



Human Rights Commission  
Te Kāhui Tika Tangata

# Briefing to the Incoming Minister of Justice

Human Rights Commission

17 November 2017

**Contents**

- Current challenges ..... 4
- Key Priorities ..... 5
  - New Zealand’s National Plan of Action..... 5
  - Historic Abuse in State Care..... 5
  - Housing ..... 6
    - Rental Housing: Security of Tenure..... 7
  - Canterbury Earthquake Recovery ..... 7
  - Bullying in Schools..... 9
  - Oversight of places of detention..... 10
  - Seclusion and Restraint..... 10
  - Race Relations..... 11
    - Tackling casual racism..... 11
    - Public sector capability and structural discrimination..... 11
    - Responding to and addressing Hate Crimes ..... 11
    - Religion and Interfaith ..... 12
    - International Students ..... 12
    - Preventing Violent Extremism ..... 12
    - Inclusion ..... 13
  - Disability rights..... 13
  - LGBTI Rights ..... 14
  - Women’s rights..... 15
  - Children’s rights ..... 16
  - Business and Human Rights ..... 16
    - New Zealand’s Business and Human Rights Forum ..... 16
    - Business and Human Rights challenges and opportunities ..... 17
    - Modern slavery ..... 18
    - Sport and human rights ..... 18
  - New Zealand Human Rights Record..... 19
- Governance and Management of the Commission ..... 20
- The Office of Human Rights Proceedings (OHRP)..... 20
- Appointment of Commissioners, HRC Accreditation and ‘Paris Principles’ ..... 21

The legal framework of the Commission .....	23
Core legislation .....	23
2016 amendments to the functions of the Commission .....	24
Complaints and dispute resolution .....	24
Te Tiriti o Waitangi and the New Zealand Bill of Rights Act 1990 .....	25
International human rights principles, treaties and obligations .....	25

## Current challenges

1. The biggest challenge to the Commission is our ability to respond effectively to human rights issues, deliver on our core commitment to advocate for human rights and improve the realisation of human rights for all New Zealanders.
2. While we have an excellent team, and have invested in updating much of our technology, there are fewer of us in the Commission today than ten years ago and we are challenged by our organisational funding.
3. Since Budget 2007, when we last submitted a budget bid, we have completed two significant restructures reducing the size of our workforce, partly to manage cost pressures. We have improved staff satisfaction and productivity and increased the flexibility of our workforce. Recently, we worked collaboratively with staff to negotiate new terms and conditions of employment through a renewed collective agreement including a performance-based pay system. These improvements are expected to help lift productivity and can be sustained but opportunities for further significant productivity gains through these methods are limited.
4. A wide range of other financial efficiency measures have also been undertaken to continue to operate effectively. This includes shared service arrangements with other government agencies in all three office locations, reduced office footprint and increased density per square meter, and savings from adopting all-of-government contracts. We have narrowed our focus so the work we do has greater impact and managed the opportunities and challenges that come with a mandate that is expanded compared to ten years ago.
5. In August 2017 the first full-time Disability Rights Commissioner was appointed to the Commission. Significant cost pressures exist to fully implement the Commissioner's disability rights programme. An appointment of a fifth Commissioner, without extra funding, would be difficult to support operationally given budget limitations.
6. As set out in our 2017/18 Statement of Performance Expectations, cost pressures are being managed by drawing on cash reserves. [REDACTED]
7. [REDACTED]

Withheld under  
sections 9(2)(g)(i)  
and 9(2)(f)(iv)

## Key Priorities

### New Zealand's National Plan of Action

8. The New Zealand's National Plan of Action (NPA) establishes key priorities for action, based on the recommendations arising from the UN Human Rights Council's Universal Periodic Review (UPR) of New Zealand in 2013. The purpose of the NPA is to create an ongoing over-arching human rights monitoring framework that involves both government and civil society. In 2015/16, the Commission launched and implemented the NPA online tool<sup>1</sup>, which has subsequently been enhanced to enable users to create their own customised reports from the NPA data. The Commission's NPA on-line tool has been acknowledged internationally as an innovative development in human rights monitoring.
9. In late 2017, the Commission will commence with the preparation and development of its shadow report to the UN Office of the High Commissioner for Human Rights (OHCHR) on the 3<sup>rd</sup> cycle of the Universal Periodic Review, UPR. New Zealand's 3<sup>rd</sup> review under the UPR is scheduled for 2018. It is anticipated that the fresh set of recommendations arising from that process will form the basis for the next iteration of the NPA.

### Historic Abuse in State Care

10. The Commission welcomes the Government's recent announcement that an independent inquiry will be held into abuse of people in state care. Following the final report and recommendations of the Confidential Listening and Assistance Service<sup>2</sup>, the Commission has advocated strongly for the establishment for such an inquiry.
11. The Commission considers that an independent inquiry is vitally important to determine the full extent and nature of the abuse that occurred and learn how and why vulnerable children, teenagers and adults could be abused within the system that was established to care for them<sup>3</sup>.
12. The Commission is confident that a suitably robust and independent framework for the inquiry can be developed, with due regard to the concerns that have been expressed regarding scope, complexity, cost and timeframes. The Commission would welcome any further opportunity to provide input into the development of this process.

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<sup>1</sup> <http://npa.hrc.co.nz/#/>

<sup>2</sup> The Confidential Listening and Assistance Service met with 1103 people during its tenure, 78% of whom had been in child welfare care. See Judge Carolyn Henwood, *Some Memories Never Fade: Final Report of the Confidential Listening and Assistance Service* [2016], p 18, accessed [https://www.dia.govt.nz/diawebsite.nsf/Files/Confidential-Listening-and-Assistance/\\$file/Confidential-Listening-and-Assistance-Service-Final-Report-Some-Memories-Never-Fade.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Confidential-Listening-and-Assistance/$file/Confidential-Listening-and-Assistance-Service-Final-Report-Some-Memories-Never-Fade.pdf)

<sup>3</sup> Over 100,000 children and young people were placed in State care between the 1950s and 1980s. These people, and other commentators, have described the abuse endured while in state care and the enduring and intergenerational impact it continues to have. Particularly impacted, we suspect, have been Māori and those with disabilities

