

# 2010-2013 Statement of Intent and Service Performance

Human Rights Commission  
Te Kāhui Tika Tangata



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



Human Rights  
Commission  
*Te Kāhui Tika Tangata*

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# Foreword

## Mihi

**This year, the Human Rights Commission is completing a major review of how well human rights are recognised and respected in New Zealand. This second comprehensive assessment will provide the evidence about where New Zealand is meeting and surpassing international human rights standards, as well as identifying where we presently fall short. The 2010 report on human rights in New Zealand today will track both improvements since the first assessment in 2004 and any deterioration. It will pinpoint areas of fragility, persistent and entrenched inequalities, and gaps in human rights protections.**

Each section will conclude with practical proposals for further strengthening human rights, harmonious relations and equal employment opportunities in New Zealand.

The review will also provide the evidential basis for the Commission's priorities for the next three years.

The Commission itself will be under scrutiny at the time it reviews the status of human rights in New Zealand. Early in 2011, it must go through a five yearly reaccreditation process that is required by the United Nations and allows it to participate at the UN Human Rights Council. The process involves assessments of the legislative and regulatory framework in which the Commission operates. The level of state funding is examined to ensure the functions required of the Commission by the UN "Paris Principles" can be carried out. The extent to which the Commission is fulfilling those functions in practice is also examined. It amounts to an international performance review of New Zealand's national human rights institution.

In addition to the comprehensive review of the status of human rights in 2010 and the delivery of core functions, which include dealing with up to 6000 new human rights complaints and related matters, the Commission is focusing this year on programmes and projects that make it more accessible to people throughout New Zealand and that extend their knowledge and understanding of human rights and responsibilities. In making decisions about priorities each year, the Commission focuses on systemic issues affecting people who are most vulnerable to human rights violations. It draws on a range of approaches to encourage changes that make a practical difference in people's daily lives. This year, the Commission is working for focused and concrete outcomes in:

- **provincial areas**, by delivering its key human rights community development programme in Tai Tokerau (Northland), Murihiku (Southland) and extending it into the Waikato. The programme coordinates resource people in those communities who can respond to human rights and race relations issues as they arise and work with people locally to resolve them
- **schools**, by targeting the barriers to enrolment, participation and achievement for disabled children and other currently disadvantaged groups, with a focus on the reduction of violence and bullying, suspensions and expulsions and financial barriers
- **workplaces**, by developing Memorandums of Understanding with selected employers and business agencies to prevent workplace discrimination by increased use of equal employment opportunities practices and programmes that result from the Commission's National Conversation about Work
- **communities throughout New Zealand**, by being a catalyst for action to advance racial equality, foster inclusion and celebrate diversity, with a focus on new migrants and international students, so they can be accepted, safe and free from discrimination.

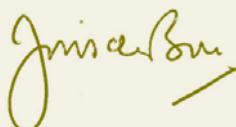
This year is particularly significant for New Zealand's international human rights reputation, with reporting on three major human rights treaties, relating to the rights of women, of children and of disabled people. As an "A" accredited national human rights institution, and through its Human Rights Act mandate, the Commission is required to contribute to the monitoring of national implementation of the human rights treaties. We do so by commenting on draft government reports, encouraging non-governmental organisations and interested individuals to participate, and by providing independent information, analysis and assessments to the United Nations and other relevant international human rights bodies.

This Statement of Intent has been developed in accordance with the Government's expectations that the Commission will manage within static revenue, in recognition of the predicted five years of public sector deficits. The Commission has taken steps to manage within existing revenue for the next three years. This year, that involves forecasting an operating deficit that will be managed by drawing down on reserves.

Commissioner Robyn Hunt has contributed to the development of this Statement of Intent, as she has every one since 2003. Her term ends after its tabling in Parliament on 21 May. Her strong and compelling advocacy for the rights of disabled children and men and women will continue to guide the work of the Commission through this Statement of Intent.



Rosslyn Noonan  
**Chief Commissioner**  
Te Amokapua



Joris de Bres  
**Race Relations Commissioner**  
Kaihautū Whakawhanaunga ā Iwi



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**Commissioner**  
Kaihautū

# Values

## He uara

Hütia te rito o te harakeke, kei hea te kōmako e kō?

Kī mai ki au, He aha te mea nui?

Māku e kī atu. He tangata, he tangata, he tangata.

Take the heart from the flax bush and where would the bellbird sing?

Ask what is the greatest in all creation?

I will tell you. It is people, people, people.

The Human Rights Commission is committed to promoting and protecting universal human rights, and will reflect those rights in everything it does.

**The Commission seeks to be:**

**Accessible:** The Commission listens to, respects and responds to all people it comes into contact with. It is committed to removing barriers to its services.

**Relevant:** The Commission works to improve understanding and enjoyment of universal human rights and harmonious relations in ways that are meaningful to New Zealanders and New Zealand communities.

**Strategic:** The Commission takes a strategic, evidence-based approach to carrying out its functions.

**Independent:** The Commission ensures that it is independent, transparent and accountable in carrying out its functions.

**Credible:** The Commission's reputation and credibility are built upon its integrity, expertise, professionalism and the quality of its work.

**The Commission:**

**Values diversity:** The Commission respects the dignity of every person. It celebrates diversity, difference and open-mindedness, and recognises the plurality of views and perspectives held by New Zealanders.

**Respects Tangata Whenua:** The Commission values and respects, in its work and its ways of working, the place of Tangata Whenua in New Zealand.

**Honours the Treaty of Waitangi:** The Commission values and respects, in its work and its ways of working, the Treaty of Waitangi as the founding document of the nation.

**Works with others:** The Commission works in partnership and cooperation with government, iwi, business, unions, community organisations and individuals to achieve shared goals.

## Part A:

# The Human Rights Commission

## Te Kāhui Tika Tangata

### The Commission's purpose and functions

The Human Rights Commission works for a fair, safe and just society, where diversity is valued, human rights are respected, and everyone is able to live free from prejudice and discrimination.

The Human Rights Commission's statutory functions are set out in the Human Rights Act 1993:

- To advocate and promote respect and an understanding and appreciation of human rights in New Zealand.
- To encourage the maintenance and development of harmonious relations between individuals and among the diverse groups in New Zealand.
- To lead, evaluate, monitor and advise on equal employment opportunities.
- To provide information to people who have questions about discrimination, and to facilitate resolution in disputes about discrimination.

### Roles and functions

The Human Rights Act sets out the Commission's functions and related responsibilities, which include:

- advocating for human rights
- conducting human rights programmes and activities
- making public statements on human rights and race relations issues
- promoting understanding of the human rights dimensions of the Treaty of Waitangi
- publishing guidelines and voluntary codes of practice
- receiving and inviting public representations on human rights
- consulting and cooperating with other organisations
- inquiring into infringements of human rights
- bringing proceedings and intervening in court proceedings
- reporting to the Prime Minister on human rights compliance, international standards and legislation
- developing a national plan of action for human rights.

Decisions about which functions and related responsibilities are most appropriate and effective are influenced by the experience of working with a wide range of individuals and groups, the development of an evidential base and use of

empirical data, as well as a rigorous legal analysis, and the Commission's knowledge of international good practice.

### The Commission's approach

The Commission tackles systemic issues, prioritising those affecting people who are most vulnerable to human rights violations. The Commission approaches its work through promotion and education, advocacy and protection, handling enquiries and complaints, and undertaking litigation.

### The Commissioners

The Act provides for the positions of Chief Commissioner, Equal Employment Opportunities Commissioner, Race Relations Commissioner, up to five part-time Human Rights Commissioners and the Director of Human Rights Proceedings. The Commissioners and the Director are required by the Act to act independently. All Commissioners are responsible for overseeing the Commission's statutory functions, including setting strategic priorities and for leading activities in their respective areas of responsibility.

The Chief Commissioner, the Race Relations Commissioner and the Equal Employment Opportunities (EEO) Commissioner have a range of additional statutory functions. Acting jointly with the Chief Commissioner, the Race Relations Commissioner is responsible for providing leadership and advice to the Commission on race relations matters. The EEO Commissioner is responsible for the provision of advice, evaluation through benchmarks, developing guidelines, monitoring progress and liaising with others to progress equal employment opportunities. The EEO Commissioner also has responsibility to provide guidance to Crown entities on their "good employer" obligations under the Crown Entities Act 2004. The part-time Commissioners have responsibility for a range of activities in accordance with their areas of expertise and the Commission's strategic direction. Commissioner Johansen has a focus on the East Coast, Treaty of Waitangi and right to education. Commissioner Liddicoat focuses on the internet, public law, the transgender inquiry and issues in the Asia Pacific region. Commissioner Pope focuses on accountability, the rights to an adequate standard of living, Treaty of Waitangi issues and issues in the criminal law. Commissioner Tankersley focuses on the South Island, sexual minorities and interfaith issues. Commissioner Hunt has focused on the rights of disabled people.

## Office of Human Rights Proceedings – Te Tari Whakatau Take Tika Tangata

The Office of Human Rights Proceedings is established by the Human Rights Act 1993 and it is an independent part of the Commission. It is headed by the Director of Human Rights Proceedings, who is responsible to the Chief Commissioner. The Director decides whether to provide legal representation for people who have complained of breaches of the Act. Those proceedings are heard at the Human Rights Review Tribunal. The Director may also appear for the Human Rights Commission before the Tribunal. The Director has functions under the Privacy Act 1993, which include issuing proceedings in cases referred by the Privacy Commissioner and intervening in Privacy Act cases before the Tribunal.

The key activities of the Office of Human Rights Proceedings and the relevant reporting measures are included in the Forecast Statement of Service Performance.

### The human rights approach

The human rights approach forms the base the Commission uses in all aspects of its work. The human rights approach, developed internationally and adapted for New Zealand by the Human Rights Commission, requires:

- linking of decision-making at every level to human rights standards set out in the relevant human rights Covenants and Conventions
- identification of all relevant human rights involved and a balancing of rights, where necessary prioritising those of the most vulnerable people, to maximise respect for all rights and rights-holders
- an emphasis on the participation of individuals and groups in decision-making that affects them
- non-discrimination among individuals and groups through equal enjoyment of rights and obligations by all
- empowerment of individuals and groups by their use of rights as leverage for action and to legitimise their voice in decision-making
- accountability for actions and decisions, which enables individuals and groups to complain about decisions that affect them adversely.

## The Commission's areas of work

The Commission structures its work across six outcome areas that reflect the priorities identified in Mana ki te Tangata – The New Zealand Action Plan for Human Rights.

