

INFORMATION REQUEST	
Updated draft Cabinet paper – options for firearms regulatory entity	
Deadline: 15 March 2021	Date of Response: 15 March 2021

## Purpose

1. This paper attaches the updated draft Cabinet paper entitled: “Effective administration of the Arms Regulatory system” to assist Ministerial consultation.

## Important points to note

2. A previous draft of the Cabinet paper was provided on 9 March 2021 [BR/21/27]. That Cabinet paper was drafted with the new Crown Agent option as the preferred option for undertaking the administrative regulatory functions under the Arms Act 1983.
3. You subsequently requested that the paper be redrafted to reflect your new preference for the enhanced status quo option - where Police retains all the regulatory functions, establishes a Branded Business Unit, and continues to significantly improve its regulation of the arms environment.
4. The draft Cabinet paper notes that Police are in ongoing discussions with Te Kawa Mataaho Public Service Commission (PSC) about whether it is sufficient to establish the proposed Executive Director role (or similar) for the Branded Business Unit within existing delegations or whether it should be elevated to having a statutory basis (either in the Arms Act or the Policing Act 2008). We understand PSC will be providing further advice on this in due course.

## Next steps

5. The Cabinet paper will be considered by the Cabinet Social Wellbeing Committee on 7 April 2021, with Cabinet confirmation on 12 April 2021. We note that it is important to meet this timing, otherwise the Budget Moratorium (beginning 13 April) will delay consideration of the paper and put accessing the tagged contingency at risk.

<b>Reviewed by</b>	John White, Manager Firearms Policy	s.9(2)(a) OIA
<b>Approved by</b>	Jevon McSkimming, Deputy Commissioner, Strategy & Service	s.9(2)(a) OIA

Appendix: draft Cabinet paper: “Effective administration of the Arms Regulatory system”

In Confidence

Office of the Minister of Police

Chair, Cabinet Social Wellbeing Committee

## **Effective administration of the Arms Regulatory system**

### **Proposal**

1. This paper:
  - 1.1 seeks an initial investment for implementation of recent legislative changes and wider improvements to the administration of the Arms Regulatory system to protect the public from the harm that may be caused by the misuse of firearms;
  - 1.2 reports back to Cabinet on options for an independent regulatory entity to take over accountability for some of the Arms Act 1983 (the Arms Act) regulatory functions; and
  - 1.3 recommends that a new entity is not established.

### **Relation to government priorities**

2. The proposals in this paper contribute to the Government priority of supporting healthier, safer, and more connected communities. The proposed investment ensures the public safety objectives of the Arms Regulatory system are being met.

### **Executive Summary**

3. The Arms Act provides a regulatory framework which seeks to protect the public from the harm that may be caused by the misuse of firearms. It confirms that owning a firearm is a privilege, not a right, and allows fit and proper people to possess firearms for legal purposes while mitigating the risk of misuse by placing limitations at critical control points in the system. The events of the March 15 Christchurch Mosque attacks brought into stark relief weaknesses in the administration of the Arms Regulatory system.
4. This paper seeks endorsement of an independent Indicative Business Case (IBC) which has confirmed the scope of change required and an indicative level of investment needed to improve the administration of the Arms Regulatory system. This includes the indicative investment needed to effectively implement the recent legislative changes and make wider improvements to enhance public safety. Agreement is sought to draw-down a previously agreed firearms tagged contingency [CAB-20-MIN-0155.26 Revised] to assist with funding these improvements to the Arms Regulatory system.

5. The IBC also looked at options for an independent regulatory entity to take over accountability for some of the Arms Act regulatory functions. Two options scored highly against the critical success factors. These were Option 3 (where a new Crown Agent would be established to take over the administrative regulatory functions) and Option 5 (the enhanced status quo, where the policy and administrative regulatory functions are kept within Police – though generally improved). There are benefits and risks to each of these options.
6. One of the main risks to Option 3 (new Crown Agent) is the risk of intelligence failure. This arises because the vast majority of highly sensitive, private information and intelligence is held by Police as part of its core business and appropriate data sharing processes would need to be developed.
7. On balance I consider Option 5 (enhanced status quo) is the best option as it delivers benefits through a lower risk, lower cost approach. I seek agreement to not set up a new regulatory entity and instead support and invest in Police to ensure public safety objectives are being met through the effective administration of the Arms Regulatory system.
8. The next step is to begin transition activities which include developing a Detailed Business Case to confirm the implementation requirements and present more detailed operating model design, including the establishment and operation of the new Arms Registry. The Business Case will also assist with finalising cost recovery options.

## Background

*The Arms Regulatory system is primarily concerned with public safety*

9. The Arms Act provides a regulatory framework which seeks to protect the public from the harm that may be caused by the misuse of firearms. It confirms that owning a firearm is a privilege, not a right, and allows fit and proper people to possess firearms for legal purposes (such as for business, food gathering, and recreational or sporting purposes) while mitigating the risk of misuse by placing limitations at critical control points in the system. Police currently acts as both a regulator and a law enforcement agency within the system.

*Firearms are used throughout our community*

10. The Arms Regulatory system supports around 248,000 arms licence holders and 485 licensed dealers to safely use or buy and sell firearms within our community. From 2009 to 2018 an average of 8,100 first-time licence applications were received and 23,755 licence applications from previous licence holders were processed annually. As at February 2016 there were an estimated 1.2 million arms legally held in New Zealand. In 2018, 4,813 import permits were issued and an estimated 55,000 arms are imported per year. On average, there are 600–800 online firearm related transactions per month related to arms in Trade Me alone. There is currently no data source to confirm how many private and retail sales of arms take place outside of this single trading platform.

