

## POSITION DESCRIPTION

Position title: Crown Counsel

Department: Legal

Reports to: Legal Team Manager

Document Date: 3 June 2021

### Te Tari Ture o te Karauna | Crown Law Overview

Crown Law provides legal advice and representation services to the government in matters affecting the executive government. The services provided include matters covering judicial review of government actions, constitutional questions including Te Tiriti o Waitangi/Treaty of Waitangi issues, the enforcement of criminal law and the protection of revenue. Crown Law also administers the prosecution process in the criminal justice system, in particular, Crown prosecutions.

Crown Law's vision is to provide collaborative, indispensable, legal service. Crown Law's purpose is summarised in the following statements:

- **Legal experts:** We are experts in public, criminal, constitutional and Treaty of Waitangi law; enabling Government to pursue its policy objectives according to law.
- **Kaitiaki of the rule of law:** We support the Law Officers (the Solicitor-General and Attorney-General) to determine the Crown's view of the law.
- **System leaders:** We provide leadership for the networks of Crown Solicitors, public prosecuting agencies and in-house Government lawyers.

Crown Law is committed to ensuring te ao Māori and te Tiriti informs how we work and is at the heart of everything we do. We value experience, knowledge and understanding of te reo and tikanga within Crown Law.

Crown Law team members strive to demonstrate the following Ways of Working in our interactions with each other, our clients and in all we do.

- We take **pride** in all we do
- We value our **differences**
- We look after the **mana** of other people
- We recognise our **impact** on others
- We **care** about each other

The organisation is committed to flexibility and provides a range of flexible working arrangements that allow our team members to work in ways that allow them and the organisation to perform at their best

## Kōrero Whakataki mō ngā Ratonga Tūmatanui | Public Service Introduction

Mahi tōpū ai ngā Kaimahi Tūmatanui e whai tikanga ai te noho a ngā tāngata o Aotearoa. Hei tā te Public Service Act ko te pūtake o ngā Kaimahi Kāwanatanga, ko te tautoko i te kāwanatanga whai ture me te kāwanatanga manapori; ko te āwhina i te Kāwanatanga o te wā nei me ō anamata ki te whakawhanake, ki te whakatinana hoki i ā rātou kaupapa here; ko te tuku i ngā ratonga tūmatanui e nui ana te kōunga, e nahanaha ana anō hoki; ko te tautoko i te Kāwanatanga e tūroa ai te whai oranga o te marea; ko te huawaere i te whai wāhitanga o te kirirarau ki te ao tūmatanui me te whakatutuki i ngā mahi i runga i tā te ture i whakahau ai. E hiranga ana te wāhi ki a mātou ki te tautoko i te Karauna i ana hononga ki ngā iwi Māori i raro i te Tiriti o Waitangi. Ahakoa he nui ngā momo tūranga mahi, e tapatahi ana ngā kaimahi tūmatanui i roto i te whakaaro nui ki te hāpai i ngā hāpori, ka mutu, e arahina ana ā mātou mahi e ngā mātāpono matua me ngā uara o ngā Kaimahi Tūmatanui.

The public service works collectively to make a meaningful difference for New Zealanders. The Public Service Act states that the purpose of the public service is to support constitutional and democratic government, enable both the current Government and successive governments to develop and implement their policies, deliver high-quality and efficient public services, support the Government to pursue the long-term public interest, facilitate active citizenship and act in accordance with the law. We have an important role in supporting the Crown in its relationships with Māori under the Treaty of Waitangi and te Tiriti o Waitangi. Whilst there are many diverse roles, all public servants are unified by a spirit of service to the community, and guided by the core principles and values of the public service in our work.

## Mō te Tūranga | About the Role

The role of Crown Counsel is to provide high quality advice and representation to the Crown including Ministers and government departments. Crown Counsel are also involved in providing legal input on whole of government policy initiatives or other policy initiatives.

## Ngā Haepapa Matua | Key Responsibilities

The following are key responsibilities for a Crown Counsel, however, some responsibilities may vary between teams.