## Housing

13. The prevalence of substandard housing conditions in New Zealand has developed into a major human rights issue, with multiple effects on people's health and wellbeing. It particularly affects children.
14. Last year the Commission and He Kainga Oranga Housing and Health Research Programme, University of Otago, submitted a joint report to the Committee on the Rights of the Child, [Inadequate Housing in New Zealand and its Impact on Children](#). The report found that the causes for the current situation are multi-faceted. Housing supply, rising property prices and rents in urban centres, an outdated regulatory framework governing housing quality and security of tenure for private tenants, and income poverty are all contributory factors.
15. Successive governments have implemented a range of policy measures to address the issue. However, to date, a comprehensive plan that co-ordinates the various policy measures has not been developed<sup>4</sup>. If New Zealand is to meet its human rights commitment under the UN SDG Agenda Goal 11 to ensure everyone in New Zealand is adequately, safely and affordably housed by 2030, the Commission considers such a plan and a related accord amongst all major political parties is essential.
16. The Commission has focused its promotion, advocacy and legal intervention work in relation to the right to adequate housing on issues related to the Canterbury earthquake; the need for improved housing quality; increased security of tenure for renters; and stronger protection of property rights. More broadly, it views the need for a comprehensive national housing plan and a related accord of the political parties until at least 2030—so that business and NGOs can commit to support the work needed—as critical to improving access to adequate housing for New Zealanders.
17. The Commission believes that many businesses, unions and NGOs are ready to work with Government on a plan to ensure New Zealand meets SDG Goal 11. Discussions with our largest banks, developers, community housing associations, trade unions and others suggest there is a "coalition of the willing" to work together on this in the spirit of SDG Goal 17<sup>5</sup>. The Commission intends to discuss this issue further with Minister Twyford and respectfully requests that you note the Commission's intention in this regard.

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<sup>4</sup> Thematic snapshot report to the UN Committee on the Rights of the Child: Inadequate Housing in New Zealand and its impact on children. He Kainga Oranga/ Housing and Health Research Programme, University of Otago, Wellington and Human Rights Commission. 2016. See: [https://www.hrc.co.nz/files/7014/7407/6639/Thematic\\_snapshot\\_report\\_of\\_NZHRC\\_for\\_UNCRC\\_73rd\\_session\\_final.pdf](https://www.hrc.co.nz/files/7014/7407/6639/Thematic_snapshot_report_of_NZHRC_for_UNCRC_73rd_session_final.pdf)

<sup>5</sup> SDG 17: Strengthen the means of implementation and revitalize the global partnership for sustainable development

### *Rental Housing: Security of Tenure*

18. The Commission's 2017-18 Business Plan contains a work item on the issue of security of tenure. The Commission is reassessing this and will be seeking a meeting with Minister Twyford to better understand the Government's intentions as regards the development of measures to improve security of tenure in New Zealand.
19. New Zealand has one of the highest rates of residential mobility among developed countries, nearly twice that of the United Kingdom. Most of this mobility occurs in the private rental market. New Zealand also has very low levels of social housing tenancies (of which the terms of tenure are inherently more stable) and decreasing levels of home ownership. Families with children, particularly one-parent and Māori and Pacific families, experience much higher levels of discrimination in the private rental market, a factor that impacts upon the choice of housing available. The current legislation governing private residential tenancies, the Residential Tenancies Act 1986 (RTA), enables the termination of a tenancy without reason, subject to due notice being provided.
20. While it contains protective provisions for tenants, the RTA does not contain any stand-alone provision that affirms any minimum right to security of tenure for tenants (as distinct from minimum notice requirements regarding termination) and does not impose any particular responsibilities on landlords towards tenants with children, or vulnerable adults.
21. The Commission accordingly intends to ask Minister Twyford to agree in principle to take steps to enact a more reciprocal private rental legislative framework under the RTA and we respectfully request that our intention in this regard is noted.
22. Further, the Commission notes that it does not support the current Residential Tenancies Amendment Bill (No 2) in its current form. The Commission considers that, among other things, the provisions of the Bill regarding methamphetamine testing do not provide for adequate protections or compensation for non-fault tenants in the event of eviction. The Commission encouraged the Select Committee to consider the Healthy Homes Guarantee Bill.

### **Canterbury Earthquake Recovery**

23. In response to the Canterbury earthquakes in 2010-2011 the Commission undertook two in-depth research projects monitoring human rights in the recovery process:
  - The 2013 report *Monitoring Human Rights in the Canterbury Earthquake Recovery* focused on the fundamental elements of adequate housing through examining the impact of the earthquakes on housing supply and demand, habitability, accessibility and security of tenure.
  - The 2016 report, *Staying in the Red Zones: Monitoring Human Rights in the Canterbury Earthquake Recovery*, focused on housing and property rights. Key recommendations include improved protection of property rights in the New Zealand Bill of Rights Act and the adoption of a human rights approach to future disaster

recovery frameworks to ensure they comply with international standards and emphasise non-discrimination, participation and accountability.

24. The Commission worked with the Insurance Council New Zealand (ICNZ) to develop a set of best Practice Guidelines to help insurers, and potentially other businesses and social sector agencies, to prioritise vulnerable customers. The Insurance Council endorsed the Guidelines for its members and has applied these to the development of the Memorandum of Understanding between ICNZ members and the Earthquake Commission for managing Kaikoura earthquake claims.
25. The Commission has planned a third report on the Canterbury earthquake recovery that focused on access to remedy—one of the three Pillars of the UNGPs. The Commission is concerned that there is a confusing labyrinth of non-judicial remedy systems available to address disputes arising from natural disasters in New Zealand. The aim of the Commission's planned work in this area was to map what an improved remedy system for natural disasters might look like.
26. The Commission welcomes the Government's announcements about the Canterbury recovery and we will be seeking an urgent meeting with the Minister of Earthquake Recovery to better understand where the Commission may be able to assist or supplement this work.
27. The Commission strongly supports the actions outlined in the Government's *Plan for Canterbury* which address a number of areas of ongoing concern. The Commission remains deeply concerned about the impact of secondary stressors relating to unresolved insurance claims, faulty repairs and land compensation on the mental health and wellbeing of people in Canterbury.
28. It is particularly concerned about the impacts of these stressors on children and young people with mental health issues and the public servants supporting them. Thirty-five percent of Canterbury District Health Board (CDHB) staff who responded to two Wellness Surveys over the past three years recorded a score based on the WHO-5 Wellbeing Index below 13 which is indicative of poor emotional wellbeing and can be an indicator for potential mental health risk. CDHB figures show demand for child and youth mental health services has risen 73 percent since the earthquakes.
29. The Commission recognises the exemplary work of the CDHB and the Canterbury Health System which has been able to maintain and deliver services to address the needs of its population while facing significant challenges including broken buildings, stretched capacity, a population that is more fragile and more likely to require support from the health system, particularly for mental health services, and a substantial funding deficit. It supports the leadership of the Chair, Deputy Chair and CEO of the CDHB and the work of all those involved in the Canterbury Health system.



