

The Treasury

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Hon Simon Power, Minister of Justice
 Hon Judith Collins, Minister of Corrections and Minister of Police
 Hon Christopher Finlayson, Attorney General
 Hon Georgina te Heuheu QSO, Minister for Courts

Justice sector budget overview

Date	9 February 2011	File reference	SEC-11-14
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Action Sought	Timeframe/Deadline
Sign and forward this briefing to Budget Ministers	10 February 2011

Contacts for telephone discussion (if required)

Name	Position	Telephone (work)	Telephone (a/h)	1st contact
Sandi Beatie	Deputy Chief Executive, Ministry of Justice	[1]		✓
Emma Speight	Manager Strategy and Performance, Ministry of Justice			

Minister's office to complete

<input type="checkbox"/> Noted	<input type="checkbox"/> Approved	<input type="checkbox"/> Overtaken by events
<input type="checkbox"/> Referred to: _____		
<input type="checkbox"/> Seen	<input type="checkbox"/> Withdrawn	<input type="checkbox"/> Not seen by Minister
Minister's office comments		



Justice sector budget overview

Purpose

1. This paper updates the Minister of Finance and Budget Ministers on the justice sector agencies' resubmitted four-year budget plans which:
 - 1.1. propose the allocation of the justice sector operating allowance of \$160 million
 - 1.2. confirm the residual fiscal pressures through to 2014/15
 - 1.3. outline the proposed strategic options to manage the residual pressures through to 2014/15, which Cabinet Domestic Committee will consider on 16 March 2011.

Background

Budget 2011

2. On 1 December 2010, justice sector agencies submitted their four-year Budget plans to the Minister of Finance, outlining the proposed allocation of the new \$160 million justice sector allocation and how each agency would manage pressures across the four year forecast period.
3. A number of identified pressures were not quantified and the justice sector-wide pressures were not fully managed across the period – there was a fiscal shortfall of \$1.018 billion.
4. Budget Ministers asked justice sector agencies to re-submit their four-year budget plans to the Minister of Finance by 10 February 2011. The resubmitted plans needed to:
 - confirm the level of remaining pressures through to 2014/15
 - include a strategy on how the justice sector will manage within the Cabinet agreed justice sector allocation for Budget 2011 (across the forecast period to 2014/15).

Setting the direction of the justice sector

5. The Minister of Finance wrote to justice sector Ministers in May 2010, requesting that they undertake joint work in preparation for appearing at the Expenditure Control Committee (ECC). This work also considered initiatives underway in the Youth Justice portfolio that are part of the wider justice sector.
6. The ECC appearance planned for November 2010 was replaced by a discussion at Cabinet Strategic Committee (STR) on 13 December 2010.

7. Decisions from the STR meeting [Refer CAB Min (10) 45/28] included:
- 9.1 *Agreement that, to help manage the expected cost increases over the next ten years, priority be given to further reducing offender volumes;*
 - 9.5 *An invitation for the Minister of Justice in consultation with other justice sector Ministers to report back to the Cabinet Domestic Committee, by 31 March 2011, with advice on:*
 - a). *how the options referred to in paragraph 6 above should be prioritised to best meet the government's strategic objectives for the justice sector;*
 - b). *any other actions that could be implemented to further reduce offender volumes including health sector initiatives relating to alcohol and drug use.*

Proposed allocation of justice sector allocation for Budget 2011 and the next 3 years

8. Justice sector Ministers have agreed a proposed allocation for the new justice sector operating allowance of \$40 million per annum for the forecast period (\$160m in total). The prioritisation of funding was done on the understanding that there will be limited baseline increases across the justice sector in the next three budgets.
9. Justice sector officials have undertaken an extensive review of agency expenditures to further reduce the level of unfunded fiscal pressures. As a result the amount of residual total fiscal pressures through to 2014/15 has reduced from \$1.018 billion [2] refer to Appendix 1, table 2).
10. The justice sector has reduced the level of residual pressures which were originally submitted to Budget Ministers by the following actions:
- [2]
11. Probation Services volume pressures in 2011/12 and 2012/13 will be managed with the introduction of the redesigned practice model which will achieve a greater targeting of resources. A greater proportion of staff effort will be allocated to manage high risk offenders which will involve a reduction of some of the time currently allocated to low risk offenders. As a result of the redesigned practice model, pressures for the next two years will be absorbed within the current level of resources.
12. Prison capacity cost pressures: The Department of Corrections is developing an integrated prison capacity plan to respond to sector pressures. The likely future prison capacity requirement is based upon Criminal Justice Forecasts which are updated annually. At present, actual prison muster is tracking very close to the 2010 prison forecast. If the number of prisoners towards the end of the forecast period significantly

exceeds the current forecast, additional facilities may be required for which new funding may be requested.

