

What's working?

Improving equal employment
opportunities in the public service

June 2014



Human Rights
Commission
Te Kāhui Tika Tangata



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Foreword

Equal employment opportunity (EEO) is about equality in the workplace. It is a human right to be treated fairly at every point of the employment process whether it is at pre-employment, promotion pathways or remuneration. The workplace is a critical entry point for New Zealanders from diverse backgrounds and therefore an essential place to ensure human rights are upheld. The resulting diversity brings significant benefits for all – employees, citizens, consumers and businesses.

New Zealand has 44,500 full time equivalent (FTE) public service employees across 29 departments, providing New Zealanders with essential day-to-day services in the health, education, justice, and social welfare sectors. These public service departments are part of the wider State Services and all have as one of their legislative mandates, the State Sector Act 1988.

This Act directs departments to be 'good employers' by providing an equal employment opportunities (EEO) programme targeting four vulnerable groups – women, Māori, ethnic minorities and people with disabilities. Compliance in this area is monitored by the State Services Commission (SSC) annually through the *Human Resources Capability Survey*.

The SSC is also charged with:

1. identifying and developing high calibre leaders,
2. overseeing the State Service workforce, and personnel matters,
3. better outcomes, and
4. promoting collaboration between government agencies.

In 2012, the Government launched its *Better Public Services* initiative comprising 10 key targets to be reached over five years:

REDUCING LONG-TERM WELFARE DEPENDENCE

1. Reduce the number of people who have been on a working age benefit for more than 12 months.

SUPPORTING VULNERABLE CHILDREN

2. Increase participation in early childhood education.
3. Increase infant immunisation rates and reduce the incidence of rheumatic fever.
4. Reduce the number of assaults on children.

BOOSTING SKILLS AND EMPLOYMENT

5. Increase the proportion of 18-year-olds with NCEA level 2 or equivalent qualification.
6. Increase the proportion of 25 to 34-year-olds with advanced trade qualifications, diplomas and degrees (at level 4 or above).

REDUCING CRIME

7. Reduce the rates of total crime, violent crime and youth crime.
8. Reduce re-offending.

IMPROVING INTERACTION WITH GOVERNMENT

9. New Zealand businesses have a one-stop online shop for all government advice and support they need to run and grow their business.
10. New Zealanders can complete their transactions with the Government easily in a digital environment.

In order for the state sector to meet these targets, and in the current context of prolonged financial constraints, the SSC acknowledges that this will be one of the biggest challenges. Services will be required to be designed and delivered around the needs of New Zealanders, not organisational boundaries.

The SSC has further stated that the key to doing more with less lies in developing productivity, innovation, increased agility to provide services, and strong leadership.

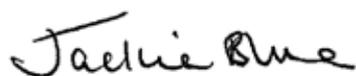
The Human Rights Commission reviewed all 29 public service departments to identify possible barriers to EEO along with good practice in the advancement of the four target groups.

We identified and profiled five departments who have excelled in one or more of these target areas.

Unfortunately, there are still outliers but we were encouraged to hear from some of these departments that they are committed to driving greater gender and diversity outcomes throughout their business which I am confident over time will reflect positively in their EEO outcomes.

We remain concerned that the *Human Resources Capability Survey* which monitors EEO progress has no targets or critical analysis of public service departments. We are also concerned that disability data is no longer reported in this survey.

What's Working? does just that, identifies what is working as we strive for fair and equitable employment for all New Zealand workers, across all groups, in the public sector workforce. But as we congratulate progress, we must also be aware that there is much to be done to make this a reality.



DR JACKIE BLUE

EEO Commissioner

Why bother with EEO?

1. A workplace should provide equality of opportunities for all employees. Equal opportunities outcomes such as representation and remuneration demonstrate progress in achieving equality of opportunity.
2. A citizen responsive public service will reflect the diversity within the community at all levels consistent with Better Public Services.
3. Equal employment opportunities are mandated by various legislated obligations.

Legislative Obligations

Each Public Service department has a duty to be a good employer, (s56, State Sector Act 1988) and to develop, publish and report on, an Equal Employment Opportunities programme each year (s58, State Sector Act).

1. One of the functions of the SSC is to promote, develop and monitor equal employment opportunities policies and programmes for the Public Service (s6, State Sector Act).
2. Specific EEO groups listed in the State Sector Act are Māori, ethnic or minority groups, women and persons with disabilities.
3. Under the Human Rights Act 1993 discrimination in the workplace on the basis of gender, disability, race, sexual orientation, age or family status among other grounds is not permitted.
4. Under the Bill of Rights Act 1990 it is permissible to use programmes or policies to advance better outcomes for disadvantaged groups.

EEO versus Diversity

The State Sector Act 1988 talks about good employer requirements, EEO groups and EEO programmes. EEO is about equality in the workplace for everyone. It is a human right to be treated fairly in all aspects of the employment process whether it is pre employment, promotion pathways or remuneration. The Human Rights Commission has observed the word 'diversity' replacing EEO in the survey over time.

An EEO programme will inevitably result in greater diversity in business. The business case for diversity is strong as there are many indisputable benefits. Diversity in the workforce leads to a wider talent pool to draw on; greater adaptability

by companies to adapt to changing markets and attracts a broader consumer base; enhanced customer branding and company reputation; increased employee engagement, productivity, improved staff retention and customer service.

Our concern is that the EEO/equality principle could be over shadowed by the diversity/business case. The fact is they are not mutually exclusive as diversity is a consequence of equality of opportunities in the workplace. The outcomes will be increased equality, reduced discrimination, and better public services.

WHAT WE DID

He Tātai Tangata Ka Taea – what gets counted gets done

In the course of monitoring progress in the representation of marginalised groups in employment (EEO groups), we (the Human Rights Commission) have observed that publication of EEO data alone does not necessarily drive change. Collection of data is invaluable in identifying the possibility of discrimination in employment and monitoring progress when measures are developed and implemented to address discrimination. Data collection alone, without analysis and a commitment to improving equality, is an empty gesture.