30. The Commission has also raised with government officials its concern about the suitability of the Ministry of Health (MoH) funding model applied to the CDHB and what appears to be a business as usual approach by the MoH to resourcing over the past five years. The Commission recommends an independent review of the MoH funding model and of current CDHB resourcing to ensure it is adequately supported to help those who are most in need. The Commission appreciates there is also a wider need for resourcing of DHBs, but there is no 'business as usual' in the case of disaster recovery and human rights.
31. The Commission welcomes the Government's plans regarding remedy for the people who are still struggling with unresolved matters. The Commission was concerned that services such as the Residential Advisory Service and direct access to legal advice by Community Law were being scaled back significantly. It believes what is needed at this point is even greater wrap-around social and technical support for the 'tail end' of customers who are typically more vulnerable and who have more complex claims. In addressing these claims and those arising from the Kaikoura and other events, it is important that private insurers, EQC, and building companies ensure that the United Nations Guiding Principles on Business and Human Rights (UNGP) and OECD Guidelines for Responsible Business form the basis of standards for settling claims.
32. As a result of the Commission's advocacy, many affected people complained to New Zealand's National Contact Point (NCP) under the OECD Guidelines. The influx of complaints revealed the extent to which the NCP was underdeveloped and under resourced. The Australian Government is currently undertaking a review of its NCP which compares similarly to New Zealand's. The Commission encourages the Government to take the opportunity to strengthen New Zealand's NCP.
33. Of further note, in March 2018 New Zealand will be reviewed by the UN Committee on the Covenant on Economic, Social and Cultural Rights. The Commission expects the progress on the Earthquake Recovery to be a matter of considerable interest to the Committee.

### **Bullying in Schools**

34. Addressing bullying in schools has been a priority area of work for the Commission since 2011. This has included the Commission's ongoing participation on the Bullying Prevention Advisory Group.
35. The Commission continues to advocate for the implementation in New Zealand schools of comprehensive, evidence-based, bullying prevention programme that is informed by disaggregated data. The Commission notes the Ombudsman, UN Committee on Economic Social and Cultural Rights and the Law Commission have all recommended that a comprehensive programme be implemented to address all forms of bullying, including cyber bullying, in New Zealand schools.
36. While the Commission agrees with the importance of focusing on social and emotional wellbeing, it believes some issues such as bullying and suicide are sufficiently complex to

warrant a targeted approach. The Commission notes that New Zealand continues to rank very poorly internationally in bullying statistics and is concerned that initiatives over the past five years such as Positive Behaviour for Learning—which Ministry officials acknowledge is not a bullying prevention programme—have not improved these figures.

37. The Commission considers that immediate investment is required in “ready to go” evidence based, targeted bullying prevention and response programs using a pilot and take-to-scale approach.
38. The Commission will be seeking a meeting with the Minister of Education to discuss these matters.

### **Oversight of places of detention**

39. The Minister of Justice has designated four NPMs (the Ombudsman, the Children’s Commissioner, the Independent Police Complaints Authority and the Inspector of Service Penal Establishments) a CNPM (the Human Rights Commission) to monitor places of detention, pursuant to the Crimes of Tortures Act. These NPMs provide robust independent monitoring of policy custody, defence custody, care and protection and youth justice residences, prisons, immigration detention facilities and health and disability compulsory care facilities.
40. However, it has become evident that there are a number of gaps (and overlaps) across the NPMs statutory mandate. Ministry of Justice officials and NPMs have been working on defining the gaps that currently exist and developing solutions. The NPM Chairs have developed a Briefing to the Incoming Minister and would welcome the opportunity to meet with you to discuss their concerns and proposed solutions.

### **Seclusion and Restraint**

41. In April 2017 the Commission released *Thinking outside the box? A review of New Zealand’s seclusion and restraint practices* by Dr Sharon Shalev<sup>6</sup> of the University of Oxford, an international expert in the field of solitary confinement and seclusion. The report was completed with funding from the UN for the purpose of providing an independent perspective on seclusion and restraint practices in New Zealand and to identify areas of best practice as well as areas that required improvement.
42. Dr Shalev’s report examined the use of seclusion and restraint across different detention contexts in New Zealand. The report identifies multiple areas of concern about the way that people are restrained or secluded in New Zealand police cells, child and youth residences, mental health units and prisons. In doing so, it a generated significant level of public discussion about seclusion and restraint related practices. The report’s findings provide the basis for further work the Commission will do with relevant Government authorities and

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<sup>6</sup> <http://www.seclusionandrestraint.co.nz/>

detaining agencies towards reducing the prevalence of seclusion and restraint and improving practices and policies.

## **Race Relations**

### *Tackling casual racism*

43. Our **That's Us** campaign is New Zealand's first anti-racism campaign to ask New Zealanders to share personal stories about racism, intolerance and hatred as well as their hopes for the future. The campaign was the top trending topic on social media in New Zealand and reached over three million people online with video and website content. It attracted significant media interest and coverage with the Race Relations Commissioner's 'open letter' and interviews published across more than 20 media sources, including television, radio and national and provincial dailies.
44. A second campaign **Give Nothing to Racism** challenging New Zealanders to confront and eliminate casual racism featured forty high profile and influential Kiwis who generously gave their time, reputations and support. This ongoing, nationwide anti-racism campaign's objective is to create a culture in which racist, discriminatory attitudes and behaviours are considered unacceptable by most New Zealanders, and in which diversity is accepted and welcomed.

### *Public sector capability and structural discrimination*

45. New Zealand's ethnic demographic has changed rapidly in recent years. Broad demographic changes also have significant implications for policy development and service delivery.
46. It follows that there must be strong visible voices for diverse communities within the public sector. However, the composition of the public sector has been slow to reflect New Zealand's changing demographic profile. There are significant ethnic and gender disparities within the public service, particularly at the executive level.
47. The Commission encourages the Government to prioritise efforts towards becoming a more inclusive employer. This should include an examination of how the current structures and processes within the public service respond to these changing demographics.

### *Responding to and addressing Hate Crimes*

48. There is no central system for recording and collating details about crimes motivated by hatred and racism. Unless these events are captured and analysed, the day to day victimisation experienced by people because of their ethnicity is largely invisible. Understanding the scale, extent and, location of hate crimes is essential and is a prerequisite to ensuring adequate resources are available to address the issue. Steps currently being taken by police are insufficient.
49. One way of ascertaining the extent of the current problem would be to collect data on hate motivated crimes, disaggregated by race and the other characteristics listed under s 9(1)(h) of the Sentencing Act 2002.

### *Religion and Interfaith*

50. New Zealand is an increasingly religiously diverse country. Religion plays an important role in race relations, particularly in how communities are perceived and interact with one another. Tensions have arisen for a variety of reasons such as adverse comments, discriminatory and criminal behaviour including hate speech, vandalism and desecration of cemeteries and religious places, assaults, workplace discrimination and concerns about people being radicalised.
51. The existing national statement on religious diversity is currently being reviewed by religious leaders for endorsement by the Prime Minister early next year. The national interfaith conference is scheduled to be held in Wellington mid next year. Interfaith events and dialogue are essential to fostering understanding and acceptance of diverse religious beliefs.
52. The Commission would encourage the development of a specific religious/interfaith Ministerial portfolio, with a corresponding departmental workplan, as means of increasing the Government's capability to respond to religious diversity issues. The Commission would also encourage the Government's endorsement of the National Statement on Religious Diversity and provision of support for hosting the national interfaith conference at Parliament. The Commission also considers that improved orientation on New Zealand values and laws should be provided for workers in New Zealand in religious worker visas.

