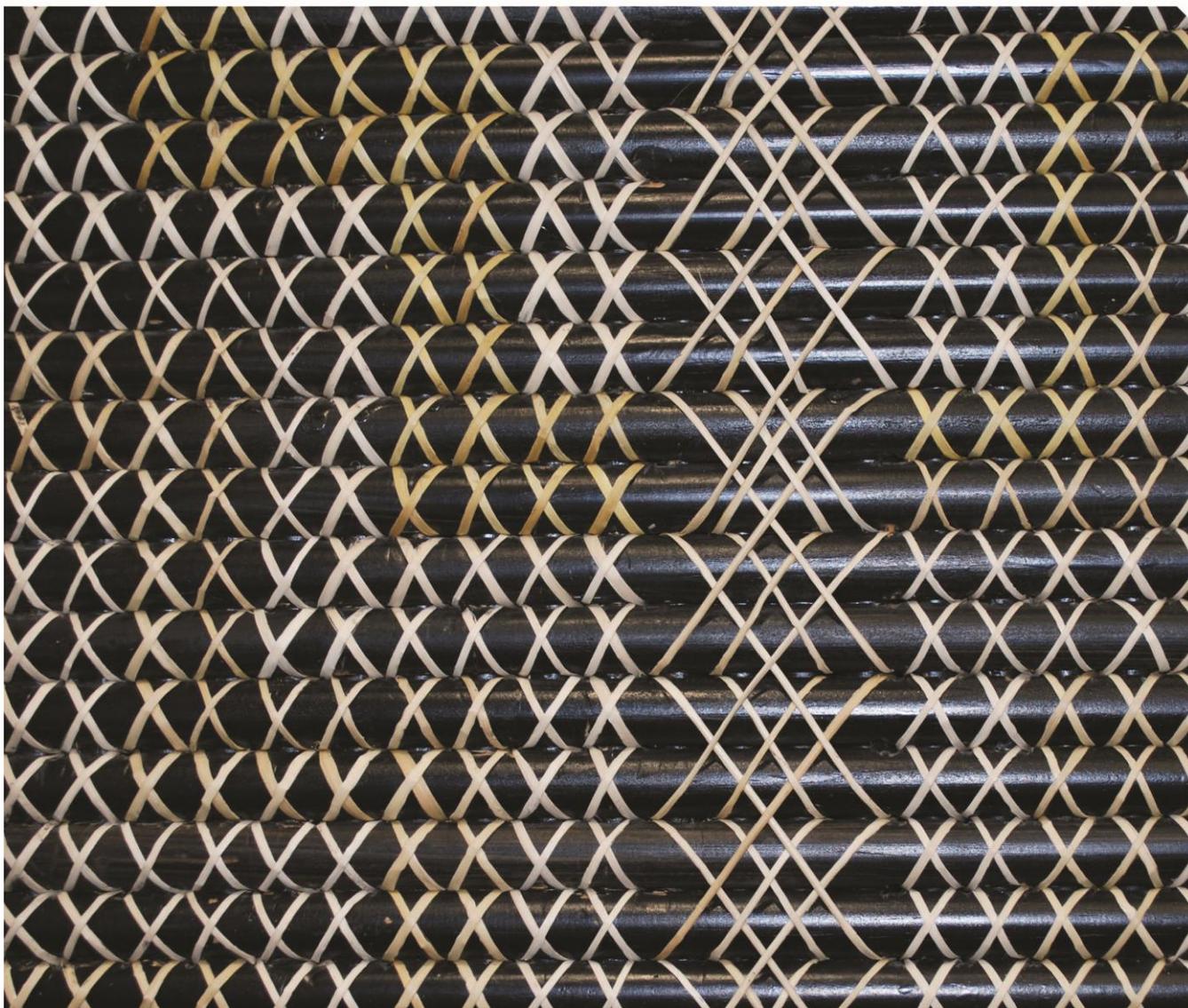


New Zealand Human Rights Commission  
Te Kāhui Tika Tangata  
Statement of Intent  
2014/15 – 2017/18