### Legal Services

- Conducts litigation and represents clients in tribunals, courts, and alternative dispute resolution fora. This may include managing files with more junior counsel, or working with Senior Crown Counsel, Deputy Solicitors-General, the Solicitor-General, external counsel on matters.
- Provides and oversees the provision of high-quality input and advice from a legal perspective into whole of government policy development or policy initiatives in areas of expertise.
- Understands the client's business, the operational context and imperatives in which they work to provide and oversee the provision of high quality and client-focused advice to Ministers and government departments, particularly where that advice is complex or significant.
- Has full responsibility for the financial management of files and complies with Crown Law administration requirements including completing timesheets and billing in a timely manner.

#### **Professional Leadership**

- Provides professional leadership in counsel's area(s) of expertise.
- Collaborates and effectively delegates work to more junior counsel and support staff to ensure work is done in a timely manner and at the right level. This includes ensuring appropriate instructions and information is provided and the work is effectively supervised.
- Assists in building Crown Law's professional capacity and ongoing development by assisting with the development of other staff including coaching, mentoring and developing junior counsel.

#### **Relationship Management**

- Develops and maintains strong relationships across Crown Law.
- Is dedicated to meeting the expectations and requirements of, and develops and maintains strong relationships with clients, colleagues from other agencies to gain their trust and respect.
- Is an active participant of the Government Legal Network and builds and establishes relationships across the Government Legal Network and other relevant stakeholders.

#### **Health and Safety**

- Complies with all reasonable instructions regarding Health and Safety policies and processes and the Health and Safety at Work Act 2015.
- Takes reasonable care to ensure that in the performance of their employment they do not undermine their own health and safety or the health and safety of any other person.
- Works in a safe and responsible manner, ensuring incidents, accidents, hazards or near misses are promptly reported.

#### **General**

- Any other reasonable requests by your manager.

### **Ngā Hononga Matua | Key Working Relationships**

#### **Internal**

- The Solicitor-General
- The Deputy Solicitors-General, the Deputy Chief Executive Strategy and Corporate, and Deputy Chief Executive System Leadership
- The Public Prosecutions Unit (Criminal Group).
- Staff across Crown Law

#### **External**

- The Attorney-General's Office
- Members of the Judiciary and their staff
- Justice sector and other government sector agencies relevant to the Team's work
- The Crown Solicitor Network

- The Government Legal Network
- External counsel

### Tohu, Pūkenga me Ngā Wheako | Qualifications, Skills and Experience

#### Qualifications and experience required

- Bachelor of Laws (or equivalent)
- Admission in New Zealand as a barrister and solicitor
- Eligibility to hold a current practicing certificate issued by the New Zealand Law Society
- Proven experience in providing legal advice and representation to clients
- May be required to obtain and hold a New Zealand Government Top Secret security clearance. Appointment to the role may be subject to obtaining and maintaining appropriate security clearance.

### Ōu Āhuatanga Ake | Personal Attributes

Crown Counsel will have:

- Legal Analysis and Advice: Must have excellent legal analysis skills and be able to provide tailored, practical and technically correct advice, working collaboratively with relevant stakeholders.
- Advocacy: Must be able to present conclusions of fact and legal argument clearly and persuasively in court and alternative dispute resolution fora.
- Strategic skills: Must be future orientated and open-minded and have a willingness to contribute to the ongoing development of Crown Law's strategic direction.
- Understanding of Government: Must have or be able to quickly develop a strong understanding of how the public sector works, including the expectations of Ministers and Chief Executive. Demonstrates (or is able to develop) political nous and navigates diverse, sensitive and complex political situations effectively.
- Collaboration: Can quickly find common ground, taking into account and balancing the interests of other groups, to solve problems. Encourages collaboration.
- Courage: Must be able to be counted on to step up in difficult times and to deliver unwelcome and difficult messages to stakeholders and stand their ground where necessary. Able to anticipate conflicts and seek to resolve them equitably and calmly, escalating issues to senior counsel as appropriate.
- Energy and Drive: Must be determined to maintain momentum and improvement, despite setbacks or resistance. Must be adaptable and open-minded.
- Personal and Interpersonal Skills: Must have highly developed personal and interpersonal skills. Must be able to work constructively with a wide range of people, and effectively gain staff, Ministers' and other stakeholders' trust and respect. Must be able to motivate others to do their best.



