autonomy beyond that already embodied in his existing constitutional role.
30. Within the Crown Law Office the emphasis on improved management of legal risk across the sector has been firmly underpinned by the Solicitor-General's appointment of Ms Una Jagose as Deputy Solicitor-General for Crown Legal Risk. This group will have an increasing role to play in supporting departments in managing issues which are likely to be litigious. This position and group will liaise closely with the Departments and the GLN Centre.

### *Sector wide initiatives*

31. An 'all of government' approach involves a more strategic way of thinking by departments to recognise when initiatives provide benefits on a sector, rather than a purely departmental, basis.
32. Under the proposals contained in this paper, Departments will be expected to engage with the Solicitor-General and the GLN Centre to implement a range of initiatives potentially including: an all of government performance and monitoring framework for legal services; practice management tools and systems; the collection of system-wide information; capability development initiatives; shared services; shared resources to enable greater flexibility in responding to areas of need (see examples in **Appendix 3**).

### *GLN governance arrangements*

33. Strong governance is required to support a systemic approach to the management and delivery of quality legal advice and services to the Crown. The following paragraphs describe the proposed governance framework.
34. The Solicitor-General will report to me on the exercise of the professional leadership role described above.
35. The GLN Board will continue. Its members will include:
  - A Chief Executive representative
  - Not fewer than four Chief Legal Advisors
  - A central agency representative
  - The Solicitor-General with the Deputy Solicitors-General, Attorney-General's Group and Crown Legal Risk Group as alternates.
36. The GLN Board will be charged with the following roles:
  - Support of the Solicitor-General by providing:
    - advisory input and governance of the GLN framework
    - an up to date perspective on the issues facing departmental in-house legal functions
    - high level reporting of indicators from the Network which could lead to crystallization of legal risks
  - Maintain an overview of the quality of legal practice management and relevant legal data sets
  - In addition to its governance role, the GLN Board will operate as a 'Significant Legal Risk Working Group' responsible for advising the Solicitor-General on strategies and responses to identified legal risk indicators.

### *Strengthened GLN Centre*

37. In order to establish and maintain the momentum of a centre-led, all of government approach to the legal function, a small but dedicated resource is required. The present resource consists of a GLN Director on contract until 30 June 2013. The

Director receives administration support from Crown Law, governance overview from the GLN Board, and stakeholder input from the Chief Legal Advisors' forum and Chief Executives. There are also a range of government lawyer 'volunteers' involved in existing GLN initiatives.

38. I propose that the logical status for the GLN Centre would be as a separate operational business unit within the Crown Law Office. This is similar to the UK Government Legal Service, which is located within the Treasury Solicitor's office but is operationally separate of that office.
39. Assuming location within Crown Law, the GLN Centre functions will include knowledge management, legal risk reporting and assurance, professional development, systems development, events and training co-ordination, departmental liaison, online content management and maintenance, and administrative assistance.
40. The level of investment required on an annual basis for the enhanced GLN Centre and related work programme is in the vicinity of \$800,000 p.a. This would provide for 4 full-time-equivalent staff, including the GLN Director role, a contribution to the Crown Law corporate overhead (e.g. accommodation, IT, finance, HR), and an operational budget.
41. I propose the GLN be funded for the period 1 July 2013 to 30 June 2016 from the Crown Law Office Memorandum Account, Legal Advice and Representation, for the following maximum amounts:
  - 1 July 2013 to 30 June 2014; \$500,000 (plus \$200,000 from remaining GLN funds)
  - 1 July 2014 to 30 June 2015; \$800,000
  - 1 July 2015 to 30 June 2016; \$900,000
42. The balance of the Crown Law Office Memorandum Account, as at 1 July 2013, is estimated to be \$3.5 million. The 'Memorandum Account' has sufficient funds to meet funding requirements of a maximum of \$2.2 million for a period of 3 years over which time a full assessment of the expanded and accelerated GLN programme will be developed.
43. Use of funding from the Memorandum Account would obviate any need to access the Better Public Services Seed fund and also satisfy Treasury's requirement to return the surpluses to departments.
44. The Treasury and departments have been consulted on the use of the Memorandum Account for this purpose and agree to this course of action.