*Weaknesses in the administration of the Arms Regulatory system have been identified*

11. The events of March 15 brought into stark relief weaknesses in both the administration of the Arms Regulatory system and weaknesses in relevant legislation. Most of the legislative weaknesses have been addressed through the Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019 and the Arms Legislation Act 2020. Additional changes to legislation and regulations have more recently been recommended in the Royal Commission of Inquiry into the terrorist attack on Christchurch mosques on 15 March 2019 (the RCOI).
12. Over the past few years, Police itself has also identified weaknesses in its administration of the system. As a consequence, Police began in 2016 and continues to deliver an ongoing improvement programme, with a recognition that ultimately a new operating model is required to achieve the public safety objectives of the Arms Regulatory system.
13. Recommendations 19 to 24 about strengthening the licensing system from the RCOI were agreed in principle by Cabinet [CAB-20-MIN-0516]. These recommendations have been, or are going to be, implemented. These changes, and wider improvements, will result in a more efficient and effective risk-based firearms licensing system, introduce comprehensive performance indicators, and improve public confidence in the firearms licensing system.

*Increased investment is required for effective administration to meet public safety objectives*

14. In recognition of the increased regulatory requirements that arose from the recent legislative changes, including investment in the new Arms Registry, on 6 April 2020, Cabinet approved an operating tagged contingency of \$60 million over a four-year period, with \$5 million ongoing into the outyears. The drawdown of this tagged contingency was subject to Cabinet approval of a business case providing options for meeting the new legislative requirements [CAB-20-MIN-0155.26 Revised].
15. Crown funding and cost recovery through regulated fees for the core administration of the Act have not changed in any significant way for decades and are now significantly lower than the costs of effective management of the system. Increased investment is required to fully and effectively administer the risk management system provided for in the Act.

*Options for an independent regulatory entity are considered in this paper*

16. In June 2020, Cabinet noted that the Minister of Police had agreed to the establishment of an independent regulatory entity following Coalition negotiations. Cabinet agreed that officials should undertake further work on a model for moving accountability for some of the Arms Act regulatory functions from Police; and invited the Minister of Police to report to Cabinet in November 2020 on options for an independent regulatory entity [CAB-20-MIN-0263]. This paper (delayed following the election) and the IBC provide that report-back on options.

**The IBC outlines the investment required to ensure public safety objectives are being met through the effective administration of the Arms Regulatory system**

17. An IBC has been completed by Deloitte which proposes the level of investment needed to ensure public safety measures are met through effective administration of the Arms Regulatory system. The IBC identifies the characteristics of an effective firearms regulator and how this may be delivered in an operating model. This analysis recognised that improvements to delivery of the Arms Regulatory system and greater investment is required.
18. The IBC sets out the case for change. Table One summarises the key challenges, investment objectives, benefits, and critical success factors for the Arms Regulatory system. The figure at Appendix One shows how each of these specifically relate to one another.

**Table One: The case for change**

<b>Key challenges</b>	<ul style="list-style-type: none"> <li>• The arms regulatory function is not currently delivering to expectations and would be unable to meet the new regulatory requirements.</li> <li>• Reprioritisation of Police baseline funding and resourcing has occurred to implement new legislative requirements, which is unsustainable.</li> <li>• Trust, confidence, and accountability could be strengthened with Government and the firearms community, by exploring alternative entity models and accountability structures.</li> </ul>
<b>Investment objectives</b>	<ul style="list-style-type: none"> <li>• The system delivers effective regulation of arms, New Zealand is safer as a result.</li> <li>• Sufficient funding and resources are provided to support timely delivery</li> <li>• Effective monitoring and accountability processes are in place, and there is increased transparency throughout the system.</li> </ul>
<b>Benefits</b>	<ul style="list-style-type: none"> <li>• Increased public safety.</li> <li>• Quality, timely delivery of all legislated responsibilities.</li> <li>• Increased ability to measure the effectiveness of Arms Act delivery due to improved visibility/transparency within the system.</li> </ul>
<b>Critical success factors</b>	<ul style="list-style-type: none"> <li>• Deliver effective arms regulatory function.</li> <li>• Support effective arms policing.</li> <li>• Contribute to an integrated and collaborative arms system.</li> <li>• A dedicated focus on arms regulatory activity.</li> <li>• Effective relationships with the licence holders and businesses.</li> <li>• Regulatory processes are clear and easy to comply with for licence holders.</li> <li>• Clear system roles and accountabilities.</li> </ul>

**Investment will change the way the Arms Regulatory system is operationalised**

19. Analysis showed that the preferred organisational emphasis for the operating model should be on “risk mitigation, insights and intelligence” with some focus also on automation of key processes (including tasking and prioritisation to improve



timeliness of outcomes) and on improving the licence holder experience (to support high levels of compliance).

20. An investment focused on mitigating risk and using information to inform proactive enforcement and intelligence functions will deliver an operating model where:
  - 20.1 controls are embedded throughout regulatory and constabulary processes, and processes use a mix of human support and automation to mitigate risks for the general public and frontline workforce;
  - 20.2 information is analysed to flag risks and support intelligence operations, with predictive and risk analytics informing decision-making;
  - 20.3 services and channels interface with internal systems to quickly raise flags;
  - 20.4 there is a high level of system integration, with data capture at near real-time (used for policing intelligence and operational risk decision-making);
  - 20.5 the regulator has a nation-wide workforce to enable relationships-based and face to face interactions, with central service centre support; and
  - 20.6 functional investment is focussed on relationship/regional delivery capability, with dedicated risk monitoring and reporting capability.

**Significant additional funding is required to ensure public safety objectives are met**

21. To assist with my report back on options for an independent regulatory entity, the IBC assessed five different structural options against the outlined operating model and estimated the funding that may be required to effectively deliver it over the eleven financial years from FY 2020/21 to FY 2030/31 (see Table Two below).
22. The five structural options were developed by recognising at a high level that the Arms regulatory system has the following regulatory functions:
  - 22.1 **policy advice and system oversight;**
  - 22.2 **administrative (including licensing and arms management)<sup>1</sup>; and**
  - 22.3 **policing services<sup>2</sup>.**
23. Examples of activities under the above regulatory functions are set out in Appendix Two and will be further detailed and confirmed in a Detailed Business Case.
24. Four options were identified that moved one or both of the first two regulatory functions away from Police (to another Public Service Department, a Departmental Agency, and/or to a Crown Agent), as well as an 'enhanced status quo' option where Police retains all the regulatory functions but establishes a Branded Business Unit

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<sup>1</sup> Includes checking security, permitting of imports, and permitting of high-risk arms items, and in the future certification of clubs and ranges.