- **Te taiao tika tangata – The human rights environment**  
Human rights standards are incorporated in New Zealand's law, upheld in policy and delivered in practice.
- **Te hunga haua – Disabled people**  
Disabled people enjoy full and effective participation in New Zealand society and are respected for who they are.
- **Whakawhanaungatanga ā iwi – Race relations**  
Relations between the diverse groups that make up New Zealand society are harmonious, based on equality, mutual respect, and a shared sense of belonging to Aotearoa New Zealand.
- **Te Mana i Waitangi – Human rights and the Treaty of Waitangi**  
Treaty relationships operate effectively at all levels for the protection of the rights of Tangata Whenua and the benefit of society as a whole.
- **Kāpititia ā taiao – Internationally connected**  
New Zealand's security and prospects for sustainable development are strengthened by national and global respect for international human rights law.
- **Tika ki te whai mahi – Right to work**  
All people in New Zealand have equal employment opportunities and access to decent and productive work.

### Improving efficiency and effectiveness

To deliver on its statutory mandate and provide services as efficiently and effectively as possible, the Commission undertakes:

- programmes to build staff and organisational capability
- regular reviews of systems, policies and processes
- targeted project and activity evaluations.



## Accountability

The Commission reports to the Minister of Justice three times a year and to Parliament annually against its Statement of Service Performance. The Minister is informed of all the major activities, and briefings are also offered to other relevant ministers, to the leaders of all parliamentary parties and to parliamentary select committees. Specifically, the Commission ensures the Minister is fully briefed on all matters relating to financial accountability, advises the Minister on major projects or events, and ensures the Minister's office receives copies of all reports and other published documents. When the Minister requests specific information, the Commission undertakes to provide it promptly.

The Commission is committed to high levels of public accountability and to a constructive working relationship with government and the wider New Zealand community – a relationship in which the Commission's independence is respected and valued.

## International accreditation

The Commission is a member of the Asia Pacific Forum of National Human Rights Institutions and of the International Coordinating Committee of National Human Rights Institutions. It holds "A" status accreditation, which is the United Nations prerequisite for participation in the Human Rights Council. The accreditation, reviewed every five years, requires the Commission to fully comply with the standards set out in the United Nations' Paris Principles (UN General Assembly Resolution 48/134 20 December 1993, annex). They specify that a national human rights institution must have:

- a clearly defined and broad-based mandate, based on universal human rights standards
- independence guaranteed by legislation or the constitution
- autonomy from government
- pluralism, including membership that broadly reflects society
- adequate powers of investigation
- sufficient resources provided by the State.

The Commission is subject to accreditation at the beginning of 2011. The process assesses the legislative and regulatory framework in which the Commission operates, whether government funding is sufficient to enable it to carry out the key "Paris Principles" functions and the extent to which the Commission is meeting those requirements in practice. It amounts to an international performance review.

## Strategic context

### Te mahinga taiao o te Kāhui Tika Tangata

#### The international environment

Around the world, there is increasing recognition of the centrality of human rights to the major challenges facing humanity: the global recession, poverty and economic development, violent conflict, terrorism, climate change and environmental degradation, and global migration.

As a result, the member States of the United Nations agreed in 2007 that every four years they should be subject to a peer review (by other member States) of their domestic human rights performance, whether or not they had ratified any of the international human rights treaties.

The global recession has heightened concerns that the number of those whose realisation of human rights is already tenuous will grow.

The United Nations High Commissioner for Human Rights has warned, "The downturn in economics around the world would likely undermine access to work, affordability of food and housing, as well as of water, basic healthcare and education."<sup>1</sup> Economic deprivation, she noted, can give rise to an increase in discrimination and exclusionary practices. And discrimination "feeds mistrust, resentment, violence, crime and insecurity and makes no economic sense, since it reduces productivity. It has no beneficial aspects for society whatsoever. Yet we continue to practice it – virtually all of us – often as a casual reflex, without even realising what we are doing."<sup>2</sup> Particularly vulnerable groups include women and children, migrants, refugees, indigenous people, minorities and persons with disabilities.

The Commonwealth Heads of Government meeting in late 2009 underlined the centrality of human rights to the fundamental values of the Commonwealth. They welcomed the UN's Global Impact and Vulnerability Alert System. This highlighted that the global economic crisis was only starting to affect hundreds of millions of people around the world. Specifically, "the near poor, who have just climbed out of poverty, are sliding back into it; and that, with pressure on social sector budgets, existing social protection programmes may prove insufficient".<sup>3</sup>

Internationally the global recession has been a factor in a new emphasis on the key role of business in realising human rights, locally, regionally and internationally. This is acknowledged by national human rights institutions (NHRIs) around the world and is the theme of their October 2010 biennial conference.

Developments in its Pacific neighbourhood have particular significance for New Zealand. Geographical proximity, trading opportunities and recent migration patterns are increasingly linking New Zealand's prosperity and well-being to the stability and development of the Asia-Pacific region. With Auckland being the largest Polynesian city in the world, human rights issues in New Zealand and neighbouring Pacific states impact on each other. Most recently natural disasters have heightened the connections. In the medium term, the impact of climate change will raise fundamental humanitarian and human rights issues requiring a New Zealand response.

Recognition of the extent of serious human rights issues and of the centrality of human rights to human security and sustainable development is increasing throughout the Pacific. One example is the establishment at a senior level of a human rights advisor position in the Pacific Island Forum Secretariat. The first appointment was made in March 2010. The Commission's expertise was sought in the establishment of that position, as it has been by Pacific states seeking to more effectively integrate human rights into their work.

The United Nations human rights performance review process (Universal Periodic Review or UPR) has resulted in a strong focus on the role of national human rights institutions as the essential "bridge between the international and domestic human rights protections".<sup>4</sup> It brings with it increased expectations that national institutions will provide the international human rights structures with authoritative, robust information and analysis on domestic human rights issues and contribute to the development of international human rights standards and jurisprudence. There has also been a strengthening of the five yearly international

<sup>1</sup> Statement of Ms Navanethem Pillay, United Nations High Commissioner for Human Rights, Human Rights Council Tenth Special Session: "The impact of the Global Economic and Financial Crises on the Universal Realisation and Effective Enjoyment of Human Rights", 20 February 2009 <http://www.unhcr.ch/hurricane/hurricane.nsf/0/A7A2CA2316182115C12575630035ED9F?opendocument>.

<sup>2</sup> Statement of Ms Navanethem Pillay, United Nations High Commissioner for Human Rights, Human Rights Day, 10 December 2010.

<sup>3</sup> See <http://www.thecommonwealth.org/files/216904/FileName/TrinidadandTobagoCHOGMCommunique.pdf> para 50 page 10.

<sup>4</sup> Carver, Richard (2010). Human Rights Law Review 10:1. A New Answer to an Old Question: National Human Rights Institutions and the Domestication of International Law. Oxford University Press.

accreditation process, to which national institutions are required to submit. The New Zealand Commission will undergo the re-accreditation process in early 2011.

### **The New Zealand environment**

In March 2010, New Zealand presented its fifth periodic report under the International Covenant on Civil and Political Rights to the United Nations Human Rights Committee. Committee members, while making a number of recommendations for further improvement, noted New Zealand has demonstrated international best practice in aspects of human rights promotion, protection and fulfilment.

In a session before the Committee, the Commission identified achievements, including electoral finance reform and the implementation of the Optional Protocol to the Convention Against Torture (OPCAT). It also raised a series of outstanding challenges, including high levels of imprisonment for Māori, relative poverty, children denied the right to education because of their immigration status, and stalled progress on pay equity.

In the past year, the New Zealand Government responded positively to many of the 64 UPR recommendations from member States, albeit with qualifications in some cases. The Government's response reflects the seven key commitments made in its report to the UPR. It has asked agencies to report annually on progress, as subsequent reviews will focus on the implementation of agreed recommendations.

In October 2010, New Zealand's first report on the Convention on the Rights of Persons with Disabilities will identify how well it is meeting its international obligations. Alongside disability support services, accessible transport and employment, participation in education remains a major concern for disabled people. A 2009 analysis by the Commission concluded that, when compared to international human rights standards, there are significant outstanding concerns about the availability, accessibility, acceptability and adaptability of education for disabled students in New Zealand.

While New Zealand has strengthened its human rights reporting and accountability, the effects of the global recession are evident across the country and reflect the concerns expressed internationally about their impact on the realisation of human rights, particularly on economic, social and cultural rights.

Within New Zealand, the impact of the recession on vulnerable groups has accelerated in the past year. In 2009, the Salvation Army provided nearly 47,000 food parcels to over 25,000 families, a 29 per cent growth on top of a 39 per cent increase in 2008.<sup>5</sup> The Ministry of Social Development notes that reductions in inequality and hardship resulting from the Working for Families package have not been sustained during the recession<sup>6</sup> and have not reached the poorest children in New Zealand.

Unemployment remains high for many groups, including youth (particularly Māori or Pacific) and disabled people. Gender pay gaps persist, and the progress made through the coordinating role of the Pay and Employment Equity Unit risks being lost since its disestablishment in 2009.

The Commission's extensive consultation during its National Conversation about Work has identified ongoing concerns about access to work for disabled people; lack of job opportunities for young people, particularly in provincial areas; long working hours; low pay; an ageing workforce; limited availability of childcare; exclusion of many men and seasonal workers from paid parental leave; and employment barriers faced by pregnant workers.

Race relations are also affected by the challenges of the recession. The Commission's sixth annual review of race relations, *Tūi Tūi Tuitiā – Race Relations in 2009*, prioritised the need to reverse rising racial inequalities, particularly in access to paid work. The report identified additional challenges, such as ensuring the Auckland super city council maintains its Treaty of Waitangi relationships and that the voice of Māori, Pacific and other ethnic groups are represented in local government across the country. Reducing discrimination against Asian New Zealanders and improving the safety of international students, for example, through effective reporting mechanisms, were also highlighted.

<sup>5</sup> Johnson, A (2010). *A Road To Recovery: A State of the Nation report from the Salvation Army*. Manukau City: The Salvation Army Social Policy and Parliamentary Unit.

<sup>6</sup> Perry, B (2009). *Household Incomes in New Zealand: Trends in Indicators of Inequality and Hardship 1982 to 2008*. Wellington: Ministry of Social Development.

## Human rights challenges and the Commission's focus

The developments described provide a context for the Commission to review and focus its priorities, to ensure they remain relevant and responsive to the evolving national and international human rights environments.

For the Commission, the key human rights challenges are the need for a comprehensive approach to incorporating international human rights standards into domestic legislation, policy and practice; the persistence of entrenched inequalities; and the impact of poverty on the realisation of human rights.

Effectively tackling these issues requires strong community-wide understanding of and respect for human rights and responsibilities and the recognition that governments alone cannot ensure realisation of human rights. An active civil society, non-government organisations, community groups, businesses and trade unions are crucial.