### *International Students*

53. As a result of advocacy by the Commission, the Ministry of Education has developed a new International Student Wellbeing strategy, alongside a draft International Education strategy. However, the Commission remains concerned about the adequacy of appropriate support and pastoral frameworks to facilitate the safety and wellbeing of overseas students who are invited to the country. It is also essential to ensure adequate resourcing for investigation of institutions and employers that are non-compliant. The Commission thereby encourages the Government to maintain a firm commitment to the full implementation of the International Student Wellbeing Strategy initiatives and associated monitoring mechanisms and support frameworks.

### *Preventing Violent Extremism*

54. New Zealand is not isolated from the threat of violent extremism. There is an urgent need for social sector and community based strategies and programmes to support citizens and communities to reduce the risk of radicalisation as well as a national strategy focussed on Prevention of Violent Extremism. The Commission has been engaged in related activities with civil society and some government agencies. However, a comprehensive approach is required and this needs to be supported by strong leadership within key government agencies. The Commission would therefore encourage the Government to develop and implement a national strategy that aligns prevention, inclusion and rehabilitation programmes.

### *Inclusion*

55. The way that diverse communities engage with each other is key to achieving the goal of harmonious relations in New Zealand. However, social tensions can arise through pressures brought about by pressures upon housing and social services, misunderstandings among new communities of New Zealand's social norms and bi-cultural history, and an increase in cultural and religious differences.
56. The Commission considers an increased emphasis on education, both at the formal and community levels, is required to support engagement and a sense of inclusiveness between and amongst communities. In addition, comprehensive information and support for new migrants on New Zealand values and local history is also essential.
57. The Commission would encourage the Government to support, and foster the development of, community led initiatives such as *Huarahi* programme that brings about bring together new migrants and iwi. The Commission would also welcome the development of a national languages policy, which recognises and raises awareness of the multitude of languages spoken throughout New Zealand's diverse range of communities.

### **Disability rights**

58. The Disability Rights Commissioner has provided the Minister for Disability Issues with a comprehensive briefing letter that sets out in more detail the issues and areas of priority that focused upon. The briefing letter is annexed to this document for your reference. A summary of her areas of focus is set out below.
59. Twenty-four per cent of New Zealanders identify as having a disability, and due to New Zealand's aging population, this proportion is likely to increase. This has significant implications for the Government's social sector and labour policies. People with disabilities do not fare as well as non-disabled people across key well-being outcomes, including education and employment. This is demonstrated by recent Household Labourforce Survey data on disabled people in the workforce published by Statistics NZ, which reported:
  - 25% of disabled people are in the workforce compared with 75% non- disabled.
  - Disabled people are twice as likely to be unemployed than non-disabled (11.4% v 4.5%)
  - Disabled people in work earn nearly \$200 a week less than non-disabled people.
  - 20% of employed disabled workers are under-utilised and want more work, compared with around 5% under-employment in the general labour market.
  - 42% of disabled youth are classed as NEET (not in education, employment or training) - four times higher than NEETs in the general population (10%).
60. Accordingly, the Disability Rights Commissioner will prioritise much of her focus on the education and employment sectors. Education and employment are intrinsic factors in determining an individual's life-course, enabling economic independence, social inclusion, and the ability to participate and contribute in community life. Disabled children are significantly more likely to experience bullying than non-disabled children.

61. In addition to sector-specific initiatives, the following underpinning factors are also fundamentally necessary if sustainable improvements in outcomes for people with disabilities are to be achieved:
- *Changing hearts and minds*: It is essential that the place of disabled people in our communities is celebrated, leading to full social inclusion and 'business as usual' participation across all facets of public life.
  - *Supporting a strong disability sector*: It is also essential that there is strong, representative, and effective leadership in the disability sector that operates in partnership with central and local government, business and community groups.
  - *Improving disability data*: More extensive, disaggregated data is required so that a robust picture of the prevalence, diversity and nature of disability in New Zealand can be captured. This will better inform policy development and implementation and lead to improved provision of services and opportunities for people with disabilities.
62. In addition to the areas of priority set out above, the Disability Rights Commissioner also intends to maintain an advocacy focus on the following areas:
- Housing
  - Accessibility (infrastructure, housing, transport, health services, and information)
  - Abuse in state care
  - Violence and abuse both at home and in the community
  - Mental Health
  - The availability of support services for families
  - Seclusion and restraint
  - Bioethics and its implication for the status of people with disabilities
  - Neuro-disability issues
  - Supported decision-making and informed consent

## **LGBTI Rights**

63. The Commission has advanced its work on LGBTI rights in recent times. This has included the recent appointment of a full-time Human Rights Advisor for SOGISC issues (sexual orientation, gender identity, and sex characteristics) in October 2017 to bring greater focus and advocacy to the rights issues of LGBTI.
64. The Commission played a lead role in the development of the 2016 Intersex Roundtable Report and the outcomes that arose from it. This has included the establishment of a National Intersex Advisory Network, funded by the Ministry of Health, through the Paediatric Society. The Network will come together for the first time in early 2018 for an inaugural meeting.
65. In addition to its work on intersex issues, the Commission continues to advocate for adequate access to medical and health care for trans and gender diverse people across the

country. Current public-sector service provision is inadequate to meet the needs of the transgender population. At present, wait list times for gender reassignment surgeries are over 46 years for trans women, and over 34 years for trans men. Surgical guidelines and requirements are unclear, and chronic underfunding leaves many transgender people paying out of pocket to meet their own health needs.

66. In March 2017, the Commission made a submission to the Government Administration Committee on the issues regarding gender markers on birth certificates raised in Petition 2014/86 of Allyson Hamblett. In its report on the Petition, the Government Administration adopted the Commission's recommendation that the process for changing gender markers on birth certificates should be changed from a statutory procedure determined by the Family Court, to an administrative process similar to that used for driver licencing and passports<sup>7</sup>, and that people should have the right to self-identify. The Commission encourages the Government to prioritise the implementation of the Committee's recommendations.
67. The Commission in partnership with Statistics NZ is involved in the establishment of a statistical standard for sexual orientation data collection. Questions are currently being tested with a view to inclusion in the New Zealand General Social Survey. The Commission considers that priority should be given to enable Statistics NZ to collect more extensive data on SOGISC populations.
68. The Commission also would encourage the Government to review the definition of 'sex' under section 21(1)(a) of the HRA with a view to amending it to include gender identity, gender expression, and sex characteristics as prohibited grounds of discrimination. Notwithstanding the Deputy Solicitor General's 2006 opinion that these terms could be "read in" to the current s 21(1)(a) definition, neither the Human Rights Review Tribunal nor the Courts have ruled on this particular issue. This leaves a degree of legal uncertainty. The Commission strongly supports the updating of this aspect of the HRA to ensure that the legislative framework aligns with the public policy position on the issue.