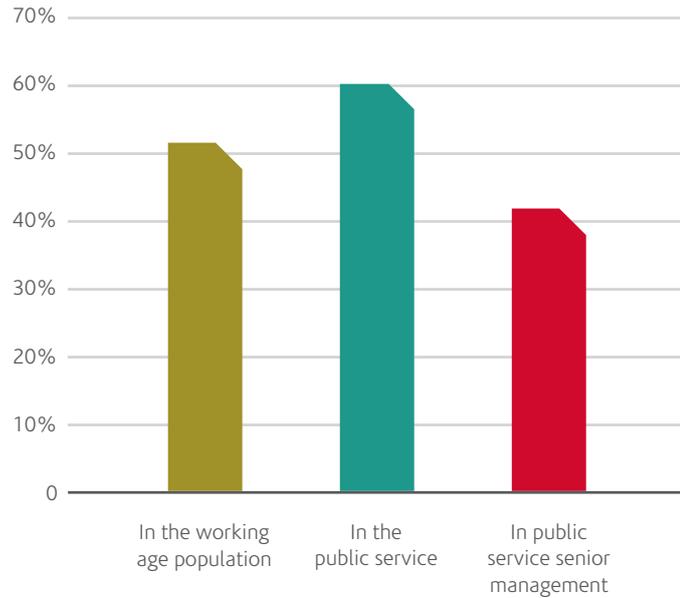
We requested each government department to provide us with information about staff metrics so we could calculate the representation of the four EEO groups across each department and in senior management teams. We also asked for the average (mean) and median pay for each of the groups. Our purpose was to identify departments whose metrics suggested better practice. Staff from different levels in the five exemplar departments, were interviewed to get an understanding about what made the difference. By sharing these insights the Commission seeks to provide advice and facilitate sharing ideas about what departments can do to improve their EEO outcomes.

WHAT'S THE GOAL?

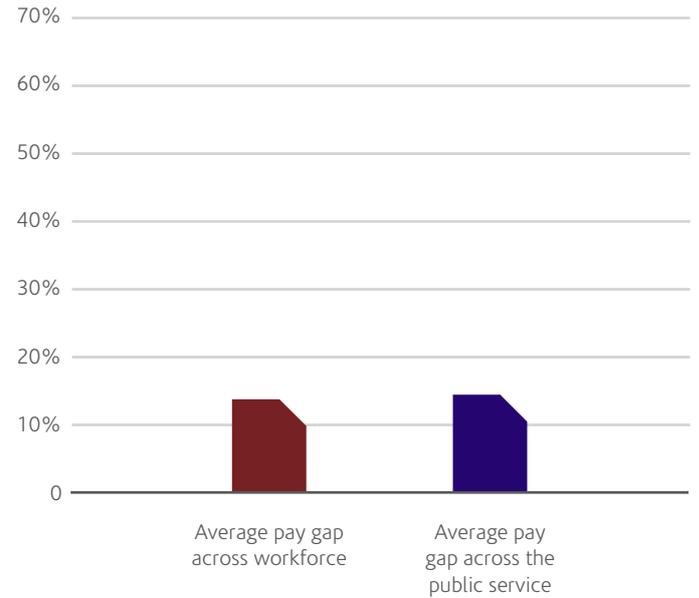
The goal is fair and equitable employment in the public service workplace, which will contribute to better public services. The public service will know it has achieved fair and equitable employment when EEO indicators such as representation, pay and conditions demonstrate equality.

What's the picture across the public service?