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Language Line and NZ Sign Language interpreter available

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**New Zealand Human Rights Commission**

**Te Kāhui Tika Tangata**

**Statement of Intent 2014/15 – 2017/18**

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# Foreword

New Zealand has signed many international treaties acknowledging that respect for the human dignity and human rights of every person is the foundation for freedom, justice and peace in New Zealand and in the world. New Zealand is respected internationally as a free, just and peaceful nation. Relatively high levels of respect for human dignity and a high realisation of human rights in New Zealand are the foundations of that reputation.

There are many reasons to celebrate being a New Zealander in Aotearoa today. While we can be confident, we can never be complacent. There are important areas for us all to work on. We are about to prepare New Zealand's second National Plan of Action (NPA) on Human Rights which will identify and detail these areas and the work needed to be done over the next four years.

Every four years the human rights records of all UN member states are reviewed by other States as part of the Universal Periodic Review (UPR). New Zealand's second cycle of the UPR was completed in May 2014 with the Government on behalf of New Zealand accepting 121 of the recommendations made by other States.

The Human Rights Commission and the Government consulted widely with civil society in New Zealand in the second UPR cycle. The New Zealand Government, the Human Rights Commission and numerous non-Government organisations also made UPR reports. There were more than five times the number of reports made by non-Government agencies during this cycle, compared to the first 2009 cycle. A similar increase in the number of New Zealand civil society organisations participated in making these submissions.

The States involved in the review noted many positive achievements since our first UPR in 2009. They also acknowledged the significant increase in civil society involvement in the second cycle. They recommended we address a range of key issues: reducing violence and abuse, strengthening children's rights, reducing inequalities, responding to the aftermath of the Canterbury earthquakes and advancing indigenous rights for tangata whenua Māori.

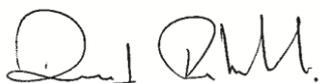
As a priority, our work in the period covered by this *Statement of Intent* will ensure the successful development of our second (NPA) on Human Rights. The Commission's other key priority is our continued alignment of people and resources so that we can better develop and deliver on our functions.

Each year we receive thousands of enquiries and complaints. The overwhelming majority of cases are resolved quickly via low level dispute resolution.

The Commission also monitors New Zealand's compliance with international human rights instruments.

We will continue to keep watch over Canterbury, work with decision-makers and those most affected to resolve human rights issues resulting from the 2010 and 2011 earthquakes. Our biggest concern is around the right to health and housing.

The Commission is working with others to ensure people in New Zealand live together harmoniously, sharing a common respect for each other's inherent dignity and human rights.



David Rutherford  
Chief Commissioner  
Te Amokapua



Dame Susan Devoy  
Race Relations Commissioner  
Kaihautū Whakawhanaunga a Iwi



Dr Jackie Blue  
Equal Employment Opportunities Commissioner  
Kaihautū Ōriteanga Mahi



Paul Gibson  
Disability Rights Commissioner  
Kaihautū Tika Hauātanga



Karen Johansen  
Commissioner  
Kaihautū



Richard Tankersley  
Commissioner  
Kaihautū

## Who we are

The Human Rights Commission (the Commission) is an Independent Crown Entity responsible for promoting and encouraging the protection of human rights and harmonious relations between all people in New Zealand.

The Commission has an A-status accreditation as a National Human Rights Institution with the International Coordinating Committee of National Institutions for the Protection of Human Rights. This status is the highest recognition of the independence a national human rights institution can achieve and gives us the right to speak at the United Nations.

The Office of Human Rights Proceedings (OHRP) is part of the Commission and provides legal representation under the Human Rights Act 1993 and brings proceedings under the Privacy Act 1993.