### **Women's rights**

69. The Equal Employment Opportunities (EEO) Commissioner has been designated as Women's Rights Commissioner by the Chief Commissioner. The Commissioner has provided the Minister for Women with a comprehensive briefing letter that sets out in more detail the issues and areas of priority that she is focused upon. The briefing letter is annexed to this document for your reference.
70. The Commission's shadow report to the Convention to Eliminate all forms of Discrimination against Women (CEDAW), which will be submitted in 2018, focuses on the following six priorities for New Zealand women. These are also the EEO Commissioner's/Women's Rights Commissioner's priority work areas for 2018.

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<sup>7</sup> Report of the Government Administration Committee, Petition 2014/86 of Allyson Hamblett, p 5

- Data collection regarding disabled women
- The gender pay-gap and the need for pay transparency
- Human trafficking and exploitation of women
- Women in leadership
- The persistent inequality of Māori and Pacific women
- Addressing family violence in the workplace

### **Children's rights**

71. The Commission participated in New Zealand's fifth periodic review under the UN Convention on the Rights of the Child. The Commission submitted a comprehensive shadow report and a supplementary thematic report on housing and its impact on children. The Chief Commissioner delegated his role in the Geneva-based examination process to the Children's Commissioner, who was supported by Human Rights Commission staff. All recommendations made by the Commission were substantively reflected in the Committee's conclusions, including landmark recommendations on the rights of intersex children.
72. The Commission supports the Children's Commissioner efforts on child poverty and is a member of the UNCROC monitoring group.

### **Business and Human Rights**

#### *New Zealand's Business and Human Rights Forum*

73. The Commission hosted New Zealand's inaugural business and human rights forum in August 2016. The aim of the event was to provide a business case for companies to embed human rights into practice. The forum was followed by a multi-stakeholder meeting for New Zealand businesses interested in advancing a human rights agenda including ANZ Bank, Warehouse Group, Sovereign, Watercare, Fonterra, Council of Trade Unions, Ministry of Business Innovation and Employment, Institute of Directors, Vodafone, Kathmandu, Coca-Cola Amatil.
74. The Forum demonstrated that there was considerable interest across the business sector to learn more about human rights, particularly the UNGP. In addition to a lack of education about business and human rights, (UNGPs) participants, including major New Zealand business identified four salient business and human rights issues for New Zealand. These were:
- Ethical sourcing and transparent supply chain (procurement including Migrant labour exploitation)
  - Violence, abuse, bullying in the work place and affecting the workplace
  - Decent work and equal employment opportunity for New Zealand's marginalised groups (includes living wage)
  - Data and surveillance for big business



75. At the forum, a decision was made by participants to focus on two human rights issues: ethical procurement (supply chain), and embedding family violence policies in the workplace. Two steering groups have been established to address these issues:
- *The Ethical Procurement Steering Group* consists of Progressive Enterprises, the ANZ Bank, Fonterra, Fisher and Paykel Healthcare, the Warehouse Group, Air New Zealand and Kathmandu. The purpose of this group is to identify best practice and draft a best practice code that addresses the human rights implications of sourcing from overseas and within New Zealand.
  - *The Family Violence Steering Group* consists of Ernst and Young, the Warehouse Group, Fonterra, Vodafone, Ricoh, and Progressive Enterprises and aims to assist New Zealand businesses to embed policies to protect victims of family violence in the workplace.

#### *Business and Human Rights challenges and opportunities*

76. New Zealand does not yet have an established tri-partite process to oversee progress on Business and Human Rights by the Government or business. New Zealand's compliance with OECD Guidelines on Responsible Business and UNGPs is weaker than other Western European and Others Group (WEOG) nations and the USA. This weakness is shared with Australia, however the Commission notes that Australia is now taking some steps to redress that.
77. In light of this, the Commission considers that a review of New Zealand's corporations law to ensure it is not hindering— but enhancing—the ability of business to meet its human rights responsibilities under the UNGPs and OECD Guidelines would be timely.
78. We would also encourage the Government to urgently review the State Sector Act 1988, Crown Entities Act 2011, State Owned Enterprises Act 1986 and any other similar legislation governing public sector activity, to ensure that it congruent with New Zealand's international human rights obligations. A similar review and update of Treasury's Better Business Case Guidance and Living Standards Framework should also be undertaken to ensure policy congruency with New Zealand's international human and labour rights obligations, SDG commitments; and business and human rights frameworks.
79. In addition, New Zealand does not have a National Action Plan on Business and Human Rights or any UNGP-related actions in its National Plan of Action for Human Rights. The Commission considers that the New Zealand Government has an opportunity to take a strong lead in the development and implementation of initiatives in this area by adopting a business and human rights national action plan for the implementation of the UNGP. The Commission intends to raise this issue with the Responsible Minister for MBIE with a view to seeking formal support for the development of such a plan.
80. Another opportunity for the Government to lead is in procurement of goods and services. The *Principles of Government Procurement* and the *Government Rules of Sourcing* include

procurement requirements in Cabinet Directives, Whole of Government Directions and legislation. Their purpose is to ensure the Government's approach to procurement aligns with international best practice. While "international obligations" are mentioned in the *Principles of Government Procurement*, it is not widely understood that this includes human rights and International Labour Organization obligations.

81. The Commission therefore encourages the Government to make it an explicit priority to ensure that all government agencies and entities, including state owned enterprises, are aware of and reflect the guidance set out in the UNGPs in all relevant business practices. This includes procurement, employment and provision of products and services.

#### *Modern slavery*

82. The Commission notes that the enactment of the UK Modern Slavery Act (2015) has been welcomed by civil society as an important step in supporting the business community to address labour exploitation and human trafficking in supply chains. The 2016 Global Slavery Index estimates that 45.8m people in 167 countries are living in modern slavery today.
83. The Australian Government is currently consulting on a proposed model for a Modern Slavery in Supply Chains Reporting Requirement. The proposed reporting requirement will require large corporations and other entities operating in Australia to publish annual statements outlining their actions to address modern slavery in their operations and supply chains. The Commission recommends the Government consider similar legislation for New Zealand and intends to take this matter up with the Responsible Ministers.