*Funding options for 2016/17 and out-years*

45. There are several potential options, which would be funded from within current baselines, including a new GLN expenditure line in Vote Attorney-General or a *pro rata* 'club funding' contribution paid by departments.
46. As noted above, a business case for ongoing funding will be submitted to Cabinet by 30 June 2015.

## Other options for enhanced approach

47. Three other options were considered to implement an enhanced approach to government legal services. They form a broad gradation: continuation of the status quo, functional leadership, and full centralization. The reasons for dismissing these options are briefly summarised below.

### *Continuation of status quo*

48. Although the GLN has delivered benefits as noted previously in this paper, there are currently insufficient sector wide tools available to support a rapid advance in the management and reduction of Crown legal risk. The GLN provides a good platform to move forward but without the systems as proposed will not achieve the outcomes I am seeking within the necessary timeframe.

### *Functional leadership*

49. It was considered unnecessary to seek a mandate for the Solicitor-General which could impact on Chief Executives' decision-making and autonomy; as such, a functional leadership model is not necessary to achieve the desired outcomes. There is sufficient ability to implement an 'all of government' approach and systems within the combined framework of the constitutional powers of the Law Officers, the GLN framework and initiatives (existing and as proposed in this paper) and the Cabinet Directions.

### *Full centralisation and employment of government lawyers by a single entity*

50. The recommendations of the Dean / Cochrane report, commissioned by me in 2011/12, recommended continued development and expansion of the GLN, retention of decentralised employment of government lawyers and establishment of a sustainable centralised funding source for the GLN.
51. The option of a fully centralised single entity employing all government lawyers was dismissed by the Dean / Cochrane Report for the following reasons:
- provision of specialised advice – the in-house lawyer has a unique understanding and depth of knowledge, of the department's subject area and operations
  - being within "line of sight" – the in-house lawyer is available at short notice to provide the department, particularly the chief executive, with urgent and tailored advice
  - the cost of in-house legal advice is less than external and provides important strategic context, which is valued by chief executives
  - a government law firm would involve significant additional administration and financial costs. Further, chief executives and chief legal advisors would be resistant to such a development with the risk of lack of "buy in" to the concept. The failure of such a firm would result in severe consequences in terms of managing Crown legal risk.
52. I also note the recent feedback from Chief Executives and Chief Legal Advisors was strongly against the notion of a fully centralised approach. The reasons offered were similar to those mentioned in the Dean / Cochrane Report.

## Consultation

53. The Treasury, State Services Commission, NZ Police, Ministry of Justice, Department of Corrections, NZ Customs Service, Ministry for Primary Industries, Ministry of Social Development, Department of Internal Affairs, Department of Conservation, Inland Revenue Department, Ministry of Transport, Serious Fraud Office, Ministry for Culture and Heritage, Ministry of Business, Innovation and Employment, Ministry of Education, Ministry of Health, Ministry for the Environment, Ministry of Defence, Ministry for the Environment, Ministry of Foreign Affairs and Trade, Government Communications Security Bureau, Land Information New Zealand, Statistics New Zealand, Ministry of Women's Affairs, Ministry of Māori Development, Education Review Office, Ministry of Pacific Island Affairs, Canterbury Earthquake Recovery Authority, New Zealand Security Intelligence Service and New Zealand Defence force have been consulted on this paper.
54. The Department of the Prime Minister and Cabinet has been informed.
55. All the Departments are supportive of the approach recommended.

## Financial implications

56. There is no new money required to fund this proposal or possible ongoing funding. A period of 2 years is required before reporting back to Cabinet with a business case to address the requirement for ongoing funding for year 4 and out years.
57. Advice has been received from Treasury that subject to departments not objecting, the Crown Law Office (Legal Advice and Representation) Memorandum Account can be properly applied for the purposes proposed in this paper. Departments were consulted on this issue and no objections were raised.

