

Human Rights
Commission
Te Kāhui Tika Tangata

Annual Report 2009

Rīpoata ā tau rua mano mā iwa



Human Rights Commission
Te Kāhui Tika Tangata

The Office of Human Rights Proceedings
Te Tari Whakatau Take Tika Tangata

Te Kāhui Tika Tangata is the korowai or cloak of the Human Rights Commission.

Te kāhui embraces those who gather together under the kaupapa of human rights and symbolises both their protective role and the Commission's role in promoting them.

Tika tangata refers to our human rights and responsibilities, suggesting the highest imperatives of respect and conduct.

The design of the Commission's logo derives from the traditional art of Taniko, the weaving used to make korowai. Taniko is a uniquely New Zealand art form.

In particular, the knots and hanging threads at the bottom of the cloak are characteristic of the design.

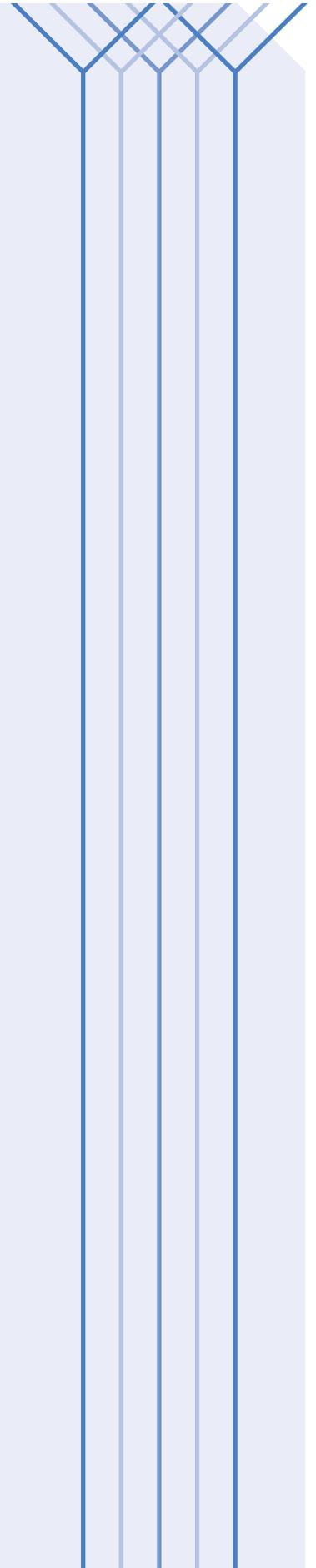
The Commission's logo symbolises the many muka or strands that are woven together, representing both the uniqueness of individuals and our collective identity – our diversity and our unity. The muka emphasise our interconnectedness and interdependence. The pona (knot) secures the threads. Together they make up the korowai of our human rights and responsibilities.

He tangata kē koutou

He tangata kē mātou

I roto i tenei whare

Tātou tātou ē





Report of the

Human Rights Commission

Te Kāhui Tika Tangata

And

The Office of Human Rights Proceedings

Te Tari Whakatau Take Tika Tangata

For the year ended 30 June 2009

Presented to the House of Representatives pursuant
to section 150 of the Crown Entities Act 2004.

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Human Rights Commission

Te Kahui Tika Tangata

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Rosslyn Noonan
Chief Commissioner
Te Amokapua

Joris de Bres
Race Relations
Commissioner
Kaihautū Whakawhanaunga
ā Iwi

Judy McGregor
EEO Commissioner
Kaihautū Ōriteanga Mahi

Robyn Hunt
Commissioner
Kaihautū

Karen Johansen
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Joy Liddicoat
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Jeremy Pope
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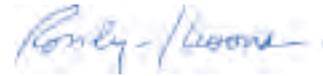
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The Hon. Minister of Justice

Minister
Pursuant to section 150 of
the Crown Entities Act 2004,
I hereby transmit to you the
Annual Report of the Human
Rights Commission for the
year ended 30 June 2009.

Yours faithfully



Rosslyn Noonan
Chief Commissioner
Te Amokapua

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Cover photo and inside back cover photo: Adrian Malloch.

Commissioner photos: Jane Ussher.

Introduction

He Whakataki

Global recession, a change of government and an increased international focus on New Zealand's human rights performance impacted on the Human Rights Commission's priorities and work programme this year.

The 60th anniversary of the adoption of the Universal Declaration of Human Rights by the United Nations on 10 December, 1948 was celebrated in communities across the country. The Commission highlighted New Zealand's role in its development.

The continuing relevance of the rights and responsibilities outlined in the Universal Declaration is demonstrated by the adverse consequences of the world economic crisis. Those who are already vulnerable have been some of the most affected.

The value to people in New Zealand of the international human rights law that developed from the Universal Declaration was demonstrated with:

- ratification of the Convention on the Rights of Persons with Disabilities
- publication and tabling in Parliament of *Monitoring places of detention*, the first annual report of activities under the Optional Protocol to the Convention Against Torture (OPCAT)
- New Zealand's 5th examination on implementation of the Convention Against Torture (CAT)
- New Zealand's first Universal Periodic Review (UPR) before the United Nations Human Rights Council.

The 2009 annual report records the contribution of the Human Rights Commission to each of these developments. It also documents the progress that has been made this year through Commission contributions to the legislative, policy and judicial processes. It highlights a major initiative – the National Conversation about Work; the record nationwide participation in Race Relations Day 21 March activities; and the growth of both the Diversity Action Programme and the annual Diversity Forum. It illustrates the breadth of the Commission's statutory functions and responsibilities and provides evidence of their impact.

The report acknowledges both achievements and challenges in:

- building community-wide understanding of and respect for human rights and responsibilities
- advocating more explicit and consistent incorporation of human rights provisions into legislation, policy and practice
- reducing discrimination, entrenched social and economic inequalities and barriers to full participation in society
- accelerating progress on equal employment opportunities
- strengthening Treaty of Waitangi relationships and understanding of the human rights dimensions of the Treaty of Waitangi
- increasing respect for cultural diversity and making provision for diverse communities in the delivery of goods and services, and
- monitoring New Zealand's implementation of its international human rights obligations.

The report provides a summary analysis of the 3489 complaints received, the cases represented by the Office of Human Rights Proceedings at the Human Rights Review Tribunal and in the Courts, and the interventions in legal proceedings undertaken by the Human Rights Commission.

HUMAN RIGHTS PERFORMANCE

An assessment undertaken by the Commission of progress in making real the recommendations of the New Zealand Action Plan for Human Rights revealed wide-ranging advances.

Among these improvements were:

- policies to reduce violence against young people
- policies to reduce poverty
- improved access to healthcare
- improvements in social and economic indicators for Māori and Pacific peoples

- a revised school curriculum
- strengthening of the rights of gay, lesbian, bisexual and transgender people
- greater use of Māori language
- fostering of Pacific languages
- migrant settlement initiatives
- the integration of human rights into New Zealand's International Aid and Development agencies' policies and practices.

Yet despite significant gains, the pressing human rights issues and priorities identified by the Action Plan remain critical.

Based on the assessment, the Commission made 13 recommendations for immediate action by government in its contribution to the Human Rights Council for New Zealand's Universal Periodic Review.

They cover:

- establishment of a comprehensive and integrated UPR and Human Rights Treaty body reporting process
- full and effective incorporation of ratified international human rights standards in domestic legislation, in policy development and in public sector professional development and training
- a review of New Zealand's constitutional arrangements to give greater effect to the Treaty of Waitangi and human rights protections
- promotion of rights set out in the Declaration of the Rights of Indigenous Peoples
- support for the development of the second New Zealand Action Plan for Human Rights
- implementation of the Convention on the Rights of Persons with Disabilities, with accessible transport, education and employment as priorities
- reduction of the prison population and the disproportionate number of Māori in prison
- improved representation of women in senior management in the public service and closing of the gender pay gap

- reduction of violence and strengthening of victims' rights
- development of a national plan to combat poverty, focusing on children, disabled people and Māori and Pacific people
- commitment to full realisation of the right to education
- review of counter-terrorism and immigration legislation to ensure compliance with human rights standards, and
- Incorporation and promotion of human rights in foreign affairs, trade policies and international development assistance.

Coming so early in a new government's term of office, the May 2009 international review of New Zealand's overall human rights performance (the UPR) put human rights at the forefront of its agenda. The leadership provided by the Minister of Justice, the Hon. Simon Power, throughout the process was crucial to its credibility, to its potential to strengthen human rights protections in New Zealand, and to enhance New Zealand's international reputation.

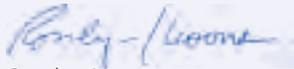
The Commission welcomed the Minister's clear statement of the Government's commitment to respecting and strengthening human rights nationally and internationally. The statement was particularly significant given the increasing impact of the global recession. In an environment of such global and domestic insecurity, a strong human rights approach is of particular importance. Without it, economic deterioration is likely to impact disproportionately on those whose realisation of human rights, particularly economic, social and cultural rights, is already tenuous.

The Commission has noted with concern the numbers of New Zealanders facing serious hardship, as indicated by increased mortgagee sales and a worsening labour market.

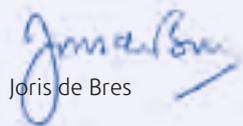
The challenge for the Government is to reflect that stated commitment in its legislative and policy initiatives and financial decisions.

ACKNOWLEDGEMENTS

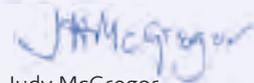
Working with others – government agencies, Crown entities, businesses and unions, community groups and non-governmental organisations, academics and educational institutions has been central to the Commission’s effectiveness. The range and impact of the work undertaken would not have been possible without the dedication and skills of the Commission staff, led by Executive Director Joanna Collinge.



Rosslyn Noonan



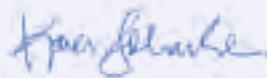
Joris de Bres



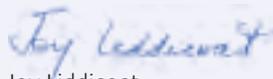
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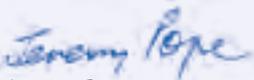
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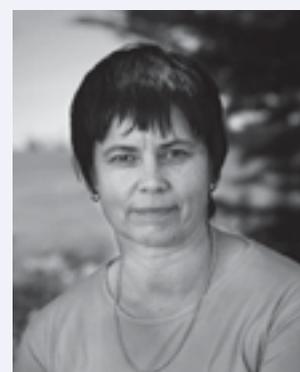
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Richard Tankersley
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The Human Rights Environment

Te Taiao Tika Tangata

GOAL

Human rights standards are incorporated in New Zealand's law, upheld in policy and delivered in practice.

OVERVIEW

Human rights in New Zealand were in the spotlight this year, with the celebration of the 60th anniversary of the adoption of the Universal Declaration of Human Rights, New Zealand's first report to the United Nations Human Rights Council under the new Universal Periodic Review process, and ratification of the Convention on the Rights of Persons with Disabilities.

The impact of the global recession on the New Zealand economy, with the consequent loss of jobs and the review of government spending, raised concern that human rights improvements over the previous decade, particularly in relation to economic, social and cultural rights, might be lost.

In December 2008, the Commission posted a mid-term review of implementation of the recommendations of the New Zealand Action Plan for Human Rights, The Next Step, on its website, seeking comments. The feedback was supplemented by focus group research to identify the human rights issues of most concern to Māori, Asian communities and the general public. The consultation will inform the development of the 2010-2015 Action Plan, which will set the strategic priorities for the Commission's future work.

The Action Plan mid-term review and the Commission's report to the United Nations Human Rights Council on New Zealand's human rights achievements and challenges provided evidence of progress, as well as a clear indication of where New Zealand still has to do better.

The 2008 election and subsequent formation of a new coalition Government resulted in a busy legislative programme. The Commission has responded to human rights issues raised by proposed legislation, through the traditional channels of submission to and appearances before Select Committees. This year there has also been

a welcome increase in requests to the Commission to provide authoritative human rights analysis early in policy development and legislative drafting.

The Commission's monitoring increasingly finds the incorporation in legislation and policy, at least in part, of relevant human rights standards.

The Commission has also worked to strengthen New Zealand's human rights jurisprudence by actively seeking more opportunities to intervene in cases before the courts. Three cases this year have focused on the definition of discrimination, what constitutes an appropriate comparator, how disability is defined, and what constitutes "reasonable accommodation" in cases of disability discrimination.

Meanwhile the year has seen further progress on the Commission's strategic priorities, namely to: realise the right to education for children and young people; reduce discrimination experienced by transgender people; foster human rights community development; and enhance access for all New Zealanders to a high quality enquiries and complaints service that offers an efficient and effective way to resolve complaints of unlawful discrimination.

In the 12 months ending 30 June 2009, the Commission received 3489 complaints seeking the Commission's intervention, of which 1405 raised issues of unlawful discrimination and 2084 raised broader human rights issues. The Commission created new protocols to address broader human rights issues in a timely and effective manner.

LEGISLATION AND POLICY

The Commission advocated for the incorporation of human rights standards in legislation, policy and practice in 56 submissions to Parliament, and in responses to consultation documents. It has also responded to requests from government agencies for human rights expertise in the early stages of policy development.

One issue consistently raised by the Commission is the importance of robust disaggregated statistical data in

order to monitor and report on the realisation of human rights. The requirement for such data was detailed in submissions to Statistics NZ about the review of disability and criminal justice statistics and the design of the 2011 census.

Examples of legislation and other regulatory instruments incorporating human rights standards and specific Commission proposals include:

- *Policing Act 2008*: the principles in the new Policing Act specifically require policing services to be provided in a manner that respects human rights
- *Affordable Housing: Enabling Territorial Authorities Act 2008*: allows for covenants to be voided if they prevent land being transferred to organisations such as Women's Refuges or for use as community housing
- *Urban Bus Standard*, New Zealand Transport Agency: provides minimum standards for some elements of accessibility, including wheelchair space, width for doors and the aisle, standards for bus stopping signals, and standards for compatibility with visual and audio announcement equipment.

Submissions on proposed legislation included:

- Domestic Violence (Enhancing Safety) Bill
- Immigration Bill
- Social Assistance (Payment of New Zealand Superannuation and Veterans Pension Overseas) Amendment Bill
- Local Government (Auckland Council) Bill
- Criminal Justice Amendment Bill (Name Suppression)
- Children, Young Persons, and their Families (Youth Courts Jurisdiction and Orders) Amendment Bill
- Sentencing and Parole Reform Bill
- Corrections (Contract Management of Prisons) Amendment Bill.

Responses to consultation documents included the Law Commission's proposals on compensating crime victims and tribunal reform; a Plan of Action to Prevent People Trafficking; options for improving sexual violence

DOMESTIC VIOLENCE POLICY CLEAR ON HUMAN RIGHTS

The Commission's recommendation that the *Victims of Domestic Violence Immigration Policy* should include an explicit reference to the relevant international instruments was adopted by Cabinet. Cabinet agreed to the inclusion of an objective linking the policy to the Convention on the Elimination of Discrimination against Women (CEDAW) and to the Convention on the Rights of the Child (UNCROC). The policy itself reflects work the Commission has done in relation to the immigration status of women who have been subject to domestic violence.

legislation; and a domestic violence policy for non-permanent residents.

In the education sector, the Commission submitted on the Code of Practice for the Pastoral Care of International Students and the New Zealand Teachers Council (Impairment Process) rules.

Health-related submissions were made on the Review of Health and Disability Commissioner Act and Code; a draft Cabinet Paper on embedding health impact assessment in central government decision making; and the Mental Health Commission's draft discussion paper on Affirming Human Rights in the Mental Health and Addiction Sector.

Where it has identified a persistent, systemic human rights issue and a lack of information and analysis, the Commission has published discussion papers, guidelines or research reports.

This year, these have included a comprehensive draft paper on New Zealand Superannuation and Overseas Pensions, *A first principles approach to developing options to improve equity for all stakeholders*, produced by the Retirement Policy and Research Centre, under contract to

the Commission; and to assist school boards of trustees, principals and parents, the booklet *Religion in New Zealand Schools: Questions and Concerns*, in conjunction with the School Trustees Association and Victoria University. Other publications are recorded in subsequent sections of this report.

LITIGATION

Over the reporting period the Commission intervened in three cases. The interventions dealt with the definition of discrimination, the question of appropriate comparator groups, the definition of disability, and what constitutes reasonable accommodation.

Melanie Trevethick v Ministry of Health (2009) NZAR 18

Ms Trevethick suffers from multiple sclerosis. She considers that if her disability had been caused by an accident, rather than illness, she would have received greater financial support as a result under the ACC regime. She complained therefore that the Ministry of Health's equipment funding policy was discriminatory on the grounds of disability under Part 1A Human Rights Act.

The Ministry applied to have the claim struck out as not disclosing a tenable cause of action, because there was no appropriate comparator and the definition of disability did not apply in these circumstances. The Human Rights Review Tribunal struck out the claim on the ground that the definition of disability in the HRA was exhaustive and did not include the cause of the disability. Melanie Trevethick appealed to the High Court arguing that the Tribunal was incorrect and disability should be interpreted as including the cause of disability. She was unsuccessful and sought leave to appeal further to the Court of Appeal under s.123(4) of the Human Rights Act. On 26 June 2008, the Court of Appeal dismissed the appeal.

The Commission intervened on the definition of discrimination and to clarify the meaning of disability.

Smith v Air New Zealand Ltd (2008) 8HRNZ 639

The Commission intervened in the High Court appeal against an aspect of the decision of the Human Rights Review Tribunal in Valerie Smith v Air New Zealand HRRT 037/2002. The Tribunal had found that while Air New Zealand had discriminated against Valerie Smith by reason of her disability, the airline could be said to have reasonably accommodated her requirements.

The Director of Human Rights Proceedings, acting for Ms Smith, appealed the Tribunal's finding on reasonable accommodation. Air New Zealand cross-appealed on the issue of discrimination. The Commission intervened in order to identify the appropriate standard of reasonable accommodation.

The High Court found that there was no discrimination because the Tribunal had relied on the wrong comparator. As there was no discrimination, the Court was not required to address whether Air New Zealand had reasonably accommodated Ms Smith's disability. The High Court has granted the Director leave to appeal the decision to the Court of Appeal. The Commission will again intervene.

McAlister v Air New Zealand (2009) NZSC 78

In McAlister v Air New Zealand a pilot claimed he had been discriminated against because of his age when he was demoted because he could no longer fly Boeing 747 aircraft to certain countries as he was 60. The Commission appeared as intervener to address the issue of how a comparator should

be constructed in order to establish discrimination. The Commission took the position that where it was necessary to identify a comparator it should be done in a non-technical manner, so as not to undermine the purpose of the legislation.

The Supreme Court allowed Mr McAlister's appeal, the majority finding that the Court of Appeal had applied the wrong comparator. This meant that Air New Zealand had discriminated against Mr McAlister. Having concluded that the demotion was discriminatory, but that age was a genuine qualification, the case was remitted to the Employment Court. The Employment Court is to decide whether Air New Zealand could establish that it was, reasonably, unable to adjust its activities to accommodate Mr McAlister, given that he could not fly Boeing 747s to certain countries.

The decision is significant, not only because of the Court's comments about comparators, but also because it clarifies that one of the prohibited grounds only has to be a material factor in the discrimination, not a substantive and operative one.

RIGHT TO EDUCATION FOR CHILDREN AND YOUNG PEOPLE

The Commission supports the Human Rights in Education (HRIE) initiative, which assists schools and early childhood education centres to become human rights communities focused on rights, responsibilities and respect. Over this period, HRIE has established an Early Childhood Education Advisory group and run its first national HRIE Implementation Workshop for principals and senior staff. This year 10 new schools joined the initiative and 36 more are exploring this option.

In March the Commission published a human rights review of the legislative and policy framework covering school violence, bullying and abuse. This emphasised the

importance of treating violence between students at school as seriously as violence involving adults or incidents outside school.

The Commission's analysis of legislation, regulations, policies and guidelines revealed significant gaps, which were raised in comments on the Ministry of Education's revised Guidelines on Stand-downs, Suspensions, Exclusions and Expulsions.

A June 2009 Commission paper analysed the extent to which the right to education is realised for disabled children and young people in New Zealand. It concluded that there are significant outstanding issues for disabled students in all four components of the right to education, namely limitations on the availability, accessibility, acceptability and adaptability of education services. The paper recommended a programme of work to address these issues, including engagement with the government's review of special education announced in April 2009.