- Honour and Integrity: Be a role model of Crown Law policies and values including its 'Ways of Working'. Adhere to the New Zealand Public Service Standards of Integrity and Conduct at all times and model the Standards within the Office.

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| Date approved                | June 2021                                     |
| Review /Content updated date | Feb 2022 (updated Te Reo titles & formatting) |
| Document owner               | Human Resources                               |

## Crown Counsel Zones

The Crown Counsel zone descriptors below provide general guidance on the factors that are considered when considering zone placement for counsel and can be used to inform individual work and development priorities in performance plans ('My Plan'). There will be variances between groups as to the type of work conducted and the emphasis or weight given to the different skills and experience which is required for each group. The level of responsibility and accountability increases as counsel move up to the next zone – as does the complexity and/or the political sensitivity of the matters that counsel become responsible for. There is an acknowledgement that counsel will often be already conducting aspects of work, taking responsibility for matters and conducting themselves in a manner commensurate to counsel at the next level up, however, any movement through the zones will be assessed individually on merit and in accordance with Crown Law's policy on Crown Counsel zone movements. If any changes to the position description and the zone descriptors become necessary to take account of changes in Crown Law's operational requirements, these will be discussed with counsel prior to implementation.

| Crown Counsel – Zone 1   | Crown Counsel – Zone 2  | Crown Counsel – Zone 3   |
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|  | All responsibilities of a Crown Counsel, zone 1; plus   | All responsibilities of a Crown Counsel, zones 1 & 2; plus   |
| <p><i>Legal Services</i></p> <ul style="list-style-type: none"> <li>Has full responsibility for assigned files and carry conduct of litigation, including finalising and signing out advice and submissions with minimum or no supervision.</li> <li>Manages own matters, escalating issues appropriately to more senior counsel as required.</li> <li>Provides experienced litigation support to more senior counsel on complex matters and often take primary responsibility for discrete aspects of the litigation which could include conduct as sole or lead counsel in the High Court or High Court appeals; and for criminal matters, appeals in the Court of Appeal (other than those involving evidence, questions of law, homicide matters, Crown appeals or other difficult issues).</li> </ul> | <p><i>Legal Services</i></p> <ul style="list-style-type: none"> <li>Has full responsibility for files across a range of the office's work, taking files to completion with minimal or no supervision and instruction.</li> <li>Has full responsibility for the conduct of litigation. For CLR and A-Gs Group, the full range of the Groups' civil cases. For the Criminal Group, conduct as sole or lead counsel for the full range of High Court appeals and all types of appeals in the Court of Appeal (except those involving complex questions of law or having other precedential significance) and non-complex homicide and extradition matters.</li> <li>Has specialist knowledge and expertise in public/administrative law and/or criminal law. Focus on the more complicated and important aspects of the office's work where their experience is required.</li> </ul> | <p><i>Legal Services</i></p> <ul style="list-style-type: none"> <li>Provides strategic advice on and be responsible for the full range of advice work across the team/the Office, including advice to Ministers and senior government officials.</li> <li>Has full responsibility for the conduct of litigation for more difficult and complex files, including cases of national significance and/or reputation/constitutional/fiscal risk; and for the Criminal Group, have responsibility as sole or lead counsel for the full range of Court of Appeal matters (including homicide matters) involving complex questions of law or having other precedential significance.</li> <li>May appear as lead counsel in the Supreme Court as required.</li> <li>Has extensive strategic, legal and analytical skills gained through deep and broad experience.</li> </ul> |