### The Commission will, therefore, continue to work to:

- build community-wide understanding of and respect for human rights and responsibilities
- incorporate human rights into legislation, policy and practice (economic, social and cultural rights, in particular, lack robust protection and have significance in the present economic climate)
- reduce discrimination, entrenched social and economic inequalities and barriers to full participation in society, particularly affecting women, disabled people, Māori, Pacific peoples and new migrants
- remove barriers to equal participation and progress on EEO, through public discussion on equality at work and publication of an Equality at Work framework
- identify opportunities to intervene in cases before the courts, to strengthen human rights jurisprudence in New Zealand, strengthen Treaty relationships and promote understanding of the human rights dimensions of the Treaty of Waitangi
- increase respect for cultural diversity and making provision for diverse communities in the delivery of goods and services
- effectively implement the Convention on the Rights of Persons with Disabilities, and address the barriers to full participation in society of disabled people, including in relation to transport, employment and education
- promote and monitor New Zealand's implementation of its international human rights obligations, including actions and recommendations arising from the UPR and other treaty body reviews
- undertake research and analysis to update the status report on human rights in New Zealand and identify priorities that will enable better respect for and protection of human rights over the next five years.

# The Commission's strategy

## Ngā kaupapa

### The Commission's vision

The vision that the Commission is seeking to achieve, in cooperation with others, is:

**“As the foundation for a fair, safe and just society, New Zealanders know their rights, acknowledge their responsibilities and respect the rights of others.”**

### Outcome areas

The Commission's products and services are grouped into six outcome areas. For each area, a long-term outcome is stated, with priorities and intermediate impacts towards this goal specified. None of the outcomes can be achieved by the Commission alone; all require engagement with and action by others.

In addition, the Commission provides an enquiries and complaints service, litigates on human rights, and monitors draft legislation and policy initiatives across all of its six outcome areas.

### Priorities

The Commission has to focus its efforts on those activities that are likely to make the greatest contribution to achieving the outcomes. Every year, the Commission reviews the critical human rights issues and its chosen priorities under each outcome area, to ensure that it remains focused on the right goals. From among its range of products and services, it has identified 13 priorities.

The following section, Outcome areas, outlines the outcomes and priorities, why the Commission judges them to be important, and their expected impacts.

The Commission's approach to its statutory responsibilities has three broad elements: information, education and community programmes; advocacy, advice and guidance; handling enquiries and complaints; and undertaking litigation. The Statement of Service Performance groups the specified priorities under these three headings or output areas.

In 2010, the Commission will publish an updated analysis identifying the most pressing current human rights issues in New Zealand. This will potentially affect the Commission's selection of outcome areas and priorities for its 2011-14 Statement of Intent.

### Contribution to other government outcomes

Human rights underpin New Zealand's system of government and New Zealanders' expectations about education, health, work, personal security, equal opportunity and fair treatment. Human rights cover all areas of government activity and priorities.

As an independent Crown entity, the Commission determines its priorities and work programme independently of government.

The functions and outcomes of the Commission are essential to greater prosperity, security and opportunities for all New Zealanders. The Commission's activities contribute directly to the overarching justice sector goal of a safe and just society, where communities are safer and civil and democratic rights and obligations are enjoyed. More specifically, the Commission's work relates directly and indirectly to a number of government outcomes in the justice sector, including:

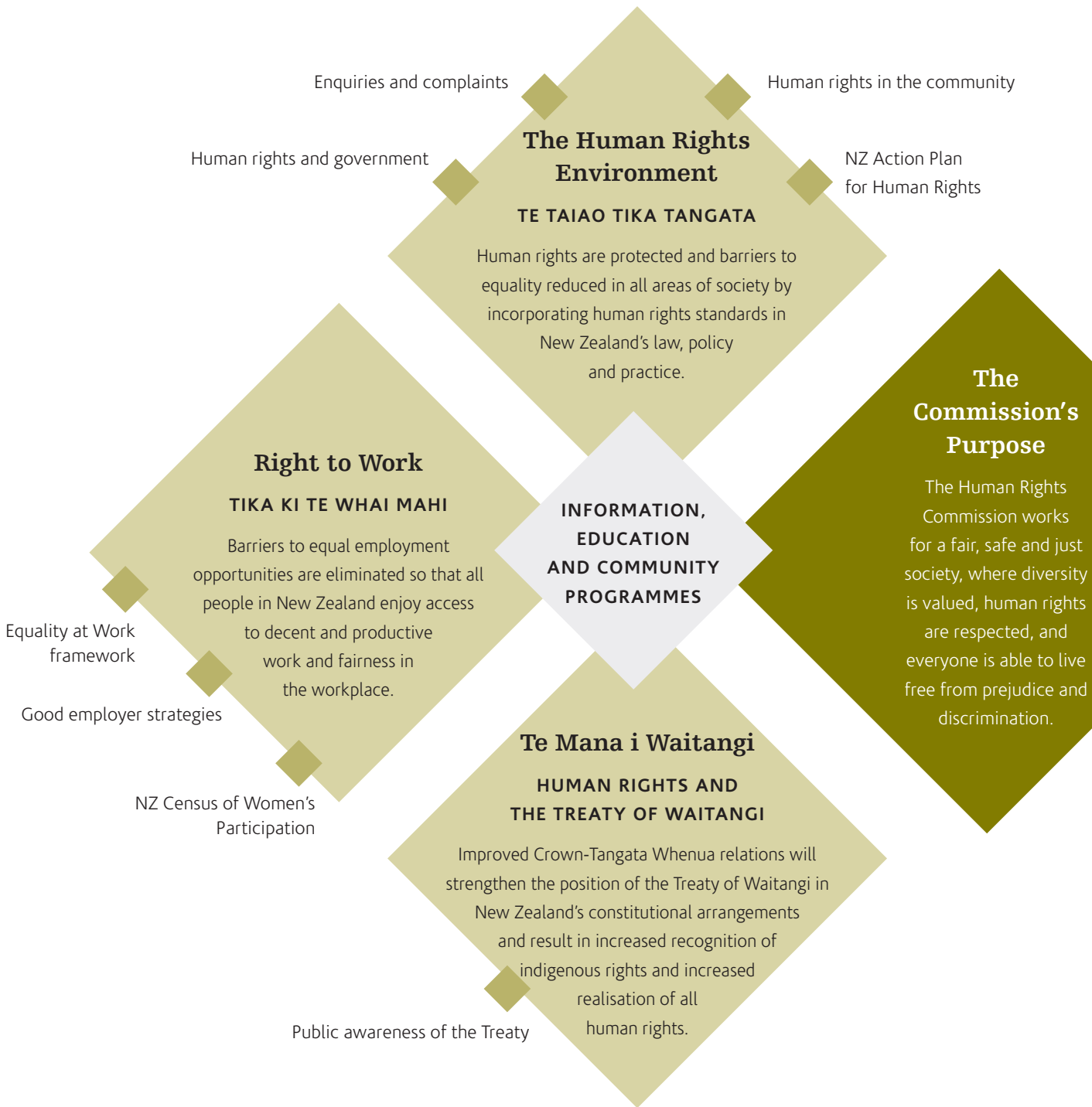
- a trusted justice system
- accessible justice services
- effective constitutional arrangements
- durable settlement of Treaty claims
- being internationally connected.

The Commission also contributes to the outcomes of other government sectors, including those of health, education, social development, labour, and culture and heritage.

The following diagram summarises the Commission's outcome areas, priorities, anticipated impacts and the approaches used across all outcome areas.

The chart following this shows how the Commission's outputs in its Statement of Service Performance contribute to the anticipated impacts and outcomes of the six outcome areas.

# Outcomes and priorities



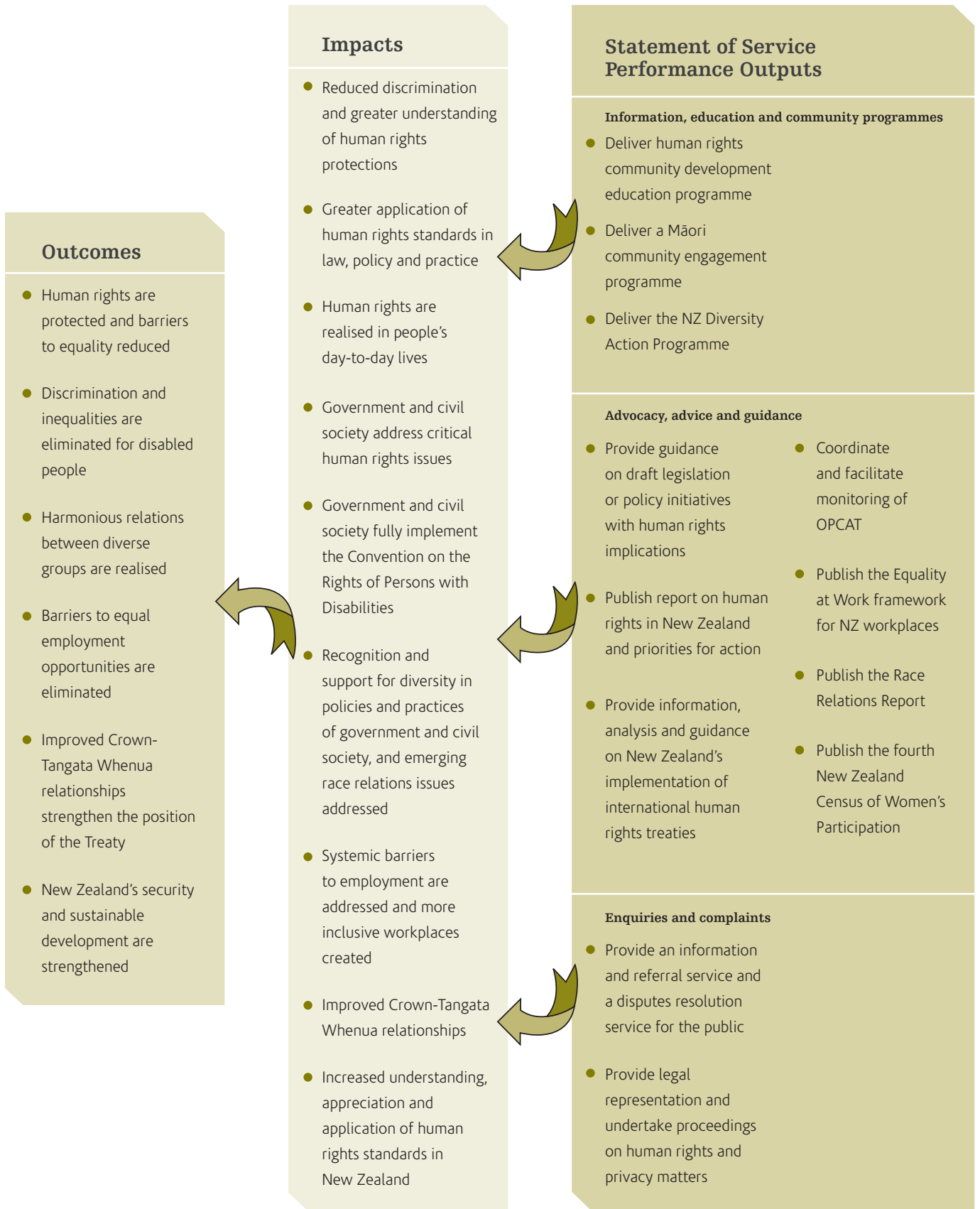
## Impacts

- Reduced discrimination and greater understanding of human rights protections.
- Greater application of human rights standards in law, policy and practice.
- Human rights are realised in people's day-to-day lives.
- Government and civil society fully implement the Convention on the Rights of Persons with Disabilities.