Students from Lower Moutere Primary School illustrate how they see human rights

THE TRANSGENDER INQUIRY

This year has seen sustained progress towards addressing the Transgender Inquiry's recommendations, including a two-day national training hui in March for over 40 trans people working on human rights issues within their communities. The focus has been on experiences of discrimination, access to health services, and barriers to changing sex details on official documents and gaining full legal recognition.

In 2008/09 the Commission held 17 briefings to more than 365 people, worked with 13 government agencies around 18 actions, and organised ten human rights workshops delivered jointly with local trans people to almost 400 people in Palmerston North, Wanganui, Auckland and Wellington.

A legislative amendment enabled overseas-born trans people who are New Zealand citizens or permanent residents to obtain a Family Court declaration recognising their appropriate sex details. The Commission worked with the Ministry of Justice to ensure that guidance to Family Court staff was updated to reflect this legislative change.

The Commission supported the Ministry of Health in drafting terms of reference for a Working Group of health professionals and trans people which will, in 2009/10, develop guidance on ways to improve access to and consistency of gender reassignment health services for trans people.

The Commission supported the Department of Labour draft fact sheets for employers and employees on gender identity workplace issues, which were then put out for consultation.

COMMUNITY DEVELOPMENT

Community development provides the Commission with an effective and sustainable approach to building understanding of and respect for human rights generally, and economic, social and cultural rights in particular.

Communities given knowledge, training and support are empowered to identify, advocate for, and resolve

their own human rights issues. They are also able to foster human rights approaches in local planning and decision-making.

TAKU MANAWA

This financial year Taku Manawa, the project to build human rights knowledge and expertise in regional areas, was extended to Murihiku/Southland. Thirteen participants graduated from the training programme in May with the NZQA Adult Education Standard in adult facilitation, provided in collaboration with the Southern Institute of Technology.

The first year of the Tai Tokerau/Northland project was completed with an evaluation hui in February. Northland participants have undertaken 55 human rights interventions (workshops, presentations, submissions and advocacy support). The Commission has formed partnerships in Tai Tokerau with six agencies.

Tairāwhiti/East Coast has created a community-based human rights network to sustain and support community-based human rights initiatives. The Commission facilitated a refresher course in May with Tairāwhiti Polytechnic.

In September Taku Manawa Tai Tokerau hosted a delegation from the Commission on Human Rights of the Philippines, as part of an NZAID funded community development project.

Disabled People

Te Hunga Haua

GOAL

Disabled people are respected for who they are and are able to participate fully in New Zealand society.

OVERVIEW

The right of disabled people to participate fully in New Zealand society continues to be a major focus of the Commission's work. The Commission is concerned at persistent barriers that prevent disabled children and young people from accessing education. An analysis of complaints to the Commission indicates that the established pattern of difficulties has barely changed over the last five years. The first four regional visits as part of the National Conversation about Work indicate that disabled people are being disproportionately affected by the recession. There has been some progress towards achieving a fully accessible public land transport system, but there is still a need for a more coordinated, systematic approach to transport accessibility guided by disabled people, if all New Zealanders are to be able to use this vital public service in the foreseeable future.

New Zealand's ratification of the Convention on the Rights of Persons with Disabilities (the Disability Convention) provides the framework to plan, implement, monitor and evaluate progress towards a fully participatory society.

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

The Disability Convention was ratified by New Zealand after the passing of legislation to ensure that New Zealand's domestic law was consistent with the provisions of the Convention. The Convention is unique among international human rights treaties, in that it requires:

- A partnership is established with disabled people and civil society to contribute to the implementation and monitoring of the Convention
- A monitoring body is designated to provide independent advice to government. Where national human rights institutions exist, the Convention anticipates that they will have a major role in this function

- A focal point is established within government to coordinate implementation across all departments, programmes and policies.

The Commission has continued to lead the implementation of the Convention by promoting discussions with disabled people, government and civil society as to how

PROFESSOR QUINN ON DISABLED PEOPLE'S RIGHTS

The Commission and Auckland Disability Law co-hosted a visit by Professor Gerard Quinn, a member of the Irish Human Rights Commission and a world authority on disabled people's rights and partnership arrangements with disabled people. He spoke at a Parliamentary breakfast, facilitated two workshops with disabled people and participated in a number of discussions with disabled people, government officials and non-governmental organisations.

Quinn told a Parliamentary breakfast that the Convention "meets a longstanding demand of the disabled community to adopt and adapt the general human rights to which we are all accustomed and tailor them to the disability content to ensure they are real and not just rhetorical."



Professor Gerard Quinn of the Irish Human Rights Commission and an international expert on human rights and disability, with Commissioner Robyn Hunt.

to reflect these unique challenges in New Zealand's institutions.

The Government, in presenting its first Universal Periodic Review on human rights to the United Nations Human Rights Council on 7 May 2009, identified the full implementation of the Disability Convention as one of its key priorities for the next four years.

The Commission is the most appropriate organisation to provide independent advice to government on the promotion, protection and monitoring of the Convention because of the ability to:

- investigate complaints
- inquire into infringements
- intervene in court cases
- conduct and sponsor independent research
- engage with the international human rights framework

To carry out this role effectively requires statistics that enable the enjoyment of rights by disabled people, other minority groups and the population generally to be compared. The Commission made representations to the government to change the emphasis of the Disability Census to be held in conjunction with the national census in 2011, to develop separate disaggregated statistics, and to develop an outcomes framework with indicators.

WORKSHOPS ON THE CONVENTION

In October 2008 the Human Rights Commission took part in a Thames-based Mental Health Forum in association with Te Korowai Hauora O Hauraki. The event was attended by community sector organisations from the region, political representatives, and employees from the Department of Corrections. The Commission's representative gave background on the Convention on the Rights of Persons with Disabilities and the impact and implications for New Zealand. This led to further requests for resources and education in the region.

RIGHT TO EDUCATION

The Commission completed an initial report on the barriers to the right to education for disabled children and young people. An analysis of complaints to the Commission since January 2002 indicates that the main issues are:

- difficulties in enrolling at their local school or school of choice
- the provision of support services and reasonable accommodation measures
- stand-downs, suspensions, exclusions and expulsions not taking account of disability-related issues
- exclusion from wider school activities such as school camps and field trips.

The Commission plans further work, including contributing to the government review of special education announced earlier this year. The emphasis will be on ensuring that inclusive education, as defined in the Disability Convention, is a reality for all disabled people.

ACCESSIBLE PUBLIC LAND TRANSPORT

The Commission has worked in partnership with a group of disabled people and NGOs, the Accessible Transport Action Committee, to ensure that a fully accessible public transport system benefits all New Zealanders. The New Zealand Transport Strategy 2008 commits the government to developing a fully accessible public transport system, while acknowledging there are significant issues.

Initiatives completed this year include:

- new accessibility standards for urban buses; over time, as contracts get renewed, a uniform standard of accessibility for urban bus services will be established
- the Public Transport Management Act 2008, enabling regional councils to impose accessibility requirements on commercial public transport operators
- improvements to the training requirements for the P licence endorsement required for bus and taxi drivers.

The Accessible Journey Hamilton pilot research study was completed in early 2009. The study, a collaboration

REACHING OUT

The Commission worked on a range of initiatives to ensure its services and publications were more widely accessible. These included:

- a newsletter, **Manahau** (Strength and Resilience), launched to cover the Commission's involvement in disability issues
- upgrading the Commission website with text magnification
- posting NZ Sign video of key information on the website



- providing key Commission resources in alternative formats, including HTML
- providing National Conversation about Work resources in accessible formats
- providing interactive forums for e-newsletter subscribers
- online complaints form

between central, local and regional government, disability advocacy organisations, the bus operator and the Commission, concluded that accessibility features designed to remove barriers for disabled people resulted in more accessible services for all users. The study's final report makes a number of practical recommendations about bus and bus stop design, accessible information and the use of tactile surfaces.

In the coming year the Commission will conduct a comprehensive review of progress in implementing the

recommendations in the Accessible Journey report. This will include a survey of disabled people's experience using public land transport three years after the report was completed.

EMPLOYMENT

Findings from the first four regional reports from the National Conversation about Work indicate that disabled people are being disproportionately affected by the recession. Disabled people and those supporting disabled people to get and keep work indicate that:

- part-time work for disabled people is increasingly hard to find and keep
- there is a growing lack of interest from employers in disabled people as employees
- a tight labour market means more competition for jobs
- people on the sickness and invalids benefits are not getting the same support in finding work as those on the unemployment benefit.

Practical policy and programme solutions to counter the employment discrimination faced by disabled people will be a major focus of the National Conversation final report, due in 2009-10.

LEGAL INTERVENTION

The Commission continues to seek clarity from the courts on the meaning of "reasonable accommodation" in the Human Rights Act 1993. In August, the Commission made written submissions to the High Court in *Smith v Air New Zealand Ltd*, endorsing the Human Rights Review Tribunal's approach to discrimination, and seeking to clarify the meaning of reasonable accommodation in the light of New Zealand's ratification of the Disability Convention. The High Court concluded that Air New Zealand had not discriminated against Ms Smith, and therefore it was not required to consider whether the airline's accommodation had been reasonable. The decision is being appealed, and the Commission has been granted leave to intervene.

Race Relations

Whakawhanaungatanga ā Iwi

GOAL

Relations between the diverse groups that make up New Zealand society are harmonious, based on equality, mutual understanding and respect.

OVERVIEW

Reflecting New Zealand's increasing diversity, the General Election in November produced the most ethnically diverse Parliament ever, with increased numbers of Pacific and Asian MPs. The overall total of Māori, Pacific and Asian MPs rose to 31 out of a Parliament of 122 members.

Many organisations, including community groups, faith communities, museums, galleries, libraries, media, businesses, and central and local government are responding to diversity in positive and creative ways. Examples of these are recognised in the Commission's monthly acknowledgments of positive contributions to race relations, and the annual diversity awards.

The Commission's survey of perceived discrimination found that discrimination against Asian people had increased. A man was convicted of the race-hate murder of a Korean backpacker on the West Coast five years previously, and there were a number of reported incidents of race-hate crime in the media. In the absence of data collection on race-hate crime by the Police, it remains difficult to gauge the extent of the problem.

Police relationships with the community remained in the spotlight with the downstream effects of Operation 8, and with Asian Aucklanders calling for improved policing following a number of serious crimes.

Before the recession began to bite, there was a high level of demand for temporary and seasonal migrant workers, met in part by the newly introduced Recognised Seasonal Employer Scheme and recruitment of temporary workers in the dairy industry. Along with the recruitment of international students and of business and medical professionals, this brought unprecedented diversity to provincial and rural communities.

NEW ZEALAND DIVERSITY ACTION PROGRAMME

The Commission acts as a facilitator for the New Zealand Diversity Action Programme (NZDAP), as a means of encouraging community action on race relations. At the end of June, there were 209 new or re-enrolled participants contributing 537 projects. Four networks – for language policy, religious diversity, media and diversity, and refugee issues – continued to grow. The Commission produced monthly e-newsletters and organised annual forums for each network at the New Zealand Diversity Forum.

NEW ZEALAND DIVERSITY FORUM

The annual New Zealand Diversity Forum is the signature event of the New Zealand Diversity Action Programme. It is organised by the Commission in partnership with a range of Diversity Action Programme participants. The 2008 Diversity Forum was held in Auckland and Manukau cities in August. More than 1600 people, including a high-level Australian contingent, took part in 32 forums, workshops and other events. These included a substantial discussion on Pacific peoples in New Zealand. Other events ranged from a national youth forum through to forums for professional groups, including librarians, museum staff, diversity researchers, local government and settlement support staff, teachers and dispute resolution practitioners, and public forums on a wide variety of issues. Also held in conjunction with the forum was a meeting of the Australia New Zealand Race Relations Roundtable, and a Pacific regional workshop on religious diversity in the Pacific.



The Australia New Zealand Race Relations Roundtable at the University of Auckland.

STATEMENT ON RACE RELATIONS

The Statement on Race Relations, *Race Relations in Aotearoa New Zealand, Whanaungatanga ā Iwi*, was launched at the Diversity Forum in August 2008. The Statement was developed with wide community support and engagement. It follows the Statement on Religious Diversity, which originated at the 2006 Diversity Forum and was published in May 2007. The Statement seeks to provide a human rights framework for discussion and dialogue on issues raised by our growing ethnic and cultural diversity. It is also a resource for advocacy, education and training.

RACE RELATIONS REPORT



The Commission's fifth annual review of race relations, *Tūi Tūi Tuituiā: Race Relations in 2008*, was published in March 2009. The report covers developments in relation to action on diversity, racial discrimination, the Treaty of Waitangi, human rights, migration

and settlement, language, media, religious diversity and diversity research. Key issues cited included the effects on race relations of the deepening economic recession, strengthening Crown-Māori relationships through initiatives identified in the post-election agreement between the National Party and the Māori Party, addressing Asian communities' concerns about safety, and assessing New Zealand's race relations performance in the context of the United Nations Universal Periodic Review of New Zealand's human rights record.

RACE RELATIONS DAY

Race Relations Day on 21 March was recognised nationwide with an increased number of community, local government and government events under the theme of "People in your Neighbourhood". The Commission had a



presence at 60 events throughout the country. The Race Relations Day poster was sent to 2800 schools throughout New Zealand.

DURBAN REVIEW CONFERENCE

The Race Relations Commissioner represented the Commission at the Durban Review Conference in Geneva in April. The Commission played an active role in facilitating the input of 40 National Human Rights Institutions (NHRI) represented at the conference. The conference made a series of practical commitments to more effectively combat racial discrimination. A comprehensive report was provided to the Minister and made available on the Commission's website.

MĀORI LANGUAGE WEEK

The Commission worked with Te Taurawhiri i te Reo Māori and Te Puni Kōkiri to promote Māori Language Week from 27 July to 2 August as an opportunity for all New Zealanders to celebrate Te Reo Māori. This year the theme

was Te Reo i te Hāpori - Māori language in the community and Commissioners and key staff were involved in numerous events throughout the country. The Commission also released a survey of 123 central and local government websites that examined how well the sites recognised the status of Te Reo Māori as an official language of the country.

SAMOAN LANGUAGE WEEK

The Commission worked with Faalapotopotonga mo le Aoaoina o le Gagana Samoa i Aotearoa (FAGASA), the Association of Samoan Language Teachers and other partners to promote Samoan Language Week (24-31 May), and to celebrate the language, culture and people of the fourth largest population group in New Zealand. The event was extremely popular, and a wide range of activities were held in schools and communities and listed on the Commission's website. Samoan Language Week demonstrated the effectiveness of the partnership-based approach of the New Zealand Diversity Action Programme, with the Commission supporting NZDAP participant FAGASA.

NEW MIGRANTS SETTLE IN WEST COAST

The Human Rights Commission visited a Greymouth primary school in June 2009 at the invitation of the West Coast Migrant Centre. The manager of the centre had worked with the school to produce five booklets for migrant families. The booklets were written by children to help them settle into life on the West Coast. The Commission helped to generate media coverage and the school has joined the Diversity Action Programme.

Right to Work

Tika ki te Whai Mahi

GOAL

All people in New Zealand have equal employment opportunities and access to decent and productive work.

OVERVIEW

Progress on Equal Employment Opportunities (EEO) has this year been significantly affected by the global economic recession, with job losses, employment uncertainty and fewer jobs available for first-time applicants. Changes to employment rates have impacted more severely on particular groups of people.

At the June quarter, unemployment was at 6 per cent, the highest since September 2000. There were 138,000 people officially unemployed. Disability groups report increased difficulty in finding and sustaining employment.

Greater competition for jobs and cuts to the number of jobs in the skill shortages list have had an impact on migrant communities, with greater numbers of inquiries and complaints to the Commission from refugees and migrants about employment.

The pay gap between men and women persists at 12 per cent for average ordinary time hourly earnings. In the state sector, progress on implementation of response plans to pay and employment equity reviews continues to be a concern. Changes to government priorities have resulted in the discontinuation of pay investigations recommended in response plans. The Pay and Employment Equity Unit in the Department of Labour has been disbanded. The Ministry of Women's Affairs has received an additional \$2 million over four years to undertake policy work on the gender pay gap.

Women continue to be under-represented in leadership positions within the public service. In May 2009, the Commission made a submission, as part of the Universal Periodic Review process, recommending that the government establish targets for improving representation of women in senior management in the public service, and set a minimum target of halving the gender pay gap by 2012 and eliminating it by 2020.

Flexible work legislation came into force on 1 July 2008. The Commission included an analysis of requests for flexible work made under the legislation on monitoring annual reports of good employer programmes in Crown Entities. Overall, the results show that Crown entities recognise the need for greater flexibility at work, and have responded positively.

EMPLOYER AND EMPLOYEE GUIDANCE



The Commission responded to demand from employers and employees to provide guidance on avoiding discriminatory practices at the pre-employment stage. In August, *Getting a Job: An A to Z for Employers and Employees: Pre-Employment Guidelines* was published. Demand

for the guide was so high that a reprint was required two weeks after release of the first print run of 3000 copies.

OLDER WORKER DISCRIMINATION

A toolkit for employers called "Valuing Experience: A practical guide to recruiting and retaining older workers" was produced by a working group which included Business New Zealand, the Council of Trade Unions, the Human Resources Institute of New Zealand, the EEO Trust and the Canterbury Employers' Chamber of Commerce. The EEO Commissioner and the Retirement Commissioner co-ordinated the group, and the toolkit was made available electronically to the public and private sectors. It includes case studies of a range of companies, and guidance on job redesign, phased retirement, managing performance retention and the prevention of discrimination.

GOOD EMPLOYER ADVICE

The Commission extended good employer advice to local authorities, providing assistance about workforce planning, gender representation on boards, support for

elected women members, and written advice on good employer practices. The extension of good employer advice followed an offer made by the EEO Commissioner to Local Government New Zealand at its 2008 Annual Conference. Advice to the wider state sector, private employers and trade unions was also made available in person and electronically through the National Equal Opportunities Network (NEON) website.

FAIRNESS AT WORK FOR PEOPLE WITH DISABILITIES

The Commission's External Relations advisers offered a series of human rights education workshops to people with disabilities taking part in the Workbridge life skills programme in Waitakere and Manukau from March to June 2009. The course participants reported numerous instances of pre-employment and employment discrimination. Supported by the Commission publication, [Getting A Job: An A to Z for Employers and Employees – Pre-Employment Guidelines](#), the community advisers covered broader and specific human rights issues.

WOMEN IN LEADERSHIP

A further 20 senior academic and general staff women graduated from the two residential New Zealand Women in Leadership (NZWIL) courses aimed at improving the status and representation of women in all New Zealand universities. NZWIL was formed in response to the Agenda for Change programme outlined in the New Zealand Census of Women's Participation 2008, produced by the Commission.

The EEO Commissioner assisted the formation of a Local Government Women's Network through Local Government New Zealand, an organisation to help first-time female councillors in particular to identify the mentoring and guidance they require. This followed workshops held throughout New Zealand to help

first-time local candidates, the majority of whom were women in diverse communities, to develop campaign skills.

NATIONAL CONVERSATION ABOUT WORK

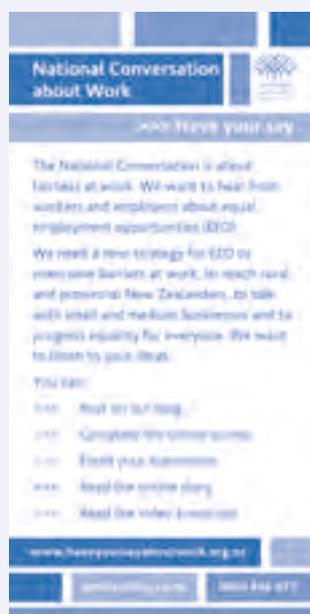
The Commission met over 1100 employers, employees and people from community groups in approximately 100 face-to-face meetings. The project is designed to reinvigorate the debate about EEO nationwide, provide practical guidance to employers, and provide an opportunity for employees to say what would make a difference for them to achieve fairness at work. In each region, the Commission has sought meetings with employers and/or employees in at least one key industry in that region, as well as seeking meetings with EEO target groups such as people with disabilities, migrant groups and women workers. The Commission is also meeting with Māori business enterprises.