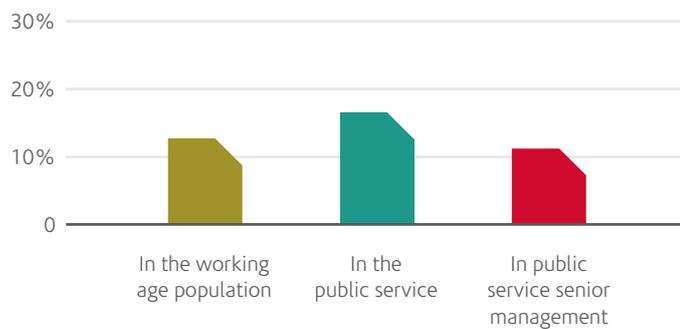
WOMEN IN THE WORKFORCE



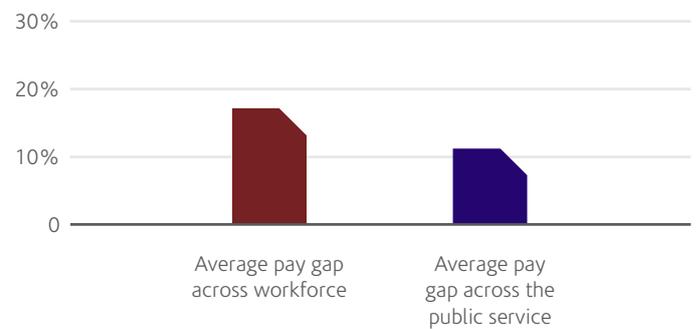
GENDER PAY GAP



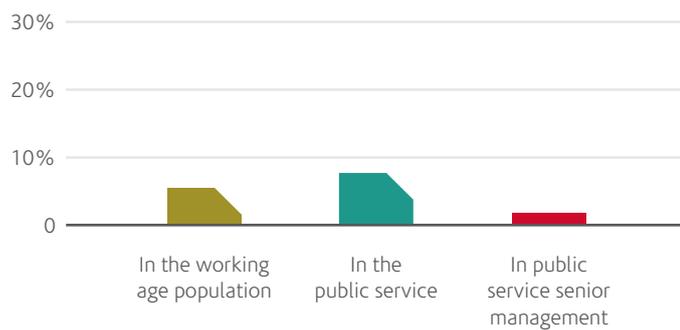
MĀORI REPRESENTATION



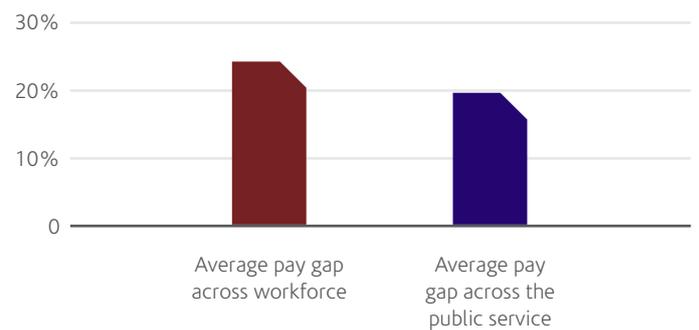
MĀORI-PĀKEHĀ PAY GAP



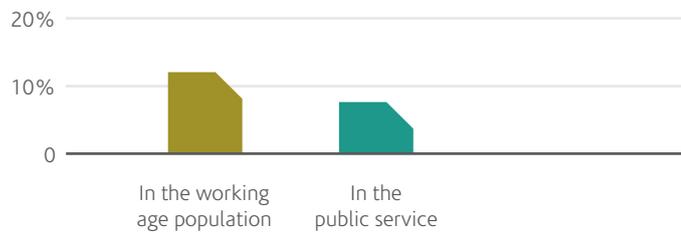
OTHER ETHNIC MINORITIES (PACIFIC PEOPLE'S) REPRESENTATION



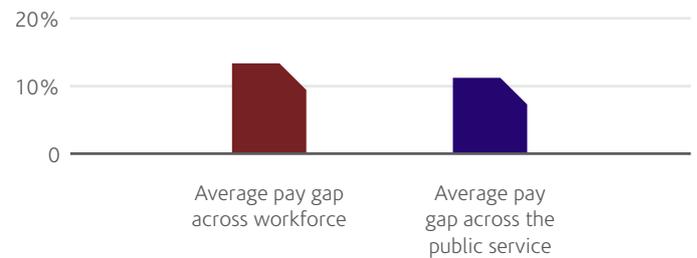
PACIFIC PEOPLE'S PAY GAP



OTHER ETHNIC MINORITIES (ASIAN PEOPLE'S) REPRESENTATION

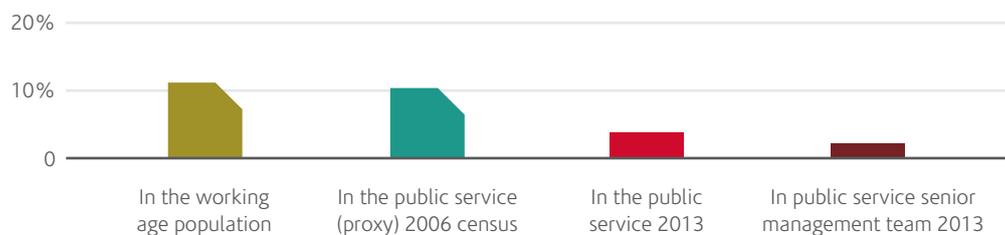


ASIAN PEOPLE'S PAY GAP



PEOPLE WITH DISABILITIES IN THE WORKFORCE

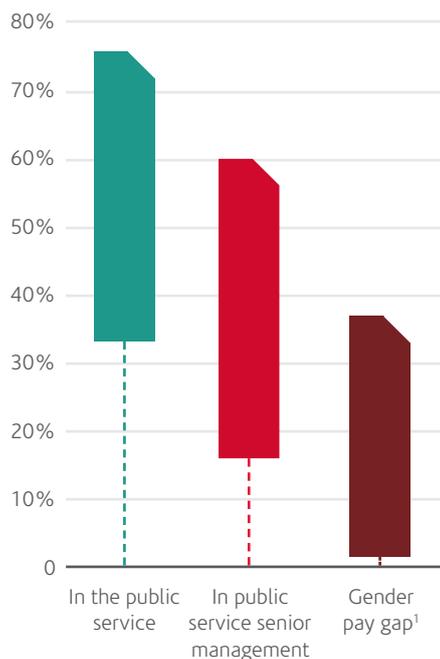
* Average people with disabilities pay gap across public service – don't know.



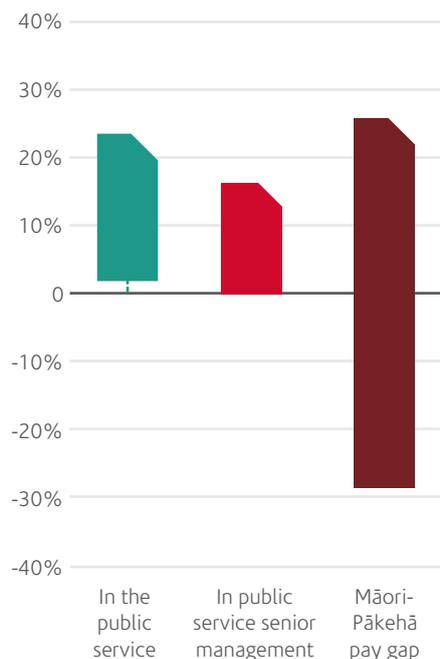
WITHIN THE PUBLIC SERVICE RANGE

* Ranges for Pacific and Asian ethnic minorities not available

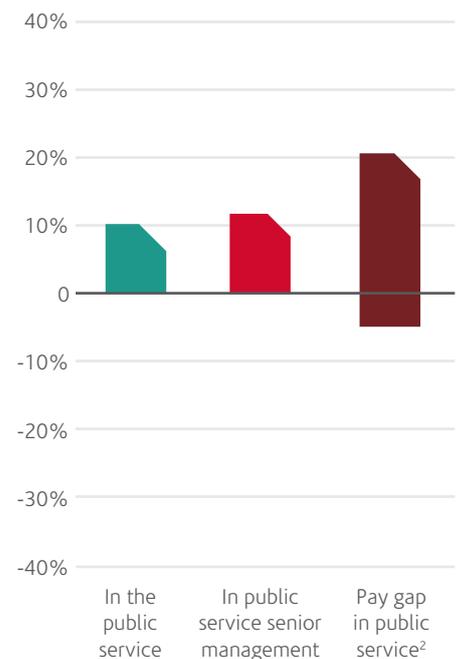
WOMEN Excluding MWA which has 1.8 FTE men in staff of 23.8.



MĀORI Excluding Te Puni Kōkiri which has 228 Māori staff in a staff of 308.



PEOPLE WITH DISABILITIES



¹ The Ministry of Women's Affairs, with a high number of women staff, and an all women senior management team has a 25.6% gender pay gap in favour of women.

² -5% gap in favour of people with disabilities.

Human Resources Capability Survey

The *Human Resource Capability Survey* report “provides insights into the State Services workforce and gives information on changing workforce trends.” Information provided “comes primarily from the *Human Resource Capability Survey* which collects payroll data on staff in all public service departments,” as well as other but not all organisations within the State Sector.

This annual survey began in 2000. While the Human Rights Commission acknowledges that the 2013 survey is the most in depth we have seen in recent years there is no critical analysis of the EEO groups and various pay gaps. We would like to see a plan of action, targets and recommendations for an agenda of change in how EEO can be advanced in the public service.

Disability data collected as part of the *Human Resources Capability Survey* from government was last published in the survey in 2002. We found that most departments are still collecting this data but this information is not collated or published. While there is some inconsistency in data collection methodology used currently and there may be a number of reasons why employees may not disclose information, it is important to collect data on the employment of people with disabilities in the public service.