- Recognition and support for diversity in policies and practices of government and civil society, and race relations issues addressed.
- Systemic barriers to employment are addressed and more inclusive workplaces created.
- Improved Crown-Tangata Whenua relationships.
- Increased understanding, appreciation and application of human rights standards in New Zealand.

# Outcomes framework



This chart shows how the outputs in the Statement of Service Performance contribute to the Commission's intended impacts and outcomes.



## Outcome area 1:

# The human rights environment

## Te taiao tika tangata

### **The Commission shall: advocate and promote respect for, and an understanding and appreciation of, human rights in New Zealand society.**

Human Rights Act 1993 s.5(1)(a)

#### **Outcome**

Human rights are protected and barriers to equality reduced in all areas of society by incorporating human rights standards in New Zealand's law, policy and practice.

Comprehensively incorporating human rights standards into New Zealand law, policy and practice will result in:

- the State and private sector dealing more fairly with members of the public
- greater knowledge and respect for human rights and responsibilities among New Zealanders
- greater participation of individuals and groups in decision-making that affects them.

#### **Current situation and key issues**

New Zealand does not consistently or fully incorporate human rights standards in domestic law or comprehensively apply them in the development of legislation and policy.

The impact of the global recession on government resources is affecting the realisation of economic, social and cultural rights. The requirement to take progressive steps to fully realise these rights applies even in times of resource constraints. The Commission has concerns about potentially retrogressive steps and is placing a heightened focus on the right to an adequate standard of living.

Even in areas where law and policy are well developed and consistent with international human rights standards, their application in practice can be problematic in the absence of accompanying human rights education and systematic integration of human rights into day-to-day practices. The complaints the Commission receives reflect this.

In the 12 months ending 30 June 2009, the Commission received 3489 complaints seeking the Commission's

intervention. Of these, 1405 claimed unlawful discrimination and the balance raised possible breaches of other human rights standards. Disability, race and sex-based discrimination are the most common grounds of complaint, with a large proportion relating to employment and pre-employment issues.

Electronic media and social networking are providing new opportunities for promoting human rights. It can improve people's knowledge about how to participate in issues that affect them and then seek redress if their rights have been undermined. Recently, social networks have been a key factor in the generation of large numbers of complaints to the Commission around some high-profile incidents.

#### **Commission's role and approach**

The Commission is required by legislation (section 5(1)(a) of the Human Rights Act) to advocate and promote respect for, and an understanding and appreciation of, human rights. In addition, Part 3 of the Human Rights Act requires the Commission and the Office of Human Rights Proceedings to deal with complaints of unlawful discrimination.

The Commission draws on all the functions set out in section 5(2) and Part 3 of the Act to fulfil its statutory mandate. These can be summarised as handling enquiries and complaints; provision of information, education and community programmes; and advocacy, advice and guidance.

The Commission's approach emphasises the contribution government agencies, business, trade unions, community groups and organisations all make to strengthening human rights. In key areas, the Commission contributes to the initiatives of others. Current examples include supporting the Human Rights in Education Trust, which provides information, resources and workshops to early childhood services and schools; working with the Counties-Manukau DHB to facilitate transgender people's participation in a national review on their access to health services; and responding to proposals to intervene in cases before the courts where significant issues of human rights jurisprudence are in contention.

## Priorities

The Commission's key priorities aim to strengthen the human rights environment through activities directed at increasing awareness and application of human rights in government and in the community.

For 2010-11, the Commission's priorities will be:

- handling enquiries and complaints
- scrutinising legislation and policy initiatives and providing practical guidance on the application of the human rights approach to the state sector
- extending human rights community development programmes
- updating the status report on human rights in New Zealand, then identifying key current issues and priorities for action over the next five years.

The Commission will identify specific opportunities to promote human rights and responsibilities through electronic media, social networking and other alternative formats.

## What the Commission will do

### Enquiries and complaints

- The Commission will provide an accessible, high-quality enquiries and complaints service that assists individuals and groups to resolve human rights complaints, including those of unlawful discrimination, efficiently and effectively.
- The Office of Human Rights Proceedings (OHRP) will provide quality legal representation before the Human Rights Review Tribunal for selected complaints not resolved at the Commission and that meet criteria set out in section 92 of the Human Rights Act 1993.

The Human Rights Act requires the Commission to provide a service dealing with complaints of unlawful discrimination. The OHRP offers legal representation at the Human Rights Review Tribunal for complaints that meet criteria set out in the Act. The ability to bring complaints and to have them addressed is an integral component of human rights protections as stipulated in international human rights standards.

The Commission's Enquiries and Complaints Service provides a process for the effective, timely and informal resolution of human rights complaints and an information and referral service for those enquiries that do not require further intervention. Resolving enquiries and complaints enables human rights to be realised on both a personal and a systemic level. This promotes respect for and an understanding of human rights and encourages harmonious relations between diverse groups.

## Impact

A reduction of discriminatory practices in the community and a greater understanding of human rights protections will be achieved by the resolution of human rights disputes, as well as positive outcomes for the parties involved.

## Human rights and government

The Commission will:

- scrutinise domestic legislation and policies for human rights compliance and provide specialist human rights advice to Parliament, government agencies and other organisations and groups
- provide practical guidance to assist the state sector to apply the human rights approach in legislation and policy development, implementation and practice.

The Commission's policy interventions, advice and resources provide government with practical, independent advice about what international standards and the human rights approach mean in the domestic context.

## Impact

Greater application of human rights standards to the domestic context will be achieved by the Commission's policy interventions, and independent analysis, advice and guidance. This will encourage government and other decision-makers to consider human rights priorities and standards in law, policy and practice.

## Human rights in the community

The Commission will:

- develop and run human rights community development programmes in selected regions, communities and sectors
- deliver its key human rights community development programme, Taku Manawa My Human Rights, in Tai Tokerau (Northland) and Murihiku (Southland) and extend the initiative into Waikato.

Human rights are only fully realised if they are given effect at a local level, in people's day-to-day lives. Enhancing people's capacity to identify and address their own issues is a sustainable and empowering way of realising human rights.

### Impact

Human rights are increasingly realised in people's day-to-day lives, through greater understanding and appreciation of their value in local planning and decision-making, achieved through the Commission's human rights community development programme.

## NZ Action Plan for Human Rights

The Commission will:

- publish a report, providing an updated, comprehensive analysis of how well human rights are recognised and respected in New Zealand
- identify key current issues and priorities as the basis for a national plan for the promotion and protection of human rights over the next five years.

The Commission has a legislated mandate "to develop a national plan of action, in consultation with interested parties, for the promotion and protection of human rights in New Zealand".

### Impact

Government and civil society and other decision makers will take appropriate steps to address the most critical outstanding issues affecting human rights and harmonious relations as a result of the Commission's comprehensive analysis and recommendations.

## Outcome area 2: Disabled people Te hunga haua

**The Commission shall: uphold the Human Rights Act, which prohibits discrimination on the grounds of disability. This means:**

- **physical disability or impairment**
- **physical illness**
- **psychiatric illness**
- **intellectual or psychological disability impairment**
- **any other loss or abnormality of psychological, physiological, or anatomical structure or function**
- **reliance on a guide dog, wheelchair, or other remedial means**
- **the presence in the body of organisms capable of causing illness.**

Human Rights Act 1993 s. 21(1)(h)

### **Outcome**

Systematic discrimination and inequalities are eliminated so disabled people report they live in a fair and just society where their contributions are fully acknowledged and they are respected for who they are.

### **Current situation and key issues**

Disabled people are the most disadvantaged minority in New Zealand. They are significantly disadvantaged in fundamental areas, such as employment, education and access to public transport. Disabled people, many of whom are on low incomes, also face additional costs as a result of their impairments. At least 17 per cent of New Zealanders report having a disability.

Monitoring and reporting on outcomes for disabled people is hampered by the lack of accurate data comparing the status of disabled people with non-disabled people, to underpin policy and programme design. For example, the New Zealand General Social Survey provides no information on disabled

people. Similarly, data collected by the Ministry of Education, employment, labour force and income organisations does not report on the situation for disabled people.

The main source of reliable, nationwide data is the disability survey, held in conjunction with the national census. Questions for the next disability survey, in 2011, have been improved to provide more data in areas such as employment, income, education and transport.

The findings of the Commission's National Conversation about Work provide further evidence of the barriers to employment for disabled people in gaining decent work and in holding on to jobs during the recession.

From 2005 to 2009, complaints to the Commission regarding disability issues comprised one third of all complaints and was one of the two most frequent areas of complaint.

In 2009, the Commission reviewed enquiries and complaints about disabled students' right to education in the compulsory education sector from 2002-08. Approximately 60 per cent related to four general themes:

- enrolment in the local school or school of choice
- students being stood down, suspended, excluded or expelled from school because of their disability or disability related behaviour
- funding or the need for reasonable accommodation
- problems in participating in the full curriculum.

New Zealand took a lead role internationally in developing the Convention on the Rights of Persons with Disabilities (CRPD). Now that New Zealand has signed and ratified the Convention, the priority is on its implementation, to remove barriers for disabled people in their daily lives.

An implementation plan for the recommendations in the Commission's Accessible Journey report on the provision of public transport is required by the New Zealand Transport Strategy.

## Commission's role and approach

The Commission will monitor implementation of the Convention as envisaged by Article 33 of the CRPD. It will ensure the rights of people with disabilities are acknowledged in other treaty body reporting, such as on the Convention on the Rights of the Child and the Convention on the Elimination of Discrimination Against Women, in the 2010-2011 period.