Workplaces visited include a gold mine; a coal mine; clothing manufacturers and distributors; a meat works, a fish processing plant; vineyards, orchards and packing sheds; an energy company; a pet food processing plant, public and private health care providers, including hospitals, ports, schools, universities and polytechnics, food processing plants, a bank, a shearing company, a security company, an engineering firm, and both army and navy bases.

Community groups included disability groups, trade unions, migrant worker groups and older citizens groups. The Commission has met with mayors, local government representatives and economic development agencies.

An introductory DVD featuring 16 people in different work situations talking about aspects of their working lives was produced for use both in face-to-face meetings and on the website developed for the National Conversation: www.haveyoursayaboutwork.org.nz The website includes blog capability and submissions were welcomed.

Feedback from participants has been extremely positive. An evaluation survey of over 25 participant's demonstrated satisfaction with the process and support for the aims of the project.



In the seven regions covered so far, employers and employees have nominated a range of issues that either contribute to or are a barrier to progressing equal employment opportunities.

Employers have identified:

- redundancy issues and job security concerns
- managing a culturally diverse workforce
- tax incentives for Equal Employment Opportunity training in the workplace
- the impact of good employer requirements being extended beyond the state sector
- job redesign to increase workplace resilience
- issues relating to an ageing workforce
- enduring skills shortages
- a range of compliance issues
- support for the probationary period.

Issues identified by employees include:

- gender pay equity
- pay equity between workers employed in the public sector and those providing publically funded but privately provided services

- equitable pay between workers who are directly employed and those who are contracted through labour hire organisations
- the impact of the recession on equal employment opportunities
- access to childcare, including mismatches between hours and days that childcare centres are open and parents' work hours, availability issues and childcare affordability
- discrimination, in particular discrimination being experienced by people with disabilities and by migrants
- work hours, including flexible work practices, workload and shift work.

The Commission has also been asking about the effect of the recession on employment. Despite increased job insecurity, working people identify that they want to work as well as need to work. People seek pride in a job well done, workplace camaraderie and a sense of being valued, as well as material rewards.

CROWN ENTITIES

In a letter to Crown Entity Chairs dated 22 December 2008, the Ministers of Finance and State Services clearly stated their expectation that Crown entities would comply with the equal employment opportunities provisions set out in the Crown Entities Act, sending a strong signal that EEO is seen by them as being important in the public sector.

A report on the monitoring of Crown Entities annual reports was issued in late January, and shows that Crown entities continue to respond positively to the challenge of being good employers. A high number of Crown entities (92 per cent) reported either EEO or good employer provisions in their 2008 Annual Reports; this is an increase compared with 2007.

Crown entities were asked to respond to questions on flexibility and work design, in the light of the Employment Relations (Flexible Working Arrangements) Amendment Act 2007, and the growing demand by employees to

attain greater work/life balance. The results show that of those Crown entities that responded to questions on flexible work practices, 58 per cent said they had formal flexible work policies, many of which went beyond the provisions in the Employment Relations (FWA) Amendment Act 2007.

An online survey of users of the website, NEON, co-hosted with the EEO Trust, indicated the usefulness of resources. Usage of the website has increased by over 10 per cent over the year.

Human Rights and the Treaty of Waitangi

Te Mana I Waitangi

GOAL

The Treaty relationship between the Crown and Tangata Whenua operates effectively at all levels for the protection of the rights of Tangata Whenua and the benefit of society as a whole.

OVERVIEW

Crown–Tangata Whenua relationship agreements and disputes continue to dominate the Treaty of Waitangi landscape. The year has included the settlement of a number of significant Treaty claims, including the Central North Island forests. The post-election arrangements between the Māori Party and the National Party included an agreement to review the Foreshore and Seabed legislation and constitutional arrangements.

Crown support for the United Nations Declaration on the Rights of Indigenous Peoples continues to be sought by Tangata Whenua, and the Government's report to the United Nations Universal Periodic Review highlighted a number of Treaty related issues.

The Commission attended the United Nations Permanent Forum for Indigenous Issues in May 2009 in New York, the first time the Commission has attended this international forum.

The plan to establish Auckland as a "Super City" put renewed focus on the place of the Treaty in local government. Other key policy developments that have required a Treaty response include the protection of water, climate change and biodiversity.

CROWN–TANGATA WHENUA RELATIONSHIPS

The Commission's focus is on promoting constructive case studies of Crown–Tangata Whenua relationships to contribute to good practice. An initial seven case studies were discussed with network participants at the Diversity Forum in August 2008. These discussions increased awareness of relationships at community level; created a discussion about the parties to the Treaty; and increased recognition of non-government organisations as critical

to the relationships between the Crown and Tangata Whenua.

Fourteen case studies have been completed and posted on the Commission's website. In addition, links have been provided to agencies which also feature work they are doing with Tangata Whenua.

CROWN–TANGATA WHENUA ROUNDTABLE

On 25 March 2009 the Commission brought together network participants to discuss the health of their Treaty relationships. The focus was on sharing examples of good practice and lessons on how to improve Treaty relationships.

The Roundtable identified some common examples of good practice, including: the use of formal agreements; regular dialogue; shared decision-making; respect for the Treaty; valuing Mātauranga Māori; and building sustainable relationships.

Concerns were raised that Tangata Whenua have limited resources and often have to wear "many hats" to have a working relationship with the Crown. Participants said strong relationships took time to build, and all relationships needed to be based on equality, with both parties offering expertise. There were comments about isolation and the lack of opportunities for Tangata Whenua groups to share how they work with the Crown.

Participants said the Commission could assist by offering: education on how to assert their rights; a tool kit for "good practice"; and continuing to offer forums where ideas can be shared.

NETWORK

The Te Mana I Waitangi network has grown, with 1200 members at the end of June 2009. The network is very diverse. It includes organisations in the public, private and community sectors; iwi, hapū and Māori organisations; and individuals in all sectors.

For its members, the network has published five issues of the bilingual newsletter, *Whitiwhiti Kōrero*. In addition to reports on case studies, the newsletter has provided

information about the Universal Periodic Review, the Foreshore and Seabed Review, the post-election agreement between the Māori Party and the National Party, and the new education curriculum.

HUMAN RIGHTS DIMENSIONS OF THE TREATY

The Commission continues to work on key issues around the human rights dimensions of the Treaty and its place in New Zealand's constitution. A learning resource is being developed and trialled to assist people to better understand the human rights dimensions of the Treaty of Waitangi. The resource aims to clarify confusion about the Treaty, and empower participants with information that shows the Treaty belongs to all New Zealanders and is the founding document of New Zealand.

Feedback from most participants at the end of workshops and seminars indicate that they:

- are confident to speak with authority to friends, relations and colleagues about the Treaty
- see the relevance of the Treaty to their work place and community
- understand the relationship between the Treaty and human rights.

TANGATA WHENUA ENGAGEMENT

A plan for engagement with iwi and hapū has been developed. This aims to strengthen the Commission's relationships with Tangata Whenua, promote and increase access to Commission programmes and services, enhance capability to use a human rights framework for the development of those communities, and feed back community issues to assist the Commission in its work. Key relationships include those iwi and hapū who have mana whenua status where Commission offices are situated.

DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

The Commission has distributed more than 3000 copies of the bilingual booklet with the full text of the United Nations Declaration on the Rights of Indigenous Peoples.

A letter was sent to the Prime Minister urging the Government to support the Declaration. Articles from the Declaration have been used in submissions to help explain international indigenous rights standards.

Resources about the Declaration are being developed and trialled in workshops and seminars. The resources aim to assess current legislation and policy against provisions of the Declaration, align the Declaration to the Treaty, and provide a plain language text to assist communities to use the Declaration.

FORESHORE AND SEABED

The Commission's submission on the review of the Foreshore and Seabed legislation was a substantial piece of work. The Review Panel asked the Commission to provide a human rights perspective on a number of specific matters, and incorporated significant elements of the Commission's analysis in its final report, which recommended repeal of the legislation.

International Connectedness

Kāpititia ā Taiao

GOAL

New Zealand's security and prospects for sustainable development are strengthened by global respect for international human rights law.

OVERVIEW

During the year there was a significant focus on New Zealand's contribution to the development of the international human rights framework and the value of that framework to New Zealanders today.

Among the highlights were:

- celebration of the 60th anniversary of the Universal Declaration of Human Rights
- ratification of the Convention on the Rights of Persons with Disabilities
- the first comprehensive international review of New Zealand's human rights performance at the United Nations Human Rights Council.

The wellbeing of New Zealand is inextricably linked to global developments, political, economic, environmental or technological. For a small Pacific trading nation with an open economy, fair, just and effective international agreements are essential. Successive New Zealand governments have contributed actively to the development of international law and procedures, in relation to trade, the environment, defence and security, and human rights.

International human rights treaties provide the basis for domestic law and for measuring how well human rights are promoted and protected in New Zealand. They require New Zealand to report periodically and be assessed internationally against their provisions. The Commission's programme of work includes significant responsibilities to advocate for and monitor New Zealand's compliance with the human rights treaties. This year saw a significant expansion of the Commission's monitoring responsibilities with respect to international treaties and mechanisms.

The value to people in New Zealand of the international

human rights law that developed from the Universal Declaration was demonstrated with:

- ratification of the Convention on the Rights of Persons with Disabilities
- publication and tabling in Parliament of Monitoring Places of Detention, the first annual report of activities under the Optional Protocol to the Convention Against Torture (OPCAT)
- New Zealand's 5th examination on implementation of the Convention Against Torture (CAT)
- New Zealand's first Universal Periodic Review (UPR) before the United Nations Human Rights Council.

60TH ANNIVERSARY OF THE UDHR

Celebration of the 60th anniversary of the Universal Declaration of Human Rights in communities across the country highlighted New Zealand's role in its development and adoption by the United Nations on 10 December 1948, as well as the continuing relevance of the rights and responsibilities it so eloquently proclaims.

New Zealand played a very significant role in the development of the Universal Declaration of Human Rights (UDHR), insisting that it include economic, social and cultural rights as well as civil and political rights. In a moving ceremony in September 2008, the Commission presented Parliament with a framed copy of the UDHR in English and Te Reo Māori. The document will hang permanently in the Select Committee corridor, opposite the facsimile of the Treaty of Waitangi.

The 60th anniversary of the Declaration in December 2008 was celebrated throughout New Zealand, including through a human rights conference at Victoria University Law School, an art exhibition in Auckland and eight regional events. The Commission distributed UDHR posters, timelines, booklets and online lesson plans.

UNIVERSAL PERIODIC REVIEW

This year New Zealand underwent its inaugural Universal Periodic Review (UPR), a United Nations Human Rights Council process whereby countries assess each others' human rights record. The Commission, working with the

ARTISTS RESPOND TO UNIVERSAL DECLARATION OF HUMAN RIGHTS



As part of efforts to highlight the 60th anniversary of the Universal Declaration, the Commission worked with independent curator Richard Dale to create [Article 27](#), a contemporary art exhibition that was shown

in NorthArt Gallery, Auckland in December and The Physics Room Gallery, Christchurch in April.

The exhibition featured seven Auckland-based artists: Xin Cheng, Kah Bee Chow, Majlinda Hoxha, Tui Kerehoma, Jasmine Lockhart, Christina Read and Daniel Webby.

Christchurch-based Commissioner Richard Tankersley spoke at the opening of Article 27 in Christchurch: "It's great to see a contemporary art space acknowledge the significance of human rights in all our lives."

Article 27 of the Universal Declaration of Human Rights states: "Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific achievement and its benefits."

Ministry of Foreign Affairs and Trade, co-hosted consultation meetings for civil society groups to participate in the UPR process. In November the Commission published *Report on New Zealand's Human Rights Performance*, with 13 recommendations, followed in February 2009 by a submission to the Human Rights Council responding to the New Zealand government's UPR report.

The Minister of Justice, the Hon Simon Power, spoke on New Zealand's behalf at the country's first UPR examination at the Human Rights Council in Geneva on 7 May. The Minister made a strong statement about New Zealand's commitment to human rights, equal opportunity and equality, and acknowledged areas where improvement was required.

The Commission was represented by the Chief Commissioner. Questions and recommendations from other State parties reinforced priorities identified in the Commission's report. These included giving greater recognition to the rights of indigenous people and to

economic, social and cultural rights, particularly inequalities affecting Māori, Pacific and disabled people, and gender pay equity.

MONITORING INTERNATIONAL CONVENTIONS

International scrutiny of New Zealand's human rights performance will continue over the next three years, as New Zealand is examined by the United Nations Human Rights Council and its relevant Treaty Bodies on its implementation of the International Covenants on Civil and Political Rights (ICCPR) and on Economic, Social and Cultural Rights (ICESCR), and the Conventions on the Rights of the Child (UNCROC) and the Elimination of Discrimination against Women (CEDAW).

This year, in addition to the Universal Periodic Review work, the Commission has:

- contributed to United Nations Committee against Torture's fifth examination of New Zealand's implementation of the Convention

- provided extensive input to the Ministry of Youth Development for the government's draft periodic report to UNCROC
- contributed to the government's report to ICESCR
- monitored and reported on the government's response to the recommendations of the United Nations Committee on the Elimination of Racial Discrimination (CERD).

Convention on the Elimination of all Forms of Racial Discrimination

The Commission has developed a process for monitoring and reporting on implementation of the Convention on the Elimination of all Forms of Racial Discrimination. There has been a high level of cooperation from government agencies. In September 2008, the Commission provided its own report back to the CERD Committee on progress, and published a monitoring table on its website. The Commission's involvement with the Treaty Body process has contributed to an improvement in the quality of reporting from New Zealand, and has helped to enhance the credibility of the analysis and relevance of the recommendations from the CERD Committee. In October 2008 the Commission completed a review of the New Zealand implementation of the Urban Programme of Action.

Convention Against Torture (CAT)

Examination of New Zealand's fifth periodic report on its compliance and implementation of CAT took place in Geneva on 1 and 4 May 2009. The government delegation engaged comprehensively with the examining committee. In addition to the Commission's update paper, prior to the government's sessions with the Committee, the Chief Commissioner presented two further brief papers, one during the private meeting with the committee and the other at the conclusion of the process. The Commission has welcomed the Committee's conclusions and recommendations. The government was asked to report back within 12 months on four issues: conditions of prison detention; historic claims of abuse

when in State care/detention; withdrawing the reservation to article 14 of the Convention; and the use of taser weapons. The Commission will be working with the relevant agencies to support action on the Committee's recommendations.

Optional Protocol on the Convention Against Torture (OPCAT)



In this, the second year of its OPCAT responsibilities, the Commission co-ordinated and published New Zealand's first OPCAT annual report. This included reports from each of the four National Preventive Mechanisms (NPMs) and highlighted

a number of overarching issues. The report was tabled in Parliament in December 2008, and transmitted to the responsible UN Subcommittee.

Some of the administrative issues raised in the first annual report have been addressed – including some suggested amendments to the NPM designations. Resourcing, another issue raised in the report, remains an issue for some NPMs.

A number of the challenging issues raised in the first annual report continue to be a focus of OPCAT activities, and were also highlighted by the Committee Against Torture during its examination of New Zealand in May. These issues include:

- issues of particular groups, including children and young people, asylum-seekers, and Māori
- staffing levels and training
- conditions of detention and standard of facilities.

The Committee Against Torture also welcomed New Zealand's ratification of OPCAT and establishment of NPMs. The Commission has met with other NPMs to discuss the Committee's recommendations, and their

ongoing monitoring and implementation.

In its role as the Central National Preventive Mechanism, the Commission continued to liaise with NPMs, and held two roundtables of the OPCAT organisations. A meeting between the NPMs and members of civil society was well attended by representatives from a range of organisations working in the detention area. The meeting was useful in terms of both raising awareness of OPCAT and identifying and discussing issues of concern to NGOs, which continue to inform ongoing OPCAT work.

Visits are underway by all NPMs, who report a number of positive outcomes as the result of preventive monitoring. In particular, because of the broader scope of preventive visits, some NPMs have identified and been able to address issues that may not otherwise have come to light, if it were not for OPCAT monitoring.

Internationally, there are to date few NPM systems in operation, and there is considerable interest in the New Zealand “multiple mechanism” approach. The Commission was invited to share information on its role and experiences to date at a regional workshop focussed on ratification of OPCAT in the Philippines, and also in discussions among national human rights institutions on OPCAT implementation, which were organised by the Office of the High Commissioner for Human Rights.

Research has been commissioned to update previous research on prisons and youth justice residences; this will contribute to ongoing OPCAT monitoring activities and the development of the second Action Plan for Human Rights.

REGIONAL AND INTERNATIONAL HUMAN RIGHTS

Despite evidence of good progress in some areas, the Pacific faces an array of human rights challenges. There is evidence of renewed interest in the promotion and protection of human rights across the region, partly in response to the Universal Periodic Review reporting requirements.

The Commission’s publication in 2007 of *National*

Human Rights Institutions: Pathways for the Pacific, and the related activities have also been influential catalysts in the decision of a number of Pacific Island Forum states currently taking steps towards establishing National Human Rights Institutions or related mechanisms. Within available resources, the Commission supports these initiatives. Assisted by the Asia Pacific Forum of National Human Rights Institutions (APF), the Commission provided advice at an APF-OHCHR regional workshop in Samoa to discuss the challenges and possibilities for establishing NHRIs in Pacific Island countries.

The Commission scoped the options for a NHRI for Samoa in contract work for the Asia Pacific Forum of National Human Rights Institutions (APF) and at the request of the Samoan Attorney-General.

In collaboration with the United Nations Office of the High Commissioner for Human Rights, the Commission also delivered a comprehensive pre-NHRI establishment study tour in December to a Cabinet Minister and senior officials from Papua New Guinea. The Commission facilitated Pacific Human Rights Roundtables provide an important forum for government, civil society, and NGOs that are active in the area of Pacific human rights.

As a result of its ICC “A status” rating as a national human rights institution, and the extent of the Commission’s engagement with the Treaty Bodies and international human rights mechanisms, the Commission receives requests to share its expertise with others.

Requests for advice and assistance are received through the APF and OHCHR, or directly to the Commission. At the request of the APF, and funded by the APF, the Commission has delivered substantial capability building programmes to representatives from the Maldives and the Malaysian Human Rights Commissions.

The Commission has also maintained its commitment to increasing the human rights capability of regional news media organisations by delivering, in collaboration with APF, a media-training programme for the Nepalese Human Rights Commission.

In response to a request from the New Zealand and

Philippines governments, and in collaboration with the Philippines Commission on Human Rights (CHRP), the Commission is building human rights awareness and practice and reducing human rights abuses experienced within three indigenous communities. The programmes focus, amongst others, on the relationships the police, defence forces and other government agencies have with these communities. The programmes are attracting regional and international interest.

Enquiries and Complaints

Ngā Tono Me Ngā Pātai

OVERVIEW

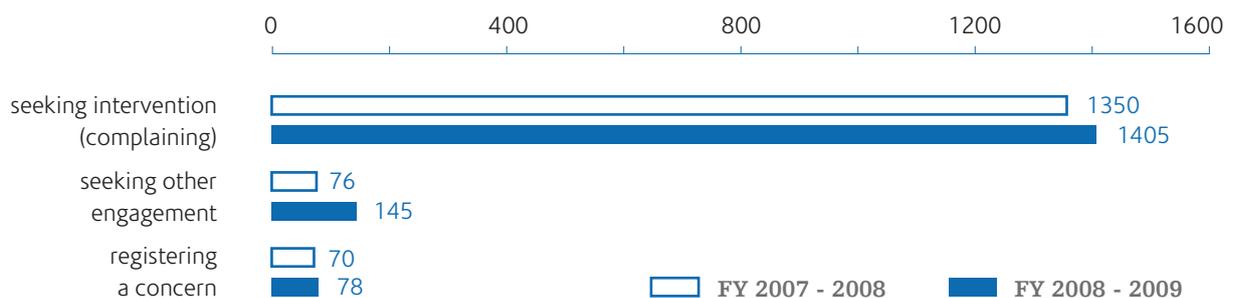
In the 12 months ending 30 June 2009, the Commission recorded 5834 enquiries and complaints in its database. Of these, 3489 were complaints seeking the Commission's intervention, with 1405 of these complaints raising issues of unlawful discrimination. The Human Rights Act provides a statutory dispute resolution process for the management and resolution of complaints about unlawful discrimination. The remaining 2084 complaints involved broader human rights issues, such as prisoners' rights, the rights of migrant and seasonal workers and the right to education. For these complaints, the Commission used a range of approaches. These included providing information, referral to more appropriate agencies, assisting communication, and encouraging policy and practice that reflects human rights standards.