This *Statement of Intent* covering the period 1 July 2014 to 30 June 2018 has been prepared in accordance with the requirements of the Crown Entities Act 2004 and the Human Rights Act 1993.

# Nature and Scope of the Commission's Functions

The Commission's primary functions, as set out in the Human Rights Act 1993, are to: (1) advocate and promote respect for, and an understanding and appreciation of, human rights in New Zealand society; and (2) encourage the maintenance and development of harmonious relations between individuals and among the diverse groups in New Zealand society.

Section 5(2) of the Act lists the detailed functions of the Commission:

- 1 advocate for human rights and to promote and protect through education programmes and publicity, respect for, and observance of human rights
- 2 encourage and co-ordinate human rights programmes and activities
- 3 make public statements on issues affecting human rights
- 4 promote understanding of the human rights dimensions of the Treaty of Waitangi through research, education programmes and discussion
- 5 prepare and publish guidelines and voluntary codes of practice to help people meet their legal obligations to respect and protect human rights
- 6 receive and invite representations from members of the public on any matters affecting human rights
- 7 consult and cooperate with other organisations concerned with the protection of human rights
- 8 inquire into infringements, either in law or practice, of human rights
- 9 bring legal proceedings and intervene in court proceedings on human rights matters
- 10 report to the Prime Minister (1) on the need for new legislation, regulations or policy to better protect human rights; (2) on the desirability of New Zealand ratifying further international human rights conventions or norms; and (3) on the implication of any proposed legislation, which may affect human rights
- 11 develop a national plan of action for the promotion and protection of human rights.

Important human rights principles are enshrined in New Zealand's constitutional arrangements or legislation, including:

- 1 Treaty of Waitangi 1840
- 2 Bill of Rights Act 1990
- 3 Human Rights Act 1993.

Moreover, as a member of the United Nations, New Zealand supports the human rights provisions of the United Nations Charter and the Universal Declaration of Human Rights 1948.

New Zealand is also state party to a number of international human rights instruments, including the:

- 1 International Covenant on Civil and Political Rights (ICCPR)
- 2 International Covenant on Economic, Social and Cultural Rights (ICESCR)
- 3 International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- 4 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- 5 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- 6 Convention on the Rights of the Child (CRC)
- 7 Convention on the Rights of Persons with Disabilities (CRPD)
- 8 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

These instruments impose obligations on states parties, including regular reporting on implementation.

The Commission also has functions to facilitate the resolution of disputes, involving unlawful discrimination in the most efficient, informal, and cost-effective manner possible.

## Strategic Objectives: 2014/15 – 2017/18

The Commission's vision is that People in New Zealand live together harmoniously, sharing a common respect for each other's inherent dignity and human rights.

The Commission contributes to meeting this goal by:

- 1 leading the development of New Zealand Human Rights Action Plan
- 2 education, advocacy and promotion of Human rights
- 3 monitoring and reporting on compliance with New Zealand law and international human rights instruments
- 4 responding to, and resolving, human rights complaints
- 5 providing legal representation and bringing proceedings.

### Human Rights: National Plan of Action

Coordinating the development and monitoring of the *Human Rights: National Plan of Action* (NPA) will be the most significant deliverable over the four-year lifecycle of this *Statement of Intent*.<sup>1</sup> The NPA is the primary mechanism to clarify and frame the response of central and local government, the Human Rights Commission, business and civil society to issues raised during the United Nations Universal Periodic Review and by treaty monitoring bodies. It sets out the actions New Zealand will take over the next four years to improve human rights realisation. It presents an opportunity to take action and address any shortcomings in our human rights laws, policy and practice.

The NPA will influence and inform our three main outcome areas and will advance the realisation of human rights in New Zealand. Any actions within the NPA for the Commission will be delivered through the Commission's outputs.

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<sup>1</sup> One of the functions of the Commission, as set forth in section 5(2)(m) of the *Human Rights Act 1993*, is to develop a national plan of action, in consultation with interested parties, for the promotion and protection of human rights in New Zealand.