<sup>2</sup> Including responding to firearms related events and events where there may be a risk of firearms being presented, seizing firearms, recovery of stolen items.

and continues to significantly improve its regulation of the arms environment. The main characteristics of each of these options is set out in Appendix Three.

**Table Two: Estimated costs for the five options over 11 years**

Option	Where the function/accountability sits	Total costs FY 20/21 to FY 30/31 (\$ millions)
<b>Option 1 (new Policy unit)</b>	Policy advice and oversight functions are delivered by a Public Service Department (PSD); administrative functions are delivered by Police in a branded business unit	<b>453.5</b>
	A similar example is where Tenancy Services, a Branded Business Unit in the Ministry of Business, Innovation and Employment, does the operational work associated with the rental housing legislation, while the Ministry for Housing and Urban Development now administer and develop it	
<b>Option 2 (new Departmental Agency)</b>	Policy advice and oversight and administrative functions are delivered by a Departmental Agency (DA) within a Public Service Department	<b>535.7</b>
	The four current Departmental Agencies are the Office for Māori Crown Relations—Te Arawhiti, the Cancer Control Agency, the National Emergency Management Agency, and the Social Wellbeing Agency.	
<b>Option 3 (new Crown Agent)</b>	Policy and oversight functions remain with Police; administrative functions are delivered by a new Crown Agent	<b>562.2</b>
	Examples of Crown Agents are the New Zealand Transport Agency, the Civil Aviation Authority of New Zealand, Maritime New Zealand and WorkSafe New Zealand. Police, a non-Public Service Department, does not have policy and oversight functions in any of the systems with Crown Agents.	
<b>Option 4 (new Crown Agent and new Policy unit)</b>	Policy advice and oversight functions are delivered by a separate Public Service Department; administrative functions are delivered by a new Crown Agent	<b>563.6</b>
	Examples of Crown Agents as above under Option 3.	
<b>Option 5 (enhanced status quo)</b>	All functions remain with Police, with policy advice and system oversight functions and new and improved administrative functions being delivered in a Branded Business Unit	<b>451.8</b>
	An example of a Branded Business Unit is Biosecurity New Zealand within the Ministry for Primary Industries (a Public Service Department) where policy also sits.	

25. Police has current average annual direct operating expenditure of \$8.1 million for firearms administration covering district and national headquarters activity (with an additional overhead component of around \$5 million per annum). This operating expenditure is funded through partial cost recovery through licensing fees as well as Crown funding.

26. For each of the five options identified, significant additional funding will be required to ensure public safety objectives are being met through the effective administration of the Arms Regulatory system.
27. If the current annual expenditure of \$8.1 million were to continue for eleven years, this would total \$89.1 million. This can be compared to a range of costs over eleven years from \$451.8 million to \$563.6 million for each of the five options (set out in Table Two) which is considered to be needed to deliver on the public safety objectives of the Arms Act at a level of quality that is appropriate.
28. The increase from previous years' expenditure reflects the funding required to support the new operating model and to implement new regulatory functions derived from the Arms Legislation Act 2020, a continued focus on modernising and improving operational service delivery, and ICT costs. The total estimated costs in the IBC also include some significant one-off investment required such as the development of the Arms Registry.
29. The totals in Table Two are estimates and will be confirmed in the Detailed Business Case.

### Two options scored highly against the critical success factors

30. The following table summarises the IBC assessment of each of the five options against the critical success factors.

**Table Three: Summary of assessment of options**

Critical Success Factors	Highest ranking option(s):
Deliver effective arms regulatory function	Options receive the same rank.
Support effective arms policing	Option 5 (enhanced status quo) ranks the highest.
Regulatory processes are clear and easy to comply with for licence holders	Option 3 (new Crown Agent) and Option 4 (new Crown Agent and new Policy unit) rank the highest.
A dedicated focus on arms regulatory activity	Option 3 (new Crown Agent) ranks the highest.
Effective relationships with the licence holders and businesses	Options receive the same rank.
Contribute to an integrated and collaborative arms system	Option 1 (new Policy unit) and Option 5 (enhanced status quo) rank the highest.
Clear system roles and accountabilities	Option 3 (new Crown Agent) and Option 4 (new Crown Agent and new Policy unit) rank the highest.



31. Giving equal weighting to each of these factors, two options score highly. These are Option 3 (new Crown Agent) and Option 5 (enhanced status quo). On the basis that they both provided credible options for delivering effective arms regulation, the IBC considered implementation and funding for each of these options in more detail.
32. Both Options 3 and 5 require around two years for transition to full implementation. This includes a number of workstreams and takes into account the establishment of the Arms Registry. For each option, a Detailed Business Case will be required to further develop the implementation requirements and the content and costings provided within the IBC and to present more detailed operating model design.

**Option 3 (new Crown Agent) has benefits but also the greatest costs and some risks**

33. Option 3 sees a new Crown Agent undertaking the administrative regulatory functions under the Act (such as licensing, arms management, checking security, permitting of imports, permitting of high risk arms items, and compliance activities) while Police retain policy and system oversight functions, and continue Policing services (such as responding to high-risk events where firearms may be presented, firearms related events, seizing firearms, and recovery of stolen items).
34. A new Crown Agent has the greatest degree of flexibility to deliver clear, easy regulatory processes for licence holders and foster effective relationships, as the Agent is not bound by existing systems, processes and culture that may exist within a Public Service Department or Police. An additional level of accountability is created through the introduction of an independent Board to oversee the Crown Agent.
35. Retaining the policy and system oversight regulatory functions in Police ensures general information, specialist knowledge, and operational and frontline impact awareness is not lost. Police would remain focussed on regulatory stewardship, providing advice to the Minister of Police, monitoring the new Crown Agent, and supporting the Minister's Arms Advisory Group.
36. Establishing a new Crown Agent would require considerable work to transition functions currently within Police to the Crown Agent. Moving regulatory functions to a Crown Agent has some risks that will need to be managed. These include complex integration with Police IT systems, privacy considerations related to sharing information, and possible intelligence failure.
37. Trusted intelligence arrangements and effective information sharing would be needed because most of the information and intelligence which informs assessment of risk and the appropriateness of individuals to hold firearms is gathered and held by Police as part of its core business. Much of this is highly sensitive and private information. Appropriate data sharing processes would need to be developed to share information with the Crown Agent (such as information used for determining the fit and proper status of licence holders at time of application and throughout the licence period). This will be a complex arrangement to establish and maintain as it will involve privacy, security, intelligence, and operational policing functions.
38. Police would require real time access to the firearms Registry (once built) to enable frontline Police to determine the legality of any firearms identified during normal Police business and to reduce exposure to avoidable risk when undertaking duties.