#### *Sport and human rights*

84. Participation in sport and physical activity plays an important role in bringing people together around common values of fair play, integrity, harmony, solidarity respect. Sports organizations at all levels, from international to local grassroots associations, have an interest in promoting these common values. They are already taking significant steps to address issues related to fair play, integrity, wellbeing, discrimination, participation, and others. Human rights concepts are accordingly applied to draw these things together under one common umbrella.<sup>8</sup>
85. In recent years, the Commission has been a leader in international and Commonwealth efforts to implement the UNGP and SDG in sport. The Chief Commissioner is a member of the Steering Group Mega Sporting Events Platform for Human Rights (MSE Platform)<sup>9</sup> and co-chair of its Task Force on Sports Bodies and Human Rights. The Taskforce is currently developing a guide to implementing human rights in the governance of sports bodies.

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<sup>8</sup> Mega Sporting Events Platform for Human Rights: Task Force on Sports Governing Bodies, draft paper *Implementing Human Rights in the Governance of Sports Bodies*. November 2017.

<sup>9</sup> The MSE Platform has made significant progress on a number of fronts over the past year, including human rights reforms at FIFA and the strengthening of labour rights in Qatar.

86. The Commission is working with New Zealand sports organisations to implement the guidance in New Zealand. In confidence, in late November, the MSE Platform will announce the creation of a Center for Sport and Human Rights which over the course of 2018 take over the work of the MSE Platform. The Commission considers that New Zealand is well placed to be a leader in the Pacific region and in the world, in sport and human rights.
87. The Chief Commissioner is also a member of the Commonwealth Advisory Board on Sport (CABOS). CABOS is the Commonwealth's key sports policy body and is made of up senior government officials and sector experts. A current focus is the preparation of policy guidance for Commonwealth Sports Ministers on how sustainable development and human rights and the integrity of sport are interrelated.
88. The Minister of Sport and Recreation can expect notice shortly of the 9<sup>th</sup> Commonwealth Sports Minister meeting in April 2018. The Minister will receive CABOS's papers for the meeting in late January 2018. The Chief Commissioner is drafting the CABOS paper on sport and human rights with reference to the relevant SDG. This paper will contribute to CABOS guidance for sports ministers on the obligations of states under international human rights conventions and the implications of this for government sport policy. The Commission will accordingly be seeking a meeting with the Minister of Sport and Recreation to discuss the significant opportunities arising out of this work.

#### **New Zealand Human Rights Record**

89. New Zealand is a party to seven of the nine core international human rights treaties. Under these treaties New Zealand is required to report periodically to the United Nations on its compliance with the obligations contained within those treaties.
90. Reporting to the United Nations can place a significant burden on Government, the Commission and civil society's resources. Engagement around New Zealand's third Universal Periodic Review before the Human Rights Council will commence in 2018 and the treaty body reporting load will increase.
91. The Commission is working closely with the Ministry of Justice and the Ministry of Foreign Affairs and Trade to streamline and better coordinate New Zealand's international treaty reporting. Work is also underway to consider better ways to consult with civil society and to encourage their engagement with the United Nations system.
92. This work was in part prompted by the reality that in 12 months spanning this and the next financial years New Zealand will come under one of the most intensive periods of review of its human rights record by the UN Human Rights Council and UN Treaty Bodies. The Commission would welcome the opportunity to discuss this work with you.
93. The Commission welcomes the leadership of the New Zealand Government delegations to UN Treaty body and UPR reporting as well as the committed involvement of many New Zealand civil society organisations.

## **Governance and Management of the Commission**

94. The Commission is governed by a Board. The Commissioners constitute the Board of the Commission. The Board sets the strategic direction of the Commission and determines the general activities of the Commission. These are set out in the business plan. The Board is supported by the Chief Executive and an organisational structure that ensures the efficient and effective delivery of operational services.
95. The Commissioners are:
- David Rutherford – Chief Commissioner
  - Dame Susan Devoy – Race Relations Commissioner
  - Dr Jackie Blue – Equal Employment Opportunities, Women’s Rights and LGBTI Commissioner
  - Paula Tesoriero – Disability Rights Commissioner
96. The Chief Commissioner, **David Rutherford**, chairs the Commission and ensures activities undertaken are consistent with the Commission’s strategic direction as set out in the Business Plan. He also ensures that the Commission is effective in carrying out its functions, and meets its statutory obligations. The Chief Commissioner is responsible, among other things for:
- designating priority areas for Commissioners where they are not otherwise determined by statute; The current priority areas designated by the Chief Commissioner are attached.
  - allocating spheres of responsibility among Commissioners; and,
  - determining the extent to which Commissioners engage in the general activities of the Commission.
97. The Chief Commissioner will consult with the Minister about his proposed designations, allocations and determinations, as required by the Act, around June each year or upon the appointment of new Commissioners.
98. The Chief Executive of the Commission is **Cynthia Brophy**. The Chief Executive leads and manages the Commission and has responsibility for operations including the implementation of Commission’s strategy and business plan consistent with all policies and service delivery. The Chief Executive reports to the Chief Commissioner.

## **The Office of Human Rights Proceedings (OHRP)**

99. The OHRP is structurally part of the Commission but operates independently. The Director of Human Rights Proceedings, **Robert Kee**, provides legal representation to persons bringing proceedings under the Human Rights Act 1993 and Privacy Act 1993. In making his decisions, the Director is independent from the Human Rights Commission. However,

the Director is responsible to the Chief Commissioner for the efficient and effective administration of the Office. The Director leads and manages the staff of the OHRP.

### **Appointment of Commissioners, HRC Accreditation and ‘Paris Principles’**

100. The Commission has an “A” status accreditation as a National Human Rights Institution by the OHCHR and the Global Alliance of National Human Rights Institutions (GANHRI). This means we operate in accordance with the Principles Relating to the Status of National Institutions, commonly known as the ‘Paris Principles’. These principles set out the minimum international standards required by the United Nations for NHRIs to be considered credible and to operate independently.
101. The fact that the Commission is an independent Crown Entity provides significant protection of the Commission’s compliance with the Paris Principles. The other important protection relates to the process for the appointment of Commissioners.
102. International human rights monitoring bodies, most recently the CERD Committee, have called on New Zealand to strengthen the protection and implementation of Treaty and indigenous rights.
103. The Commission has called for the appointment of an Indigenous Rights Commissioner. The first Indigenous Rights Commissioner was designated by the Chief Commissioner in 2012 at 0.3FTE. The Commission advocated that once the Human Rights Amendment Act was passed into law, the Ministry of Justice should recommend the appointment of a 5<sup>th</sup> full-time Commissioner as allowed by the Act. The intention being that the Chief Commissioner would designate that person to be the Indigenous Rights Commissioner. The position was advertised and a short-listing process completed before the caretaker period. No appointment was made.
104. Any proposed appointment of a full-time Indigenous Rights Commissioner must have dedicated quality support and funding to maintain the interests of protecting and promoting indigenous human rights domestically and internationally. The Commission would struggle at present to be able to effectively support a further Commissioner appointment.
105. The breadth of the Chief Commissioner and Race Relations Commissioners’ existing portfolios mean that it is difficult for those roles to provide the level of specific focus required for Te Tiriti and indigenous rights issues. Currently, there is no Commissioner designated with responsibility for Te Tiriti and indigenous rights. In light of the non-appointment of a fifth Commissioner the Commission has narrowed the focus of its indigenous rights work in its business plan.
106. The extent of the planned activities in indigenous rights and Treaty of Waitangi that are not in the Commission’s Business Plan will be dealt with by the Commission’s Responsiveness

Triage process. If a Commissioner is appointed with funding, a larger indigenous rights work programme will be developed.