The Commission's increasingly sophisticated data capture system distinguishes situations where people are seeking intervention from situations where someone wants to register concern about discrimination or a human rights issue, or where advice (sometimes quite specific legal advice) or other engagement is requested. Changes in the data capture system mean that the data are directly comparable only with the previous reporting year. There has been an increase in the total number of enquiries and complaints with an element of unlawful discrimination this year, with the total increasing from 1472 to 1628. There has also been an increase in both complaints and enquiries where other Commission engagement, such as education, legal or policy advice, was requested.

Highlights of unlawful discrimination complaints this year included:

- Resolution of a highly publicised complaint from a woman who (with her sister) was asked to leave a Turkish café in Invercargill when the owner realised they were from Israel. Twenty-two further complaints on the issue were closed after publication of an agreed media release.
- Three successful co-mediations with the Labour Department's Mediation Service, following the finalisation of protocols between the two agencies. The protocols enable co-mediation when cross-jurisdictional complaints and grievances would be more effectively and efficiently resolved with the agencies working together on a matter.
- Resolution of a number of education complaints where children with disabilities have been better accommodated at school.
- Changes to pre-employment processes and advertisements as a result of complaints facilitated by providing the new pre-employment guidelines, *Getting a job: An A to Z for employers and employees*.
- The withdrawal of anti-Semitic remarks on a website in one instance, and engagement with moderators of various sites complained about as being offensive in others.
- Resolution of several complaints where people with disabilities were not accommodated in access to places or transport, or in the provision of goods and services.

UNLAWFUL DISCRIMINATION MATTERS



HOW COMPLAINTS ARE HANDLED

The chart shows how complaints were received.

Mode of contact	Numbers	Percentage
Community contact	14	0.4%
Duty mediator call	4	0.1%
Email	493	14.1%
Fax	39	1.1%
Hardcopy complaint form	14	0.4%
Infoline call	2531	72.5%
Letter	223	6.4%
Online complaint form	104	3.0%
Previous contact	8	0.2%
Visit	60	1.7%
Total	3489	100%

- Changes in practice and policy in organisations, developments of codes of conduct and commitments to undertake anti-harassment training or human rights training.
- Apologies, assurances and compensation (sometimes substantial) resolved for many individual complainants.

COMPLAINT MANAGEMENT

In 2008-2009, the Commission's Dispute Resolution team closed 1135 complaints that raised issues of unlawful discrimination), of which:

- 34.4% were resolved or partially resolved as between the parties
- 5.9% were found, on closer examination, to be outside jurisdiction
- 27.5% were discontinued by one or other party. This category includes changes in the complainants' circumstances or their withdrawal; parties that would not engage in mediation; the complainant's decision not to proceed further on receipt of an initial response

from the respondent; or complainants who decided to take the matter to the Human Rights Review Tribunal

- 32.2% were closed after progress through further assessment, duty mediator discussion and/or further exploration of issues which led to decisions to take no further action.

While parties always have the option to take these matters to the Human Rights Review Tribunal with or without the assistance of the Office of Human Rights Proceedings, the figures from that Office demonstrate that they rarely do. Often complainants have gained a better understanding of the legal and evidential merits of their complaint through contact with the Commission.

PERFORMANCE STANDARDS

The Commission has exceeded its stated performance standards to resolve complaints. The Statement of Service Performance requires that 80% of dispute resolution complaints will be closed within a year. This reporting year, 96% were closed within this period, with 87.6% of these closed within three months of receipt.

The Dispute Resolution team:

- closed 74.4% of the complaints it handled in less than 60 days from the date of receipt
- closed 96% of the complaints it handled within 12 months of receipt.

To gauge satisfaction with its service, the Commission has continued to focus on face-to-face mediation and requested feedback from participants. A total of 62 evaluations were received: 21 from complainants, 26 from respondents, and 15 from support people or advocates. Of these evaluations:

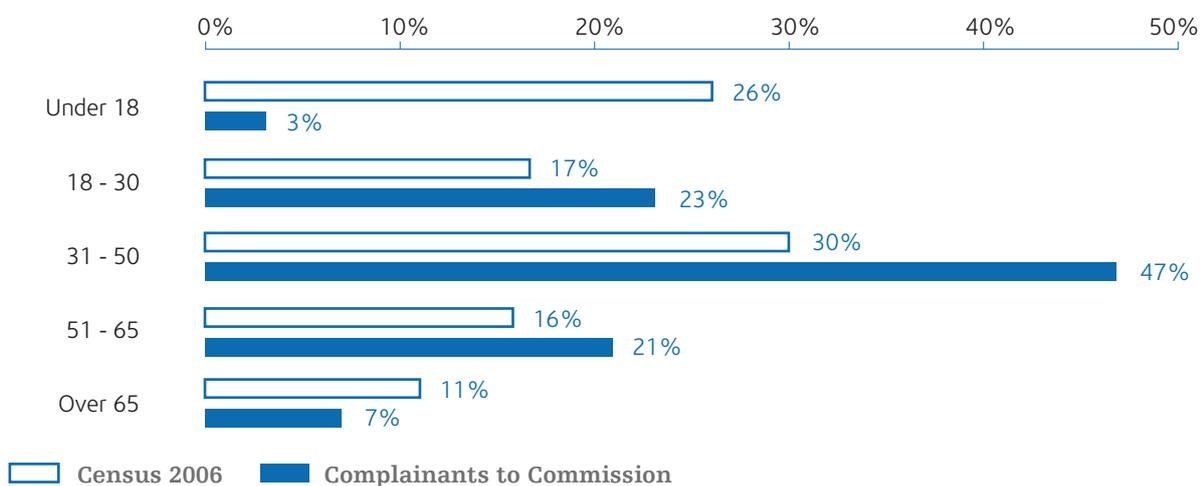
- 98% said the process was explained "very well" or "well"
- 90% said the mediator facilitated in a "very fair" or "fair" manner
- 92% said the issues were explored "very well" or "well" in mediation
- 71% said they were "very satisfied" or "satisfied" with the outcome of the mediation.

ACCESSIBILITY AND VISIBILITY

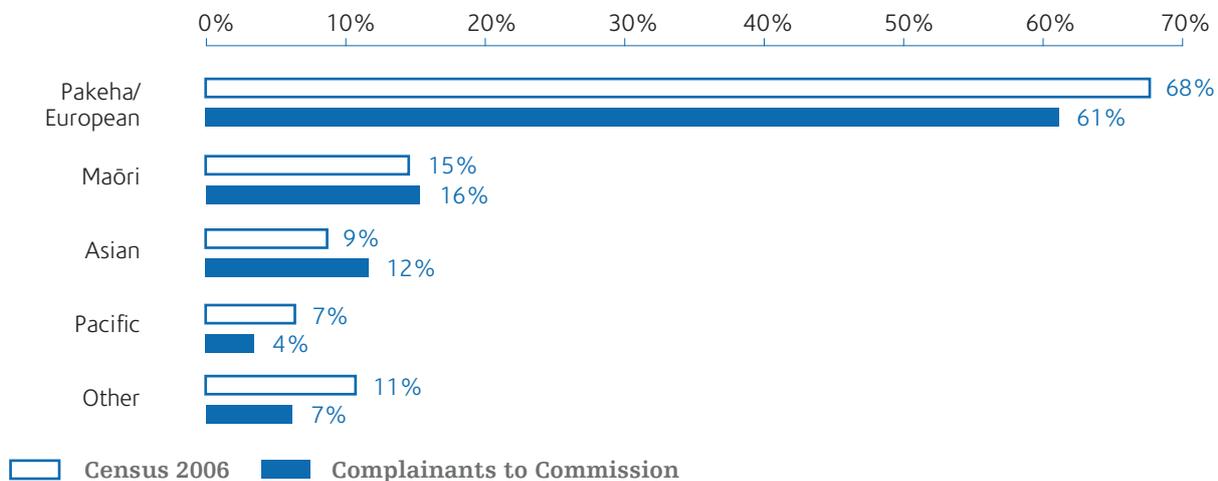
The Commission is committed to enhancing access to its Enquiries and Complaints service. In this reporting year:

- website re-design has given prominence to the complaint option on the home page, and new features enhance accessibility to the website
- responses to frequently asked questions that arise from enquiries and complaints are being developed and placed on the website
- a new complaint form was produced and made available on-line, and is available in plain English and six community languages

AGE OF COMPLAINANTS TO HUMAN RIGHTS COMMISSION COMPARED WITH CENSUS 2006 DATA



ETHNICITY OF COMPLAINANTS TO HUMAN RIGHTS COMMISSION COMPARED WITH CENSUS 2006 DATA



- an emphasis on the collection of demographic details from complainants and callers is providing a profile of the people who come to the Commission and where the gaps are
- two editions of *Te Rito* (case studies) have been published
- workshops and meetings held throughout the year with community law agencies and other community groups to raise awareness
- the Commission participated in the development and implementation of www.complaintline.org.nz – a central website that links to all participating complaint organisations
- community engagement delivered key insights about accessibility issues for some groups
- mediators travelled widely to provide dispute resolution and have engaged translators and interpreters where necessary.

This year improvements were made to enable better collection and extraction of demographic data about the people who make complaints to the Commission, in order to help identify groups that may not be accessing the Commission's Enquiries and Complaints service.

Just over half (51%) of the complainants to the Commission are female, 48% are male and 1% identify as "other". This is consistent with Census data, which shows that 51% of the population is female and 49% is male. Statistics New Zealand does not provide results for other gender categories.

The Commission received almost half of its complaints from the 31-50 age group in 2008-9; this group accounts for 30% of New Zealand's population, according to Census 2006. The Commission also received a higher number of complaints from the 18-30 and 51-65 age groups in relation to their proportion of the total population. Although the under-18 age group is the second most populous group, the Commission received fewer complaints from this group than from any other.

Most of the complaints received by the Commission are from people of European or Pakeha ethnicity (61%), although the proportion of Pakeha/European complainants is lower than the proportion of Pakeha/European people in the New Zealand population (68%). The proportion of complaints received from Māori (16%) is slightly higher than the proportion of Māori in the general population (15%). Complaints from people of Asian ethnicities are high (12%) when compared with the Asian population as a whole (9%). However, complaints from people of Pacific (4%) and "other" (7%) ethnicities are low when compared with these populations as a whole (7% and 11% respectively).

UNLAWFUL DISCRIMINATION COMPLAINTS BY GROUND

Among single grounds of unlawful discrimination, disability was the basis for the highest percentage of complaints (26.8%) followed by race (19.4%) and sex (12.4%). However, when the various grounds were consolidated, race was the basis for the highest percentage of complaints.

Race

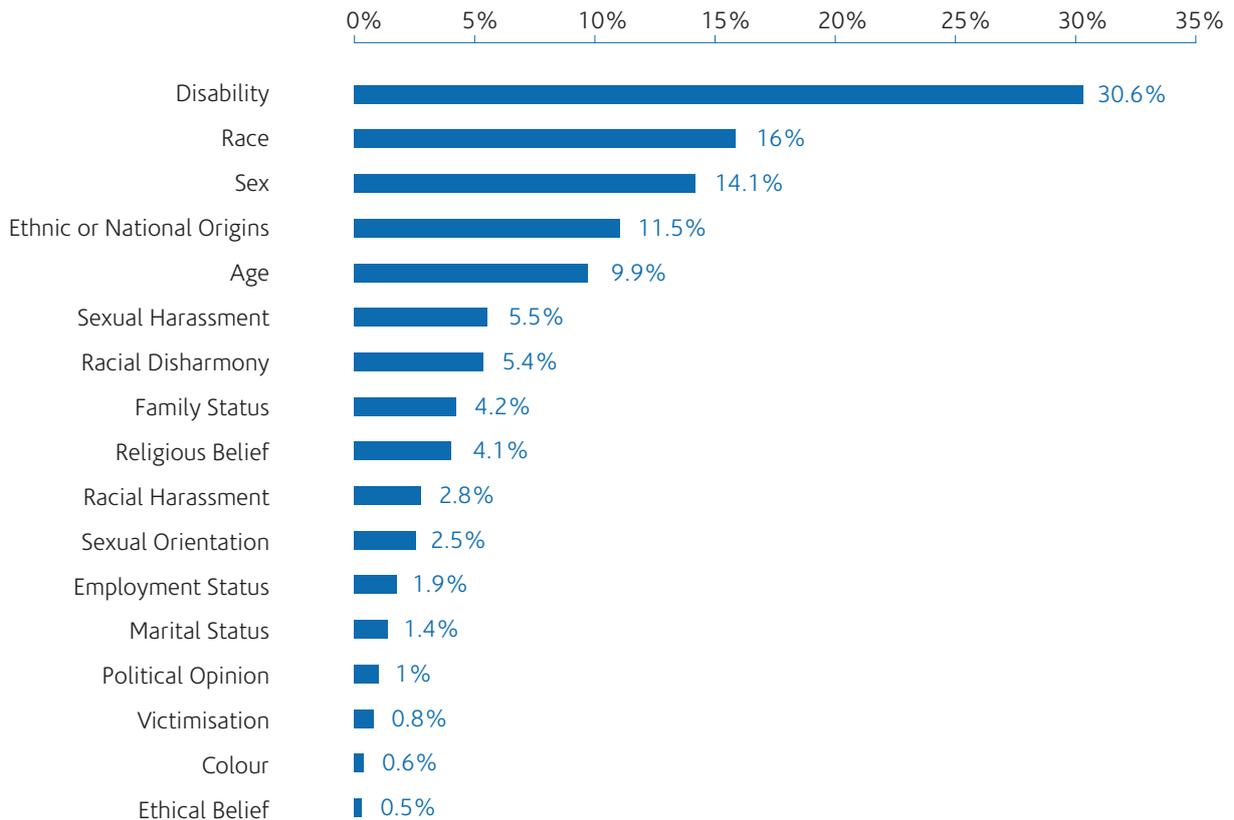
A consolidation of race based complaints and enquiries (including race, colour, ethnic or national origins, racial harassment and racial disharmony) showed that 37.4% of the total number of approaches received relating to unlawful discrimination had an element of race, the highest percentage in total. This was a decrease on last year's percentage of 40.6%. There was a rise in the number of race-related approaches in 2007-8 following the police action known as Operation 8 in October 2007, which had resulted in a higher than usual number of race-related approaches that year.

Café in the news

Two Israeli sisters were asked to leave a café after the owner heard them speaking Hebrew in a café. He would not serve Israelis. The story was published in the media and the

PERCENTAGE OF UNLAWFUL DISCRIMINATION COMPLAINTS BY GROUND

1 July 2008 - 30 June 2009



Commission received over 20 complaints on the issue. The matter was resolved through mediation and the parties agreed on a press release which included an apology. After publication of the press release all the complaints were able to be closed.

Disability

A total of 30.6 % of all complaints were on the ground of disability, which was slightly higher than the previous two years (28.7 % in 2006-7 and 26.8% in 2007-8).

Inaccessible buses

A bus company tested all buses in its fleet (over 80) to check that they could be lowered

to enable disabled people to get on easily after a complaint from someone with a mobility disability. The complainant was invited to watch the testing and those few that did not work were to be sent for repairs. Drivers were also reminded that mobility considerations extend beyond wheelchairs and if a passenger requests it they should “kneel” the bus. The complainant was provided with the contact details of someone in the bus company if he experienced further problems.

Return to work

Jack resigned from his retail job because of his employer’s unwillingness to

accommodate the effects of a shoulder injury in his work environment. Mediation resulted in his return to work, reinstatement of sick leave, a week's pay and an assurance that practices and policies would be in line with the company's obligations, including those under the Human Rights Act.

Sex

Taken alone, the ground of sex was the basis for 11.5% of complaints – a slight drop from last year's 12.4%. However, when the grounds of sex, sexual harassment and sexual orientation are consolidated, they were the basis for 19.5% of all complaints, which was also a drop from last year's 22.9%.

Female car groomer

When Jackie turned up for an interview for a position as a car groomer, she was told that the employer would not employ women. The employer wanted to protect them from the heavy lifting and climbing involved. However, when the mediator spoke to her she had changed her perspective, having spoken to people about it. In the future she would explain what the job involved and let applicants of either gender decide if it was for them. She offered to interview the complainant.

Banter on the job

Kate was proud of being a mechanic. She was used to holding her own in male dominated environments. Her new workplace was different, however, with "banter" on another level. She was constantly subjected to sexual comments, suggestions and jokes which she found offensive. She hated the job and began to hate her profession while she "toughed it out". When she was allegedly unjustifiably dismissed, she spoke out about the environment and the harassment. The employer was upset and said that had

she brought the matter to their attention sooner, they would have responded immediately. They agreed to renew efforts to make sexual harassment training and awareness more explicit through induction, posters, and by providing independent people for staff to go to. The complainant also received a financial settlement in compensation.

Age

This year, 9.9% of complaints were on the basis of age, in line with the percentage last year. However, although the proportion of age-related approaches was similar to last year, the types of complaint differed. As with last year, more approaches about age were in the area of public sector employment than in any other area, and there was a continuation in the rise of these approaches in 2008-9, with 27.2% received, compared with 24.5% in 2007-8 and 17% in 2006-7.

Age entitlements

After taking voluntary redundancy in a large national corporation, a worker discovered that he was not entitled to the benefits he had expected. The criteria for the entitlement formula included both years of service and age. He had over 13 years of experience with the company, and alleged age discrimination. The matter was resolved over time. A new formula was applied that would enable him to receive the entitlements in the future.

The proportion of approaches in the areas of employment and pre-employment rose slightly this year to 45.7% from 42.7% last year. The most significant change was in the area of provision of goods and services, which had a significant drop in the proportion of approaches, from 21.7% last year to 13% this year.

Religion and Ethical Belief

Just 4.2% of complaints were on the basis of religious belief, and 0.5 % of complaints were on the basis of

ethical belief (meaning the lack of a religious belief), compared with 5% and 0.3% respectively last year.

Headscarf complaint resolved

An international student was not allowed to wear the headscarf that she wore for religious reasons when dining with her hosts at the Manurewa Cosmopolitan Club in Auckland. The Commission offered mediation in response to a complaint from her hosts and the parties met with good will. There was an informative discussion about the complaint and the parties' rights and responsibilities under the Human Rights Act. An outcome from the mediation was the club's agreement to review its rule on headwear. The hosts said they were happy with this outcome. The club has confirmed it is reviewing its dress code.

COMPLAINTS BY AREA

The most prominent area of activity was employment (including pre-employment), which accounted for 43% of approaches, followed by government activity (21.5%) and goods and services (17.1%).