Previous actions to manage pressures

13. Justice sector agencies have outlined their full pressures and options taken to absorb pressures, where possible, in their four year budget plans. Despite these actions, there is [2] of remaining justice sector fiscal pressures over the Budget 2011 forecast period.
14. The justice sector has been taking actions to respond to these pressures, through a suite of sector-related performance improvement actions which include:
 - 14.1. Policing Excellence initiatives – particularly alternative resolutions and neighbourhood policing
 - 14.2. the suite of Ministry of Justice initiatives – criminal procedure simplification, courts and criminal matters bill, audio-visual links, and electronic operating model
 - 14.3. Corrections – the way forward initiatives and contract management of prisons.
15. These sector-wide initiatives have introduced significant change across the justice system and will take some time to be fully implemented and embedded into business as usual activities. Early impacts are beginning to emerge but full impacts will not be seen until 2013/14.

Agency options to manage and reduce pressures

16. To fully address the remaining pressures, Ministerial and Cabinet decisions will be required over time. Some of these decisions will be to manage pressures within agencies or votes, and others will impact across the sector. Some initial options are outlined in this paper and will be discussed in the paper provided to Cabinet Domestic Committee for consideration on 16 March 2011.
17. The agency options that have already been identified are outlined below:
 - 17.1. Legal aid: Cabinet agreed to changes to legal aid for implementation from 2012 - these changes are expected to reduce the cost of legal aid by \$138 million. In order to reduce the legal aid spend to a level that is sustainable within existing baselines, a second set of proposals will be developed for consideration by Cabinet in September 2011.

[6]

[6]

- 17.3. Corrections' probation services pressures: the 2010 Criminal Justice Forecast [2]
by Community Probation Services over the forecast period. To meet the forecast demand in 2013/14 and 2014/15, the Department's modelling shows it would require an additional \$21 million and \$25 million respectively for operating costs and additional capital funding of \$20 million over the forecast period.
- 17.4. The Serious Fraud Office (SFO) pressures of \$7.5 million per annum could be addressed by reviewing the required level of service provided (ie the number of cases progressed annually). SFO's fiscal pressures are a result of increases to the scale, complexity, and required timeliness of cases since its establishment in 1990. In that time, SFO has not received any material additional funding to cover the significant changes to its workload. Structural and operational improvements in 2010 have lifted the performance and efficiency of the agency. However, even with a raised threshold for investigating cases, work volumes significantly exceed SFO's resource capacity under the current appropriation. Ministers will be provided with options in March 2011. SFO may require additional funding to deliver the agreed levels of service.
- 17.5. Crown Law: there are \$43.225 million operating and \$10 million capital of unmanaged pressures within Vote Attorney-General (output class: Supervision and Conduct of Crown prosecutions). Justice sector initiatives, such as Policing Excellence, aiming at reducing volumes in the pipeline may flow through to indictable prosecutions. The impact on cost pressures for Crown Solicitors is dependent on how this affects the split between summary and indictable workloads. Further modelling and analysis is planned to identify the flow-on cost benefits and realisable savings across the justice system. Crown Law will continue to work with other Justice Sector agencies as the proposals are finalised and the impacts become clear.
- 17.6. Unit costs for 95% of Crown Solicitor costs of prosecuting indictable (serious) crime are set by scale, under Crown Solicitor regulations, and all costs are certified for payment by Court registrars. In the short term, there is no discretion available to moderate cost pressures which derive from increasing and unbudgeted volumes and complexity of cases. Justice sector agencies predict a 10.3% increase in the number of indictable prosecutions over the next four years. In the short term these costs are unavoidable. In addition, over the next 12 months, a number of initiatives are planned which are aimed at reviewing and containing the costs of prosecution of indictable crime including:
- A review of the Crown Solicitor regulations;
 - An independent review of Crown Law's administration and monitoring of Crown Solicitor expenditure;
 - An independent review, for the Attorney-General and Ministers of Justice and Police, of the Crown's Prosecution services; and

- Reforms and efficiencies to various more minor civil and criminal procedures (such as the Commercial list and prosecution of complex commercial offences).