The use of focus groups or a targeted survey may assist in the formulation of the disability questions to maximise the greatest response from employees. A standardised form needs to be devised and used across the public service. New Zealand is a signatory to the Convention on the Rights of Persons with Disabilities and we have an obligation to report in this area.

Similarly the way ethnicity data is collected should also be harmonised across the public service, for example we were told that there are eight public service departments who use only one field instead of three; some departments ask for primary ethnicity and others do not.

We scanned the public service annual reports and at best there is only scant reporting of good employer programmes and EEO. We would like to encourage more robust reporting in the annual reports along the lines of the Crown Entities’ EEO reporting in their annual reports which we have been monitoring for the last seven years.

We understand that not all data that is collected is reported in the survey. We would encourage the use of web based tools so that all information can be presented in a user friendly way. Disaggregated data, for example by department, can be easily accessed in a web-based tool.

Improving practice

WOMEN

Data collection

All public service departments collect gender statistics. As shown in the previous graphs, the public service overall has a predominantly female workforce at 60 per cent but women are under-represented in senior management at 41 per cent. Women in the public service are paid on average 14 per cent less than men.

The explanation provided by the State Services Commission is “A higher than average proportion of women work in lower paid occupation groups and a higher than average proportion of men work in the higher paid occupation groups.” This begs the questions – why are women less likely to be in higher paid occupation groups? Is the work women do considered to be of less value because it is women’s work? Are there barriers to women accessing higher paid occupations?

Department of Corrections

The negligible gender pay gap at the Department of Corrections (Corrections) is remarkable. Although it has been minimal for some years now, it continues to shrink and is now very close to zero. The mean pay gap is 1.5 per cent and the median pay gap is 0.1 per cent. In 2002, the average gender pay gap was 5.4 per cent. Women make up 44 per cent of the workforce and 51 per cent of senior management.

Corrections is a tough environment and workers need to be resilient and strong. One manager said, “If you stuff up here, people can die.” Another noted that, “We are dealing with dangerous, manipulative people.” Even taking these challenging factors into consideration, workers find the work satisfying;



with another worker saying that it's a "purposeful place to work" and "endlessly interesting." Another said "We are dealing with the most difficult people in the country." The core value of "helping people through difficult times in their lives" with the outcome of reducing re-offending permeating the stories we heard.

Why has Corrections made such an effort to recruit and promote women when 85 per cent of offenders are men? There are three reasons the Commission could discern.

Commitment to reducing re-offending

The commitment to reducing re-offending is a deeply held value and this commitment was reflected in all the conversations we had at Corrections. It is also one of the 10 Better Public Services targets. Offenders return to a community composed of women and men. It is important offenders are in an environment where women are a normal part of day-to-day life, and where respectful relationships between men and women are modelled. One woman said that this was an explicit objective. She recalled taking a male colleague aside and saying, "I know you mean well, but don't call me sweetie in front of the prisoners."

Decision making and gender balanced teams

The second reason is about the increased decision making capability of gender balanced teams. We heard about the management of the Springhill riot in which 60 officers were deployed including women. One female Prison Officer when asked what the best weapon she had at her disposal to quell the riot simply said "My voice."

She added "Going into a heated environment, it's good to have women there. Women's presence calms the place down". Staff we spoke to also emphasised that women staff were as physically capable of going into a combative situation as men. The physical requirements for both male and female staff are the same. There are no special privileges. Can you do the job? – if you can, then gender is no barrier.

A good place to work

The third reason is a commitment to ensuring that the department is a good place to work and that staff will be given a fair go. Employment is on merit.

We were told there are very clear competency pathways. Core competencies are spelt out, as well as professional development and supervision. The senior management team describe a fair development process with careful moderation to ensure there are no aberrations in salary progression. Corrections has a union density of 67.8 per cent, higher than the average across the public service.

Eighteen years ago, strong female leaders were part of the executive team at the Department of Corrections and equality for women working in the department has slowly but surely progressed since then. Senior leadership told us that it has been, and continues to be, quite an effort at executive team level to get to what is, in effect a fair gender playing field.

Chief Executive Ray Smith says, "You have to work harder to appoint highly talented women, including Māori and Pacific women. You've got to look for them, and build their experience and confidence."

Another senior manager observed that very capable talented women are more self-effacing, less confident who "don't play hard for these roles" nor express their ambitions. Managers emphasised the need to actively sponsor people from groups who may be under-represented – Māori, Pacific people, women – and ask them why they are not applying for positions.

Senior leaders said women needed to know they will be well supported in leadership roles and also need to understand why people want them there. Building confidence plays a big part in convincing women to step up. One woman said that the barrier she faced was her own lack of confidence.

Women leaders in Corrections we talked to were appreciative of the "opportunities in abundance" for them to advance. Mentors were a common thread, both men and women encouraged and challenged talented women to continue to grow and move into roles that stretched them. Recognition from senior leadership that "I can do this stuff," meant that when they were offered opportunities like the *Emerging Leaders* programme and the *Emerging Senior Leaders* programme they had the confidence to accept.

Both programmes are highly regarded. Women told us that in a busy job it provided time to think about the big picture, reflecting and thinking about the “curly” issues. Other elements in the programmes include looking objectively at participants’ own strengths and weaknesses, and building a greater understanding of what makes a good leader / people manager. One woman described the programme as eye-opening; as it allowed time to discuss challenges such as work-life balance and managing stress, and how managing these contributed to leadership development.

“I’m proud to work in a place where I know I get paid as much as my male colleagues.”

MĀORI

Data Collection

Māori comprise 16.5 per cent of the public service workforce compared to 12.7 per cent of the New Zealand Working Age population according to the State Services Commission’s 2013 *Human Resource Capability Survey*. The SSC advises ethnicity is recorded and reported based on the Statistics New Zealand “Statistical Standard for Ethnicity 2005.” People recording more than one ethnic group are counted more than once, and people who did not disclose an ethnicity are not counted.

Data collection on Māori is usually done at job entry and a number of departments collect iwi data as well. We were made aware that Māori numbers may be an underestimate because some years ago, ethnicity data was not collected and so departments relying on collecting EEO data at a worker’s appointment may not have updated their records. There is also an assumption Māori people will identify as Māori when EEO data is gathered. The method of counting may also be inconsistent across the public service. People who identify themselves as having more than one ethnicity are counted twice in some methodologies and in others people are asked to identify one ethnicity as their primary identity.

The pay gap for Māori across the public service is 11.2 per cent, a gap that has been stable around 11.3 +/- 0.2

per cent for the last five years. As with the gender pay gap, the SSC explains the gap thus, “Like the gender pay gap, ethnic pay gaps can relate to the occupational profile of a particular ethnic group. Māori, Pacific and Asian public servants are more highly represented in the lower paid occupation groups.”