Our work coordinating the NPA's development and supporting implementation will be a key focus for the Commission. We will have the greatest impact by connecting those whose rights are not fully realised to those with the power to enable better realisation of these people's rights, encouraging them to build shared plans for change. Leading the NPA provides an opportunity to share our expertise. Success will ultimately be based upon broad participation, and a cross-agency and collaborative approach, involving government, business and civil society is essential.

The NPA will set the agenda for improvements in human rights outcomes and include a set of challenging yet achievable priorities and outcomes. The result will be an action plan designed by and for affected people and decisions-makers, to which everyone is committed to implementing. The NPA will be supported by a set of indicators and a corresponding monitoring and evaluation framework. We will track progress and undertake a mid-term review, which will be linked directly to the UPR process.

The NPA will:

- 1 establish key priorities for action based around key thematic human rights areas
- 2 identify actions which key influencers and decision-makers have committed to implementing
- 3 agree a set of indicators, and
- 4 create an ongoing monitoring framework involving both government and civil society.

## Education, Promotion and Advocacy for Human Rights

The realisation of human rights and respect for human dignity requires all people in New Zealand to be informed of their rights and responsibilities and to take action. Most of the Commission's activities work to: educate, promote and advocate human rights so people know and practice their rights and duties. It is particularly important that people or organisations with legal obligations under

domestic and international law comply, and that they respect and protect human dignity and the human rights of all people in New Zealand.

The Commission's role is connecting and brokering between civil society and decision-makers to improve the realisation of human rights of people in New Zealand.

The Commission will over the period of this *Statement of Intent* broaden the reach of its activities to promote and advocate for human dignity and rights. The focus must be on increasing the awareness and understanding of decision-making. We will also concentrate on connecting people with decision-makers to ensure that the affected groups can participate in the decision-making process.

Our education and advocacy programmes will be targeted, with particular emphasis on:

- 1 Educating on the human rights dimensions of the Treaty of Waitangi
- 2 increasing knowledge of human rights and their relevance
- 3 improving the ability of all people to respect human dignity and rights in their everyday lives and in their dealings with others
- 4 defending human rights.

We will continue to advocate for a just recovery in Canterbury. The three priority areas of action to ensure that human rights issues are effectively addressed in the Canterbury recovery are to:

- 1 facilitate engagement between decision-makers involved in the recovery to promote people-centred, systems-type thinking and measurement
- 2 implement a relationship strategy that brings decision makers and affected people together to collaborate and accelerate the resolution of human rights issues in the recovery
- 3 use the recommendations in the *Monitoring Human Rights in the Canterbury Earthquake Recovery* report to advocate with decision-makers for human rights standards to be applied in developing solutions to housing pressures including the relief of secondary stressors of housing, insurance and financial issues.

The Commission will provide practical advice to the Government on equal employment opportunities and share good practice.

By the end of 2017/18 there will be an increased commitment to equality at work for women. The Commission's role in achieving this objective will be:

- 1 supporting the implementation of the *Caring Counts* recommendations to improve the pay and conditions of work for those working in aged-care, the majority of whom are women.
- 2 promoting women's empowerment in business through the adoption and implementation of the women's empowerment principles initiative developed by the United Nations Women.

Our education and advocacy role is our key lever for increasing harmonious relations in New Zealand. Taking opportunities to work with communities and decision-makers on developing a better understanding of the strength of diversity and the impacts of discrimination is key to this.

The Commission has broad powers under the Human Rights Act 1993 to encourage fair, transparent and accountable decision-making. Intervention during the policy development stage through the provision of advice to, and sharing research with, central and local government is often effective. In this regard, we are able to contribute to the problem definition and the identification of practical solutions to the issues facing government as well as affected people.

The preparation and presentation of submissions on draft legislation, policies and bylaws is another mechanism to ensure that human rights issues are properly considered.