The Commission has continued to advocate for the development of a fully accessible public land transport system and has helped achieve:

- new accessibility requirements for urban buses attracting government funding
- an increased proportion of accessible buses in scheduled urban bus services
- accessibility features developed, with input from disabled people in new train carriages in Auckland and Wellington
- new taxi and bus drivers licence requirements to ensure a basic knowledge of disabled passengers' needs.

The Commission advocates for the full participation of disabled people in the implementation and monitoring of the Disability Convention. It will ensure disabled Māori have a voice in commentary on the Government's first periodic report on the Convention.

The Commission has continued to advise the Government on the development of an outcomes framework for reporting on the Disability Convention, including improved disability-related statistics.

In response to complaints from disabled people about barriers to fully inclusive compulsory education, the Commission:

- analysed complaints
- summarised New Zealand's legal and policy framework
- provided guidance on appropriate ways to fulfil its international treaty obligations.

## Priorities

The Commission's priorities are to progress the full implementation of the Convention on the Rights of Persons with Disabilities, which will result in the elimination of systemic barriers to disabled people.

### What the Commission will do

#### Disability Convention

- Provide advice and information to the Government for New Zealand's first report on the Convention on the Rights of Persons with Disabilities to the United Nations committee of experts.
- Provide a monitoring report to the UN committee, including reference to education, employment, accessible public transport and access to support services.
- Build a network of disabled people to participate in the monitoring process as envisaged by Article 33 of the Convention.
- Monitor the Government's Review of Special Education 2010 to ensure consistency with international human rights obligations.

#### Impact

Action by government, state agencies, local authorities, schools, community groups and others to implement the provisions of the Convention will significantly advance the socio-economic status and well-being of disabled people. Implementation will be supported by effective monitoring by the Commission, which will identify progress made and further action required.

## Outcome area 3:

# Race relations

## Whakawhanaungatanga ā iwi

### **The Commission shall: encourage the maintenance and development of harmonious relations between individuals and among the diverse groups in New Zealand society.**

Human Rights Act 1993 s.5(1)(b)

#### **Outcome**

Harmonious relations between diverse groups are realised through increasing equality, mutual respect and a shared sense of belonging to Aotearoa New Zealand.

#### **Current situation and key issues**

The Commission's annual review of race relations, published in March 2010, noted that New Zealand's ethnic, cultural and religious diversity continues to grow, as a result of both immigration and natural increase.

The General Social Survey (GSS) conducted in 2008-09 indicated 10 per cent of New Zealanders experience some form of discrimination; among these, racial discrimination is the most common. Continued discrimination against Asian New Zealanders was evidenced in the Commission's own survey of public perceptions of discrimination. There was a significant increase in the number of race-related complaints to the Human Rights Commission.

The Social Report 2009 indicated continued ethnic inequalities in employment, standard of living, health and education. Māori and Pacific unemployment increased significantly in the worsening economic recession. Māori unemployment rose from 8.2 per cent in December 2008 to 15.4 per cent in December 2009, Pacific unemployment from 7.8 per cent to 14 per cent, and MELAA (Middle Eastern/Latin American/African) from 10.6 per cent to 17.1 per cent. Over the same period, the overall unemployment rate rose from 4.6 per cent to 7.3 per cent. There were even greater ethnic disparities in the youth unemployment figures: Māori youth unemployment rose from 19.5 per cent to 30.4 per cent and Pacific youth unemployment from 18.6 per cent to 29.8 per cent. People on temporary work permits were also affected by the recession, as their permits were not extended. There were instances of migrant workers

being accused of taking the jobs of New Zealanders. Refugee groups identified the need for a whole-of-government approach to refugee resettlement, strengthening the involvement of refugee communities and increasing provision for family resettlement. Māori continue to be disproportionately represented in the prison population.

The Government released its decisions on Māori, Pacific and ethnic representation on the new Auckland City Council. Pacific and ethnic advisory panels will be established for the first term of the new Auckland Council, after which the Council can determine its own arrangements. For Māori, the Government decided to establish an independent statutory board. These decisions downgrade the recommendations on participation made by the Royal Commission on Auckland governance in 2008.

The annual review of race relations identified 10 race relations priorities or key issues for the coming year. These were to:

- review the place of the Treaty of Waitangi in the constitution
- reduce discrimination against Asian New Zealanders
- ensure the safety of international students
- increase the representation of Māori, Pacific and other ethnic groups in local government
- ensure Māori, Pacific and ethnic communities have an effective voice in the decisions of the new Auckland City Council
- ensure the new Auckland City Council continues the Treaty relationships, cultural diversity and settlement support programmes established by the outgoing councils
- reverse the increased racial inequalities that have resulted from the economic recession, particularly in employment
- reduce the high rate of imprisonment of Māori by means of initiatives for long-term action with specific targets
- develop, complete and implement strategies to support languages acquisition and maintenance
- develop a second national action plan for human rights and race relations.

## Commission's role and approach

The Commission seeks to achieve harmonious race relations by being a catalyst for action to advance racial equality, foster inclusion and celebrate diversity. It undertakes advocacy work, monitoring and reporting, and develops and engages relationships with government and the community to encourage them to address the challenges of diversity and secure the benefits.

Key issues identified above will be taken forward by the Commission through:

- advocacy to central and local government
- working with partner organisations to address emerging issues
- monitoring and reporting on key race relations issues
- advising on draft legislation and policy
- handling public enquiries and complaints.

In some instances, the Commission will lead the work with other organisations through its policy programme or complaints service. In other areas, it will advocate for action by government and the community through the New Zealand Diversity Action Programme (NZDAP).

The Commission facilitates the NZDAP as a mechanism to connect and support individuals and organisations engaged in action that promotes equality, recognises and celebrates diversity, and fosters harmonious relations.

The NZDAP celebrated its fifth anniversary in 2009. Since its inception, it has grown from four organisations to 250. In 2009, participants registered a total of 600 diversity projects. Each year, the quality of projects and the breadth of participants has improved. Participant feedback has shown the NZDAP has effectively assisted them to achieve their diversity outcomes.

## Priorities

In order to advance the realisation of harmonious race relations, the Commission will deliver the NZDAP and produce the annual Race Relations Report.

The NZDAP:

- recognises that harmonious relations are only achieved when promoted across all sectors and communities

- provides opportunities for all sectors and communities to participate.

The Race Relations Report provides information and analysis that can be taken up by the Commission and others to enhance harmonious relations in New Zealand.

## What the Commission will do

### NZ Diversity Action Programme

In the coming year, the Commission will deliver the NZDAP by:

- supporting participants to put in place or enhance services and products they provide through their registered projects
- coordinating and providing information, publicity, networks and acknowledgement to participants.

As part of its contribution to the NZDAP, the Commission will:

- coordinate one national diversity network and four specialist networks
- engage with participants to assist them to develop annual projects
- host the annual Diversity Forum to facilitate the sharing of knowledge and good practice
- promote and facilitate events for Race Relations Day (the International Day for the Elimination of Racial Discrimination).

### Race Relations Report

The Commission will:

- produce a report which monitors developments over the last year in race relations, the Treaty, discrimination and inequalities
- identify key race relations issues and priorities for actions for the Government and community to address through policy, legislation and practice.

## Impact

Recognition and support for diversity in the policies and practices of government, business and communities, and the capacity to address emerging race relations issues will be increased through engagement in the New Zealand Diversity Action Programme and informed by the analysis in the Race Relations Report.



## Outcome area 4:

# Right to work

### Tika ki te whai mahi

**The Commission shall: provide advice, evaluation through benchmarks, develop guidelines, monitor progress, and liaise with others to progress equal employment opportunities.**

Human Rights Act 1993, s.17

#### Outcome

Barriers to equal employment opportunities are eliminated so that all people in New Zealand enjoy access to decent and productive work and fairness in the workplace.

#### Current situation and key issues

The impact of the global recession in the labour market has increased unemployment and redundancies and changed conditions of employment for many workers. Groups experiencing high rates of unemployment include disabled people, Māori youth, Pacific youth and migrant communities.

Information on the severity of the impact of the recession on the employment of people with disabilities is based on evidence from the Commission's National Conversation about Work project. Regional variation is apparent in the manufacturing sector, which predominantly employs men, with 28,000 jobs lost in the year ended December 2009.

While the participation of women in the labour force continues to be high, progress on pay equity appears to have stalled or regressed in the public sector. Women's representation in senior management and corporate governance continues to be of concern.

Employment creation and retention is a significant economic and social priority for New Zealand, but economists predict employment is likely to be a "lagging indicator" in economic recovery.

The global recession has led to a new caution among employers, who are now more conservatively assessing their demand for labour as they strive to ensure businesses remain economically viable. Despite rising unemployment levels, some occupational sectors still face skill shortages.

Working hours in some industrial sectors have been affected by new patterns of spending and consumerism. Some people are either working reduced hours (being underemployed) or working increased hours, as employers hold back from hiring new staff. This has had a marked impact on new entrants to the labour market and people seeking work following redundancy. In two-income families, where men have lost jobs, households are often reliant on income from lower-paid female employment. Male full-time employment fell by 28,000 during the year to December 2009, compared to female full-time employment, which decreased by 15,000 and part time by 8000 in the same period.

The lack of availability and provision of childcare, particularly in rural New Zealand, continues to limit the employment opportunities of men and women, and impacts on family life.

To achieve equality in the workplace, both anti-discrimination measures, such as those contained in the Human Rights Act 1993, and active labour market policies are necessary. New and enduring approaches to equal employment opportunities in New Zealand are required to cope with changing labour demands and to address systemic and persistent barriers for some groups and individuals.

#### Commission's role

The Commission has a specific equal employment opportunities role in relation to the right to work. This includes EEO leadership, the provision of advice, evaluation through benchmarks, developing guidelines, monitoring progress, and liaising with others to progress equal employment opportunities.

In the past two years, the Commission has consulted over 3000 employers, employees and community groups across New Zealand's 16 regions to identify what would progress equality in accessing work and in workplaces. A register of good practices has been developed from these visits. Common themes have emerged from the National Conversation about Work, including increasing concern about youth employment, access to work for disabled people, the impact of the recession on household income, the scope of paid parental leave, and employers' concerns about attracting high skills and their ageing workforces.



The Commission provides guidance to Crown entities on their good employer obligations, and advice to the private sector on pre-employment and equal employment opportunities.

Every two years, the Commission collects and analyses information about the progress of women in leadership roles in a benchmark census report that is used in international treaty body reporting.

### Priorities

- Produce a new Equality at Work framework for equal employment opportunities in New Zealand.
- Promote new good employer strategies to progress fairness at work.
- Publish the fourth New Zealand Census of Women's Participation to benchmark progress.