After Te Puni Kōkiri, the Ministry of Social Development (MSD) has the highest proportion of Māori staff in the Public Service at 23.6 per cent. Other departments have greater representation in senior management, such as the Department of Conservation, the Ministry of Education, the Education Review Office and Te Puni Kōkiri. Like the other departments identified in these case studies, MSD are achieving better EEO outcomes for other groups than most.

Ministry of Social Development

The critical driver for the employment of Māori at MSD is the desire to provide better public services. Staff who represent the diversity of the community in which they serve is a critical element of this. MSD have 200 sites located across the country and staff are employed from these communities. A senior manager told us that “when we recruit we look to reflect the community we work in, so we recruit to that.”

An important part of delivering better service for Māori is by providing the oversight of “guardians” – senior Māori staff who have championed Māori tikanga in the work of the ministry and nurtured Māori staff. The importance of role models cannot be overstated, one Māori staff member said “It tells me that there’s a place for me here, that I can achieve here, and aspire here.”

Whanaungatanga (relationship) was frequently talked about both in terms of working conditions but also in terms of respect for the public. “Each person who comes in is someone’s mum, sister. How would you like your mum or your sister to be treated?”

The department does not proactively employ Māori as such but look for people with the skill sets required to be able to work effectively with Māori. Recruitment advertisements, for example, are both designed and placed to appeal to Māori.

Māori managers said Māori should be recognised as Treaty partners, rather than being seen as an EEO group. Nevertheless, the good employer provisions s56 of the State Sector Act has been a platform to ensure annual hui of Māori staff in each regional area. Hui for Māori staff began in 1992 and have continued now for 22 years. The hui have been an important vehicle in building skills such as te reo and tikanga, and continue to be so.

Māori representation is highest at the front line but drops away the more distant the work is from the public interface. Programmes have been developed to progress representation of Māori at all levels. Staff expressed the desire to get senior roles on merit based on their competency, with one person noting, "I wouldn't want to know I got this job through a quota."

Staff the Human Rights Commission spoke to talked about the "strong culture of self development." Study leave is made available and people helped with their fees. The Te Aratitia programme offers specific Māori and Pacific Island components to assist greater self awareness about being Māori, for example, and being a manager.

"How do you walk in both worlds?"

The Ministry of Education workforce is 13.4 per cent Māori, slightly higher than Māori representation in the workforce, better than the public service average but behind the representation in Te Puni Kōkiri (TPK), the Ministry of Social Development, the Education Review Office (ERO) and the Ministry of Justice. However, only TPK and ERO have a higher percentage of Māori senior management. The pay gap between Māori and Pākehā is negligible at 0.6 per cent. What can be learned from the Ministry of Education about the retention and promotion of Māori into the top three tiers?

Ministry of Education

Secretary for Education Peter Hughes emphasised the message that running the usual process assumed a level playing field, when sometimes the right people (talented Māori and women) didn't put themselves forward. "If you do the level playing field thing you get all the boys who put their hands up all the time." He said that you had to go and find talented Māori.

The ministry has three Better Public Service outcome targets: participation in early childhood, more children achieving at high school, and greater participation in tertiary education. All three outcomes require improving the education experience of Māori. A critical motivation for Māori in the ministry that the Commission spoke to, are the goals of the organisation, especially the commitment to Māori achievement in the education system. A senior manager said, "I love the work, I'm passionate about Māori education." She told us that she stayed at the Ministry for better education outcomes.

The *Ka Hikitia* strategy is aimed at changing the education system so that all Māori students can enjoy and achieve education success.

The strategy places the responsibility of realising Māori potential on all staff, not just Māori. We were told that the induction process for new staff was much better than it used to be in relation to the Treaty of Waitangi. New staff were also made aware that Māori are priority learners for the Ministry. The *Tātai Pou* competency framework also aims at increasing skills in understanding and engaging with Māori. One person observed that there had been considerable improvement over the last five years. "The organisation is now strongly focussed on Māori education and we are no longer litigating over why we are focusing on Māori education."

The target set by the ministry for Māori staff is 15 per cent, reflecting the population. But in the opinion of Māori staff we spoke to there is a need for a considerably greater proportion of Māori staff to achieve the outcomes sought in *Ka Hikitia*. Currently, Māori staff are either heavily concentrated in Māori medium education initiatives or spread very thin

in other work streams. We heard that often there was one Māori per team, especially in the regions. That person ended up being the go-to team member for “anything related to Māori.” This resulted in an overload on Māori staff, which could be very stressful.

There is no specific strategy to recruit more Māori across the organisation, although we did hear about attempts to recruit more Māori graduates. Concern was expressed that the recruitment process could be more Māori friendly, from the job marketing tool used, to the selection process. One senior manager said that it is a challenge to attract and keep Māori staff. However, it is a different story at very senior levels.

There has been a deliberate strategy to bring in Māori at very senior levels because, “They in turn bring in high quality Māori staff.” Change happens when Māori aspire to leadership. Māori are more likely to see themselves in management if they see Māori role models in senior positions and had whānau support and guidance to take on senior leadership roles.

“I love the work, I’m passionate about Māori education.”

disability information anonymously, found a very similar level of representation (8 per cent) to that found in the 2001 HRC survey. The low level of representation of people with disabilities is an area of concern.

In 2003 the SSC stated, “Disability information held by public service departments is not directly comparable to the functional definition used by Statistics NZ and is being reviewed.” Over the years, reference to people with disabilities in the *Human Resource Capability Survey* has gradually disappeared with the exception of 2007, in which Statistics NZ Census data was quoted.

Since then, there have been two SSC publications which provide information about the representation of people with disabilities in the public service. In 2005, the *Career Progression and Development Survey* conducted by SSC reported 8 per cent of the public service identified as having a disability. The SSC’s *Enabling Ability* was published in 2008, and used the 2006 *Census Disability Survey* data to estimate 10 per cent of the public service workforce had a disability. The workplace category Public Administration and Safety Industry Group was used as a proxy for the public service.

The Human Rights Commission, in its survey of the public service, was surprised to learn that 25 of the 29 public service departments collected disability data, and 24 were able to provide information to the Commission. This data covered 88 per cent of the public service workforce. On this basis, 3.7 per cent of the public service workforce identifies as having a disability and 2.6 per cent of people in the top three senior management tiers identify as having a disability.