Employment

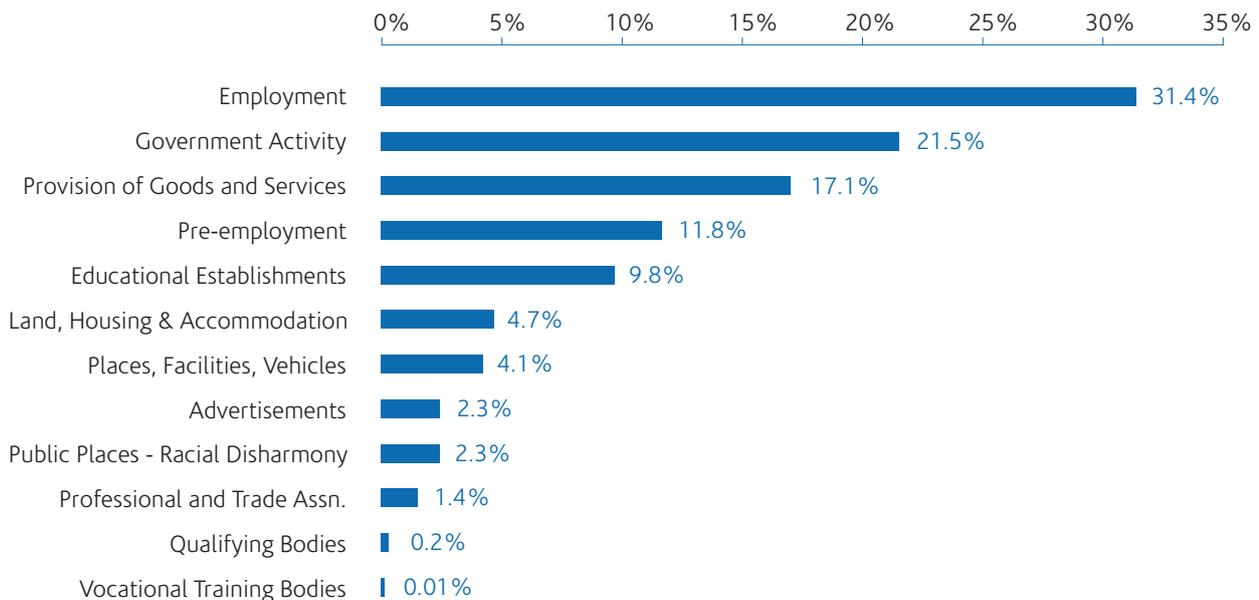
A total of 43% of all complaints related to unlawful discrimination in employment or pre-employment, the same proportion of approaches as last year. Of these complaints, 35.9% related to one of the race grounds (compared with 27.7% last year and 30.9% the previous year); 25% related to disability; 15.5% related to sex discrimination (with 28% related to the three sex-related grounds); and 10.2% related to age discrimination.

Education

In line with last year, 9.8% of unlawful discrimination complaints related to education. Of these complaints,

PERCENTAGE OF UNLAWFUL DISCRIMINATION APPROACHES BY AREA

1 July 2008 - 30 June 2009



56.3% related to disability, which was a significant increase on the 42% received last year. Race grounds accounted for 23% of the approaches, a drop from 28% last year.

Accessible education

A deaf boy in his first year of secondary school was unable to understand what teachers were saying because the teacher aide he was assigned did not understand New Zealand Sign Language. While the school hired a new teacher aide competent in NZSL, mediation was held to discuss other ways to assist the child. Further measures were put in place. The parents provided research about the problems experienced by deaf school students generally. The boy's parents are confident the school was doing its best to assist their son.

Public Sector

Complaints against government policy, legislation and practice that might breach Part 1A of the Human Rights Act totalled 432 this year, compared with 428 last year. Of these complaints:

- 43.6% related to disability (compared with 25% last year and 33% the previous year). A large proportion of these approaches (38.5%) were related to people having difficulty accessing education. These matters involved either problems enrolling in schools or tertiary institutions, or children being suspended or excluded from schools due to behaviours associated with their disabilities. Almost a third of the Part 1A disability approaches were regarding the reasonable accommodation or support of people with disabilities, both in schools and in tertiary institutions.
- 25.4% related to a race ground (compared with 30.6% last year).

A number of complaints were resolved through the provision of information, enabling people to progress

their concerns directly, or through low level intervention by a mediator. Some matters were closed after exploration demonstrated that not all the elements of unlawful discrimination were present. However, the process of exploration frequently clarified the issues and enabled other avenues of resolution.

Some complaints led to a broader Commission review of the particular issues of concern. For other complainants, expressing their concerns to decision and policy makers through mediation provided the resolution needed. Others received outcomes enabling, for example, participation in a review.

Who can donate blood?

George was unable to donate blood because he is a sexually active gay man. His complaint was put on hold pending an independent review into donation criteria. This recommended that the deferral period for men who have had male-to-male sex be shortened from ten years to five years. George had questions about the review document, and he and the New Zealand Blood Service took part in a mediation meeting. He thought the mediation was a "great meeting" and said he could see that the NZBS was doing everything that it could do. The recommendations from the review were accepted and the NZBS is now working the New Zealand AIDS Foundation with a view to improving its communication and understanding about the deferral criteria within the gay community.

For some, while concrete steps were taken to address many of the complainant's concerns, the complainant still reserved their right to take the matter to the Human Rights Review Tribunal. Some matters were completely resolved for the parties.

Overseas travel reinstated

An employee in the public sector had approval for an overseas trip revoked when a senior manager realised he had a disability and decided that it would affect his ability to cope in an emergency. The matter was resolved within two days after the relevant agency was contacted by the Commission. The employee travelled with the tour party. On his return he said: "The entire event was a complete success. My contribution was well within what was required of me. There were no concerns about me raised and I did not have any concerns about what I could contribute, it was a demanding yet rewarding experience...Once again I sincerely thank the Human Rights Commission. This would not have been possible without your help. The minimum expectation from now would be that I will be treated no differently to the person sitting next to me."

particular situation, the Commission is working with ticket marketers so their policies might better accommodate the needs of customers who use wheelchairs.

BROADER HUMAN RIGHTS COMPLAINTS

The Commission has broad powers to advocate for and promote human rights under Section 5 of the Human Rights Act 1993. This provides it with the discretion to assist with human rights matters and complaints that do not have an element of unlawful discrimination. Of the 5834 enquiries and complaints recorded in the Commission's database, 4396 related to broader human rights issues. Many were responded to by the Commission's Infoline Service through the provision of information or referral to a more appropriate agency.

Some people do not want direct involvement in an issue through the dispute resolution process, but do want the issue addressed by the Commission. One woman who uses a wheelchair complained about difficulties she and others encounter when attempting to book online for events at a particular concert venue when they require wheelchair access. While the complainant managed to resolve her



Do you have a human rights complaint?



The first step is to contact our **infoline**. You don't need to fill out a complaint form, just phone, email or fax us. And check out our website: www.hrc.co.nz.



infoline

FREE PHONE: 0800 496 877
 EMAIL: infoline@hrc.co.nz • FAX: 09 377 3593
 • TTY (teletypewriter): 0800 150 111
 • Language Line (interpreting service available)
 • Or write to us at: Human Rights Commission, PO Box 6751, Wellesley Street, Auckland.

Here are the grounds to complain about discrimination:

- age
- race
- disability
- employment status
- ethical belief
- ethnic or national origins
- colour
- family status
- marital status
- political opinion
- religious belief
- sex (includes childbirth & pregnancy)
- sexual orientation

It's free, confidential and you don't need a lawyer. Staff will provide information to help solve your complaint. If it looks like an unlawful discrimination complaint, you will be referred to one of our mediators.



informal intervention

Free, informal and confidential service.

If the complaint is a human rights issue we can suggest the next step. The Human Rights Act determines whether the Human Rights Commission can accept a complaint.



mediation

The complaint can go to mediation. This is also free, confidential and impartial.

A mediator will assist both parties to work through the issues raised by the complaint. Mediation includes explaining the Human Rights Act and working through possible solutions.



resolution

Most complaints are sorted out by informal intervention or mediation.

Settlements of a complaint can include:

- an apology
- an agreement not to do the same thing in the future
- undertaking an education or training programme
- compensation



legal action

If your complaint is not resolved at mediation, you can take legal action.

At this stage human rights complaints are heard before the Human Rights Review Tribunal. This is like a court. You can apply for free legal representation.

The Commission's Enquiries and Complaints Service aims to be accessible, confidential and impartial. The flyer explaining the process is available in English, Te Reo and five community languages.

Organisational Health and Capability

Te Kaha Ora o te Kāhui

OVERVIEW

The Commission has completed a three-year programme to develop its organisational capability, with the focus on financial sustainability, organisational design and internal policy development.

Within these priorities, the Commission undertook a number of initiatives during the year that have contributed to strengthening organisational effectiveness:

- improvements to the accessibility of its services, including refreshing the Commission's website design and providing information and resources in a number of languages and formats
- increasing engagement with community groups throughout New Zealand and with the private sector through a number of programmes
- reinvigorating the Commission's relationship with government agencies, helped by the consultation process for New Zealand's Universal Periodic Review
- further developing approaches and strategies derived from the Commission's legislation, along with increasingly improved outcomes and measures, and enhanced systems for coordinated planning, monitoring, evaluation and risk management
- development of a new file structure as a first key step to provide effective systems and infrastructure for knowledge management within the Commission, and accessibility of information for the public and civil society.

GOOD EMPLOYER PLAN

The Commission undertook further steps under its Good Employer Plan of Action, informed by guidance from the EEO Commissioner, advice from the internal EEO Working Group, and consultation with staff and the PSA.

Key initiatives included:

- new Dignity at Work policy
- workplace survey to develop a staff profile which will form the basis of future planning on internal policy development. The aim is to ensure that the Commission is providing equal employment opportunities, in particular for Māori, those from

non-Pakeha ethnic groups, those with family responsibilities, and those with disabilities

- professional development programme, supported by performance management and individual staff development plans, to build capability in knowledge, skills and professional practice, and an understanding of the Commission's functions and approaches. This included provision of an internal Te Reo programme to build the Commission's capacity to provide a service in that language for those who require it. The programme, along with targeted evaluations and improved planning, monitoring and reporting systems, is part of the Commission's programme of continuous improvement.

Refinements in all these areas will continue. The Commission's priority is to develop the capacity and capability of its people and the accessibility of the Commission's information and services. The increased demand from government agencies for early advice on draft legislation reflects a growing confidence in the value of early human rights assessment and the quality of the advice that the Commission is able to provide.

FINANCIAL POSITION

The Commission also focused during this year on planning for its financial stability, which is again stretched in the light of the predicted five years of public sector deficits. The Commission secured a three year funding path through its successful 2007 budget bid, which was based on a conservative and disciplined approach, supported by a comprehensive organisational review. This allowed the Commission to:

- maintain its presence and programme in the South Island
- expand its programme to build human rights capacity in the rural areas and regions of New Zealand
- undertake an increased number of legal interventions, a priority advocated by Ministry of Justice officials to increase New Zealand's human rights jurisprudence
- monitor the implementation of Mana ki te Tangata/NZ Action Plan for Human Rights

- intervene effectively to promote harmonious relations and equal employment opportunities
- increase the quantity and quality of human rights related policy advice
- renew the Commission's obsolete IT infrastructure
- meet some of the rising fixed overhead costs.

As agreed in the budget bid process, the Commission is using committed reserves, established to balance its current and out year forecasting over the next three years. All committed reserves were to be used over this period. In the light of the current financial climate, this year the Commission undertook further financial planning and has forecast extended use of committed reserves for a further two years, by making efficiency savings and delaying the project to develop an electronic records management system. However, by 2011 the Commission will be in deficit and will require further baseline funding to continue to meet its statutory functions.

The committed reserves are also required to provide funding for litigation undertaken when necessary by the Office of Human Rights Proceedings (OHRP). The OHRP also provides a service to the Privacy Commission for privacy complaints, for which it receives no separate funding. Privacy cases have increased significantly since the establishment of the OHRP.

The Commission anticipates that it will be able to reduce travel costs as a consequence of implementing a video conferencing facility, and these savings have been built into financial planning. The Commission has also introduced further enhancements to systems for financial management and compliance, maintaining its highly satisfactory Audit Report during 2008. Financial management now includes a quarterly focus on monitoring specific areas of Commission activity for effectiveness and efficiency.

The 2007 budget bid outcomes included funding to address the Commission's obsolescent IT infrastructure, which had not been upgraded or developed for a number of years due to funding constraints. The problem was so severe that it presented a major risk to the Commission's

business continuity, security and efficiency, and a risk to its capability to deliver its statutory functions, due to the lack of knowledge management systems. Work to address this situation represents another draw-down on reserves accumulated for this purpose, even factoring in the delay in the development of the electronic records management system. Systems security and other critical areas have already been addressed, and the first stage of the Commission's new knowledge management system has been completed through the development of the new file structure.

THE HUMAN RIGHTS COMMISSION

Structure as at 1 September 2009



Race Relations Commissioner 1fte
 EEO Commissioner 1fte
 Part time Commissioners x5

Office of the Executive Director
 Principal Advisor Race Relations 1fte
 Executive Assistant 1fte
 International Advisor# 0.8fte

**Manager
 Dispute Resolution 1fte**

Administrator 1fte
 Mediators 6.06fte
 Senior Mediator 1fte

**Ahi Kaa
 Kaiwhakarite 2fte**

Kaitakawaenga/Advisor# 1fte
 Kaituitui/Administrator 1fte

= funded or part funded through ODA
 fte = full time equivalent

The Office of Human Rights Proceedings

Te Tari Whakatau Take Tika Tangata

OVERVIEW

The Office of Human Rights Proceedings has had a busy year, with the emphasis in litigation being on cases brought under Part 1A of the Human Rights Act – both at Tribunal and appellate level. It is good to see the Courts at all levels are now dealing with the vitally important and sometimes difficult issues that can arise in cases under the Human Rights Act – whether it be Part 1A or Part 2. A body of jurisprudence is starting to develop, albeit slowly, which will in turn greatly inform the Director's decisions about representation.

Many of the procedural and technical rules that apply to more general litigation are arising in cases under the Human Rights Act, with the effect that arguments about form rather than substance can sometimes consume a disproportionately large amount of time. It will be interesting to see what impact the new District and High Court Rules will have upon this aspect of anti-discrimination litigation.

Bouquets are not often handed out, but it is worth repeating one which was received from a client for whom representation had been provided:

"The ... decision demonstrates to me just how fundamentally crucial your office is to justice and human rights in NZ - long may it remain so."

PRIVACY CASES

In terms of the Director's functions under the Privacy Act 1993, consideration could be given to an amendment to that Act to allow for the Tribunal to make awards of punitive damages in appropriate cases, in much the same way that it does under the Health and Disability Commissioner Act 1994.

Many referrals from the Office of the Privacy Commissioner involve complaints about access to personal information, which can be resolved relatively simply and often do not raise adverse consequences for the complainant. However, there are some cases in which the offending agency takes a capricious approach to its access obligations under the Privacy Act and the threat

of, if not actually issuing, proceedings is often required in order to resolve the matter.

A "reminder" in the form of a modest award of punitive damages might have a general deterrent effect. Some disclosure cases also involve high-handed attitudes to privacy rights by some agencies, and in these instances, punitive damages may be appropriate.

CASE STATISTICS

In the reporting year, 51 decisions concerning representation were made under the Human Rights Act 1993. Of these, 35 applications were declined, six applications from a persistent complainant were not proceeded with and one application was withdrawn before the Director's decision was made.

The Human Rights Act 1993 requires the Director to give a fully reasoned decision in each case where representation is declined, after considering all of the criteria set out in section 92.

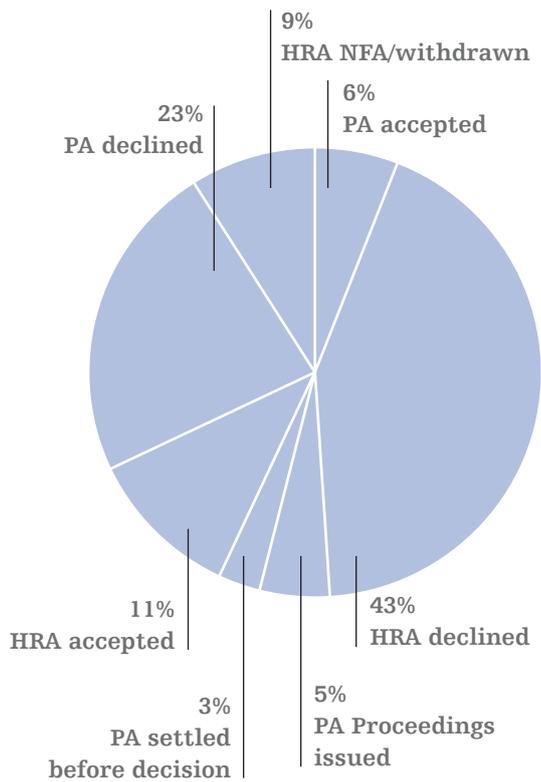
The Director agreed to provide representation for nine applicants. Of those cases, one related to the enforcement of a settlement previously agreed at a mediation arranged by the Human Rights Commission.

In respect of the decisions in which it was agreed to provide representation, the issues included:

- disability in employment
- race in housing
- sex (breastfeeding) in access to places
- a respondent in an appeal to the High Court from a decision of the Tribunal
- an appeal to the Court of Appeal against a decision of the High Court
- enforcement of proceedings
- sexual harassment in employment
- sex in employment
- disability in the provision of accommodation.

In the reporting year, a total of 29 decisions were made on matters that had been referred either by the Privacy

OUTCOMES OF CASES



Commissioner or by the Tribunal under Regulation 14 of the Human Rights Review Tribunal Regulations. Of those 29 decisions, the Director agreed to either issue proceedings or intervene in five cases. In respect of two referrals from the Privacy Commissioner, the Director settled the case before a decision to issue proceedings was completed. Proceedings have been issued in four cases. In one of those cases, the Director has agreed a settlement of the matter and the proceedings have been discontinued.

CASE HIGHLIGHTS

Child Poverty Action Group v Attorney General [2008] NZHRRT31

This was the first case in which the Director had agreed to provide representation

in proceedings involving Part 1A of the Human Rights Act. The effect of the Tribunal’s decision was to find that sections of the Income Tax Act 2007 complained about were discriminatory, but the discrimination was saved by the operation of section 5 of the New Zealand Bill of Rights Act 1990. Section 5 provides for an exception to discrimination when it is in clearly justified in a free and democratic society.

The Director is currently considering whether to provide CPAG with legal representation for an appeal to the High Court challenging the Tribunal’s section 5 ruling.

Parents as Caregivers

The Tribunal, presided over by a Deputy Chairperson, spent several weeks hearing what has become known as the “Parents as Caregivers” case. These proceedings involved a challenge by the parents of several profoundly disabled adult children to the Ministry of Health’s policy of not paying family members to provide certain care to their children, where those children have been assessed as requiring care.

The Ministry will pay for outside caregivers, but for a variety of reasons either the children or their parents prefer or are better able to provide care.

The hearing was completed in September 2008, and submissions exchanged before Christmas, but as of June 2009 the Tribunal had not delivered its decision.

Smith v Air New Zealand (2008) 8 HRN 639

In December the High Court delivered its decision in the Smith v Air New Zealand case. The appeal involved a challenge to the Tribunal’s ruling that Air New Zealand did not have to provide Ms Smith with supplementary medicinal oxygen when she

flew, at no cost to her. The Tribunal had ruled that it was unreasonable to expect Air New Zealand to accommodate Ms Smith's disability to that extent. Air New Zealand also cross-appealed against the Tribunal's ruling that the payment requirement was prima facie discriminatory. The High Court allowed Air New Zealand's cross-appeal, so therefore did not need to consider Ms Smith's appeal. The Court relied upon the Court of Appeal's decision in *McAlister v Air New Zealand*, which was an employment case dealing with the issue of comparators.

Adopting the Court of Appeal's reasoning, the High Court in *Smith* considered that there was a notional group in circumstances comparable to Ms Smith, but without a disability, who would also be treated less favourably, so it could not be said that Air New Zealand was treating her less favourably because of that disability. The Director has agreed to provide Ms Smith with legal representation to challenge that decision in the Court of Appeal.

Howard v Attorney General WN CIV-2006-485-12911

In May 2008 the Tribunal in *Howard v AG* made a declaration of inconsistency in relation to the Injury, Prevention, Rehabilitation and Compensation Act, 2003. The plaintiff in that matter had not approached the Director and asked for representation; however, following the Tribunal's decision, the Attorney-General indicated the wish to appeal the decision. The Director has agreed to provide Mr Howard with legal representation for the purposes of the appeal, but several preliminary matters have arisen, one of which has resulted in the High Court ruling that the Attorney-General had not properly "brought" the appeal in time,

in accordance with the procedural requirements. The Attorney-General has sought to appeal that decision to the Court of Appeal, and the Director has agreed to continue providing representation for Mr Howard.