### What the Commission will do

#### Equality at Work framework

The Commission will: publish and promote a new Equality at Work Framework: 2010 and Beyond. It will address the equal employment opportunities priorities and recommendations for policy, practice and legislation identified in the regional reports of the National Conversation about Work.

#### Good employer strategies

The Commission will: develop and distribute new good employer strategies and advice for recruitment of disadvantaged groups for the public sector, including Crown entities, and the private sector. The strategies will build on needs identified by Crown entities, and employers and employees in the National Conversation about Work.

#### NZ Census of Women's Participation

The Commission will: publish and distribute the fourth New Zealand Census of Women's Participation in 2010 and provide information for New Zealand's seventh periodic review of the Convention for the Elimination of Discrimination Against Women.

### Impact

Systemic barriers to employment will be addressed and more inclusive workplaces created by an increased use of equal employment opportunities practices and programmes as a result of the implementation of:

- the Commission's equality framework
- good employer strategies
- the analysis of the Census.

## Outcome area 5:

# Te mana i Waitangi

## Human rights and the Treaty of Waitangi

**The Commission shall: promote by research, education, and discussion a better understanding of the human rights dimensions of the Treaty of Waitangi and their relationship with domestic and international human rights law.**

Human Rights Act 1993 s.5(2)(d)

### Outcome

Improved Crown-Tangata Whenua relations will strengthen the position of the Treaty of Waitangi in New Zealand's constitutional arrangements and result in increased recognition of indigenous rights and increased realisation of all human rights.

### Current situation and key issues

Public opinion research conducted on the Treaty of Waitangi by the Commission shows a maturing of knowledge and understanding of the Treaty as New Zealand's founding document and that the Treaty is for all New Zealanders. However, respondents had less knowledge of indigenous rights and a smaller percentage – 32 per cent of Māori and 28 per cent overall – agreed that the relationship between Crown and Māori was healthy.

A number of recommendations relating to the Treaty of Waitangi, indigenous rights and Crown-Tangata Whenua dialogue were made in 2010 by the United Nations. The Human Rights Committee, in its concluding observations on New Zealand's fifth periodic report under the International Covenant on Civil and Political Rights, welcomed New Zealand's proposed constitutional review, aimed at giving greater effect to the Treaty of Waitangi. It also recommended the Government continue its momentum and ensure views of different Māori groups in the Treaty claims settlement process are taken into account. These recommendations followed similar comment relating to the Treaty of Waitangi in the Universal Periodic Review of New Zealand's human rights performance in 2009.

The Government is developing terms of reference for a review of aspects of New Zealand's constitutional arrangements. The review will focus on the place of the Treaty in New Zealand's constitutional arrangement and the role of Māori representation. It offers an opportunity to strengthen protection of human rights for all New Zealanders, which includes the rights of Indigenous peoples, and provides an opportunity to better recognise the Treaty as New Zealand's founding document.

Other recent developments relating to the Treaty of Waitangi include:

- A review of the Foreshore and Seabed Act 2004 recommended it be repealed and an alternative regime established.
- The Royal Commission's recommendation to establish dedicated Māori seats on the Auckland "super city" council was rejected by the Government.
- The New Zealand Geographic Board voted to change the spelling of Wanganui to Whanganui and the Minister for Land Information approved the use of both names.
- A national Māori flag for Waitangi Day was chosen following nationwide consultation hui, and the Government announced it would be flown from selected public buildings in 2010.
- The Waitangi Tribunal registered its 2236th claim.
- Crown-iwi hui were held to discuss how best to achieve the 2014 Treaty settlement goal.
- A taskforce on whānau-centred initiatives was established to promote whānau well-being (whānau ora).
- Concessions for some iwi were included in the proposed Emissions Trading Scheme.

## Commission's role and approach

The Commission's role is to promote greater understanding of the human rights dimensions of the Treaty. This greater understanding aims to encourage healthy Crown-Tangata Whenua relationships, which are essential to the realisation of human rights for Māori (including indigenous rights), protection of their culture, full participation at all levels, and improved social and economic outcomes. In January 2010, the Commission published and consulted on a review of Human Rights and the Treaty, as part of the process of updating its status report on human rights.

One of the key issues identified from the Commission's previous engagement programme was the health of the relationship between the Crown and Tangata Whenua. From 2007, the focus of the Te Mana i Waitangi project has been on the health of the Treaty relationship between the Crown (including public agencies at both the central and local level, as well as schools) and Tangata Whenua. Since 2007, the Commission has promoted case studies of Crown-Tangata Whenua partnerships that provide examples of good practice and relationships that are working for all parties.

These case studies will feed into the Commission's contribution to the constitutional review, the outcome of which will be important to future Crown-Tangata Whenua relationships.

## Priorities

The Commission will work to increase public awareness of the Treaty and make a contribution to the 2010 constitutional review to advance a greater understanding of the human rights dimensions of the Treaty.

## What the Commission will do

### Public awareness of the Treaty

In the coming year, the Commission will promote greater public awareness of the Treaty by:

- engaging with Tangata Whenua for continued discussion on Treaty issues
- conducting workshops on the human rights dimensions of the Treaty
- producing information resources for the public about the Treaty and the Declaration on the Rights of Indigenous People
- identifying examples of good practice to inform the development of effective pathways to give effect to the Treaty
- contributing to the constitutional review process through the provision of human rights advice, guidance and advocacy to government, Tangata Whenua and civil society on the human rights dimensions of the Treaty of Waitangi and the Declaration on the Rights of Indigenous Peoples.

## Impact

Improved Crown-Tangata Whenua relationships and increased awareness of indigenous rights and their contemporary expression in constitutional arrangements will result from the Commission's programme to increase understanding of the human rights dimensions of the Treaty of Waitangi.

## Outcome area 6:

# Internationally connected

### Kāpititia ā taiao

#### **The Commission shall: provide better protection of human rights in New Zealand, in general accordance with United Nations Covenants and Conventions.**

Human Rights Act 1993, title page

#### **Outcome**

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

International human rights law provides a foundation for New Zealanders' rights and responsibilities, and a standard against which to measure the State's performance and realise human rights nationally.

Strengthening of this area involves:

- ratification of the key international Covenants and Conventions and incorporation of their provisions into legislation, policy and practice
- constructive engagement with United Nations treaty bodies, including meeting the periodic reporting requirements
- establishment of national human rights institutions that meet the United Nations' Paris Principles.

#### **Current situation and key issues**

The well-being of New Zealanders is inextricably linked to global developments, whether political, economic, environmental, scientific or technological. For a small Pacific trading nation with an open economy, fair, just and effective international agreements are essential.

A reputation for a principled approach to human rights domestically and internationally benefits New Zealand's national interests and its global relationships generally.

Successive New Zealand governments have contributed actively to the development and subsequent ratification of international human rights law. Incorporation of their provisions in New Zealand law, policy and practice, however, is far from comprehensive. Each treaty ratified requires regular reporting on the State's implementation of its provisions.

Increasingly, the United Nations Human Rights Council is calling on "A" status national human rights institutions (NHRIs) to attest to their country's human rights performance and to actively

contribute to the human rights monitoring procedures both nationally and at the international level.

International recognition of the role of NHRIs has been highlighted by the two most recent international human rights agreements, the Optional Protocol to the Convention Against Torture (OPCAT) and the Convention on the Rights of Persons with Disabilities. These agreements have created new procedures for preventing human rights abuses, through more effective monitoring, and include specific responsibilities for NHRIs such as the Commission. In the case of OPCAT, the Commission has been designated the Central National Preventive Mechanism.

The Commission's report on New Zealand's human rights performance for its first Universal Periodic Review (UPR) in May 2009 identified the need to improve New Zealand's reporting. It recommended that government establish a comprehensive UPR and treaty body reporting process. This includes engagement with civil society, greater integration across public agencies, clearer accountability for coordinating and publicising reports, and following up recommendations. In its response, the Government indicated it would do so. The Commission has welcomed the Ministry of Justice's identification as the lead agency coordinating reporting on human rights treaties. They have agreed to work closely on the development of processes for better monitoring and publicising New Zealand's reporting, and the subsequent UPR and treaty body recommendations.

In 2010-11, New Zealand is required to:

- submit its first report on compliance with the Convention on the Rights of People with Disabilities in October 2010
- report on compliance with the Convention on the Elimination of Discrimination Against Women in August 2010
- be examined on compliance with the Convention on the Rights of the Child (January-February 2011)
- be examined on compliance with the International Covenant on Economic, Social and Cultural Rights (date to be notified).

The Asia-Pacific region lacks a regional human rights charter or court and that makes the development of NHRIs in this region of particular importance. In the Pacific, there has been a growing recognition of the place of human rights in good governance, security and economic development. Increasingly, requests are coming to the Asia Pacific Forum (APF) of NHRIs,

and at times directly to the Commission, to assist governments to establish or strengthen Paris Principles-compliant national institutions. Work initiated by the Commission three years ago has led to the March 2010 appointment of a Human Rights Advisor to the Pacific Islands Forum Secretariat. The expectation is that the appointee will be able to draw on the Commission and the Asia Pacific Forum for expert advice as required.

### **Commission's role and approach**

To give effect to the statutory mandate as defined in the Human Rights Act 1993, it is vital the Commission is connected with the international human rights system. Being internationally connected enables the Commission to access and contribute to developing jurisprudence, focusing on human rights areas that are priorities for New Zealanders. It enables benchmarking of the Commission's work against international good practice, through membership of the United Nations sponsored International Coordinating Committee (ICC) of NHRIs and the Asia Pacific Forum, which requires undergoing a stringent accreditation process every five years. The Commission currently has "A" status accreditation and comes up for re-accreditation in early 2011.

The Commission's approach to strengthening human rights nationally and respect for international human rights law globally involves:

- better integrating international human rights treaties and standards into its day-to-day work, so their significance and relevance is more widely recognised
- contributing to and monitoring their implementation in New Zealand
- participating in the Government's reporting processes
- providing independent information, analysis and assessments to the United Nations and other relevant international human rights bodies
- exchanging of expertise, experience and good practice through active membership of the Asia Pacific Forum of NHRIs and the ICC on national institutions for the promotion and protection of human rights
- working (when funded) with partners, including the Pacific Island Forum Secretariat, the UN Office of the High Commissioner for Human Rights, the Commonwealth Secretariat, the Asia Pacific Forum and others, to establish or strengthen national human rights mechanisms.

The Commission's leadership and contribution to the regional and global human rights environment continues to be recognised. In

August 2009, India, Jordan, Malaysia and New Zealand were elected as members of the ICC bureau. New Zealand was nominated as the regional candidate for the ICC Chair position. In March 2010, the Chief Human Rights Commissioner was elected to the position.