We also advocate an issue before the Court where we can contribute to the development of jurisprudence or further interpretation of particular human rights.

## Monitoring and reporting on compliance with New Zealand law and international human rights instruments

New Zealand is a State party to a number of international human rights instruments. This requires the State (including the Executive, Legislature and Judiciary) to: (1) implement the obligations set forth in these conventions; and (2) to regularly report on its compliance to the treaty monitoring bodies and the United Nations Human Rights Council. The Commission plays a critical role in both areas.

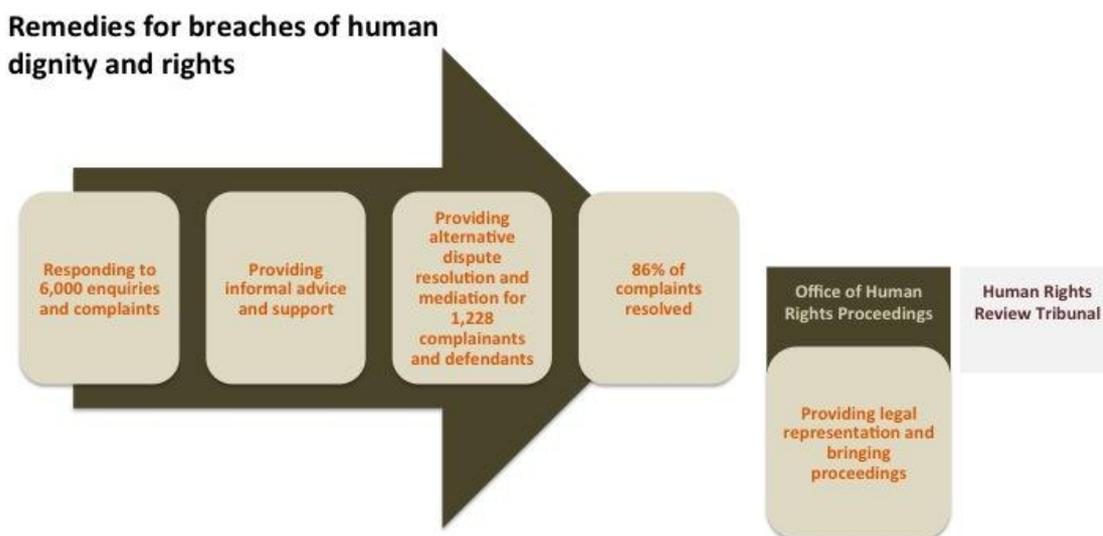
We contribute to the monitoring of New Zealand's compliance with international human rights instruments. Two of the international conventions signed and ratified by the New Zealand Government have special monitoring mechanisms. Under the Optional Protocol for the Convention against Torture, the Commission coordinates the activities of the National Preventative Mechanisms, including the preparation of an annual report to Parliament on the treatment of people in detention. This involves coordination with the Ombudsman, Independent Police Conduct Authority (IPCA), Office of the Children's Commissioner and the Inspector of Service Penal Establishments. We also work with the Disability Convention Coalition and the Ombudsman to report annually on the implementation of the Convention on the Rights of Persons with Disabilities.

The Commission, reporting to United Nation treaty monitoring bodies, works with government and civil society; providing reports, advice and technical assistance in response to periodic compliance examinations. Over the next four years we will be involved in monitoring compliance with the: International Covenant on Civil and Political Rights; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Rights of the Child; as well as New Zealand's third Universal Periodic Review. The Commission's involvement ensures that relevant issues for affected people are considered by Treaty bodies and recommendations to the Government are appropriate

We will also continue to monitor and report on the performance of Crown entities in meeting their statutory "good employer" obligations. We have been carrying out

this function for seven years and have developed an effective mechanism to assess performance across seven key elements

## Responding to, and resolving, complaints of unlawful discrimination



We are committed to finding better remedies for breaches of human dignity and rights. We provide a process for discrimination complaints to be resolved in variety of ways, including through non-judicial mechanisms.