Tribunal referral to mediation

In a case under Part 2 of the Human Rights Act 1993, the Tribunal has referred a matter before it back to the Commission for further mediation. This is the first time the Tribunal has exercised the power it has to refer matters back to the Commission, and it did so in the face of the plaintiff's opposition to the move. The Tribunal considered that the matter was potentially capable of resolution by mediation.

Financial Performance

1 July 2008 to 30 June 2009

The statements of financial performance for the 12 months ended 30 June 2009 are attached to this report. The statements show a positive financial result for the year and a sound balance sheet at year end.

The Commission secured additional baseline funding in the 2006-2007 budget bid round for the period 2007-2010. This has been critical in enabling the Commission to achieve its goals in organisational health and capability, and programme delivery. In accordance with the Commission's budget bids, overall costs have increased from the previous year and have enabled an increase in the use of the Commission's legal powers, and expansion of its programmes on race relations and the right to work. While up on the prior year, total costs are lower than budget due to the extended scheduling of some project activities combined with the realisation of some cost savings in this area. Employee benefit costs are the greatest area of expenditure for the Commission. This includes salaries and other employment related expenditure. Salaries are closely monitored to be not more than 60% of revenue, ensuring that the work programme can be adequately resourced. This target was achieved with salaries controlled to 54% of revenue and 95% of budget for the period. Overhead costs were 121% of budget however. Overheads were higher than expected largely because of increases in rent, and legal costs associated with a major case brought before the Human Rights Review Tribunal by the OHRP.

The total revenue of the Commission was above budgeted levels at 103% of budget, predominantly as a result of higher revenue than originally anticipated in the budget process for the international work it undertakes through the official development assistance programme. The Commission has also received more interest revenue than budgeted, due to a slower rate of spending than expected, resulting in cash reserves being greater than forecast at year end.

The Statement of Financial Position shows accumulated funds of \$3,619,086 and a good working capital position. However, for the 2009-2010 programme to be funded and delivered, a significant part of these funds will be drawn down.

ORGANISATIONAL GOALS

That the Commission:

improves its organisational health and capability

- staff are supported to develop their knowledge and skills
- quality systems are in place to plan, monitor progress, manage risks, knowledge and opportunities, and to evaluate the Commission's work.

has quality relationships

- the Commission is regarded by government, business, tangata whenua, the community sector and other key stakeholders as credible, trustworthy and relevant. The organisation is viewed as a source of quality analysis, comment and practical help
- the Commission is regarded by the public as a source of information and practical assistance on human rights and discrimination, and as a guardian and champion of human rights for New Zealand and the region
- the Commission is working successfully in partnership with other organisations, groups and individuals for shared outcomes.

The Commission negotiates an annual Memorandum of Understanding with the Ministry of Justice. An agreed schedule of outputs and the Commission's Statement of Intent are attached to this. The Ministry has been notified that the Human Rights Commission plans to draw on a large part of its reserves over the next three years to implement the programmes agreed through the budget bids.

Statement of Service Performance

1 July 2008 to 30 June 2009

The Statement of Service Performance reports the Commission's performance against the key activities, impacts and measures set out in the Statement of Intent for the previous year.

Output: Promotion and Education Programmes

This output involves engaging with communities and individuals to promote understanding, develop relationships and foster action to build community-wide respect, protection and fulfilment of human rights. This takes human rights beyond legislation and policy to actualisation, being put into practice in homes, schools, workplaces and communities. In these activities the Commission often acts as a catalyst and works in ways to encourage others to take action.

Strategic Priority

Right to Education for Children and Young People (Human Rights Environment outcome)

> Activity

Contributing to the expansion of the Building Human Rights Communities in Education network and to the development of suitable resources.

> Accountability Measure

Growth in the number of early childhood centres and schools participating in the network.

Results

The network now includes: 12 partner schools; 42 interested schools; 24 interested principals; 64 interested teachers; and 43 interested Boards of Trustees (The Building Human Rights Communities in Education programme began in October 2007. Administrative set up and the development of resources and a strategic plan in conjunction with partners occupied much of the initial six months. As of June 2008 there were no partner schools. The building of the network took place in the 2008/9 year.)

Over 100 separate classroom resources for primary schools have been developed and are available at www.rightsined.org.nz

A secondary school resource kit is being developed.

> Activity

Monitoring policy settings and initiatives that impact on participation and achievement.

> Accountability Measure

Interventions on local and national policy settings documented.

Results

The Commission has completed:

- A human rights analysis of the legislation and policy dealing with school violence, bullying and abuse
- Submissions on two drafts of the Ministry of Education's Guidelines on Stand-downs, Suspensions, Exclusions and Expulsions
- A paper analysing the extent to which the right to inclusive education is realised for disabled children and young people.

Strategic Priority**Community Development (Human Rights Environment outcome)****> Activity**

Develop local human rights capacity in Northland and Southland through the design and implementation of intensive community development projects.

> Accountability Measure

In Southland, a network of participants is trained by the Commission to the required NZQA standard.

Results

13 participants from Southland successfully undertook a seven-day human rights education programme and gained NZQA Unit Standard Unit Standard 19444 - *Deliver Group Training Sessions to Adults*.

> Accountability Measure

Participants provide positive feedback on the effectiveness of the training.

Results

Evaluations by the participants were completed during and at the end of the programme. Feedback from participants was constructive and positive.

> Accountability Measure

In Northland and Southland, training by participants documented and evaluated.

Results

The participants passed on their knowledge and experience in 77 human rights education community activities in Northland and Southland.

Outcomes of activities have been documented and evaluated. The course participants and their communities have provided constructive and positive feedback about the impact of the training.

Strategic Priority**Enquiries and Complaints Accessibility (Human Rights Environment outcome)****> Activity**

Identify and implement strategies and initiatives to improve the accessibility of the Enquiries and Complaints Service to under-represented groups.

> Accountability Measure

Feedback from target groups indicates effective engagement on barriers and issues identified.

Results

Constructive feedback from target groups on barriers to engagement has been addressed through an ongoing plan that will address:

- development of Commission's systems and people
- links to other complaint agencies
- publication and communications strategy
- initiatives with vulnerable communities
- links to referral agencies
- monitoring and evaluation.

Strategic Priority

Diversity Action Programme (Human Rights Environment outcome)

> Activity

Promote and facilitate networks and events.

> Accountability Measure

The number of participants is maintained, the number and quality of projects are increased and networks have grown and are operating effectively.

Results

209 NZDAP participants renewed or registered by end June 2009, contributing 548 projects. The language network grew by 68 per cent with 714 members, the media network grew by 57 per cent with 427 members, the religious diversity network grew by 28 per cent with 537 members, and the refugee network grew by 61 per cent with 390 members.

> Accountability Measure

Survey of DAP participants indicates they are supported in delivering quality programmes.

Results

Stage 1 of a review of the programme was undertaken and a proposed survey methodology was developed. Specific feedback was sought from a selection of participants for the development of programme resources. Feedback has been constructive.

> Activity

Identify and publicise good practice.

> Accountability Measure

The number of participants in the Diversity Forum increases.

Results

In 2007/8 there were 20 separate events with 1500 attending one or more events. For the 2008/9 forum this had increased to 32 separate events with 1600 attending one or more events.

> Activity

Publish good quality research and analysis.

> Accountability Measure

Annual review of race relations is published and receives positive feedback.

Results

The Race Relations Report was published in March 2009. Print and broadcast media covered the launch. Content used in speeches by a number of Members of Parliament.

Strategic Priority**National Conversation about Work (Right to Work outcome)** (*Initial title National Listening Tour)**> Activity**

Undertake consultation on EEO policy options and practices.

> Accountability Measure

Full participation in consultation by target groups.

Results

Seven regional visits completed. Regional reports indicate wide participation by target groups.

> Accountability Measure

Survey of 25 participants shows relationship satisfaction.

Results

A telephone survey of 25 participants from three of the seven regions, the West Coast South Island, Taranaki and Wellington, was completed. The survey indicates satisfaction with the relationship.

> Accountability Measure

NEON website usage increases by 10 per cent.

Results

Monthly usage figures rose from 108,218 hits for March 2008 to 128,260 hits for March 2009.

Strategic Priority**Crown Agency-Tangata Whenua Relationships (Te Mana I Waitangi outcome area)****> Activity**

Develop Crown-Tangata Whenua relationship network so members can share best practice, facilitated by events, newsletters and resources.

> Accountability Measure

Increase number of participants in network.

Results

1200 participants in network, increased from 847 in 2008.

> Accountability Measure

Feedback from network participants indicates activities have contributed to the growth in best practice.

Results

Crown-Tangata whenua network participants took part in a roundtable in March, 2009 and identified issues that contribute to best practice and growth in best practice in local communities. These are:

- formal agreements
- regular dialogue
- shared decision-making
- respect for the Treaty
- valuing Matauranga Māori.

Output: Advocacy and Protection

This output includes using the functions that are unique to the Commission and which recognise its role as New Zealand's national human rights institution; and strengthening and protecting constitutional arrangement in accordance with human rights standards. This may involve conducting inquiries into possible infringements of human rights, developing guidelines and voluntary codes of practice, investigating, monitoring and reporting on compliance with international human rights standards, and bringing proceedings and intervening in court proceedings. It also involves making submissions on Bills before Parliament, presentations to Parliamentary Select Committee, responding to broader human rights issues, and developing discussion documents and reports.

Strategic Priority

Transgender Inquiry (Human Rights Environment outcome)

> Activity

Advocate for implementation of Inquiry recommendations through targeted briefings and a human rights education programme.

> Accountability Measure

Briefings provided to target organisations and communities.

Results

The Commission gave 17 briefings to over 365 people and organisations, including Members of Parliament, government agencies, non-government organisations, union delegates, the Wellington Medical School and the Police Training College.

> Accountability Measure

Government and civil society actions in response to the Inquiry assessed.

Results

The Commission worked with 13 Government agencies to support 16 actions related to recommendations in the Transgender Inquiry. The Commission ran workshops for the further five agencies.

The actions include:

- developing employment fact sheets analysis of detention issues for trans people
- new legislation allowing overseas born New Zealanders to change their sex details
- revising passports policy to reflect recent case law,
- agreeing to establish a working group to address the Inquiry's health recommendations.

The Commission supported 12 actions undertaken by community groups including developing resources and training programmes, lobbying for changes to policies and laws, and profiling the Inquiry's implementation through print, radio and TV media.

> Accountability Measure

Education programme developed.

Results

Education resources and workshops were developed, and almost 400 participants attended 10 human rights workshops.

Strategic Priority

Disability Convention (Disabled People outcome)

> Activity

Promote changes to legislation, policy and practice necessary for Convention compliance.

> Accountability Measure

Advice provided on necessary changes to legislation, policy and practice meets quality standards.

Results

The Disability (United Nations Convention on the Rights of Persons with Disabilities) Act became law on 3 September 2008, largely incorporating the Commission's suggested approach.

> Activity

Scope a monitoring tool for the Convention.

> Accountability Measure

Scoping identifies clear basis for monitoring the Convention.

Results

The Commission has undertaken scoping work on monitoring the Convention. It is expected that this will be completed in agreement with the Government in the 2009-2010 year.

Strategic Priority

Good Employer Guidance (Right to Work outcome)

> Activity

Promote, develop and extend good employer guidance to the wider state sector (including local government) and to the private sector.

> Accountability Measure

"Good employer" policies and practice are adopted in 10 local government and private sector organisations.

Results

The Commission provided advice and support for 10 city and district councils, the State Services Commission, the Resident Doctors Association and Clubs New Zealand on actions based on Good Employer policies.

> Accountability Measure

Monitoring reports on Crown Entity accountability documents are produced to quality standards.

Results

The second Crown Entities and Good Employer: Annual Report Review 2008 was published in January 2009 and met internal quality standards.

> Accountability Measure

Online survey of website users indicates usefulness of resources provided.

Results

An online survey was posted to the NEON website and sent to NEON users to gauge the usefulness of resources. Preliminary results show that the resources available are well received and of help to users.

Strategic Priority

Monitoring International Conventions (International Connectiveness outcome)

> Activity

Actively engage with the international and national monitoring of the application of the international human rights treaties in New Zealand - including the Commission's specific responsibilities for monitoring OPCAT.

> Accountability Measure

Systematic monitoring and publicising of New Zealand's reporting, and the subsequent Treaty Body recommendations documented.

Results

The Commission has monitored and publicised New Zealand's reporting obligations under:

- Convention on the Elimination of Racial Discrimination
- Convention Against Torture
- Convention on the Rights of the Child

Corresponding Treaty Body reports and recommendations have been monitored and publicised in the 2008/9 year.

> Accountability Measure

Contributions made to State reports and, if appropriate, supplementary reports provided to Treaty Bodies.

Results

The Commission has published submissions and independent reviews and promoted public engagement in the international monitoring process with the following international human rights Treaty Bodies in 2008/9:

- Universal Periodic Review
- Convention on the Elimination of Racial Discrimination
- Convention Against Torture
- Convention on the Rights of the Child.

> Accountability Measure

Requests for contributions from the Human Rights Council and Treaty Bodies are responded to.

Results

The Treaty body the Office of the High Commissioner for Human Rights' Expert Mechanism on the Rights of Indigenous People requested contributions on implementing the right of indigenous people to education.

In the 2008/9 year the Commission contributed a paper based on New Zealand's perspective.

> Accountability Measure

Commission's specific responsibilities to coordinate the monitoring of OPCAT are met.

Results

Specific responsibilities met included the publication and tabling in Parliament of the first Annual Report on New Zealand's Optional Protocol to the Convention on Torture.

Output: Enquiries and Complaints

The Commission has a statutory responsibility to deal with complaints of unlawful discrimination in the areas covered by the Act. The Commission's Enquiries and Complaints Service provides a process for the effective, informal and efficient resolution of discrimination complaints. The Commission also provides an information and referral service for enquiries on human rights matters.

Strategic Priority

Enquiries and Complaints Service (Human Rights Environment outcome)

> Activity

Provide an Enquiries and Complaints Service in which complaints are resolved in an efficient, informal and cost effective manner, which results in changes to individual and organisational behaviour and practice.

> Accountability Measure

80 per cent of complaints closed within one year, with the situation advanced for the enquirer/complainant.

Results

98.6 per cent of complaints closed or advanced within one year.

> Accountability Measure

95 per cent of complaints dealt with to agreed internal quality standards.

Results

95 per cent of complaints raising issues of unlawful discrimination dealt with to agreed standards of timeliness and flexibility to ensure complaints are handled in an efficient, and cost effective manner.

> Accountability Measure

Case studies on selected complaints show process has led to changes in policies, procedures and practices.

Results

Two publications of case studies published in the 2008/9 year showed how the disputes resolution process results in changes to individual and organisational behaviour.

Output: Human Rights and Privacy Litigation

The Office of Human Rights Proceedings provides legal representation before the Human Rights Review Tribunal or related proceedings. Proceedings can be taken under either the Human Rights Act 1991 or the Privacy Act 1993.

Strategic Priority

Legal representation for human rights cases

> Activity

The Director of Human Rights Proceedings will:

- provide legal representation before the Human Rights Review Tribunal or related proceedings for cases which the Director has decided meet the criteria in section 92 of the Human rights Act 1993
- provide representation of the Human Rights Commission in appropriate cases
- take proceedings under the Privacy Act 1993 in appropriate cases referred to the Director by the Privacy Commissioner
- intervene in appropriate proceedings under the Privacy Act, 1993.

> Accountability Measure

90 per cent of decisions on representation made within 60 days of application.

Results

75 per cent of decisions on representation made within 60 days of application.

The predominant reasons for the target not being met were:

- (a) the significant resources required in the Parents as Caregivers case
- (b) the resignation of a senior staff member in December 2008
- (c) the increasing complexity of some Part 1A cases.

> Accountability Measure

All human rights and privacy matters are conducted to the standards of ethics and competence expected by legal advisers and those providing legal representation.

Results

All human rights and privacy matters were conducted to the standards of ethics and competence expected by legal advisers and those providing legal representation.

No complaints or inquiries were received about the ethics or competency of the conduct of OHRP cases.

> Accountability Measure

An anticipated 80-110 human rights and privacy matters will be conducted.

Results

This target was met. The Director made 80 decisions in the reporting year.

Statement of Financial Performance

for the year ended 30 June 2009

Actual 2008 \$		Notes	Actual 2009 \$	Budget 2009 \$
REVENUE				
9,357,001	Revenue from Crown		9,163,000	9,172,000
473,056	Official development assistance	2	729,679	420,000
224,051	Other income		91,707	211,000
376,076	Interest received		299,601	200,000
10,430,184	Total Revenue		10,283,987	10,003,000
EXPENSES				
(5,663,330)	Employee benefit costs	3	(6,202,178)	(6,274,000)
(368,297)	Travel costs		(388,539)	(402,000)
(1,518,160)	Overhead and other expenses	4	(1,940,111)	(1,609,000)
(863,367)	Projects		(837,060)	(1,336,000)
(285,750)	Official development assistance	2	(619,043)	(420,000)
(120,852)	Depreciation & amortisation		(114,434)	(264,000)
(8,819,756)	Total Expenses	5	(10,101,365)	(10,305,000)
178	Gains/(losses)	6	(8,122)	-
-	Lease surrender incentive	7	493,309	-
1,610,606	Net Surplus for the year		667,809	(302,000)

Explanations of significant variances from budget are detailed in note 21.

Statement of Financial Position

as at 30 June 2009

Actual 2008		Notes	Actual 2009	Budget 2009
\$			\$	\$
ACCUMULATED FUNDS				
2,951,277	Human Rights Commission		3,619,086	1,741,000
2,951,277	Accumulated Funds	15	3,619,086	1,741,000
CURRENT ASSETS				
3,665,303	Cash & cash equivalents	8	495,697	1,847,000
48,656	OHRP bank account	8	37,334	-
-	Short-term deposits		2,600,000	-
27,878	Debtors	9	1,257,788	20,000
708	Accrued revenue		31,112	-
82,727	GST receivable		-	25,000
106,595	Prepayments		281,059	17,000
6,471	Other receivables	9	3,795	-
3,938,338	Total Current Assets		4,706,785	1,909,000
CURRENT LIABILITIES				
640,972	Creditors	10	949,700	358,000
439,058	Employee entitlements	11	546,470	370,000
74,467	Other payables	10	78,330	-
615	Funds held in Trust	12	855	-
-	GST Payable		115,040	-
7,159	Revenue received in advance		70,560	-
1,162,271	Total Current Liabilities		1,760,955	728,000
2,776,067	Working Capital		2,945,830	1,181,000
NON-CURRENT ASSETS				
240,165	Property, plant & equipment	13	768,757	560,000
13,524	Intangible assets	14	17,020	-
253,689	Total Non-current Assets		785,777	560,000
NON-CURRENT LIABILITIES				
-	Revenue received in advance		32,420	-
78,479	Employee entitlements	11	80,101	-
78,479	Total Non-current Liabilities		112,521	-
2,951,277	Net Assets		3,619,086	1,741,000

The accompanying notes form an integral part of these statements of account.

Statements of Changes in Equity

for the year ended 30 June 2009

Actual 2008		Note	Actual 2009	Budget 2009
\$			\$	\$
1,340,671	Opening Accumulated Funds		2,951,277	2,043,000
1,610,606	Net Surplus for the year		667,809	(302,000)
1,610,606	Total recognised revenue and expenses for the period		667,809	(302,000)
2,951,277	Closing Accumulated Funds	15	3,619,086	1,741,000

The accompanying notes form an integral part of these statements of account.