### **Priority**

The Commission's priority will be contributing to the strengthening of human rights in New Zealand by engaging with the international monitoring of human rights treaties in New Zealand.

### **What the Commission will do**

#### **Monitoring international human rights standards**

The Commission will monitor and publicise New Zealand's international reporting and subsequent treaty body recommendations. This will include:

- quality assessments on the impact and implementation of international human rights standards in New Zealand
- advice and guidance to government and civil society on New Zealand's reporting obligations and on engagement with international human rights monitoring mechanisms.

The Commission will fulfill its specific responsibilities as the Central National Preventive Mechanism under the OPCAT. This will include:

- coordinating the statutory responsibilities of the four New Zealand National Preventive Mechanisms
- reporting annually to Parliament on the implementation and impact of the work of the National Preventive Mechanisms
- reviewing and making recommendations on any systemic issues and liaising with the UN Committee that oversees the implementation of the OPCAT.

### **Impact**

Increased understanding, appreciation and application of human rights standards in New Zealand will be achieved by the Commission's independent assessments of New Zealand's implementation of international human rights treaties, support for government and civil society in engaging with international human rights treaty bodies, and provision to the United Nations of independent and credible advice and guidance on which to base their recommendations.

## Outcome area 7:

# Organisational health and capability

## Te kaha ora o te Kāhui Tika Tangata

### Objectives

The current economic climate and government expectations of the state sector require the Commission to undertake measures to manage within a static revenue and to measurably improve efficiency in its programme delivery.

The Commission's programme of organisational health and capability is designed to meet these expectations and to develop capability in key areas to increase the impact of the Commission. The Commission has focused on how its services can be delivered most efficiently and effectively, and in doing so has set and forecast a particularly tight budget.

Within this context, the objectives for the Commission's programme of organisational health and capability for 2010-11 are:

#### Financial and organisational sustainability

To deliver more cost effectively, the Commission will:

- set tight, realistic budgets and manage within its existing revenue for the next three years
- have effective and efficient systems and processes to plan, monitor progress, manage resources, risks, knowledge and opportunities, and to evaluate its work.

#### Quality services

To deliver quality services, the Commission will:

- develop staff skills and knowledge to meet high standards of service, including enhancing the accessibility of the Commission
- be viewed as a source of quality analysis, knowledge and practical help
- work successfully with other organisations, groups and individuals for shared outcomes.

#### The Commission's organisational health

This Statement of Intent has been developed in accordance with government expectations of tight, realistic budgeting and in recognition of the predicted five years of public sector deficits. The Commission had expected to bid for further baseline funding in 2010. In this changed economic context, the Commission has taken steps to project a balanced budget until 2013. In doing so, it has deferred some elements of

its infrastructure development, for which it was specifically funded, as well as committed to other measures, including savings in personnel costs of three full-time equivalents and a 10 per cent reduction in its project budget. The Commission has also made concentrated efforts to reduce its overheads through shared services and a significant increase in the use of videoconferencing to reduce travel costs.

Between 2005 and 2008, the Commission completed a three-year programme to develop its organisational health and capability, focusing on financial sustainability, organisational design and internal policy development.

In 2009-10, the Commission built on this foundation, growing the capacity and capability of its people, and the accessibility of its information and services. This included:

- a professional development programme
- enhanced performance management processes
- new and increasingly efficient systems for knowledge management
- co-location and shared services with other organisations
- improved systems and processes for setting and measuring performance outputs and measures.

Along with targeted evaluations and improved planning, monitoring and financial systems, this programme is helping the Commission achieve its goal of continuous improvement. The increased demand from government agencies for early advice on draft legislation reflects a growing confidence in the value of early human rights assessment. The Commission received an excellent 2009 audit assessment for its financial systems. The Commission has improved the accessibility of its services, including the provision of multilingual and multi-format resources and an online complaints form.

This programme will be progressed in 2010-11, with a specific focus on efficiency, effectiveness, sustainability and accessibility.

## Priority

Developing the efficiency and effectiveness of its people and systems, the sustainability of its resources and the accessibility of the Commission's information and services are priorities for 2010-11.

### What the Commission will do

#### **Developing efficiency, effectiveness, sustainability and accessibility**

To ensure financial and organisational sustainability, the Commission will:

- design and implement a strategy for financial sustainability and an expenditure model that will enable the Commission to operate within its current baseline for the next three years
- develop planning, monitoring, operating and evaluation systems and processes which enable effective and efficient management of the Commission's activities and resources, and assist quality reporting.

To develop quality services, the Commission will:

- continue to raise the quality and efficiency of the Commission's activities, through a professional development programme, enhanced knowledge management and other selected interventions
- improve the accessibility and visibility of its information and services through increased use of new technology, alternative languages and formats, and other interventions
- engage regularly with key audiences to improve the Commission's ability to understand their issues and concerns, and to discuss and respond to relevant human rights matters
- develop its ability to work with key stakeholders and audiences through systematic engagement.

The impact of these objectives will be assessed by internal and external feedback, completed by the end of 2011.

## Part B:

# Forecast statement of service performance 2010-11

Note: in future years, the final column on standards will include a forecast measure for the previous year, for comparative purposes against the estimate for the period of the SSP. This year, measures and standards have been significantly developed so forecasts for the 2009-10 SSP provide no useful comparisons. Forecasts for 2009-10 have therefore not been included in this SSP, except for enquiries and complaints where measures are unchanged.

### Output: Information, education and community programmes

**Description:** This output contributes towards the impact of ensuring that human rights protections that exist in legislation and policy are practised and have a positive effect on people's everyday lives. It also acknowledges that harmonious relations can only be achieved with the wide participation and engagement of diverse communities in the process.

The output gives partial effect to the Commission's primary functions outlined in the Human Rights Act 1993, to promote respect and an understanding and appreciation of human rights in New Zealand, and the maintenance and development of harmonious relations between diverse individuals and groups in New Zealand society.

This involves conducting human rights programmes and activities, promoting understanding of the human rights dimensions of the Treaty and consulting and cooperating with other organisations. Outputs include delivering human rights workshops, presentations and courses, developing and coordinating networks to share and promote good practice, building relationships with key stakeholders to progress human rights priorities, organising human rights events and forums, development and dissemination of human rights information and resources.

Priority	Outputs	Performance measure	Standard
<p><b>Human Rights in the Community</b></p> <p><b>Outcome area 1: Human rights environment</b></p>	<ul style="list-style-type: none"> <li>Deliver NZ Qualifications Authority approved human rights community development education programme through a continuing education course to 14 people in the Waikato, with a view to undertaking human rights activities in the following year</li> </ul>	<ul style="list-style-type: none"> <li>Programme meets NZQA standards, as moderated by the NZQA</li> <li>Satisfaction of participants with the course, as assessed by a survey</li> <li>(Impact) Participants have increased knowledge and understanding of human rights and how to support communities to identify and address human rights issues. Assessed by participants passing the appropriate NZQA Unit Standard</li> </ul>	<ul style="list-style-type: none"> <li>Course approved by NZQA</li> <li>On a five-point scale, 75% of participants rate the course on scores of four or five – of value or great value to them</li> <li>At least 12 people pass NZQA unit standard</li> </ul>



Priority	Outputs	Performance measure	Standard
<p><b>New Zealand Diversity Action Programme (NZDAP)</b></p> <p><b>Outcome area 3: Race relations</b></p>	<ul style="list-style-type: none"> <li>• Deliver the New Zealand Diversity Action Programme (NZDAP), supporting organisations and individuals to undertake action to promote harmonious relations by providing information, support, acknowledgement, publicity and sharing of good practice through:                             <ul style="list-style-type: none"> <li>– Publishing network newsletters</li> <li>– Awarding certificates of acknowledgement of contributions to harmonious race relations and diversity awards.</li> <li>– Holding forums and events</li> <li>– Maintaining, developing and connecting a network of participating organisations</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>– Five network e-newsletters published 10 times per year</li> <li>– Annual Diversity Forum held</li> <li>– Network of 250 participating organisations maintained and developed</li> <li>– Announcements and details of awards published monthly as e-newsletter; 10 Diversity Awards presented annually</li> <li>• Forum attendees and NZDAP participants indicate the programme was of value to them in recognising and celebrating cultural diversity, promoting equality or fostering harmonious relations. As assessed by an evaluation of the Forum and a survey of participants in the NZDAP programme</li> </ul>	<ul style="list-style-type: none"> <li>• Subscriptions to network e-newsletters increased by 10% overall</li> <li>• Subscriptions to acknowledgements e-newsletter maintained</li> <li>• On a five-point scale, 75% of evaluation and survey respondents indicate the Forum/programme has met scores four or five – has been of value or great value to them</li> </ul>
<p><b>Te Mana i Waitangi</b></p> <p><b>Outcome area 5: Human rights and the Treaty of Waitangi</b></p>	<ul style="list-style-type: none"> <li>• Deliver a Māori community engagement programme through provision of information resources and analysis, and hui to facilitate debate and dialogue, which increase understanding about the Declaration of the Rights of Indigenous Peoples and the human rights dimensions of the Treaty of Waitangi</li> </ul>	<ul style="list-style-type: none"> <li>• Programme run in five communities</li> <li>• Value to participants in increasing knowledge of the Declaration and increasing understanding of the human rights aspects of the Treaty as assessed by evaluations by programme participants</li> </ul>	<ul style="list-style-type: none"> <li>• On a five-point scale, 75% of participants report they found the programme met scores four or five – valuable or very valuable</li> </ul>

## Output: Advocacy, advice and guidance

### Description

This output contributes toward the impact of incorporating international human rights standards in New Zealand law, policy and practice, which is essential to the protection of human rights and a reduction of barriers to equality.

The Commission provides advice and guidance on options for improvement, advocates for action when progress is slow and intervenes in situations that could involve a serious infringement of human rights. The Commission also provides information, advice and guidance to civil society to support their contribution to monitoring and developing human rights standards. Outputs include making submissions on draft legislation or policy papers, providing oral evidence at select committees, providing analysis of human rights

issues to government and civil society, providing legal advice and information on human rights enquiries, intervening in legal proceedings relating to critical human rights issues or jurisprudence, and engaging with government, business and community leaders on human rights issues and standards.

This output is determined by the Commission's functions, outlined in the Human Rights Act, to advocate for human rights, inquire into possible infringements of human rights, publish guidelines and voluntary codes, monitor and report on compliance with international human rights standards, make public statements on human rights and race relations, bring proceedings and intervene in court proceedings and develop a national plan of action for human rights.