The Commission has a triage process to respond to all enquires and complaints. A specialist call centre makes an initial assessment and they are often able to help complainants resolve issues or refer them to a more appropriate agency. Close to 50 per cent of all initial complaints to our Infoline are resolved at this stage.

The Enquiries and Complaints Team provides a confidential and impartial service to help resolve complaints of unlawful discrimination or other breaches of human rights. Our approach centres on dispute resolution and mediation. This enables both parties to understand the human rights issues through open communication and active participation. In the majority of cases, it also helps both parties arrive at a workable solution. Often this entails making positive systemic changes, which

help with the realisation of human dignity and rights, as well as reducing the potential for complaints to arise in the future. We manage to resolve approximately 86 per cent of all complaints through alternative dispute resolution and mediation. This is particularly cost and relationship effective when compared to resolution through the Employment Relations Tribunal, Human Rights Review Tribunal or the Courts.

Given that these numbers have remained relatively static in recent years, our planning and budgeting is based on managing similar levels of demand each year.

Parties have the option to take any unresolved complaints to the Human Rights Review Tribunal. The Office of Human Rights Proceedings can, if the Director so determines, provide free legal representation to complainants that wish to take proceedings.

### Providing legal representation and bringing proceedings

The Office of Human Rights Proceedings (OHRP) provides legal representation under the Human Rights Act 1993 and brings proceedings under the Privacy Act 1993.

#### **Human Rights Act 1993**

The Director of Human Rights Proceedings can provide applicants with publicly-funded litigation assistance where complaints have not been resolved through the Commission dispute resolution process. The decision as to whether litigation assistance can be made is one for the Director to make independently of the Commission. Applications for representation are assessed against the criteria set out in the Human Rights Act 1993. For example, the Director considers whether providing representation would be in the public interest and whether it would be an effective use of resources. If assistance is offered, it is free of charge and typically includes representation in the Human Rights Review Tribunal.

The Director may also consider applications from the Commission for representation in proceedings before the Human Rights Review Tribunal or related proceedings.

### **Privacy Act 1993**

The Director may bring proceedings in the Tribunal involving the alleged breach of the privacy of an individual, if the Office of the Privacy Commissioner refers the matter to the Director.

The Director can also intervene in Privacy Act proceedings brought by other plaintiffs, and is likely to do so if the proceeding raises important legal issues.

## What we intend to achieve

<b>Goals</b>	People in New Zealand live together harmoniously, sharing a common respect for each other's inherent dignity and human rights		
<b>Outcomes</b>	An inclusive society where people actually participate in decisions which affect them and feel that they belong.	Equality of opportunity and non-discrimination.	Fair, transparent and accountable decision-making.
<b>Impact</b>	Effective engagement of specific groups in decision-making affecting them and in the design of their communities Development of a culture where violence and abuse is not tolerated or unreported	Increased adoption of effective policies and practices that provide for equality of opportunity and non-discrimination	Increased observance of procedural safeguards by decision-makers when exercising their legislative, oversight and public sector management responsibilities Better remedies for breaches of human dignity and rights
	People and organisations that have legal obligations in respect and protect human dignity and rights do so		
	More people in New Zealand know and practice their rights and fulfil their responsibility to respect the human dignity and the rights of others		
	Executive, legislature and judiciary Local decision-makers Business and civic society	<ul style="list-style-type: none"> <li>a Work and education</li> <li>b Health and housing</li> <li>c Violence and abuse</li> </ul>	
<b>Outputs</b>	Education, promotion and advocacy for human rights, dignity and harmonious relations between diverse population groups.	Monitoring and reporting on compliance with New Zealand human rights legislation and international human rights instruments/norms	Responding to, and resolving, complaints of unlawful discrimination. Providing legal representation and bringing proceedings Providing advice and guidance on important human rights issues before the Courts
<b>Inputs</b>	<b>Financial resources</b>  Vote Justice: Equity promotion and protection services \$9,396,000	<b>People</b>  Experienced and expert Commissioners and staff Well-established national and international networks	<b>Knowledge, Systems and Processes</b>  Application of knowledge and practice drawn from national and international experts and institutions Effective systems and processes

## **Goal**

People in New Zealand live together harmoniously, sharing a common respect for each other's inherent dignity and human rights.