## Human rights

58. This paper has no human rights implications.

## Legislative implications

59. This paper has no legislative implications.

## Publicity

60. No publicity outside departments is planned as a result of this paper.

## Recommendations

61. I recommend that the State Sector Reform and Expenditure Control Committee:

- 61.1 **Note** that an enhanced, all of government approach to legal services is needed to improve the efficiency and effectiveness of the management

and delivery of quality legal services to the Crown and to reduce Crown legal risk

61.2 **Endorse** the following key features of the enhanced approach:

61.2.1 Enabling the Solicitor-General, as the professional leader for government lawyers, to provide support and guidance to departmental chief executives and chief legal advisors

61.2.2 Introducing sector-wide systems and initiatives, including in relation to system wide information, performance and monitoring frameworks, practice management tools and systems, capability development, and shared services

61.2.3 Enhancing GLN governance and functions. The Solicitor-General will participate as a member of the GLN Board that includes a chief executive representative, several chief legal advisors and a central agency representative. The Board will provide advice and support to the Solicitor-General, and maintain an overview of government legal services and risk issues

61.2.4 Strengthening the GLN Centre. This would be a small, operationally separate business unit within the Crown Law Office headed by the GLN Director. The unit's functions, without limitation, would relate to knowledge management, systems design and development, risk reporting, training coordination, programme management and departmental liaison

61.3 **Agree** that the Crown Law Office (Legal Advice and Representation) Memorandum Account, be used to fund the enhancements above up to a maximum of \$2.2 million over a 3 year period effective from 1 July 2013

61.4 **Approve** the following changes to appropriations to give effect to the policy decisions in recommendations 61.2 and 61.3 above, with no impact on the operating balance:

	\$m – increase/(decrease)				
	2013/14	2014/15	2015/16	2016/17	2017/18 & Outyears
<b>Vote Attorney-General</b>					
<b>Attorney-General</b>					
Departmental Output Expense: Legal Advice and Representation (funded from Balance Sheet - Legal Advice and Representation memorandum account)	0.500	0.800	0.900	-	-
<b>Total Operating</b>	<b>0.500</b>	<b>0.800</b>	<b>0.900</b>	-	-

- 61.5 **Agree** that the proposed changes to appropriations for 2013/14 above be included in the 2013/14 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply
- 61.6 **Invite** the Attorney-General to report back to Cabinet by 30 June 2015 on progress, including a business case addressing a permanent funding solution for year 2016/17 and out-years



Hon Christopher Finlayson  
Attorney-General

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## Appendix 1

### GLN Efficiency work stream:

1. Establishment of a new External Legal Services panel (resulting from a tender process during 2011/12) – the number of external law firms engaged will be reduced from 212 to 39 (NB 90% of the expenditure was with 29 law firms).
2. It is estimated public and non-public service departments will achieve annual savings of 10% (or \$1,650,000 based on the 2009/10 year expenditure) on external legal fees.
3. Departments benefit from an established 'All of Government' External Legal Services panel which avoids the cost of engaging in a full procurement process for external legal services each time such services are needed. If a project arises they can select the most appropriate provider at the agreed 'All of Government' rates or they can invite more than one panel firm to submit proposals specific to that project without the time and cost of a full tender process while still benefiting from highly competitive commercial terms.
4. Re-negotiation of the supply arrangements for provision of legal information resources (online and hard copy) has generated the following benefits:
  - 4.1 Estimated annual savings of \$670,000 in the first year (2012/13) plus increased and ongoing savings as new departments join the syndicated arrangement in this and subsequent years
  - 4.2 A more transparent pricing model allowing better decision-making
  - 4.3 The time and cost of individual departments negotiating separate supply agreements
  - 4.4 Greater competitiveness between the two main suppliers, Lexis Nexis and Thomson Reuters