There would also need to be information sharing arrangements with other agencies, such as Customs (relating to imports).

**Option 5 (enhanced status quo) could build on recent improvements and deliver benefits through a lower risk, lower cost approach**

39. In recent years (and prior to the terrorist attack on Christchurch mosques) Police had identified that improvements in firearm administration was required and a multi-year improvement programme had been started.
40. Under Option 5 (enhanced status quo) Police retains all the regulatory functions and continues to significantly improve its regulation of the arms environment. Regulatory functions and funding would be ring-fenced through the introduction of a Branded Business Unit within Police and establishment of a dedicated appropriation. This would assist with transparency of activity and reporting.
41. As with Option 3, the policy and system oversight function remains with Police, which ensures general information, specialist knowledge, and operational and frontline impact awareness is not lost.
42. The implementation of this option would require the firearms improvement programme already underway to be strengthened and enhanced (with a scope and resource increase) so that it can deliver the new operating model. Key aspects of the current improvement programme are already well-aligned with the recommended new operating model, such as increasing the capability and scope of central functions.
43. The integration requirements and risks are removed with Option 5 as Police has access to all critical data as owner of both the regulatory and constabulary workforce. Although there is less flexibility to change licence holders' experiences, investment would be made to improve customer facing systems and processes. There will be a single point of contact for regulated parties and other actors in the system, so there will be no confusion about which organisation to contact in certain situations.
44. Greater accountability would be achieved by the appointment of a dedicated Executive Director to lead transformation and operation of the Branded Business Unit. Furthermore, transparency of the administration would be assisted by the establishment of the Minister's Arms Advisory Group and by the three-year statutory review (both requirements arising from the Arms Legislation Act 2020).
45. I note my officials are in ongoing discussions with Te Kawa Mataaho Public Service Commission (PSC) about whether it is sufficient to establish the proposed Executive Director role (or similar) within existing delegations or whether it should be elevated to having a statutory basis (either in the Arms Act or the Policing Act 2008).
46. The DBC will confirm the leadership arrangements and whether a statutory appointment is appropriate to ensure trust and confidence in the regulatory system is maintained.

47. On balance, I consider Option 5 (enhanced status quo) is the best option as it delivers benefits through a lower risk, lower cost approach. I seek agreement to not set up a new regulatory entity and instead support and invest in Police to ensure public safety objectives are being met through the effective administration of the Arms Regulatory system.

**Cost recovery settings should be reviewed once the Detailed Business Case is developed**

48. The Arms Act enables recovery of costs for specified activities. Fees need to be set at a level that balances the private and public good. Any change requires public consultation, after which the Minister of Police may recommend that the Governor-General make regulations prescribing fees or charges.
49. In 1999, the fee for a ten-year firearms licence was set at \$123.75 (now \$126.50 due to GST increases). This was approximately 50% of the estimated cost of processing an application for a firearms licence at that time (\$236.25). The remaining 50% was to be met from the Vote Police appropriation. The fee for a dealer's licence was set at an annual fee of \$200 (now \$204) and the fee for one or more endorsements (which exist for the length of the licence – up to 10 years) was set at \$200 (now \$204).
50. Apart from the GST increases, there has been no other adjustment for increased costs over the last 21 years. In addition, some services of significant private benefit, such as the provision of import permits, are provided free. Other services for which there is no fee include: training for first-time firearms licence applicants, approval/inspection of sample firearms (to assess whether the item should be imported), permits to possess prohibited and restricted items, endorsement applications for pest controllers, and certification of clubs and ranges.
51. Over a 21-year period this has resulted in significant public funding of the administration of the Arms Act. The divergence between the fees and costs will only increase, particularly in light of the increased investment needed to meet public safety objectives and be an effective regulator.
52. Previous analysis of possible fees will need to be updated to take into account the new operating model. I propose to report back on specific options for cost recovery once the costs become clearer through the development of the Detailed Business Case. This will provide an opportunity for Cabinet to consider the balance it wishes to maintain between the Crown contribution and service user contribution to the administration of the Act.

**Implementation**

53. As noted at paragraph 32, Option 5 (enhanced status quo) requires around two years for transition to full implementation. The following transition approach is proposed in order to meet the delivery timeframes for implementation of the Arms legislation:
- 53.2 Police will continue with the firearms improvement programme already underway, strengthened and enhanced in line with the IBC;

- 53.3 Police will deliver a Detailed Business Case by December 2021;
- 53.4 Police will lead the establishment of a Branded Business Unit by the end of 2022 with support from The Treasury and the Public Service Commission;
- 53.5 a transition board will be established by May 2021 to provide governance oversight;
- 53.6 the Chair of the transition board will be the Police Deputy Commissioner – Strategy and Service; and
- 53.1 a transition board will be agreed in consultation with the Minister of Police
54. A transition board will provide governance for establishing the regulatory capability within the Arms system. The board membership will consist of experts in governance, regulatory affairs, service delivery, firearms and enforcement. The board will support the new Executive Director.
55. The Detailed Business Case will further develop the implementation requirements, detail the operating model design, confirm the cost recovery approach, and confirm high-level design and costings for a new Arms Registry.

## Financial Implications

56. The IBC financial cost estimates of the recommended enhanced status quo option are noted in Table Three. This table provides the estimated cost breakdown over an eleven-year financial period, from FY 2020/21 to FY 2030/31. These costs may be subject to change following the Detailed Business Case.