## **Outcomes – what we intend to achieve**

- 1 An inclusive society where people actively participate in decisions which affect them and feel that they belong
- 2 Equality of opportunity and non-discrimination
- 3 Fair, transparent and accountable decision-making

## **Impact – the difference we will make**

- 1 Effective engagement of specific groups in decision-making affecting them and in the design of their communities
- 2 Development of a culture where violence and abuse is not tolerated or unreported
- 3 Increased adoption of effective policies and practices that provide for equality of opportunity and non-discrimination
- 4 Increased observance of procedural safeguards by decision-makers when exercising their legislative oversight and public sector management responsibilities
- 5 Better remedies for breaches of human dignity and rights
- 6 People and organisations that have legal obligations to respect and protect human dignity and rights do so
- 7 More people in New Zealand know and practice their rights and fulfil their responsibility to respect the human dignity and rights of others.

## **Impact – Key areas and settings**

- 1 Executive, legislature and judiciary
- 2 Local decision-makers
- 3 Business and civil society
- 4 Work and education
- 5 Health and housing

6 Violence and abuse.

### **Outputs – What we do**

- 1 Education, promotion and advocacy for human rights, dignity and harmonious relations between diverse population groups
- 2 Monitoring and reporting on compliance with New Zealand human rights legislation and international human rights instruments/norms
- 3 Responding to, and resolving, complaints of unlawful discrimination
- 4 Providing advice and guidance on important human rights issues before the Courts.

### **Inputs – The resources we use**

- 1 Financial resources
  - Vote Justice: Equity promotion and protection services \$9,396,000
- 2 People
  - Experienced and expert Commissioners and staff
  - Well-established national and international networks
- 3 Knowledge, Systems and Processes
  - Application of knowledge and practice drawn from national international experts and institutions
  - Effective systems and processes.

## The health and capability of our organisation

The Commission has increased in capability and ensures that resources are aligned to our strategic objectives. We are delivering services differently – with an external focus on issues that have the greatest impact on human rights issues facing people in New Zealand.

Like all organisations we are committed to continuous improvement and delivering in a way that is value for money.

### Strategic alignment

We will implement a communications and engagement strategy that will increase our reach and relevance to all our stakeholders.

We will develop capability to identify, describe and quantify human rights indicators and places where New Zealand can improve; establish, develop and maintain strategic relationships with audiences and partner organisations; and develop a portfolio of interventions to effect social change. We will also increase business development capability to find new revenue or resources.

### Performance

The Commission will be results oriented. Our emphasis will be on being nimble and responsive enabling us to seize emerging opportunities and reprioritise to respond quickly to unexpected issues. Building the capacity of our staff to deliver this *Statement of Intent* is another key area of focus.

We are committed to being a good employer and providing equal opportunities for all staff. We do have special regard to recruit staff with lived experience of specific population groups, those that are under-represented in employment such as women, Māori, other ethnic and minority groups, and disabled people. The diversity of staff enriches the work that we do and helps ensure that we are familiar with the experiences of our target population groups.

We have developed a range of policies and practices across the seven good employer elements. In this regard, we are able to compare our performance against, and draw good practice from, all other Crown entities as part of our monitoring function on behalf of the Government.