Statement of Cash Flows

for the year ended 30 June 2009

Actual 2008	Note	Actual 2009	Budget 2009
\$		\$	\$
CASH FLOW FROM OPERATING ACTIVITIES			
<i>Cash was provided from:</i>			
9,357,001	Receipts from Crown revenue	9,163,000	9,172,000
678,669	Other income	152,879	631,000
376,076	Interest on cash management	299,601	200,000
-	Goods and Services Tax (net)	197,767	-
10,411,746		9,813,247	10,003,000
<i>Cash was disbursed to:</i>			
(8,356,491)	Employees and suppliers	(9,739,530)	(10,041,000)
(31,230)	Goods and Services Tax (net)	-	-
(8,387,721)		(9,739,530)	(10,041,000)
2,024,025	Net operating cash inflow	73,717	(38,000)
CASH FLOW FROM INVESTING ACTIVITIES			
<i>Cash was provided from:</i>			
178	Sale of property, plant & equipment	178	-
<i>Cash was disbursed to:</i>			
(126,635)	Purchase of property, plant & equipment	(636,320)	(594,000)
-	Purchase of intangible assets	(18,503)	-
-	Short-term deposits	(2,600,000)	-
(126,457)	Net investing cash outflow	(3,254,645)	(594,000)
1,897,568	Net increase/(decrease) in cash	(3,180,928)	(632,000)
1,816,391	Add opening cash brought forward	3,713,959	2,479,000
3,713,959	Ending cash carried forward	533,031	1,847,000
RECONCILIATION OF CASH BALANCES			
3,665,303	Cash & cash equivalents	495,697	1,847,000
48,656	OHRP bank account	37,334	-
3,713,959		533,031	1,847,000

The GST (net) component of operating activities reflects the net GST paid and received with the Inland Revenue Department. The GST (net) component has been presented on a net basis, as the gross amounts do not provide meaningful information for financial statement purposes.

The accompanying notes form an integral part of these statements of account.

Statement of Commitments and Contingencies

as at 30 June 2009

STATEMENT OF COMMITMENTS

The Commission leases office floor space and photocopier machines in the normal course of its business. These non-cancellable leases have termination dates and per annum lease payments as follows:

Lease Commitments	\$ p.a.	Until
Auckland	384,467	May 2011
Wellington	268,902	April 2015
Christchurch	62,075	August 2015
Photocopy machines	76,620	July 2013
Term Classification of Commitments	2009	2008
Less than one year	786,293	689,485
One to five years	1,890,023	997,968
More than five years	278,786	6,385
	2,955,102	1,693,838

The Commission has a right to renew its leases of the Wellington office space for a further three year term from April 2015, and the Christchurch office space for a further six year term from August 2015, but does not have any right to renew any other leases at their expiry, nor does it have any option to purchase any of the assets at the end of the term of the leases.

There are no restrictions placed on the Commission by any of the leasing arrangements.

The Commission has entered into a sublease arrangement as sublessor of part of its Wellington office space. As part of the terms of the sublease, the sublessee has undertaken a commitment to pay the following rental to the Commission:

Sublease income	\$ p.a.	Until
Wellington	33,905	June 2015
Term Classification of Commitments	2009	2008
Less than one year	33,905	-
One to five years	135,620	-
More than five years	33,905	-
	203,430	-

Capital Commitments

Nil (2008 : nil)

The accompanying notes form an integral part of these statements of account.

STATEMENT OF CONTINGENCIES

The Commission is subject to a "Make Good" clause in its accommodation lease contracts for the Auckland, Wellington and Christchurch offices. This clause, if invoked, would require the Commission to remove all leasehold improvements, and leave the premises in a state not dissimilar to that received at the time of moving into the premises. At balance date, the Commission's intention into the foreseeable future is to continue leasing the premises. The likelihood of this clause being invoked is unknown, as is the cost to fulfil the clause.

Other than that stated above, there are no known contingencies existing at balance date (2008 : same).

Notes to the Financial Statements

for the year ended 30 June 2009

1 STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES FOR THE YEAR ENDED 30 JUNE 2009

Reporting Entity

The Human Rights Commission (the Commission) was established by the Human Rights Commission Act 1977, which was passed on 21 November 1977 but came into force on 1 September 1978. As well as establishing the Commission, the Act is designed to promote the advancement of human rights in New Zealand in general accordance with the United Nations International Covenants or Conventions on Human Rights. The Human Rights Act 1993, which came into effect on 1 February 1994, replaced the 1977 Act, and extended the jurisdiction of the Commission. The Human Rights Commission Amendment Act 2001 made further significant changes in the operation of the Commission.

The Commission is a body corporate with perpetual succession and common seal, and is domiciled in New Zealand.

The primary objective of the Commission is to provide services to the public rather than making a financial return. Accordingly, the Commission has designated itself as a public benefit entity for the purposes of New Zealand equivalents to International Financial Reporting Standards (NZ IFRS).

Commissioners include:

- a) The Chief Commissioner
- b) The Race Relations Commissioner
- c) The Equal Employment Opportunities Commissioner and
- d) Not more than five other part-time Commissioners.

All Commissioners are appointed by the Governor-General on the recommendation of the Minister of Justice. The Commission is thus independent of the Executive and its staff are not public servants – their numbers, terms and conditions of employment and salaries and allowances are determined internally after consultation with the State Services Commission.

The funds of the Commission are appropriated by Parliament but paid out of Vote: Justice. The Commission prepares financial accounts which are audited by the Auditor-General and submitted to Parliament. The Commission prepares an Annual Report to the Minister of Justice on the exercise of its function during the year, a copy of the report also being laid before Parliament.

The financial statements of the Commission are for the year ended 30 June 2009. The financial statements were authorised for issue by the Chief Commissioner, Audit Committee Chairperson, and Executive Director on 25 September 2009.

The financial statements cannot be altered after they have been authorised for issue.

Basis of preparation

The financial statements of the Commission have been prepared pursuant to section 154 of the Crown Entities Act 2004, which includes the requirement to comply with New Zealand generally accepted accounting practices (NZ GAAP), and section 141 of the Human Rights Act 1993. Specific disclosures under section 152 of the Crown Entities Act 2004 are disclosed in the notes to the financial statements.

These financial statements have been prepared in accordance with, and comply with, NZ IFRS as appropriate for public benefit entities.

The accounting policies set out below have been applied consistently to all periods presented in these financial statements.

Measurement base

The financial statements have been prepared on an historical cost basis, except assets and liabilities that have been valued at fair value as identified in their respective accounting policies, and are presented in New Zealand dollars. The functional currency of the Commission is New Zealand dollars.

STANDARDS, AMENDMENTS AND INTERPRETATIONS ISSUED THAT ARE NOT YET EFFECTIVE AND HAVE NOT BEEN EARLY ADOPTED

Standards, amendments and interpretations issued but not yet effective that have not been early adopted, and which are relevant to the Commission include:

NZ IAS 1 *Presentation of Financial Statements (revised 2007)* which replaces NZ IAS 1 *Presentation of Financial Statements (issued 2004)* and is effective for reporting periods beginning on or after 1 January 2009. The revised standard requires information in financial statements to be aggregated on the basis of shared characteristics and introduces a statement of comprehensive income. The statement of comprehensive income will enable readers to analyse changes in equity resulting from non-owner changes separately from transactions with the Crown in its capacity as 'owner'. The revised standard gives the Commission the option of presenting items of income and expense and components of other comprehensive income either in a single statement of comprehensive income with subtotals, or in two separate statements (a separate income statement followed by a statement of comprehensive income). The Commission intends to adopt this standard for the year ending 30 June 2010, and is yet to decide whether it will prepare a single statement of comprehensive income or a separate income statement followed by a statement of comprehensive income.

Revenue

Revenue is measured at the fair value of consideration received.

Revenue from the Crown

The Commission is primarily funded through revenue received from the Ministry of Justice for the provision of outputs set out in the Memorandum of Understanding signed by the Chief Commissioner and the Minister of Justice. Revenue from the Crown is recognised as revenue when earned and is reported in the financial period to which it relates.

Other income

Other income is received from the supply of contract work, the sale of pamphlets, books and videos, and the provision of advice and educational seminars to third parties. Other income is recognised at the time the product or service is sold to the customer.

Interest

Interest income is recognised using the effective interest method.

Leases

Finance leases

A finance lease is a lease that transfers to the lessee, substantially all of the risks and rewards incidental to ownership of an asset, whether or not title is eventually transferred.

At the commencement of the lease term, the Commission recognises finance leases as assets and liabilities in the statement of financial position at the lower of the fair value of the leased item or the present value of the minimum lease payments.

The amount recognised as an asset is depreciated over its useful life. If there is no certainty as to whether the Commission will obtain ownership at the end of the lease term, the asset is fully depreciated over the shorter of the lease term and its useful life.

Operating leases

An operating lease is a lease that does not transfer substantially all the risks and rewards incidental to ownership of an asset. Lease payments under an operating lease are recognised as an expense on a straight-line basis over the lease term.

Financial instruments

Financial assets and financial liabilities are initially measured at fair value plus transaction costs unless they are carried at fair value through profit and loss in which case the transaction costs are recognised in the statement of financial performance.

Cash and cash equivalents

Cash includes cash on hand and funds on deposit at banks. Cash deposits with maturities in excess of 90 days are classified as short term deposits.

Debtors and other receivables

Debtors and other receivables are initially measured at fair value and subsequently measured at amortised cost using the effective interest rate method, less any provision for impairment.

Impairment of a receivable is established when there is objective evidence that the Commission will not be able to collect amounts due according to the original terms of the receivable. Significant financial difficulties of the debtor, probability that the debtor will enter into bankruptcy, and default in payments are considered indicators that the debtor is impaired. The amount of the impairment is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted using the original effective interest rate. The carrying amount of the asset is reduced through the use of an allowance account, and the amount of the loss is recognised in the statement of financial performance. Overdue receivables that are renegotiated are reclassified as current (i.e. not past due).

Accounting for foreign currency transactions

Foreign currency transactions are translated into New Zealand dollars using the exchange rates prevailing at the dates of the transactions. Foreign exchange gains and losses resulting from the settlement of such transactions and from the translation at year end exchange rates of monetary assets and liabilities denominated in foreign currencies are recognised in the statement of financial performance.

Property, plant and equipment

Property, plant and equipment consists of motor vehicles, equipment, furniture and fittings, leasehold improvements, and library books.

Property, plant and equipment is shown at cost or valuation, less any accumulated depreciation and impairment losses.

Additions

The cost of an item of property, plant and equipment is recognised as an asset, if and only if, it is probable that future economic benefits or service potential associated with the item will flow to the Commission and the cost of the item can be measured reliably.

In most instances, an item of property, plant and equipment is recognised at its cost. Where an asset is acquired at no cost, or for a nominal cost, it is recognised at fair value as at the date of acquisition.

Disposals

Gains and losses on disposals are determined by comparing the proceeds with the carrying amount of the asset. Gains and losses on disposals are included in the statement of financial performance.

Subsequent costs

Costs incurred subsequent to initial acquisition are capitalised only when it is probable that future economic benefits or service potential associated with the item will flow to the Commission and the cost of the item can be measured reliably.

Depreciation

Depreciation is provided on a straight-line basis on all property, plant and equipment, at rates that will write off the cost of the assets to their estimated residual values over their useful lives. The useful lives and associated depreciation rates of major classes of assets have been estimated as follows:

Motor Vehicles	5 years	20%
Equipment	5 years	20%
Furniture and Fittings	5 years	20%
Leasehold Improvements	5 years	20%
Library Books	5 years	20%

The residual value and useful life of an asset is reviewed, and adjusted if applicable, at each financial year-end.

Intangible assets

Software acquisition

Acquired computer software licenses are capitalised on the basis of the costs incurred to acquire and bring to use the specific software.

Costs associated with maintaining computer software are recognised as an expense when incurred. Staff training costs are recognised as an expense when incurred.

Amortisation

The carrying value of an intangible asset with a finite life is amortised on a straight-line basis over its useful life. Amortisation begins when the asset is available for use and ceases at the date that the asset is derecognised. The amortisation charge for each period is recognised in the statement of financial performance.

The useful lives and associated amortisation rates of major classes of intangible assets have been estimated as follows:

Computer Software	3 years	33%
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Impairment of non-financial assets

Intangible assets that have an indefinite useful life are not subject to amortisation and are tested annually for impairment. An intangible asset that is not yet available for use at the balance sheet date is tested for impairment annually.

Property, plant and equipment and intangible assets that have a finite useful life are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable amount. The recoverable amount is the higher of an asset's fair value less costs to sell and value in use.

Value in use is depreciated replacement cost for an asset where the future economic benefits or service potential of the asset are not primarily dependent on the asset's ability to generate net cash inflows and where the entity would, if deprived of the asset, replace its remaining future economic benefits or service potential.

If an asset's carrying amount exceeds its recoverable amount, the asset is impaired and the carrying amount is written down to the recoverable amount. The total impairment loss is recognised in the statement of financial performance. A reversal of the impairment loss is also recognised in the statement of financial performance.

Creditors and other payables

Creditors and other payables are initially measured at fair value and subsequently measured at amortised cost using the effective interest rate method.

Employee entitlements

Employee entitlements are measured at the present value of estimated future cash flows based on accrued entitlements at current rates of pay. These include salaries and wages accrued up to balance date, annual leave earned but not yet taken at balance date, and retiring and long service leave entitlements.

Long service leave and retirement leave have been calculated on an actuarial basis.

The calculations are based on:

- likely future entitlements accruing to staff, based on years of service, years to entitlement, the likelihood that staff will reach the point of entitlement and contractual entitlements information; and
- the present value of the estimated future cash flows.

Superannuation schemes

Defined contribution schemes

Obligations for contributions to KiwiSaver, Government Superannuation Fund, and the National Provident Fund are accounted for as defined contribution schemes and are recognised as an expense in the statement of financial performance as incurred.

Defined benefit schemes

The Commission currently does not make contributions to defined benefit schemes.

Provisions

The Commission recognises a provision for future expenditure of an uncertain amount or timing when there is a present obligation (either legal or constructive) as a result of a past event, it is probable that an outflow of future economic benefits will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

Provisions are not recognised for future operating losses.

Provisions are measured at the present value of the expenditures expected to be required to settle the obligation using a discount rate that reflects current market assessments of the time value of money and the risks specific to the obligation.

Commitments

Expenses yet to be incurred on non-cancellable contracts that have been entered into on or before balance date are disclosed as commitments to the extent that there are equally unperformed obligations.

Cancellable commitments that have penalty or exit costs explicit in the agreement on exercising that option to cancel are included in the statement of commitments at the value of that penalty or exit cost.

Accumulated Funds

Accumulated funds are the government's investment in the Commission and is measured as the difference between total assets and total liabilities.

Goods and Services Tax (GST)

All items in the financial statements are stated exclusive of GST, except for receivables and payables, which are stated on a GST inclusive basis. Where GST is not recoverable as input tax, then it is recognised as part of the related asset or expense.

The net amount of GST recoverable from, or payable to, the Inland Revenue Department (IRD) is included as part of receivables or payables in the statement of financial position.

The net GST paid to, or received from the IRD, including the GST relating to investing and financing activities, is classified as an operating cash flow in the statement of cash flows.

Commitments and contingencies are disclosed exclusive of GST.

Income tax

The Commission is a public authority and consequently is exempt from the payment of income tax. Accordingly, no charge for income tax has been provided for.

Budget figures

The budget figures are those included in the Commission's Statement of Intent and subsequent Memorandum of Understanding for the financial year being reported on, and were prepared in accordance with good management practice.

Cost

Direct costs are those costs that are directly attributable to an output and these costs are charged to the relevant project activity and reported in the statement of financial performance as project expenditure.

Indirect costs are those costs that cannot be identified accurately to a specific output and are not allocated to the Commission's project activities.

Critical accounting estimates and assumptions

In preparing these financial statements the Commission has made estimates and assumptions concerning the future. These estimates and assumptions may differ from the subsequent actual results. Estimates and judgements are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances. The estimates and assumptions that have a significant risk of causing material adjustment to the carrying amount of assets and liabilities within the next financial year are discussed below:

Useful lives of property, plant and equipment and intangible assets

Management has made an estimate as to the useful lives and residual amounts in respect of property, plant and equipment and intangibles. Notes 13 and 14 detail the carrying amount of property, plant and equipment and intangible assets respectively.

Critical judgements in applying the Commission's accounting policies

No critical judgements of a material nature were made by management in applying the Commission's accounting policies.

2. OFFICIAL DEVELOPMENT ASSISTANCE

The Commission receives project funding from the New Zealand Agency for International Development (NZ Aid) Official Development Assistance (ODA) fund for the provision of human rights advice, expertise, and other relevant activities in the Asia and Pacific regions. Income is recognised when the reimbursement of actual and reasonable costs incurred in implementing the project activities, is charged back to NZ Aid and drawn down against the funding provided for in each project's Memorandum of Understanding between NZ Aid and the Commission.

3. EMPLOYEE BENEFIT COSTS

	Actual 2009	Actual 2008
Salaries and wages	5,596,719	5,134,389
Employer contributions to defined contribution plans	37,730	36,951
Increase/(decrease) in employee entitlements	109,034	160,443
Other	458,695	331,547
Total employee benefit costs	6,202,178	5,663,330

Employer contributions to defined contribution plans include contributions to KiwiSaver, Government Superannuation Fund and the National Provident Fund.

4. OVERHEAD AND OTHER EXPENSES

	Actual 2009	Actual 2008
<i>Fees to auditor:</i>		
Audit of the financial statements	29,964	24,450
Audit of the NZ IFRS transition	-	7,000
Audit related fees for assurance and related services	-	-
Fees for tax and other services	-	-
Operating lease payments	792,571	578,454
Other costs	1,117,576	908,256
Total Overhead and other expenses	1,940,111	1,518,160

5. EXPENSES CLASSIFIED BY COST CENTRE

Cost Centre	Employee				Employee			
	Benefits	Travel	Other	Total 2009	Benefits	Travel	Other	Total 2008
Ahi Kaa	308,977	26,284	26,761	362,022	178,043	23,987	6,942	208,972
Commissioners	962,759	157,406	33,312	1,153,477	822,702	110,293	17,158	950,153
Corporate Services	814,437	25,246	1,785,464	2,625,147	865,771	30,818	1,417,533	2,314,122
Disputes Resolution	805,709	11,815	24,912	842,436	836,926	25,101	23,270	885,297
Executive Director's Office	467,523	34,895	77,531	579,949	380,217	56,564	56,822	493,603
External Relations	1,278,729	31,108	457,517	1,767,354	1,065,996	29,117	493,992	1,589,105
Strategic Policy	1,093,445	57,395	289,158	1,439,998	993,001	40,892	387,709	1,421,602
Official Dev. Assistance			619,043	619,043			285,750	285,750
Office of HR Proceedings	470,599	44,390	196,950	711,939	520,674	51,525	98,953	671,152
Total \$	6,202,178	388,539	3,510,648	10,101,365	5,663,330	368,297	2,788,129	8,819,756

Costs are allocated across nine cost centres. Corporate Services includes the cost of all major overhead expenses such as rent, and Commissioners includes the cost of all overseas travel undertaken by Commissioners and guests of the Commission.

6. GAINS/(LOSSES)

The Commission disposed of a number of obsolete items of equipment, leasehold improvements and software during the year as a result of the relocation of its Wellington and Christchurch offices.

7. LEASE SURRENDER INCENTIVE

The Commission received a payment from its prior Wellington landlord as an incentive to exit the lease of Wellington office space before the end of the lease term. As a condition of the incentive, the payment has been wholly applied against the cost of fitting out new premises.

8. CASH AND CASH EQUIVALENTS AND OHRP BANK ACCOUNT

Cash and cash equivalents and OHRP bank account comprise solely of cash at bank and on hand. Cash and cash equivalents and OHRP bank account are stated at fair value.

9. DEBTORS AND OTHER RECEIVABLES

The carrying value of debtors and other receivables approximates their fair value.

As at 30 June 2009, there were no debtors past due. All receivables have been assessed for impairment and there is no impairment.

10. CREDITORS AND OTHER PAYABLES

	Actual 2009	Actual 2008
Creditors	949,700	640,972
Other payables	78,330	74,467
Total creditors and other payables	1,028,030	715,439

Creditors and other payables are non-interest bearing and are normally settled on 30-day terms, therefore the carrying value approximates their fair value.

11. EMPLOYEE ENTITLEMENTS

	Actual 2009	Actual 2008
Current employee entitlements are represented by:		
Annual leave	530,834	428,734
Retirement and long service leave	15,636	10,324
Total current portion	546,470	439,058
Non-current employee entitlements are represented by:		
Retirement and long service leave	80,101	78,479
Total non-current portion	80,101	78,479
Total employee entitlements	626,571	517,537

The liability for employee entitlements is carried at the present value of estimated future cash flows.