**Table Three: Estimated Cost of the enhanced status quo Option 5 FY 2030/31**

Option 5 (enhanced status quo) (\$ millions)	Not totals are provided for the period to the end of FY 2030/31						
	2020/21	2021/22	2022/23	2023/24	2024/25	6 Outyears	Total
Change programme team	6.2	4.0	1.2	-	-	-	11.4
Registry & ICT	-	17.6	4.9	-	-	-	22.5
Other transition costs	0.1	0.5	0.1	-	-	-	0.8
Core operations staff	13.0	16.3	17.0	19.5	21.9	s. 9(2)(f)(iv) OIA	
Operations management staff	2.0	5.7	5.9	6.8	7.6		
Other direct costs	2.2	2.8	5.9	6.8	7.0		
Non core operational costs	-	2.9	2.9	2.9	2.9		
Registry & ICT ongoing costs	-	-	2.5	5.4	5.4		
<b>Total</b>	<b>23.5</b>	<b>49.8</b>	<b>40.4</b>	<b>41.4</b>	<b>45.2</b>	<b>251.5</b>	<b>451.8</b>

*The established tagged contingency and existing baseline funding can off-set funding required through future budget processes*

57. As noted in paragraph 24, Police has historic average annual direct operating expenditure of \$8.1 million for firearms administration covering district and national headquarters activity (with an additional overhead component of around \$5 million per annum). This operating expenditure is funded through partial cost recovery through licensing fees as well as Crown funding. The \$8.1 million funding will be continue to be available.
58. On 6 April 2020, Cabinet agreed to a \$60 million four-year tagged operating contingency, and \$5 million ongoing into the outyears. Draw-down is subject to Cabinet's approval of a business case providing options for meeting the new legislative requirements [CAB-20-MIN-0155.26 Revised]. The amounts provided were:

	\$m – increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
Implementation of the Arms Legislation Act – Tagged Operating Contingency	28.000	22.000	5.000	5.000	5.000

59. The established tagged contingency and existing baseline funding can partially off-set funding required for the recommended option. For this, Police seeks agreement:
- 59.1 to change phasing of the tagged contingency to align to the funding required (ie moving some FY 2020/21 contingency to FY 2021/22);
- 59.2 to expand the purpose of the tagged contingency from meeting the new legislative requirements to ensuring legislative requirements are being met through the effective administration of the Arms Regulatory system; and
- 59.3 to re-categorise part of the existing operating tagged contingency to a capital contingency for the establishment of the Arms Registry.
60. The following table shows the proposed rephasing and categorisation of the tagged contingency:

	\$m – increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
Implementation of the Arms Legislation Act – Tagged Operating Contingency	15.400	23.500	7.100	3.000	5.000
Implementation of the Arms Legislation Act – Tagged Capital Contingency	-	-	11.000	-	-

61. The IBC identified costs in FY 2020/21 totalling 23.5 million. This can be partially met by the \$8.1 million average annual direct operating expenditure. Police seeks to draw-down the further \$15.4 million from the tagged contingency to recover the costs for meeting their obligations with regards to implementing recent legislative changes



and the ongoing improvement programme designed to meet public safety objectives and be a more effective regulator, specifically:

- 61.1 a significant uplift in arms staff (approximately 80 district staff and 45 central staff);
  - 61.2 update to internal systems (processes and forms) and nationwide rollout;
  - 61.3 deployment of online application submission capability;
  - 61.4 update to Police Instructions due to legislation change;
  - 61.5 internal training content development and delivery to staff;
  - 61.6 community engagement and safety training development;
  - 61.7 scoping of future firearms operating model;
  - 61.8 introducing mobile working for the vetter workforce (mobile phones and laptops);
  - 61.9 establishment of change programme team (related to the wider improvement programme);
  - 61.10 Indicative Business Case development; and
  - 61.11 policy development supporting new legislation.
62. During FY 2020/21, Police have delivered to the Government requirements (as outlined above) by diverting internal funds. The continual delays in the draw-down process have resulted in Police being heavily over-subscribed to support firearms and require immediate funding to support the implementation of the firearms legislation. Police are unable to fund the necessary investment from within their baseline.
63. The IBC identified costs in FY 2021/22 totalling \$49.8 million. This total has been revised to \$31.6 million which represents the immediate operational requirements and change programme (the work activities to be done regardless of the option chosen). The majority of the deferred costs relate to the purchase and implementation of the Arms Registry. The Registry costs will be confirmed in the Detailed Business Case. The \$31.6 million can be partially met by the \$8.1 million average annual direct operating expenditure. Police seeks to draw-down a further \$23.5 million from the tagged contingency.

**Table Four: Estimated Arms Cost for FY 2021/22 (deferred registry)**

<b>Option 5 (enhanced status quo) (\$ millions)</b>	<b>2021/22</b>
Change programme team	6.2
Registry & ICT	3.5
Other transition costs	0.5

Core operations staff	14.7
Operations management staff	1.6
Other direct costs	2.1
Non core operational costs	2.9
Registry & ICT ongoing costs	-
<b>Total costs</b>	<b>31.6</b>
<i>Less Police baseline</i>	8.1
<b>Total draw-down</b>	<b>23.5</b>

64. A letter from the Minister of Finance (dated 21 December 2020) invited a budget initiative submission for improved firearms licensing. A Budget bid has been submitted for firearms administration.
65. Due to the revisions discussed in the paragraph 56, some of the tables and discussion in the IBC that relate to a proposed reallocation of the tagged contingency and/or future budget bids are no longer aligned with this paper.

### Legislative Implications

66. There will be no legislative implications if Cabinet agree with my proposal to not establish a new regulatory entity. However, if Cabinet decide to establish a new Crown Agent to take accountability for the administrative functions under the Arms Act (Option 3) the Arms Act will need to be amended. Amendments will include moving some of the decision-making and risk management functions under the Act (such as licensing, permitting inspections and auditing) from Police to the new Crown Agent, as well as Crown Agent establishment provisions. A placeholder bid for this Amendment Act was placed on the Legislative Programme, with a priority of category 4: to be referred to a select committee in 2021.