107. Concerns have been raised by UN monitoring bodies, GANHRI, New Zealand NGOs and the Commission about the appointment process for Commissioners. We note that, to date, New Zealand Government Ministers and officials have defended the incumbent appointment process in UN and other fora.
108. While the Commission maintained its 'A status' following its most recent GANHRI review in 2016, GANHRI advised that it is critically important that a clear, transparent and participatory selection and appointment process for Commissioners is formalised. It also encouraged the Commission to consider advocating for the inclusion of a minimum term of appointment for new Commissioners.
109. This means that the way Commissioner appointments are made until the next accreditation round will be important to the maintenance of the Commission's "A" status accreditation in future. The Commission is grateful that a Disability Rights Commissioner was appointed recently. This increased the ratio of Commissioners with current unexpired warrants.<sup>10</sup>
110. Commissioners can be dismissed on one months' notice and may voluntarily leave office without notice after their term ends. If transitions are not handled effectively, there is a possibility that the Commission will be in breach of its Paris Principles obligations<sup>11</sup> and will lead to review of its "A" status. Any downgrading of the Commission's status under the Paris Principles would be of serious detriment to the Commission's international credibility and the ability of the Commission to do its work.
111. The Chief Commissioner's term in his warrant ended on 31 August 2016. The Race Relations Commissioner's term in her warrant ends on March 31, 2018 and the Equal Employment Opportunities Commissioner's term in her warrant ends on 4 June 2018. Before the latter two Commissioners were appointed in 2012, the Commission ran for a period of months without appointments being made for these two positions. Such an outcome again is not presently tenable, given that the Commission currently has only four Commissioners.

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<sup>10</sup> As a result, the Commission has moved from 4 of 6 Commissioners to 1 of 4 Commissioners with terms running on past the period of the term in their warrants

<sup>11</sup> The GANHRI Statute (Article 16.1) provides that: "Where the circumstances of any NHRI change in any way that may affect its continued compliance with the Paris Principles, that NHRI shall notify GANHRI Chairperson of those changes and GANHRI Chairperson shall place the matter before the SCA for review of that NHRI's accreditation status."

## The legal framework of the Commission

112. The **Human Rights Commission** (the Commission) was established in 1977. It is New Zealand's National Human Rights Institution (NHRI).

113. The Commission is an Independent Crown Entity pursuant to the Crown Entities Act 2004. The Commission's status in this respect enables it to perform its statutory functions under the **Human Rights Act 1993** independently and in compliance with the Paris Principles<sup>12</sup>

### *Core legislation*

114. The following legislation is central to the functional operations, governance and management structure of the Human Rights Commission:

- **The Human Rights Act 1993 (HRA)**. The HRA establishes the role and functions of the Human Rights Commission. It also sets out the grounds of unlawful discrimination and the criteria for their application to the actions of public and private entities. It also establishes the Commission's complaints and disputes resolution process, the jurisdiction of the Human Rights Review Tribunal and the role and functions of the Director of Human Rights Proceedings.
- **The Crimes of Torture Act 1989** implements New Zealand obligations under the Convention Against Torture and the Optional Protocol to the Convention. It prohibits acts of torture. It provides for National Preventive Mechanisms (NPM) to monitor places of detention to prevent torture and other forms of cruel, inhuman or degrading treatment or punishment. The Act also provides for a Central NPM which is the Human Rights Commission. The functions of the Central PM are to coordinate the activities of the NPMs<sup>13</sup>; and to maintain effective liaison with the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture.
- The **Crown Entities Act** provides the legal framework for the establishment, governance and operation of Crown entities. It also clarifies accountability relationships between Crown entities, their board members, their responsible Ministers and the House of Representatives.
- The **State Sector Act 1988** provides, among other things, the standards of conduct (including workforce policy) that underpin the functions of state sector organisations in New Zealand.

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<sup>12</sup> The Paris Principles are a set of international standards which frame and guide the work of National Human Rights Institutions (NHRIs). Drafted at an international NHRIs workshop in Paris in 1991, they were adopted by the United Nations General Assembly in 1993

<sup>13</sup> The NPMs are the Ombudsman, the Children's Commissioner, the Independent Police Conduct Authority and the Inspector of Service Penal Establishments

- The **Public Finance Act 1989** provides the legal framework for the financial management system of the Government. It applies to both the financial activity of the Government and Parliament's scrutiny of the Government's expenditure of public money. It provides the basis for the appropriation and management of public resources and prescribes the financial reporting requirements for the Crown, departments, and Crown entities.

*2016 amendments to the functions of the Commission*

115. The HRA was amended in June 2016 with changes to the composition, governance arrangements and functions of the Commission, including its primary functions. Following the amendments, the Commission's primary functions under section 5(1) are:

- advocating and promoting respect for human rights,
- encouraging harmonious relations including the promotion of racial equality and cultural diversity,
- the promotion of equal employment opportunities (including pay equity), and
- promoting and protecting the full and equal enjoyment of human rights by persons with disabilities.

116. The specific functions of the Commission set out at section 5(2) of the HRA were also amended to include a new function to promote and monitor compliance with, and reporting on, international human rights instruments and promoting the development of new international instruments<sup>14</sup>. The Commission's function to make public statements was also extended to apply to any matter that may affect or infringe human rights, irrespective of whether those human rights are affirmed in domestic or international human rights law<sup>15</sup>. The 2016 amendments also brought about changes to the Commission's Prime Ministerial reporting function<sup>16</sup> and to its functions regarding the evaluation and monitoring of equal employment opportunities<sup>17</sup>.

*Complaints and dispute resolution*

117. The Commission also has functions to receive complaints and facilitate, through mediation or other means, the resolution of disputes involving unlawful discrimination in the most efficient, informal, and cost-effective manner possible<sup>18</sup>.

118. The Commission has no investigative, adjudicative or judicial function in respect of individual complaints or disputes. Those functions are carried out by the Human Rights Review Tribunal and the courts.