Two key assumptions used in calculating the retirement and long service leave liability include the discount rate and the salary inflation factor. Any changes in these assumptions will impact on the carrying amount of the liability.

A discount rate of 5.96% was used which reflects the expected long-term interest rate on government bonds. A salary inflation factor of 3.5% has been used which was determined after considering the contractual obligations of the Commission in the foreseeable future.

12. FUNDS HELD IN TRUST

This liability is for monies that are held in trust by the OHRP as an independent intermediary in the transfer of funds from defendants to claimants who have been discriminated against.

13. PROPERTY, PLANT AND EQUIPMENT

	Motor Vehicles	Equipment	Furniture & Fittings	Library	Leasehold Improvements	Total
COST						
Balance, 1 July 2007	107,579	1,369,476	585,424	115,052	357,234	2,534,765
Additions	-	117,649	8,986	-	-	126,635
Disposals	-	-	-	-	-	-
Balance, 30 June 2008	107,579	1,487,125	594,410	115,052	357,234	2,661,400
Balance, 1 July 2008	107,579	1,487,125	594,410	115,052	357,234	2,661,400
Additions	-	82,483	62,178	-	491,659	636,320
Disposals	-	(62,793)	(30,000)	-	(94,222)	(187,015)
Balance, 30 June 2009	107,579	1,506,815	626,588	115,052	754,671	3,110,705
ACCUMULATED DEPRECIATION & IMPAIRMENT LOSSES						
Balance, 1 July 2007	73,576	1,229,725	572,507	115,052	328,898	2,319,758
Depreciation expense	11,749	63,143	9,134	-	17,451	101,477
Impairment losses	-	-	-	-	-	-
Eliminate on disposal	-	-	-	-	-	-
Balance, 30 June 2008	85,325	1,292,868	581,641	115,052	346,349	2,421,235
Balance, 1 July 2008	85,325	1,292,868	581,641	115,052	346,349	2,421,235
Depreciation expense	7,137	77,921	6,930	-	11,790	103,778
Impairment losses	-	-	-	-	-	-
Eliminate on disposal	-	(62,030)	(30,000)	-	(91,035)	(183,065)
Balance, 30 June 2009	92,462	1,308,759	558,571	115,052	267,104	2,341,948
CARRYING AMOUNTS						
At 1 July 2007	34,003	139,751	12,917	-	28,336	215,007
At 30 June and 1 July 2008	22,254	194,257	12,769	-	10,885	240,165
At 30 June 2009	15,117	198,056	68,017	-	487,567	768,757

There are no restrictions over the title of the Commission's Property, Plant and Equipment, nor are any assets pledged as security for liabilities.

14. INTANGIBLE ASSETS

	Software	Total
COST		
Balance, 1 July 2007	343,371	343,371
Additions	-	-
Disposals	-	-
Balance, 30 June 2008	343,371	343,371
Balance, 1 July 2008	343,371	343,371
Additions	18,503	18,503
Disposals	(300,683)	(300,683)
Balance, 30 June 2009	61,191	61,191
ACCUMULATED AMORTISATION & IMPAIRMENT LOSSES		
Balance, 1 July 2007	310,472	310,472
Amortisation expense	19,375	19,375
Impairment losses	-	-
Eliminate on disposal	-	-
Balance, 30 June 2008	329,847	329,847
Balance, 1 July 2008	329,847	329,847
Amortisation expense	10,656	10,656
Impairment losses	-	-
Disposals	(296,332)	(296,332)
Balance, 30 June 2009	44,171	44,171
CARRYING AMOUNTS		
At 1 July 2007	32,899	32,899
At 30 June and 1 July 2008	13,524	13,524
At 30 June 2009	17,020	17,020

There are no restrictions over title of the Commission's intangible assets, nor are any intangible assets pledged as security for liabilities.

15. ACCUMULATED FUNDS

The Office of Human Rights Proceedings (OHRP) is part of the Commission but is required to act independently in the performance of its function. It is funded internally by the Commission and retains its reserves for its own future use.

Accumulated Funds	2009	2008
OHRP		
Opening OHRP balance	318,011	402,367
Net deficit	(102,815)	(84,356)
Closing OHRP balance (1)	215,196	318,011
General HRC		
Opening HRC balance	2,633,266	938,304
Net surplus	770,624	1,694,962
Closing HRC balance (2)	3,403,890	2,633,266
Total Closing balance (1 & 2)	3,619,086	2,951,277

16. RECONCILIATION OF NET SURPLUS TO NET CASH FROM OPERATING ACTIVITIES

2008 \$		2009 \$
1,610,606	Net Surplus for the year	667,809
	Add/(less) non-cash items:	
160,443	Increase in employee entitlements	109,034
120,852	Depreciation & amortisation	114,434
(178)	(Gains)/losses	8,122
281,117	Total non-cash Items	231,590
1,891,723		899,399
	Add/(less) Movements in Working Capital:	
(114,962)	(Increase)/Decrease in debtors & other receivables	(1,234,336)
247,264	Increase/(Decrease) in creditors & other payables	408,654
132,302	Net Working Capital Movement	(825,682)
2,024,025	Net Operating cash inflow	73,717

17. RELATED PARTY TRANSACTIONS AND KEY MANAGEMENT PERSONNEL

Related Party Transactions:

No related party transactions took place during the year (2008: nil).

Key Management Personnel compensation:

	Actual 2009	Actual 2008
Salaries and other short-term employee benefits	2,191,109	1,784,893
Post-employment benefits	39,046	32,026
Other long-term benefits	-	-
Termination benefits	-	-
Total Key Management Personnel compensation	2,230,155	1,816,919

Key management personnel includes the Commissioners, Director of the OHRP, Executive Director and seven other members of the Management Team.

18. EVENTS AFTER THE BALANCE SHEET DATE

There have been no significant events after the balance sheet date.

19. FINANCIAL INSTRUMENT RISKS

The Commission manages risks associated with financial instruments and seeks to minimise its exposure to these risks. Legislation does not allow the Commission to enter into any transactions that are speculative in nature without the prior approval of the responsible Minister. The Commission's activities expose it to the following financial instrument risks:

Market risk

During the year the interest rates earned by the Commission on its cash reserves, deposited at the National Bank of New Zealand, ranged from 3.15% to 8.00%.

Sensitivity analysis

As at 30 June 2009, if these interest rates had been 1% higher or lower, with all other variables held constant, the surplus for the year would have been \$44,000 higher/lower. This movement is attributable to increased or decreased interest revenue on floating rate deposits.

Credit risk

Credit risk is the risk that a third party will default on its obligation to the Commission, causing the Commission to incur a loss.

In the normal course of business, credit risk arises from debtors and deposits with banks. The Commission's only concentration of credit risk is in respect of bank deposits held at the National Bank of New Zealand, which has a high credit rating.

The Commission's maximum credit exposure for each class of financial asset is represented by the total carrying amount of cash and cash equivalents, and debtors and other receivables (see note 20). There is no collateral held as security

against these financial instruments, including those instruments that are overdue or impaired.

20. CATEGORIES OF FINANCIAL INSTRUMENTS

The carrying amounts of financial assets and financial liabilities in each of the NZ IAS 39 categories are as follows:

	Actual 2009	Actual 2008
Loans and receivables measured at amortised cost		
Cash & cash equivalents	495,697	3,665,303
OHRP bank account	37,334	48,656
Short-term deposits	2,600,000	-
Debtors	1,257,788	27,878
Accrued revenue	31,112	708
GST receivable	-	82,727
Prepayments	281,059	106,595
Other receivables	3,795	6,471
Total loans and receivables measured at amortised cost	4,706,785	3,938,338
Financial liabilities measured at amortised cost		
Creditors	949,700	640,972
GST payable	115,040	-
Other payables	78,330	74,467
Funds held in Trust	855	615
Revenue received in advance	70,560	7,159
Total financial liabilities measured at amortised cost	1,214,485	723,213

21. EXPLANATION OF MAJOR VARIANCES FROM BUDGET

The Commission has maintained a satisfactory working capital position in 2009 by achieving a net operating surplus this financial year.

Revenue is \$281,000 higher than budget predominantly as a result of higher revenue than originally anticipated in the budget process, for the international work it undertakes through the official development assistance programme. The Commission has also received more interest revenue than budgeted due to a slower rate of spending than expected, resulting in cash reserves being greater than forecast at year end.

Total costs have increased 15% from the previous year. This is in accordance with the Commission's successful bids in the 2007-2008 budget round and has enabled the organisation to increase the use of its legal powers, and expand its work programmes on race relations and the right to work. As a result, employee costs are higher than last year but remain largely in line with budget.

Overhead costs are greater than last year, as was expected, but are 21% higher than budgeted due to higher than

anticipated rental expense following rent reviews by the landlords during the year, and the temporary rental of two premises in Wellington to allow for fit-out work required to transition to new premises. Legal costs were higher than budgeted as a result of a major case brought by the OHRP before the Human Rights Review Tribunal.

Although spending on projects was similar to the prior year, it was \$499,000 less than budgeted due to the extended scheduling of a number of activities and the realisation of some cost savings.

Official development assistance (ODA) costs are higher than both prior year expenditure and anticipated budget largely as a result of increased activity within a significant project being undertaken with the Commission on Human Rights of the Philippines.

Depreciation and amortisation is \$150,000 less than budget as significant capital spending on infrastructure improvements, funded by the successful 2007-2008 budget bids, was delayed in light of the economic downturn and forecast future public sector deficits. Significant capital expenditure was incurred in June 2009 in fitting out of the new Wellington premises and the impact of depreciation on these costs will be seen in the 2009-2010 year.

Statutory Disclosures

for the year ended 30 June 2009

1. COMMISSIONERS' TOTAL REMUNERATION

Total remuneration includes all benefits paid during the period 1 July 2008 to 30 June 2009.

Commissioner	Position	Amount \$
Rosslyn Noonan	Chief Commissioner	277,570
Joris de Bres	Race Relations Commissioner	205,615
Judy McGregor	Equal Employment Opportunities Commissioner	205,615
Robyn Hunt	Part-time Human Rights Commissioner	65,625
Karen Johansen	Part-time Human Rights Commissioner	70,125
Joy Liddicoat	Part-time Human Rights Commissioner	62,250
Jeremy Pope	Part-time Human Rights Commissioner	40,500
Richard Tankersley	Part-time Human Rights Commissioner	49,500

Richard Tankersley was appointed as part-time Human Rights Commissioner in September 2008.

2. REMUNERATION INFORMATION

The Commission, as a Crown Entity, is required to disclose certain remuneration information in its annual report. In essence, the information to be reported is the number of employees receiving total remuneration of \$100,000 or more per annum. In compliance, the table below has been produced, which is in \$10,000 bands to preserve the privacy of individuals. As Commissioners are not employees of the Commission, they have been excluded from the table.

Remuneration of employees over \$100,000 p.a.

Total remuneration p.a.	Number	Total remuneration p.a.	Number	Total remuneration p.a.	Number
\$100,000 - \$110,000	1	\$140,001 - \$150,000	1	\$180,001 - \$190,000	
\$110,001 - \$120,000		\$150,001 - \$160,000	2	\$190,001 - \$200,000	
\$120,001 - \$130,000	1	\$160,001 - \$170,000	1	\$200,001 - \$210,000	1
\$130,001 - \$140,000	1	\$170,001 - \$180,000		\$210,001 - \$220,000	1

3. INDEMNITY INSURANCE

The Commission's insurance policy covers public liability of \$10 million. Public liability includes cover for all amounts that the Commission becomes legally liable to pay as a direct compensation resulting from personal injury or damage to property, caused by an occurrence in connection with the organisations operation. This also covers:

- Defamation,
- Employees Personal Effects,
- Indemnity to Landlord,
- Landlords Liability,
- Mechanical Plant & Machinery and,
- Tenant Liability.

4. REDUNDANCY PAYMENTS

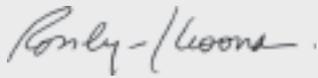
No redundancy payments were made in the year 1 July 2008 to 30 June 2009 (2008 : nil).

Statement of Responsibility

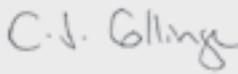
for the Year ended 30 June 2009

Pursuant to section 155 of the Crown Entities Act 2004, we certify that:

1. we have been responsible for the preparation of these financial statements and the judgements therein; and
2. we have been responsible for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of financial reporting; and
3. we are of the opinion that these financial statements fairly reflect the financial position as at 30 June 2009 and the operating results of the Commission for the year ended 30 June 2009.



Rosslyn Noonan
Chief Commissioner



Joanna Collinge
Executive Director



Jeremy Pope
Chairperson, Audit Committee

25 September 2009

Audit Report



TO THE READERS OF HUMAN RIGHTS COMMISSION'S FINANCIAL STATEMENTS AND STATEMENT OF SERVICE PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2009

The Auditor-General is the auditor of Human Rights Commission (the Commission). The Auditor-General has appointed me, David Walker, using the staff and resources of Audit New Zealand, to carry out the audit. The audit covers the financial statements and statement of service performance included in the annual report of the crown entity for the year ended 30 June 2009.

UNQUALIFIED OPINION

In our opinion:

- The financial statements of the Commission on pages 58 to 79:
 - comply with generally accepted accounting practice in New Zealand; and
 - fairly reflect:
 - the Commission's financial position as at 30 June 2009; and
 - the results of its operations and cash flows for the year ended on that date.
- The statement of service performance of the Commission on pages 48 to 56:
 - complies with generally accepted accounting practice in New Zealand; and
 - fairly reflects for each class of outputs:
 - its standards of delivery performance achieved, as compared with the forecast standards outlined in the statement of forecast service performance adopted at the start of the financial year; and
 - its actual revenue earned and output expenses incurred, as compared with the forecast revenues and output expenses outlined in the statement of forecast service performance adopted at the start of the financial year.

The audit was completed on 25 September 2009, and is the date at which our opinion is expressed.

The basis of our opinion is explained below. In addition, we outline the responsibilities of the Commissioners and the Auditor, and explain our independence.

BASIS OF OPINION

We carried out the audit in accordance with the Auditor-General's Auditing Standards, which incorporate the New Zealand Auditing Standards.

We planned and performed the audit to obtain all the information and explanations we considered necessary in order to obtain reasonable assurance that the financial statements and statement of service performance did not have material misstatements, whether caused by fraud or error.

Material misstatements are differences or omissions of amounts and disclosures that would affect a reader's overall understanding of the financial statements and statement of service performance. If we had found material misstatements that were not corrected, we would have referred to them in our opinion.

The audit involved performing procedures to test the information presented in the financial statements and statement of service performance. We assessed the results of those procedures in forming our opinion.

Audit procedures generally include:

- determining whether significant financial and management controls are working and can be relied on to produce complete and accurate data;
- verifying samples of transactions and account balances;
- performing analyses to identify anomalies in the reported data;
- reviewing significant estimates and judgements made by the Commissioners;
- confirming year-end balances;
- determining whether accounting policies are appropriate and consistently applied; and
- determining whether all financial statement and statement of service performance disclosures are adequate.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements and statement of service performance.

We evaluated the overall adequacy of the presentation of information in the financial statements and statement of service performance. We obtained all the information and explanations we required to support our opinion above.

RESPONSIBILITIES OF THE COMMISSIONERS AND THE AUDITOR

The Commissioners are responsible for preparing the financial statements and statement of service performance in accordance with generally accepted accounting practice in New Zealand. The financial statements must fairly reflect the financial position of the Commission as at 30 June 2009 and the results of its operations and cash flows for the year ended on that date. The statement of service performance must fairly reflect, for each class of outputs, the Commission's standards of delivery performance achieved and revenue earned and expenses incurred, as compared with the forecast standards, revenue and expenses adopted at the start of the financial year. The Commissioners' responsibilities arise from the Crown Entities Act 2004 and section 15 of the Public Audit Act 2001.

We are responsible for expressing an independent opinion on the financial statements and statement of service performance and reporting that opinion to you. This responsibility arises from section 15 of the Public Audit Act 2001 and the Crown Entities Act 2004.

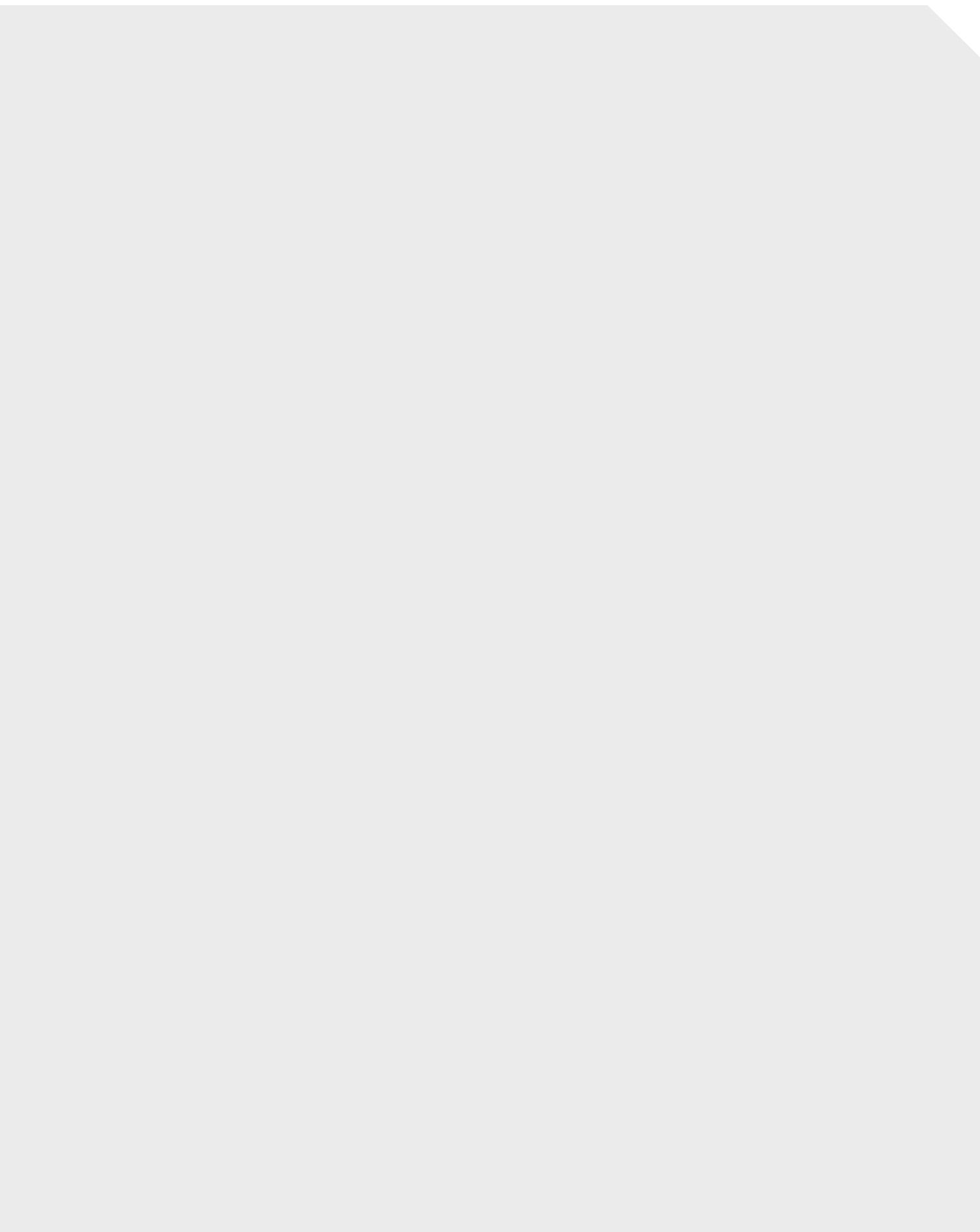
INDEPENDENCE

When carrying out the audit we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the Institute of Chartered Accountants of New Zealand.

Other than the audit, we have no relationship with or interests in the Commission.



David Walker
Audit New Zealand
On behalf of the Auditor-General
Auckland, New Zealand







Human Rights
Commission
Te Kāhui Tika Tangata

Human Rights Commission
Te Kāhui Tika Tangata

The Office of Human Rights Proceedings
Te Tari Whakatau Take Tika Tangata