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| <ul style="list-style-type: none"> <li>• May be lead counsel for general legal advice and legal advice on such things as the development of whole of government policy development or initiatives; and policy and legislative proposals for the relevant government agency or ministry. For criminal matters, this includes providing second opinions on Law Officer matters which are not novel or contentious. Peer review should be conducted by more senior counsel where complexity or risk warrants.</li> <li>• Provides peer review of other counsels' opinions.</li> <li>• Plans and organises self to deliver work commitments to required timeframes and quality standards while being mindful of the wider impact this may have on the work of others.</li> </ul> | <ul style="list-style-type: none"> <li>• Provides and oversees the provision of advice to clients on complex and/or sensitive legal matters with peer review by more senior counsel depending on the complexity of the matter. For criminal matters, this includes providing second opinions on the full range of Law Officer matters.</li> <li>• Manages and delivers on work priorities and is purposeful about where to invest time.</li> </ul>   | <ul style="list-style-type: none"> <li>• May lead legal and across-office projects.</li> <li>• Deliberate in managing time and work priorities to make the greatest contribution to delivery of work of the Office.</li> </ul>   |
| <p><i>Professional leadership</i></p> <ul style="list-style-type: none"> <li>• Builds broad experience in range of public law areas and may build expertise in specific areas of law such as criminal law.</li> <li>• Communicates clearly with different audiences. Able to persuade others and present clear and convincing rationale for advice and opinion.</li> <li>• Acts decisively when required, even when information is conflicting and incomplete.</li> <li>• Collaborates and effectively delegates work to more junior counsel and acts as a coach or mentor to junior staff, irrespective of</li> </ul>   | <p><i>Professional Leadership</i></p> <ul style="list-style-type: none"> <li>• Provides professional leadership and share knowledge internally, proactively taking the initiative to upskill others and constructively provide support based on their level of experience.</li> <li>• Demonstrates willingness and ability to lead engagement with the Government Legal Network on specialist Crown Law subject matters.</li> <li>• Communicates with impact and able to persuade and inspire others across the Office.</li> </ul> | <p><i>Professional Leadership</i></p> <ul style="list-style-type: none"> <li>• Thinks strategically and contributes to the ongoing development of Crown Law's strategic direction.</li> <li>• Demonstrates willingness to actively engage and collaborate with the Deputy Chief Executive, System Leadership, on matters concerning the Government Legal Network.</li> <li>• Provide professional leadership and proactively mentor and train others.</li> </ul> |



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| <p>whether they are working on the matter in question themselves.</p> <ul style="list-style-type: none"> <li>Actively participates and contributes to the Government Legal Network including participation on committees.</li> </ul>  | <ul style="list-style-type: none"> <li>Makes hard and unpopular decisions when required and takes the lead on contentious issues.</li> <li>Coaches and mentors junior staff to enhance capabilities required in their roles and supports them to participate in relevant development activities.</li> </ul>  |   |
| <p><i>Relationship management</i></p> <ul style="list-style-type: none"> <li>Demonstrates understanding of the 'Trusted Advisor' concept, shown through the development and maintaining of strong relationships across the organisation and with clients.</li> <li>Has significant responsibility for client relationship management and may act as client relationship manager as required under the supervision of Legal Team Manager or senior counsel.</li> <li>Displays an understanding of how government and the public sector works and have awareness of relevant political sensitivities.</li> <li>Works collaboratively with others across the Office and interacts effectively with external stakeholders.</li> </ul> | <p><i>Relationship Management</i></p> <ul style="list-style-type: none"> <li>Acts as a Trusted Advisor. Demonstrates political nous and navigates diverse, sensitive and complex political situations effectively.</li> <li>Acts as Relationship Manager as required.</li> <li>Builds internal relationships by working collaboratively with others in the organisation and taking an organisation-wide view.</li> </ul> | <p><i>Relationship Management</i></p> <ul style="list-style-type: none"> <li>Acts as and is respected by external colleagues and political representatives as a Trusted Advisor.</li> <li>Able to challenge legal policies or a client's approach, as a trusted advisor.</li> <li>Attracts the trust and respect of clients at the highest level.</li> <li>Takes responsibility for liaising with Ministers and senior officials on matters of strategic importance.</li> </ul> |