Enabling Ability provided guidance on the collection of disability data and all of the public service departments who provided their disability questionnaire had more or less followed the suggested guidelines. The variations, however, are likely to affect the disability count in an organisation. The Statistics NZ example is appended as a particularly useful questionnaire because it provides: a very clear statement about the purpose of this data collection, including what the data is used for and privacy assurances; asking the respondent if they would like assistance or aids to assist them in their work; and, if they would like to be linked into specific programmes and networks.

Nine departments reported they provide a facility for people to update their disability status if they choose to do so. Sixteen departments collect disability pre-employment

PEOPLE WITH DISABILITIES

Data collection

The SSC last published disability statistics collected from public service departments in 2002. At the time the proportion of people with disabilities was 6.9 per cent. At the time SSC said:

There has been a drop in both the absolute number and the proportion of staff who report having a disability. This downward trend has occurred for the past four years and largely reflects replacement of old data, gathered using a loose definition of disability, with new data collected using stricter criteria.

Another reason for the low level of representation in the Public Service may be that staff are reluctant to disclose a disability to their employer. However, the Career Progression and Development Survey (conducted at the end of 2000), which collected

or at the commencement of employment, only. The data is therefore historical and omits recording: people who have acquired a disability; people who did not identify as having a disability at the time of employment; and, people who have been employed in the department before disability data was collected. It is therefore likely that 3.7 per cent is an underestimate of the number of people with a disability in the public service, but how much of an underestimate is not known.

According to the 2006 *Census Disability Survey* there are 17 per cent of people with disabilities in the population, and 11 per cent of the working age population has a disability.

One public service department stands out in the proportion of their workforce who identify as being people with disabilities, Te Puni Kōkiri, at 10 per cent. Other public service departments which have more than 5 per cent are the Education Review Office, Inland Revenue, Ministry of Social Development, and Statistics NZ.

Te Puni Kōkiri

The expectation of openness, inclusion and manaakitanga (looking after one another) was expressed as deeply and long-held organisational values at all levels of Te Puni Kōkiri. Many of the people we spoke to emphasised that this was just the way things were done at Te Puni Kōkiri. People said that they hadn't consciously thought about the inclusion of people with disabilities as "we don't go around labelling each other." Another said, "It's a very accepting place, if someone needs something they get it and no-one would not think to ask."

We talked to staff in Te Puni Kōkiri identifying as having a disability, senior managers and Chief Executive Michelle Hippolite.

Staff said that their workplace provided an atmosphere in which it was OK to tick the disability box and there were no negative consequences in disclosing

a disability. People identified as having a disability so that they could access any necessary support or accommodation they might need – whether it was assistance in getting hearing aids, particular furniture, or time to attend appointments. After the Canterbury earthquakes, Te Puni Kōkiri staff were keen to identify people who would need help to get out of the building should an evacuation be necessary.

People said they were hired for their skills. One said, "I don't come to work as a person with a disability," as their disability is irrelevant to the job they do.

A systematic quarterly monitoring of human resource metrics is considered by the senior management team and used to inform programmes. Te Puni Kōkiri staff have an average age of 47, and the oldest staff member employed is 77.

"We are alert to people working longer," says Michelle. "Turnover is low and many staff return after they have left."

The Commission was told that Te Puni Kōkiri farewells are different, with leavers told that everyone "looked forward to seeing you back here."

Te Puni Kōkiri staff identify the cultural shift in the organisation from 1975 when Kara Puketapu was secretary for Māori Affairs. When Māori started to move into senior posts the culture started to change. Inclusion has been part of the Te Puni Kōkiri DNA for a long time, Michelle Hippolite said. "This organisational culture is not uniquely Māori but does reflect the practice of Māori values. The work we do is often about unconscious bias, working in this space you have to have a wider vision."

"It's a very accepting place, if someone needs something they get it and no-one would not think to ask."

OTHER ETHNIC GROUPS

Data collection

The State Sector Act includes “other ethnic groups” as one of the EEO target groups. Collecting data on “other ethnic groups” as a group proved to be unhelpful. It became evident that public service departments are collecting disaggregated ethnicity data. The SSC’s *Human Resources Capability Survey* provides information on the representation of Pacific peoples and Asian peoples in the public service workforce.

Of the public service departments providing their ethnicity, there is some variation in the options available to people. The common element is to base the options on the New Zealand Classification of Ethnicity and Census Data.

Both the Ministry of Social Development and New Zealand Customs provide an explanation of what ethnicity is, and how it differs from nationality. MSD’s explanation reads:

Please don’t confuse your ethnicity with your nationality. Your nationality is determined by your citizenship as shown in your passport. Your ethnicity is the ethnic group you identify with most strongly. Sometimes, of course, your ethnicity and your nationality will be the same but not always: for example your nationality may be Fijian, whilst your ethnicity is Indian. Please note that “New Zealander” is not an ethnicity, it is a nationality, and please do not give this as your ethnicity for the purposes of this questionnaire.

Questionnaires also include purpose, confidentiality, and the fact that people can choose not to declare their ethnicity (or disability) status.

Data on the employment of Pacific peoples across the public service from the SSC survey shows that Pacific peoples are employed by the public service at a higher rate than their proportion in the working age population and are represented at senior management at the same levels as their representation in the public service workforce. However, the ethnic pay gap is 19.4 per cent, which the SSC attributes to being “more highly represented in the lower paid occupation groups.”³

Asian peoples employed in the public service also experience an ethnic pay gap (of 11.2 per cent) and are under-represented in the public service compared to the Asian proportion of the working age population. The public service workforce has 7.6 per cent of Asian

peoples whereas the total working age Asian population is 12 per cent. The *Human Resource Capability Survey* did not report the number of Asian people in senior management.

³ Human Resource Survey 2013, State Services Commission, p36.

Education Review Office

The Education Review Office (ERO) is a smaller government department than the other four of our case studies. The office was included in our case studies because its EEO outcomes indicated a consistent high performance in achieving greater equality in the workforce.

ERO has a staff comprising 72 per cent women, 19.3 per cent Māori and 6.8 per cent people with disabilities. Women are the majority of the senior management level at 57 per cent. Māori make up 16.3 per cent of senior management and almost 11 per cent of the senior management team has a disability. Pay gap data suggests that there is less occupational segregation than most of the public service.

Senior managers told us that this analysis was not a surprise and the outcomes were partly by design and partly by the nature of the office. Of the 211 FTE staff, 67 per cent are reviewers who are recruited from senior practitioners in the education sector. The high percentage of female staff reflects the high proportion of women in teaching.