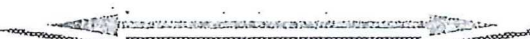








### GLN Capability Development work stream:

5. Establishment of the GLN online shared workspace for government lawyers including:
  - 5.1 Searchable Government lawyer professional profile database (currently with 313 lawyers from across government) including areas of expertise and contact details enabling lawyers to access required expertise across the sector
  - 5.2 A GLN Resources library sourced from departmental legal teams including:
    - Training materials relevant to departmental lawyers (e.g. on OIA, privacy, statutory decision-making and machinery of government topics)

- Legal precedents – eg contracts, confidentiality agreements, consultancy services agreements
  - Crown Law opinions (while also preserving legal privilege)
  - Policies and guidelines relevant to lawyers (eg delegation templates, consultation guidelines)
- 5.3 Legal events calendar, useful links, legal articles, topical announcements and updates all accessible in a central and secure online environment
  - 5.4 Secondment and job notices enabling easier and more efficient access to the relevant talent pool and diminishing the need for outsourced recruitment services
  - 5.5 Easy access to useful links for lawyers located in one place
  6. Joint legal seminar planning and delivery by Crown Law and GLN to government lawyers on 'all of government' legal issues
  7. An annual government lawyers conference – run by and for government lawyers (4<sup>th</sup> annual conference was held on 18<sup>th</sup> April 2013)
  8. GLN networking events to encourage lawyers to meet and share their knowledge and expertise
  9. Development of legal core competencies for the various government legal roles as a resource to be applied more uniformly in the recruitment of government lawyers
  10. Generating wider interest in the career of the government lawyer through attendance at Law School career expo' days (currently limited to Victoria University but to be expanded in the future)

Appendix 2

All of Government Legal

Departmental focus		Strategic and all of government focus
Departmental legal risk management		Crown legal risk management
Departmental leadership		Sector leadership and support (Solicitor-General)
Agency centric development and resourcing of legal functions		Shared co-ordination and resourcing
Rely on own legal information and resources		Shared legal information and resources
Departmental standards, capability and performance measures		Whole of government standards, capability and performance measures
Relevant specialisation / capability within Departments		Centres of legal subject matter expertise shared across departments
Individual agency procurement arrangements		Cluster or all of government approach to procurement
Agency specific need and capacity assessment		Framework for assessing need and capacity across the sector
Self sufficient – relies on departmental support services, systems and processes*		Shared support services, systems and processes*

\*E.g. Legal compliance, training, recruitment, remuneration, career path, leading practices, procurement

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**Appendix 3 - Examples of initiatives that will impact on 'System issues'**  
(refer Paragraph 13)

**Spectrum of engagement from the centre:**

Support and guidance ⇨ Collaboration ⇨ Centre-led ⇨ Oversight

Proposed Initiatives	Level of engagement from the centre
<ul style="list-style-type: none"> <li>Assistance and co-ordination in meeting the requirements of the New Zealand Law Society Continuing Professional Development regime (recently introduced)</li> </ul>	Support and guidance
<ul style="list-style-type: none"> <li>More visible professional leadership and support from the Solicitor-General</li> </ul>	Support and guidance to Centre-led
<ul style="list-style-type: none"> <li>A well resourced and active government lawyers network</li> </ul>	Collaboration
<ul style="list-style-type: none"> <li>Centrally co-ordinated training and professional development to supplement and leverage off existing departmental initiatives</li> </ul>	Collaboration
<ul style="list-style-type: none"> <li>Professional networking and events</li> </ul>	Collaboration
<ul style="list-style-type: none"> <li>Appointment of an external (to the department) senior government lawyer to the interview panel for Chief Legal Advisor recruitment processes (NB the decision remains that of the recruiting department)</li> </ul>	Collaboration
<ul style="list-style-type: none"> <li>Establishment and support of legal communities of interest (e.g. Chief Legal Advisors, Prosecutors forum, International law, IT law)</li> </ul>	Collaboration
<ul style="list-style-type: none"> <li>Co-ordination of shared training across departments</li> </ul>	Collaboration
<ul style="list-style-type: none"> <li>Co-ordination of joint procurement / supply management of services and tools</li> </ul>	Collaboration / Centre-led
<ul style="list-style-type: none"> <li>Development of leading management practices for in-house legal functions</li> </ul>	Centre-led
<ul style="list-style-type: none"> <li>Investigation and assessment of the viability of shared services initiatives</li> </ul>	Centre-led
<ul style="list-style-type: none"> <li>Development of learning and development strategy and framework</li> </ul>	Centre-led
<ul style="list-style-type: none"> <li>Improved flexibility in the allocation of legal resource through agreed managed moves</li> </ul>	Centre-led
<ul style="list-style-type: none"> <li>Sector wide strategies for career path and talent management</li> </ul>	Centre-led
<ul style="list-style-type: none"> <li>Development of a sector wide system for identification of legal risk indicators and preventive action or intervention (e.g. 'Legal Flying Squad')</li> </ul>	Centre-led
<ul style="list-style-type: none"> <li>Comparative benchmarking</li> </ul>	Oversight
<ul style="list-style-type: none"> <li>Legal function practice management performance standards, measurement, reporting and improvement (through revised BASS measures)</li> </ul>	Oversight
<ul style="list-style-type: none"> <li>Sector wide legal risk monitoring and reporting</li> </ul>	Oversight
<ul style="list-style-type: none"> <li>Collection and analysis of financial and demographic data and information re sector legal capacity and capability</li> </ul>	Oversight