17.7. Electoral Commission pressures over the forecast period have two components. The first component of these pressures relates to the funding of the Electoral Enrolment Centre (EEC). The EEC has not had an increase in baseline funding since 1999. This pressure is [2] to cover the volume and price pressures and to maintain the current levels of enrolment services. [2] is required to cover the aforementioned pressures and a further [2] is required to cover unfunded policy changes. [2]

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

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

The work of the Representation Commission is not funded in baselines because it occurs once every five years. The Ministry will work with the Electoral Commission to identify options to minimise cost pressures in out years

Sector-wide options to address remaining pressures

18. The sector-wide options to manage remaining unfunded pressures will be identified and discussed in more detail for consideration by Cabinet Domestic Committee in March 2011.
19. The justice system growth is almost entirely driven by demand for its services. Whilst police recorded crime has remained largely stable over the past five years, court processing workloads including crown law and legal aid, and prison populations have continued to increase over the same period. This has been driven by policy and operational choices and also by increases in some categories of violent offending.
20. Notwithstanding the continued growth, the justice sector has continued to deliver its core services. The overriding outcome from these services and the priority for the justice sector remains to protect public safety and retain the confidence of the New Zealand public. In the current economic context, this will require a stance of being 'tough on serious crime' and 'smart on other crime' – in order to provide options to significantly reduce volumes and cost pressures across the justice system.
21. Whilst the sector agencies have reduced the cost pressures, the sector still faces significant decisions about its future operating model if it is to manage within sector baselines over the forecast period and beyond. Following on from STR, justice sector Ministers have agreed on a preferred strategic option to achieve the savings required to operate within agreed baselines.
22. The recommended option is to reduce the number of offenders entering the formal criminal justice system through policing excellence initiatives. Through these initiatives,

Policing Excellence will deliver better outcomes for victims, reassure communities, help stem the flow of cases into the criminal justice system and provide better and more consistent services throughout the country.

23. Collectively the Policing Excellence programme is expected to achieve a 13% decrease in recorded crime to around 380,000 offences per annum by 2014/15, and a 19% reduction in Police (non traffic) apprehensions resolved by prosecution to around 130,000 per annum by 2014/15. Realisation of these outcomes will relieve pressure across the criminal justice system – the impact on cost pressures for the rest of the sector will be dependent on how this affects the split between court summary and indictable workloads. Further analysis and modelling will be undertaken to identify the flow-on cost benefits and realisable savings across the justice system – this will be reported to Cabinet Domestic Committee in March 2011.
24. If this is unsuccessful in managing justice sector fiscal pressures through to 2014/15 (refer table 2, attached) then consideration of additional options could be required.
25. Policing Excellence is also expected to impact positively on two of the three justice sector key performance indicators of reducing inflows and time to disposal. Further work will be required to assess if this option will reduce re-offending.

Next Steps

26. In preparation for DOM on 16 March 2011, justice sector Ministers will be provided with:
 - 26.1. A finer grained analysis and prioritisation of options required to reduce pressure in the short and long term, including other actions that could be implemented to further reduce offender volumes (such as health sector initiatives relating to alcohol and drug use), which will provide more confidence around the size of relative net cashable savings from each option or combination of options.
 - 26.2. The proposed strategic options to address system fiscal pressures through to 2020 with work on these options being progressed during 2011.

Recommendations

27. It is recommended that you:

27.1. **Agree** the proposed allocation of the new justice sector operating allowance of \$160 million for Budget 2011 as set out in Appendix 1, Table 1 **YES / NO**

27.2. **Note** that there are [2] unmanaged pressures over the forecast period (as set out in Appendix 1, Table 2) and that strategic options to address the pressures will be considered by Cabinet Domestic Committee on 16 March 2011.

Sandi Beatie
Deputy Chief Executive, Ministry of Justice

APPROVED / SEEN / NOT AGREED

Hon Simon Power, Minister of Justice

Hon Judith Collins, Minister of Corrections
and Minister of Police

Hon Christopher Finlayson, Attorney General

Hon Georgina te Heuheu QSO, Minister for
Courts

Attachments