### Impact Analysis

#### Regulatory Impact Statement

67. The Regulatory Impact Analysis team at the Treasury has determined that the proposals about a new firearms regulatory entity is exempt from the requirement to provide a Regulatory Impact Statement (RIS) on the basis that it would substantively duplicate the Business Case. This exemption is granted on the condition that the document contains all the requirements that would otherwise be included in the RIS. The RIA team at the Treasury has reviewed the Business Case and confirmed that it contains these requirements.

#### Climate Implications of Policy Assessment

68. The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as there is no direct impact on emissions.

## Population Implications

69. There are around 248,000 licence holders and 485 dealers in New Zealand.
70. Approximately 91% of firearms licence holders are men. Of the 59% of firearms licence holders that have their ethnicity recorded in police data, 90% are New Zealand European and 7% are Māori.
71. The Arms Act establishes a regulatory framework designed to protect the public from the harm that may be caused by the misuse of firearms. Improvements to the administration of the Arms Regulatory system should improve public safety by preventing criminal misuse of firearms. Reducing the opportunity for firearms to get into criminal hands consequently should reduce the opportunities for people to become victims of firearms crime.
72. Based on a sample of data, in 2018, Māori represented 29.6% of victims of firearms offences<sup>3</sup> where there was an identified victim whose ethnicity was known, and by 2020, this had increased to 37.3%.<sup>4</sup>
73. Determining precisely how men and women respectively are impacted as victims of firearms-related offences is difficult as some offences will have both male and female victims. However, from a sample of data held from 2011 to 2020, on offences with a firearm where there is a recorded victim (all genders) 65.8% had a recorded male victim, while 42.5% had a recorded female victim.

## Human Rights

74. The proposals in this paper are not inconsistent with the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

## Consultation

75. This paper has been consulted with the Ministry of Justice, Te Kawa Mataaho Public Service Commission (PSC), the Treasury, the Department of the Prime Minister and Cabinet, the Department of Corrections, New Zealand Customs Service (Customs), Te Puni Kōkiri, the Ministry of Foreign Affairs and Trade, the Department of Conservation (DOC), the Ministry of Primary Industries, the New Zealand Defence Force, Ministry of Culture and Heritage and Te Arawhiti.
76. The Treasury prefer Option 5 (enhanced status quo) over Option 3 (new Crown Agent) due to concerns about operational and security risks and that a new Crown entity would not deliver good value for money. PSC also prefer Option 5 over Option 3 for similar operational and security reasons.

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<sup>3</sup> This only includes a sample of Police data on firearms-related offences more likely to have an identified victim and does not include possession-only offences. Only offences where a victim was recorded, and the victim's ethnicity was known, have been included.

<sup>4</sup> In the 2018 census, Māori were recorded as 16.5% of the New Zealand population. Stats NZ estimates that this increased to 16.7% in 2020.

## Communications

77. I will release a media statement announcing the final decision.

## Proactive Release

78. It is intended to release this paper after decisions are confirmed by Cabinet.

## Recommendations

The Minister of Police recommends that the Committee:

### *Options for an independent regulatory entity*

1. **note** that in June 2020, Cabinet:
  - 1.1. noted that the Minister of Police had agreed to the establishment of an independent regulatory entity;
  - 1.2. agreed that officials undertake further work on a model for moving accountability for some of the Arms Act regulatory functions from Police; and
  - 1.3. invited the Minister of Police to report to Cabinet in November 2020 on options for an independent regulatory entity [CAB 20-MIN-0263];
2. **note** that five options were identified and assessed, being an enhanced status quo and four other options that moved the policy advice and system oversight regulatory function and/or the administrative (including licensing and arms management) regulatory function away from Police;
3. **note** that the Indicative Business Case (IBC) identifies the characteristics of an effective firearms regulator, how this may be delivered in an operating model, what that new operating model looks like across the five options, and the estimated costs;
4. **note** that Option 3 (new Crown Agent to undertake administrative functions, including licensing and arms management) and Option 5 (enhanced status quo where Police retain all the regulatory functions but significantly improve investment and its regulation of the arms environment) scored well across the critical success factors and both provide credible options for delivering effective arms regulation;
5. **note** the new Crown Agent option has some benefits, including a greater degree of flexibility to deliver clear, easy regulatory processes for licence holders and foster effective relationships, as well as some risks that would need to be mitigated, including complex integration with Police IT systems, needing to manage information flows in a consistent manner with privacy considerations, and risk of intelligence failure;
6. **note** that with Option 5 (enhanced status quo) the integration requirements and risks are removed as Police has access to all critical data as owner of both the regulatory and constabulary workforce; and investment would be made to improve customer facing systems and processes;

7. **note** that I consider that Option 5 (enhanced status quo) is the best option as it delivers benefits through a lower risk, lower cost approach than Option 3 (new Crown Agent);
8. **agree** to not progress a new regulatory entity, and rather to invest to enable Police to improve its regulation of the Arms Regulatory system;

#### *Financial recommendations*

9. **note** that on 6 April 2020, Cabinet agreed to a \$60 million four-year tagged operating contingency and \$5 million ongoing into the outyears, with draw-down subject to Cabinet approval of a business case providing options for meeting the new legislative requirements [CAB-20-MIN-0155.26 Revised];

	\$m – increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
Implementation of the Arms Legislation Act – Tagged Operating Contingency	28.000	22.000	5.000	5.000	5.000

10. **note** the IBC details options analysis for the preferred organisational emphasis for investment;
11. **agree** that the purpose for the tagged contingency can be expanded from meeting the new legislative requirements to ensuring legislative requirements are being met through the effective administration of the Arms Regulatory system;
12. **agree** the rephrasing and categorisation of the tagged contingency as noted below:

	\$m – increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
Implementation of the Arms Legislation Act – Tagged Operating Contingency	15.400	23.500	7.100	3.000	5.000
Implementation of the Arms Legislation Act – Tagged Capital Contingency	-	-	11.000	-	-