The ERO was the only department that looked at both ethnicity and gender in their pay and employment equity review. A substantial pay gap was identified between those who had joined the office from the early childhood education sector and those who had come from primary or secondary schools. Review Officers or, as they are internally referred to, evaluators, are doing the same job, are all tertiary qualified and are expected to be competent at reviewing across all sectors, and so this pay disparity was seen as unfair and discriminatory.

It has taken considerable effort, time and money to address the problem, as Review Officer starting salaries reflected their pay in their previous job. We were told that there is a shared commitment to fairness in pay, from the ERO as an employer and from staff.

One person told us that it was a privilege to work with people who believed in equity and she believed this was the biggest driver in reducing the pay gap. ERO staff are highly unionised (well over 80 per cent) and have come from the school sector, also highly unionised. Former chief executives such as Judith Aitken and Karen Sewell had a background in unions and had a commitment to equity.

Review Officers who had come from more highly paid jobs in the school sector (for example senior management roles in a large secondary school) have been willing to wait while their reviewer colleagues catch up. A similar set of principles and approach was applied to non review staff, including administration, information technology, analysts, librarians and executive assistants to address the identified issues. Senior managers talked about the very good relationship they had with the union, the PSA, and this was reciprocated by staff.

The remuneration system is anchored to the salary of a senior teacher with 3–4 management units. There are six fixed steps and then a range of rates determined by performance against set criteria. Administration staff and other specialist staff “meet the market” according to their range of skills.

There is a need to have specialist Māori and Pacific reviewers and so diversity within the office is important to meet service needs. Competence in te reo Māori and Pacific languages is essential for reviewers in Māori medium contexts and other language medium education settings. There is also a commitment and need to reflect the community. A senior manager told us that Review Officers had to “represent what’s in the classroom; you can’t underestimate the effect of children seeing a professional person of the same ethnicity.” We heard that the nature of the office’s business often required a mixed team.

Recruiting te reo Māori speakers was a challenge because they were so highly sought after. “Sometimes we second people from schools for a year or two.” Another group who are very hard to find are Asian reviewers which reflects the scarcity of experienced Asian teachers.

There is a long standing culture of holding hui for Māori staff and another for Pacific staff twice

yearly. These are funded by the organisation as part of their commitment to EEO. One manager told us, “This office genuinely values diversity.”

The ERO, like TPK, has an older age profile with an average age of 56.2 years compared to the public service average of 44.6 years. This may explain the disability profile of the department. A number of strategies for meeting the needs of this cohort, the Age Wave policy, include assistance with health issues. Computers and laptops that accommodate people with repetitive strain injuries are also made available. Flexible work options such as half-time salary paid across the year and working two terms (out of four) during that year are another strategy. Older staff are often grandparents with responsibilities for their mokopuna and children, along with responsibility for their elderly parents. Flexible working practices are helpful in managing this.

“It’s a privilege to work with people who believe in equity.”

THE BEST ‘MAN’ FOR THE JOB – THE MERIT PRINCIPLE?

It was interesting to note that the departments that had done well in regard to the four EEO target groups commented that they appointed on merit. The departments that hadn’t done so well also commented in their annual reports that they appointed on merit.

It does bring into question just what is “merit” as it seems to mean different things to different people.

Background to the Merit principle in the Public Service

For 100 years in New Zealand, public sector employment has been driven by the merit principle. This principle was introduced to eliminate patronage, nepotism and cronyism in public service appointments.

The merit principle was to ensure all employment decisions reflected the appointee’s ability to do the job, rather than any political or any other considerations not directly relevant to the job appointment itself. In other words, hiring someone is based on competencies rather than affiliations and relations or patronage.

Section 60 of the State Sector Act 1988 is headed Appointments on Merit; it says: "A chief executive, in making an appointment under this Act, shall give preference to the person who is best suited to the position." It does not define how merit is to be determined.

In 2009, the State Services Commission⁴ said:

EEO in New Zealand has always been associated with the merit principle, where merit is carefully defined to eliminate both direct and indirect bias. The best person for the position is then appointed, based on an objective assessment of candidates against merit criteria. The definition of merit is not fixed but is related to the particular requirements of a specific position.

In effect, EEO places a spotlight on merit. An EEO approach to merit critically evaluates standards and practices and selection criteria to ensure they do not exclude qualified people from consideration for positions and employment benefits. This involves not only removing arbitrary, artificial and unnecessary barriers to employment opportunities, but a re-assessment of current standards so that a more realistic interpretation of what "merit" actually involves for particular jobs or benefits is applied. We take account of the needs and aspirations of women, Māori, other ethnic groups and people with disabilities, but we appoint on merit.

Because we take account of the needs and aspirations of women, Māori, other ethnic groups and people with disabilities we appoint on merit.

In an article⁵ by the Merit Protection Commissioner Annwyn Godwin of the Australian Public Service Commission the points are made that everyone defines merit in a different way and, merit is a fluid concept reflecting society's values at different points in time. In the human rights context, EEO policies and practices do not overlook merit, they ensure merit. Likely as not, the "best man for the job" could be a woman, a person with disabilities, Māori or from an ethnic minority. To hire the best person for the job will require that unconscious and conscious bias needs to be completely eliminated. Clearly some department are better than others in achieving this.

What we heard about Merit

A person with a disability interviewed in our meetings at the Ministry of Education observed, "You would assume that appointment is on merit." He then went on to observe the importance of belief systems in determining

how a person's capability was judged, echoing Annwyn Godwin's point about merit reflecting social values.

In the course of interviewing staff in the five departments featured in the case studies, one particular issue stood out in relation to merit. Women and Māori, in particular, were identified as being reluctant to put their names forward for senior roles despite obvious capability. Peter Hughes, Secretary for Education, and Ray Smith, Corrections Chief Executive, both talked about the need to work harder to find capable and talented Māori and women, as the usual process in Peter Hughes words, assumed a level playing field. Two main strategies were being used to address this: the use of mentors and role models; and proactively seeking talent.

A notable feature of the story of senior managers in these five departments was the encouragement and support they received from mentors and role models. They helped by building confidence, ensuring people were well supported, and providing inspiration that the job was do-able. Another strategy was for departments to proactively recruit talented people who may not otherwise have applied in the usual way. Is this "shoulder tapping" and "head hunting" and if so is it permissible?