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# Cabinet

CAB Min (13) 21/5

Copy No: 4

## Minute of Decision

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### Enhanced Approach to Government Legal Services

Portfolio: Attorney-General

On 24 June 2013, Cabinet:

#### Government Legal Network

- 1 **noted** that an enhanced, 'all of government' approach to legal services is needed to improve the efficiency and effectiveness of the management and delivery of quality legal services to the Crown and to reduce Crown legal risk;
- 2 **endorsed** the following key features of the enhanced approach:
  - 2.1 enabling the Solicitor-General, as the professional leader for government lawyers, to provide support and guidance to departmental chief executives and chief legal advisors;
  - 2.2 introducing sector-wide systems and initiatives, including system wide information, performance and monitoring frameworks, practice management tools and systems, capability development, and shared services;
  - 2.3 enhancing the Government Legal Network (GLN) governance and functions:
    - 2.3.1 the Solicitor-General will participate as a member of the GLN Board that includes a chief executive representative, several chief legal advisors and a central agency representative;
    - 2.3.2 the Board will provide advice and support to the Solicitor-General, and maintain an overview of government legal services and risk issues;
  - 2.4 strengthening the GLN Centre:
    - 2.4.1 this would be a small, operationally separate business unit within the Crown Law Office headed by the GLN Director;
    - 2.4.2 the unit's functions, without limitation, would relate to knowledge management, systems design and development, risk reporting, training coordination, programme management and departmental liaison;

### Funding arrangements

- 3 **agreed** that the Crown Law Office (Legal Advice and Representation) Memorandum Account be used to fund the enhancements referred to in paragraph 2 above up to a maximum of \$2.2 million over a three year period effective from 1 July 2013;
- 4 **approved** the following changes to appropriations to give effect to the policy decisions in paragraphs 2 and 3 above, with no impact on the operating balance:

	\$m – increase/(decrease)				
	2013/14	2014/15	2015/16	2016/17	2017/18 & Outyears
<b>Vote Attorney-General</b>					
<b>Attorney-General</b>					
Departmental Output Expense: Legal Advice and Representation (funded from Balance Sheet – Legal Advice and Representation memorandum account)	0.500	0.800	0.900	-	-
<b>Total Operating</b>	<b>0.500</b>	<b>0.800</b>	<b>0.900</b>	<b>-</b>	<b>-</b>

- 5 **agreed** that the proposed changes to appropriations for 2013/14 above be included in the 2013/14 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;
- 6 **invited** the Attorney-General to report to the Cabinet Committee on State Sector Reform and Expenditure Control by 30 June 2015 on progress, including a business case addressing a permanent funding solution for year 2016/17 and outyears.

*Rebecca Kittredge*  
Secretary of the Cabinet

Reference: CAB (13) 353

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