13. **agree** to the partial drawdown of the tagged contingency to continue to meet the requirements;
14. **approve** the following changes to appropriations to provide for the decision in recommendation 12 above, with a corresponding impact on the operating balance and net core Crown debt:



	\$m – increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
<b>Multi-Category Expenses and Capital Expenditure:</b>					
Policing Services (MCA) Departmental Output Expense: Crime Prevention (funded by revenue Crown)	15.400	23.500			
<b>Total Operating</b>	<b>15.400</b>	<b>23.500</b>	-	-	-
<b>Total Capital</b>	-	-	-	-	-

15. **agree** that the expenses incurred under recommendation 13 above be charged against the [Implementation of the Arms Legislation Act – Tagged Operating Contingency] described in recommendation 11 above;
16. **note** a Budget bid has been submitted for firearms administration as part of the Budget 2021 process in response to the Minister of Finance's invitation;

#### *Cost recovery*

17. **note** the Regulation making powers of the Arms Act 1983 provides for fees to be set and that the current fees were set in 1999 for some but not all activities;
18. **note** some activities provided for in the Arms Act and required of Police (and in future the new Crown Agent) to derive substantial private and commercial benefit for applicants and some those activities are delivered free of charge;

#### *Detailed Business Case to inform budget bids, cost recovery options, and detailed implementation*

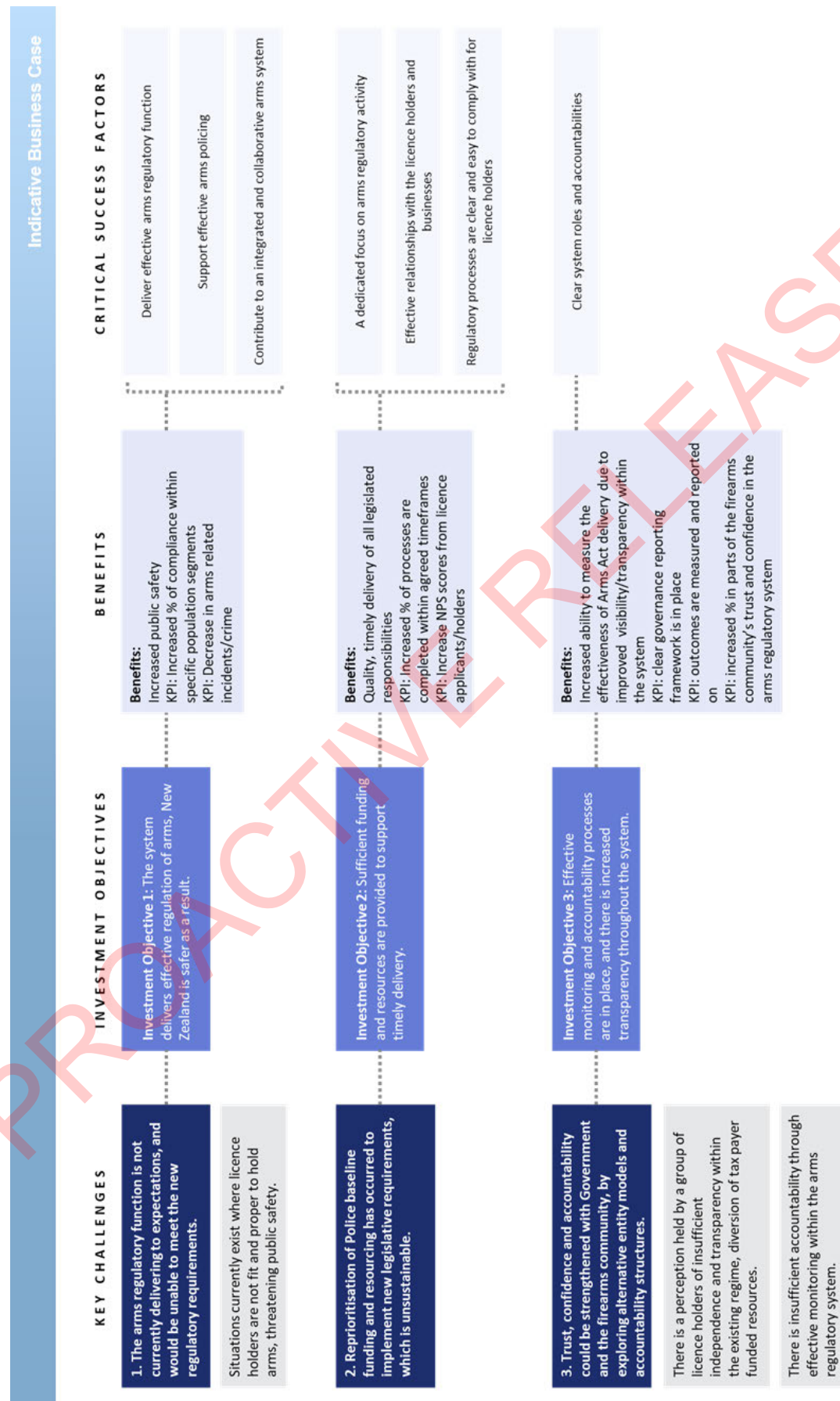
19. **note** I will report back to the Cabinet Social Wellbeing Committee once a Detailed Business Case has been completed to:
- 19.1. further develop the implementation requirements and present more detailed operating model design, including the establishment of and operating the new Registry
- 19.2. confirm and inform the future budget bids from Budget 2022/23 onwards related to the Arms Regulatory system; and
- 19.3. inform cost recovery options based on identified costs for specific activities.