Encouraging specific people to apply for jobs is permissible under both the Human Rights Act and the State Sector Act, so long as the process stays fair and merit-based once candidates are considered for a particular position. If the person who has been encouraged to apply is the only one considered for the job, then questions could be raised about due process. If two candidates are of equal merit, it is permissible under the New Zealand Bill of Rights Act and the Human Rights Act to positively discriminate and prefer the candidate from a group which is under-represented.

Getting the best person for the job

- Eliminating both conscious and unconscious bias in the selection and hiring process.
- Using mentors and role models to encourage people from the four EEO groups to apply for the job.
- Proactively seeking talent from under-represented groups.

⁴ Appendix 1 Definitions and key concepts EEO Policy to 2010: Future Directions of EEO in New Zealand Public Services [archived] downloaded 10/03/2014 <http://www.ssc.govt.nz/5282>.

⁵ Godwin, A. *Merit and its merits: Are we confusing the baby with the bathwater?* Downloaded 11/04/2014 <http://www.apsc.gov.au/publications-and-media/current-publications/merit-and-its-merits>.

Observations overall

1. The five departments identified as leading practice of one or more EEO groups were very focussed on their community.
2. Ensuring staff represented the community was a deliberate strategy to deliver better public services in these departments.
3. Other drivers for better EEO outcomes were manaakitanga, whanaungatanga and fairness.
4. Two of the five departments mentioned high union density, with ERO referring explicitly to the role of the union in advancing fairness and equity. Research undertaken for the Taskforce on Pay and Employment Equity reported that unions contribute positively to gender equity by narrowing pay dispersion, improving pay at the bottom of the pay distribution, improving minimum standards and engaging in equality bargaining.⁶
5. Senior leadership in these departments recognised that women and Māori needed encouragement and support to apply for senior roles, and so recruitment and promotion practices reflect the needs and aspirations of these groups.
6. Strategies such as mentoring, providing opportunities for groups to hui in order to support their aims and aspirations are effective in signalling to members of under-represented groups that there is a place for them in every level of an organisation.
7. Invitations to participate in more formal emerging leadership programmes was another effective strategy to encourage less confident but promising potential leaders, who may not have applied otherwise.
8. The central agencies – State Services Commission, Department of Prime Minister and Cabinet and Treasury – are among the departments which currently have poorer EEO outcomes than departments with a more public focus.
9. The requirement to have and report on EEO programmes annually is part of the good employer obligations in the State Sector Act. A scan of public service department annual reports suggests scant regard for this requirement.
10. The EEO outcomes data suggests that these metrics are not being used to inform Human Resource practice in a significant number of departments.
11. Most departments are collecting disability data (25 out of 29) but this information is not collated in the *Human Resource Capability Survey*, nor does it appear to be informing EEO programmes.

Recommendations

The Commission recommends that:

1. Increased and transparent monitoring to ensure good employer obligations, as stated in the State Sector Act, is met and includes appropriate EEO programmes and practices.
2. Targets are set across the public service and within each department to ensure EEO goals are realised.
3. The State Services Commissioner and Public Service Chief Executives are made accountable for the achievement, or otherwise, of targeted EEO outcomes.
4. A discussion is held about the application of the merit principle in the context of EEO and the public services' human rights obligations to guard against patronage and cronyism whilst ensuring the best person for the job is selected.
5. Strategies designed to demonstrate to under-represented groups that they are welcome at all levels of an organisation are implemented in all government departments.
6. Recruitment and promotion processes are reviewed and amended to ensure all under-represented groups are included in the talent pool being considered.
7. A consistent method of data collection across the public service is developed which includes the facility to update data and includes the collection of disability data and harmonisation of ethnicity data.
8. Disability data across the public service is published annually in the State Services Commission's *Human Resource Capability Survey Report*.
9. The reporting of EEO outcomes for each public service department is expanded to include representation of all EEO groups both across each department and in the senior management team, and pay gap data.
10. The *Human Resource Capability Survey Report* includes analysis and critical evaluation against EEO targets.

*"If you keep on doing what you've always done, you'll keep on getting what you've always got."*⁷

⁶ Report of the Taskforce on Pay and Employment Equity, p34.

⁷ Authorship is credited to numerous people including Albert Einstein.

Appendix

STATISTICS NEW ZEALAND DATA COLLECTION FORM



Equal Employment Opportunities

Questionnaire on Disability (Optional)

Statistics New Zealand is committed to providing equal employment opportunities (EEO) for all staff. This means that the department will not tolerate discrimination on any grounds, including race, colour, sex, nationality, ethnic origin, sexual orientation, religion, disability, family, age and marital status. It also means that policies, programmes and working environments are planned with this diversity in mind.

To do this effectively, Statistics New Zealand needs good information about its workforce. The information that you provide in this questionnaire, when aggregated with other human resource data, assists in the monitoring and promotion of EEO for all staff.

This questionnaire uses the recommended International Standard for the collection and reporting of disability data used by the World Health Organisation and Statistics New Zealand, because it means national and international comparisons can be made on disability and the varying nature of disability. The focus of this definition is on the limitations in the workplace arising from the disability, rather than the disability itself.

Disability is defined as any limitation in activity resulting from a long-term condition or health problem. The focus is not on identifying the nature of the disorder or disabling condition, but rather the limitations resulting from it.

Each respondent reports their own perception of whether they have a disability that fits the definition (ie, long-term condition or health related problem that causes some limitation of activity). A respondent may have more than one type of disability.

Confidentiality

The information you provide is confidential and covered by the Privacy Act 1993. It is held on an EEO database, not on your personal file. No statistics are published that will enable the identification of individuals. However, if you indicated that you would like to be contacted for assistance you may need to assist you in your work in Statistics New Zealand, or other programmes and networks, Human Resources will contact you. The importance of the privacy policy is not misused nor used without your knowledge or consent.

Disability Questionnaire

Name: _____ Employee Number: _____

1. Please indicate (✓) if you are limited by a long-term condition or health problem, that has lasted six months or more (or is expected to last six months or more).

Yes (go to 2) No (go to 4)

2. If yes, which category best describes your condition or health problem?
(You may tick more than one box)

- Sensory, such as hearing or seeing
- Physical, such as mobility or agility
- Intellectual
- Psychiatric/Psychological
- Other

3. Please indicate (✓) if you would like Statistics New Zealand to provide particular assistance or aids to assist you in your work.

4. Would you like to be contacted about any specific programmes and networks for people with a disability/illness/injury or the Disability Advisory Group?

Please indicate (✓) if you would like to be contacted on:

Specific Programmes	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Networks	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
Disability Advisory Group	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

Thank you for completing this questionnaire



Human Rights
Commission
Te Kāhui Tika Tangata