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<sup>14</sup> HRA s 5(2)(kc)

<sup>15</sup> HRA s 5(2)(c)

<sup>16</sup> HRA s 5(2)(k)

<sup>17</sup> HRA s 5(2)(n)

<sup>18</sup> Part 3, HRA (ss 75-89)



### *Legal interventions*

119. The Commission also has functions under the HRA<sup>19</sup> that enable it to apply to appear as in an intervener in proceedings before Courts and Tribunals. The Commission has utilised this function to great effect in recent years and has appeared in several landmark human rights cases, including *Spencer v Attorney-General*, *Seales v Attorney-General*, *Brown v New Zealand Basing Ltd*, and *Attorney-General v Taylor*. The Courts and Human Rights Review Tribunal have acknowledged the value the Commission's interventions have provided in assisting their interpretation and consideration of the human rights principles and jurisprudence at stake in those cases.

### *Te Tiriti o Waitangi and the New Zealand Bill of Rights Act 1990*

120. **Te Tiriti o Waitangi (Te Tiriti)** and the **New Zealand Bill of Rights Act 1990 (NZBORA)** sit at the centre of New Zealand's constitutional framework and are integral to New Zealand's domestic human rights framework. Accordingly, both instruments are of fundamental importance to the Commission and its work.

121. Te Tiriti is New Zealand's founding constitutional document and is a statement of rights that is unique to our country. The HRA reflects the importance of Te Tiriti to human rights in New Zealand by providing that a function of the Commission is promote a better understanding of the human rights dimensions of the Treaty and their relationship with domestic and international human rights law<sup>20</sup>.

122. The preamble to the NZBORA provides that it is "an Act to affirm, protect, and promote human rights and fundamental freedoms in New Zealand" and that it "affirms New Zealand's commitment under the International Covenant on Civil and Political Rights". The NZBORA provides for a broad range of human rights and freedoms found in the Covenant, including the right to freedom of expression, religious belief, freedom of movement, and the right to be free from discrimination. The NZBORAs test for determining whether any reasonable limitation to a right can be justified<sup>21</sup> is incorporated into the HRA to apply to acts of discrimination by persons or entities who carry out a public function<sup>22</sup>.

### *International human rights principles, treaties and obligations*

123. As a member of the United Nations (UN), New Zealand supports the human rights provisions of the **United Nations Charter** and the **Universal Declaration of Human Rights (UDHR) 1948**. The UDHR was adopted by the UN General Assembly on 10 December 1948 and enunciated, for the first time, a set of fundamental human rights of universal application. It provided the foundation for the international human rights framework that exists today.

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<sup>19</sup> HRA section 5(2)(j)

<sup>20</sup> HRA s 5(2)(d)

<sup>21</sup> NZBORA s 5

<sup>22</sup> HRA, Part 1A, ss 21I-21L

124. **The international human rights framework**, broadly speaking, consists of binding international law instruments, such as UN treaties, covenants, statutes, protocols and conventions, and non-binding yet morally and politically persuasive documents, such as UN declarations, statements and resolutions. It also contains institutions designed to monitor, promote and advance these rights, including the Office of the High Commissioner for Human Rights (OHCHR), UN treaty monitoring bodies, Special Rapporteurs and specialist mechanisms (such as the UN Expert Mechanism for the Rights of Indigenous People for example).
125. At the core of the international human rights framework sits the **International Bill of Human Rights**. It consists of the Universal Declaration of Human Rights, the **International Covenant on Economic, Social and Cultural Rights**, and the **International Covenant on Civil and Political Rights** and its two Optional Protocols.
126. New Zealand is a party to seven core international human rights treaties. These are:
- International Covenant on Civil and Political Rights (ICCPR)
  - International Covenant on Economic, Social and Cultural Rights (ICESCR)
  - International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
  - Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
  - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
  - Convention on the Rights of the Child (CRC)
  - Convention on the Rights of Persons with Disabilities (CRPD)
127. These treaties are binding upon New Zealand in international law. As a State party, New Zealand is obliged to implement each treaty and ensure that our laws are consistent with them<sup>23</sup>. Accordingly, these treaties all require the New Zealand Government to regularly report on progress made in implementing their provisions. The New Zealand Courts have also held that, where possible, they will interpret New Zealand legislation consistently with New Zealand's international human rights treaty obligations.<sup>24</sup>
128. New Zealand has also signed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The UNDRIP differs in status from the above treaties, as it is a declaration and therefore not legally binding on New Zealand. However, UNDRIP elaborates on human rights obligations set out in the above treaties, albeit in the particular context of Māori. It can also be seen as a pivotal document for identifying the human rights dimensions of the Crown's obligations to tangata whenua under Te Tiriti.

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<sup>23</sup> Vienna Convention (Law of Treaties) 1968, Articles 26, 27 and 29, ratified by New Zealand 4 August 1971

<sup>24</sup> For example, *Ye v Minister of Immigration* [2009] NZSC76, [2010] 1 NZLR 104 at [24], *DP v R* [2015] NZCA 476 at [11]

129. In addition to its obligations under human rights treaties, the New Zealand Government has also committed to the 2030 targets set by the **UN Sustainable Development Goals (SDGs)**<sup>25</sup>. These targets are set across 17 SDG areas, including poverty reduction, gender equality, education, health, reduced inequalities and climate change and most are intrinsically linked to human rights outcomes. Reference to the SDGs and their targets are becoming increasingly integrated into the monitoring functions of UN treaty monitoring bodies. The Commission is currently working with a number of government agencies, including Statistics NZ, on the links between human rights and the SDG
130. The **UN Guiding Principles on Business and Human Rights (UNGPs)** are another recent international human rights development of considerable significance. The UNGPs were endorsed by the UN Human Rights Council in 2011<sup>26</sup> with the objective of enhancing business and human rights standards and practices and achieving tangible results for individuals and communities<sup>27</sup>. As regards the role of the State, the UNGPs reinforce the current obligations States have under international human rights treaties. As regards business, they establish non-binding human rights responsibilities. The UNGPs are also of application to public policy settings concerning public sector procurement, commissioning and outsourcing arrangements with private sector entities.

#### **Attachments:**

- A - Briefing to the Minister for Disability Issues from Disability Rights Commissioner, Paula Tesoriero
- B - Briefing to the Minister for Women from EEO, Women and LGBTI Commissioner, Dr Jackie Blue
- C - Letter to Hon Mark Mitchell on Chief Commissioner's Proposed Allocations and Determinations for Commissioners for 1 July 2017 to 30 June 2018

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<sup>25</sup> <https://sustainabledevelopment.un.org/sdgs>

<sup>26</sup> Resolution 17/4 16 June 2011

<sup>27</sup> *The Guiding Principles on Business and Human Rights*, General Principles, UN Office of the High Commissioner on Human Rights, p 1 accessed [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