Authorised for lodgement

Hon Poto Williams

Minister of Police

## Appendix One: The case for change



## Appendix Two: Regulatory functions currently undertaken by Police in the Arms regulatory system

Policy advice and oversight functions
<ul style="list-style-type: none"><li>• regulatory stewardship</li><li>• advising the responsible Minister</li><li>• legislative development (including regulations)</li><li>• monitoring and evaluation</li><li>• secretariat to the Minister's Arms Advisory Group (once set up)</li></ul>
Administrative functions (including operational policy and service delivery)
<b>Licensing</b> <ul style="list-style-type: none"><li>• licensing applications</li><li>• arms safety education and training</li><li>• endorsements, permits and approvals</li><li>• management of licence holdings (e.g. change of address)</li><li>• management of cessation of licence (surrender, death, expiry, revocation and suspension)</li><li>• compliance (audits, inspections, certifications and improvement notices)</li><li>• health practitioner notification management</li><li>• regulatory investigations</li></ul> <b>Arms management</b> <ul style="list-style-type: none"><li>• registration and transfers of possession for prohibited arms items, pistols, restricted weapons and arms modifications</li><li>• applications to import, export or manufacture arms</li><li>• management of arms holdings (lost, reports of stolen found, surrendered, seized arms)</li><li>• storage, transport and destruction of arms</li><li>• arms items as evidence in proceedings</li></ul> <b>Operational policy and engagement</b> <ul style="list-style-type: none"><li>• agency engagement</li><li>• community engagement</li><li>• media engagement and responding to Official Information Act requests</li><li>• engagement with the Firearms Community Advisory Forum (FCAF) (along with Policy)</li><li>• strategy and operational policy (development of processes, policies and procedures)</li><li>• quality assurance and performance reporting</li><li>• decision review</li></ul>
Policing (constabulary) functions
<ul style="list-style-type: none"><li>• policing our borders</li><li>• intelligence and strategy (intelligence collection and response, interagency and international collaboration)</li><li>• policing illegally held arms in the community</li><li>• criminal/forensic investigations</li><li>• arms encountered in routine situations</li><li>• arms encountered in unsafe stations.</li></ul>

	Option 1 (Policy PSD / Admin Police)	Option 2 (Policy DA / Admin DA)	Option 3 (Policy Police / Admin CA)	Option 4 (Policy PSD / Admin CA)	Option 5 (enhanced SQ)
<b>Description</b>	Regulatory functions (Arms Act administration) are delivered by the Police in a branded business unit.  Policy advice and oversight functions are delivered by a Public Service Department.	Regulatory functions (Arms Act administration) and policy advice and oversight functions are delivered by a Departmental Agency within a Public Service Department.	Regulatory functions (Arms Act administration) are delivered by a new Crown Agent.  Policy and oversight functions remain with the Police.	Regulatory functions (Arms Act administration) are delivered by a new Crown Agent.  Policy advice and oversight functions are delivered by a separate Public Service Department.	Regulatory functions (Arms Act administration) and policy advice and oversight functions are delivered by the Police in a branded business unit.
<b>Accountability</b>	The Police Commissioner is accountable to the Minister for Police's performance.  The Chief Executive of the Public Service Department is accountable to the Minister for the Department's performance.	A Chief Executive is appointed and accountable to the Minister for the Agency's performance. The Minister responsible for the Agency can be different from that of the host Public Service Department.	An independent Board oversees the Agent and is accountable to the Minister. The Board appoints a Chief Executive.  The Police Commissioner is accountable to the Minister for Police's performance.	An independent Board oversees the Agent and is accountable to the Minister. The Board appoints a Chief Executive.  The Chief Executive of the Public Service Department is accountable to the Minister for the Department's performance.	The Police Commissioner is accountable to the Minister for Police's performance.
<b>Independence</b>	Provides for high degree of ministerial oversight, control and accountability. The Minister has a close relationship with the regulator and has power to direct the Police to give effect to government policy.  An independent Public Service Department would provide independent policy advice to the Minister.	Provides for high degree of ministerial oversight, control and accountability. The Minister has a close relationship with the regulator and has power to direct the Agency to give effect to government policy.  Provision of policy advice to the Minister is less independent, as the Agency is also responsible for policy and oversight.	Governance board puts regulator at arms-length from ministers.  The Agent must "give effect to" policy that relates to the entity's functions and objectives if directed by Minister. The Police would provide independent policy advice to the Minister.  Must "give effect to" whole of government approach if directed by Ministers of Finance and State Services.	Governance board puts regulator at arms-length from ministers.  The Agent must "give effect to" policy that relates to the entity's functions and objectives if directed by Minister. A Public Service Department would provide independent policy advice to the Minister.  Must "give effect to" whole of government approach if directed by Ministers of Finance and State Services.	Provides for high degree of ministerial oversight, control and accountability. The Minister has a close relationship with the regulator and has power to direct the Police to give effect to government policy.  Provision of policy advice to the Minister is less independent, as the Police is also responsible for policy and oversight.
<b>Establishment</b>	No legislative changes required. Change programme is established to improve existing services within the Police.  The policy function is transitioned to a Public Service Department.	Cabinet agrees to establish, including the role and principal functions of the departmental agency.  Arms Act amendment required.	The Crown Entities Act 2004 requires separate legislation to establish a new crown agent (can be the same legislation that sets out specific powers).  Arms Act amendment required.	The Crown Entities Act 2004 requires separate legislation to establish a new crown agent (can be the same legislation that sets out specific powers).  Arms Act amendment required.	No legislative changes required. Change programme is established to improve existing services.
<b>Benefits</b>	Leverages existing arrangement  Enhanced independence within the system  Improved public perception	Enhanced independence within the system  Opportunities presented through divestment	Leverages existing arrangement  Enhanced independence within the system  Opportunities presented through divestment  Enhanced governance and accountability	Enhanced independence within the system  Opportunities presented through divestment  Enhanced governance and accountability	Leverages existing arrangements
<b>Risks</b>	Divestment causes complexity/inefficiency  Lack of agency/separation  Lack of responsiveness	Divestment causes complexity/inefficiency  Intelligence failure  Legislative reform  Lack of agency/separation  Lack of responsiveness  Reliance and reduced flexibility	Divestment causes complexity/inefficiency  Intelligence failure  Legislative reform  Lack of agency/separation  Lack of responsiveness	Divestment causes complexity/inefficiency  Intelligence failure  Legislative reform  Lack of responsiveness  Complex arrangement due to three actors within the system	Lack of agency/separation  Lack of responsiveness