## **Culture**

Our staff believe in what the Commission is trying to accomplish. Our ability to unite in support of the protection, promotion and realisation of human dignity and rights creates a strong sense of engagement. Staff are able to see how their work contributes to our strategic outcomes and they derive satisfaction from working with people to build harmonious relations between individuals and across diverse population groups.

Our values are important to us and inform how we conduct ourselves:

- 1 mana tangata – human dignity
- 2 maia, tika pono – courage and integrity
- 3 whakawhanaugatanga – relationships.

We will measure engagement through an annual survey. This allows us to compare our performance against comparable public sector organisations.

## **Financial sustainability**

The Commission is taking proactive steps to ensure its long-term financial sustainability. There will not be any changes to our appropriation and the baseline will remain static for the foreseeable future. Our strategic and financial planning is focused on core business and implementing fiscally responsible and realistic budgets.

The Board has agreed to a systematic reduction in accumulated funds, and the purpose of reserves which is for peaks in expenditure associated with the implementation of National Plans of Action following the Universal Periodic Review process and other cyclical activities.

Opportunities to improve the efficiency and effectiveness of our service delivery and to save on operational and other overheads will be exercised.

## Assessing Performance

The Commission will assess performance through a range of measures that consider the quality, quantity and timeliness of our services. These measures are set out in the Statement of Performance expectations.

An output of the National Plan of Action will be a set of human rights indicators to measure New Zealand's performance against international standards.

These indicators will measure both the long term impacts of interventions that New Zealand undertakes, as well as the Commission's performance in contributing against these indicators.

We have set quality measures for those of our products and services that involve the production of case studies, reports and resources. The most appropriate quality measures are selected for each output, and these are specified in the performance measures. Quality measures are:

- 1 **Participation:** where appropriate, the views of affected parties are considered and ways to have their views communicated are incorporated into the advice or guidance as assessed by systematic feedback
- 2 **Thoroughness:** evidence-based, accurate and appropriate in that all relevant issues are identified and covered, relate to relevant human rights standards, are based on research and analysis, viable options are described and assessed, and practical proposals are presented when appropriate
- 3 **Accessibility:** advice and guidance is presented in a style and in formats and languages that are easily useable by core audiences and is an approach appropriate to the intervention
- 4 **Value:** advice, guidance and interventions are found to be useful and timely to government and civil society in developing or assessing the relevant legislation, policy or program proposal.

For those services to the general public we measure response times and customer satisfaction.

## Review of our international accreditation

In 2016, we will have our accreditation as a National Human Rights Institution (NHRI) reviewed. This process takes place every five years. It entails the Commission being independently assessed against strict criteria.<sup>2</sup> Accordingly, this measure is included in our *Statement of Performance Expectations*, as a proxy of the Commission's independence, credibility and effectiveness.

The process of accreditation is by peer review; involving a sub-committee of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) and approval of the Bureau on behalf of the United Nations. The assessment criteria include a review of Commission's:

- 1 competence and areas of responsibility
- 2 composition, independence and pluralism
- 3 operations, including the impartiality of the compliant resolution service and expert legal assistance provided by the OHRP.

Aspects of these criteria are the mandate of government, including the appointment of Commissioners and the funding allocated to the Commission. Therefore, achievement of this performance indicator is not the sole responsibility of the Commission.

NHRIs which are awarded A-status are recognised for their credibility and professionalism. It shows that the NHRI "is legitimate, relevant and effective in promoting human rights at the national level" (OHCHR, 2012). A-status also

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<sup>2</sup> The basis for NHRI accreditation is compliance, both in law and practice, with the *Principles Relating to the Status of National Institutions for the Promotion and Protection of Human Rights* adopted by the United Nations General Assembly in 1993.

provides formal participation in the United Nations Human Rights Council and engagement with other UN treaty bodies.

Retention of A-status to the Commission would not only recognise exemplary performance, it also serves to enhance New Zealand's reputation – reinforcing our international standing. This is important at a time when New Zealand is seeking to have greater international influence.



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