Priority	Outputs	Performance measure	Standard
<p><b>Human Rights in Government</b></p> <p><b>Outcome area 1: Human rights environment</b></p>	<ul style="list-style-type: none"> <li>Advice and guidance provided on draft legislation or policy and programme initiatives with significant human rights implications</li> </ul>	<ul style="list-style-type: none"> <li>Approximately 40 instances of advice and guidance provided</li> <li>Valued by government in its responsibility to meet human rights standards, and by civil society in supporting their engagement with policy development, as assessed by the Commission's policy register which monitors feedback on the quality of the Commission's work by external stakeholders and notes any recommendations that are incorporated into draft legislation or policy</li> <li>Timeliness standards, as monitored by the Commission's policy register, thoroughness and participation quality standards, as assessed by a survey of external stakeholders participating in the development of the selected policy interventions</li> </ul>	<ul style="list-style-type: none"> <li>Within the policy register, 75% of interventions selected contribute to discussions about meeting New Zealand's domestic and international human rights obligations.</li> <li>Internal standards met</li> </ul>

### Quality Performance Measures

As an element of its quality performance measurement, the Commission sets internal standards for its outputs in this area.

The most appropriate internal standards are selected for each output, and these are specified in the performance measures. These internal standards are summarised below.

- Timeliness: Specified closing dates or reporting deadlines are met.
- Participation: The views of affected parties are considered and ways to have their views communicated are incorporated into the advice or guidance as assessed by systematic feedback.
- Thoroughness: evidence based, accurate and comprehensive in that all relevant issues are covered and based on research and analysis, viable options are described and assessed and practical proposals are presented when appropriate.
- Accessibility: Advice and guidance is presented in a style and in formats and languages that are easily useable by the core audiences.
- Value: Advice, guidance and interventions are found to be useful to government and civil society in developing or assessing the relevant legislation, policy or programme proposal.

Priority	Outputs	Performance measure	Standard
<p><b>Action Plan for Human Rights</b></p> <p><b>Outcome area 1: Human rights environment</b></p>	<p>Publish a two-part report for all New Zealanders, in accordance with the Human Rights Act, providing an analysis of how well human rights are implemented in New Zealand and identifying the priorities for the next five years</p>	<ul style="list-style-type: none"> <li>• Participation, thoroughness and accessibility standards, as assessed by a survey of selected external participants in the development of the report's priorities for action</li> <li>• Report is developed in accordance with international good practice, as identified in the UN Vienna Declaration and Programme of Action</li> </ul>	<ul style="list-style-type: none"> <li>• Internal standards met</li> <li>• Report meets the standards of the UN Vienna Declaration and Programme of Action</li> </ul>
<p><b>Monitoring international Conventions</b></p> <p><b>Outcome area 6: Internationally connected</b></p>	<ul style="list-style-type: none"> <li>• Provide information and analysis to government on New Zealand's performance in implementing international human rights treaties, and advice and guidance to community groups to support their participation in the monitoring process</li> </ul>	<ul style="list-style-type: none"> <li>• Thoroughness, timeliness and accessibility standards, as assessed by a survey of selected external stakeholders receiving the Commission's advice and guidance</li> <li>• Issues identified by the Commission are picked up in United Nations committee report recommendations to the New Zealand Government</li> </ul>	<ul style="list-style-type: none"> <li>• Internal standards met</li> <li>• 80% of issues identified by the Commission are reflected in United Nations Committee report recommendations to the New Zealand Government</li> <li>• Three out of four NPMs report they are satisfied or very satisfied with the Commission's coordinating, with scores of four or five on a five point scale</li> </ul>

Priority	Outputs	Performance measure	Standard
<p><b>Monitoring international Conventions</b></p> <p><b>Outcome area 6: Internationally connected</b></p>	<ul style="list-style-type: none"> <li>Coordinate and facilitate the monitoring of Optional Protocol to the Convention Against Torture in consultation with the four NPMs (Office of the Ombudsman, Independent Police Complaints Authority, Office of the Children's Commissioner and Inspector of Service Penal Establishments) and provide an annual report on the results of this monitoring to Parliament and to the United Nations Committee and Sub Committee against Torture Committee</li> </ul>	<ul style="list-style-type: none"> <li>New Zealand's four National Preventive Mechanisms (NPMs) are satisfied with the Commissions coordinating role, as assessed by comments recorded at regular coordination meetings and approve the annual report</li> </ul>	<ul style="list-style-type: none"> <li>100% agreement by NPMs with contents of the annual report</li> </ul>
<p><b>National Conversation about Work</b></p> <p><b>Outcome area 4: Right to work</b></p>	<ul style="list-style-type: none"> <li>Equality framework published for New Zealand workplaces</li> <li>Fourth New Zealand Census of Women's Participation published</li> </ul>	<ul style="list-style-type: none"> <li>The equality framework is credible and useful for EEO policy and practice, as qualitatively evaluated by key stakeholders using electronic survey</li> <li>Census benchmarking regarded as reliable, relevant and comprehensive by civil society and policy agencies in meeting international treaty body standards</li> </ul>	<ul style="list-style-type: none"> <li>80% of those surveyed report they found the equality framework credible and useful</li> <li>Reliability assessed at 95% and report data referenced 25 times in year following publication</li> </ul>
<p><b>Race Relations Report</b></p> <p><b>Outcome area 3: Race relations</b></p>	<ul style="list-style-type: none"> <li>Publish a report that reviews developments in race relations in the past year and identifies priorities for action</li> </ul>	<ul style="list-style-type: none"> <li>The report is useful to stakeholders, as assessed by a survey circulated with the publication and an additional online survey</li> </ul>	<ul style="list-style-type: none"> <li>On a five-point scale, 60% of the combined respondents scored the report at four or five – useful or very useful</li> </ul>

## Output: Enquiries and complaints

### Description

This output involves providing New Zealanders with a means of seeking advice and possible redress if they think their human rights have been infringed, in matters of complaints about discrimination. The Commission has a statutory responsibility under the Human Rights Act 1993 to provide a disputes resolution service that is as efficient, informal and cost effective as possible, and an information and referral

service for enquirers on human rights matters. The Act also requires the Office of Human Rights Proceedings to provide legal representation, where criteria in the Human Rights Act are met, before the Human Rights Review Tribunal or related proceedings where the Commission's disputes resolution service has not resolved the matter. Proceedings can be taken under either the Human Rights Act or the Privacy Act 1993.

Priority	Outputs	Performance measure	Standard
<p><b>Enquiries and complaints</b></p> <p><b>Outcome area 1: Human rights environment</b></p>	<ul style="list-style-type: none"> <li>• Provide an information and referral service for approximately 16,000 approaches from members of the public, of which a predicted 6000 will be new human rights matters</li> <li>• Provide a disputes resolution service focussing on mediation, as defined in sections 76-89 of the Human Rights Act, for an estimated 1600 complaints alleging unlawful discrimination</li> </ul>	<ul style="list-style-type: none"> <li>• Enquiries and complaints receive an initial response within three working days</li> <li>• Complaints of unlawful discrimination closed within one year, with the situation advanced as assessed by internal records</li> <li>• Evaluation of satisfaction, as assessed by a questionnaire sent to participants in the mediation process</li> </ul>	<p>Forecast for 2010: standards same as below</p> <ul style="list-style-type: none"> <li>• 90%</li> <li>• 80%</li> <li>• On a five-point scale, 90% of returned mediation evaluation forms will report they are satisfied or very satisfied with the process</li> </ul>

Priority	Outputs	Performance measure	Standard
<p><b>Office of Human Rights Proceedings</b></p> <p><b>Outcome area 1: Human rights environment</b></p>	<p>Undertake an estimated 70-90 human rights and privacy matters through:</p> <ul style="list-style-type: none"> <li>• Providing legal representation before the Human Rights Review Tribunal or related proceedings where Section 92 criteria of the Human Rights Act are met</li> <li>• Providing representation for the Human Rights Commission</li> <li>• Taking proceedings under the Privacy Act when referred by the Privacy Commissioner</li> <li>• Intervening in appropriate proceedings under the Privacy Act</li> </ul>	<ul style="list-style-type: none"> <li>• Decisions on representation made within 60 days of application</li> <li>• Set performance standards achieved               <ul style="list-style-type: none"> <li>- compliance with Lawyers and Conveyancer's Act 2006</li> <li>- compliance with Tribunal and Court timetables</li> <li>- positive comments from courts</li> </ul> </li> </ul> <p>As assessed by internal records and satisfactory feedback from complainants on standard of service</p> <ul style="list-style-type: none"> <li>• Evaluation and satisfaction, as assessed by responses to decisions by complainants</li> </ul>	<ul style="list-style-type: none"> <li>• 80%</li> <li>• 100%</li> <li>• 80%</li> </ul>

# Forecast financial performance

## 2010/2011

### Key assumptions for proposed budget 2010/2011

In the 2007/2008 budget the Human Rights Commission received additional funding for wage, overhead and programme sustainability and for infrastructure and knowledge management for 2007/2008 and out years. This funding provided sustainability to 2010/2011. Given the effect of the global economic recession and the projected effect on the public sector, the Commission reassessed its long-term planning and deferred some planned work with a view to managing within allocated funding until 2012/2013.

The negative impact of the global economic recession is still a key driver in the context of budget setting in the New Zealand environment. The Government continues to predict public sector deficits for a number of years and has reiterated this to the Commission in its letter of expectations of 9 February 2010.

The explicit expectations are that the Commission:

- have financial sustainability as a critical part of its strategy
- demonstrate a strong understanding of its business, e.g. price, quantity and standards of the service, the cost drivers and how the Commission will manage them
- set tight, realistic budgets and manage within those budgets
- have realistic pay and employment conditions
- continue to review how the Commission's services can be delivered better and more cost effectively, including looking at opportunities to use technology or shared services agreements to lower costs and improve services and implement changes to deliver on these findings.

The letter of expectation also noted the Commission's previously expressed position that it would have drawn on all reserves by 2012 and would be in the position of having to submit a budget bid for additional funding and commented as follows:

"As noted earlier in this letter, the Commission should plan on no budget increases for the next three to five years. Therefore, it is my expectation that the Commission will develop a sustainable expenditure model that is financially prudent and consistent with the reality of the current economic climate."

To this end, the Commission has again reassessed its long-term planning with a view to managing within its current funding envelope until 2013-14.

# Forecast budget statement of financial performance

## For the period ended 30 June 2011

	2009/2010 Forecast Proposed Actual \$000s	2010/2011 Projected Budget \$000s
<b>Income</b>		
Vote Justice operating grant	9,276	9,395
NZ Agency for International Development	693	
Other income	110	50
Interest income	118	92
<b>Total Income</b>	<b>10,197</b>	<b>9,537</b>
<b>Expenses</b>		
Personnel	6,213	6,698
Travel	350	315
Direct and Overhead cost	2,002	1,885
Projects and Programmes	1,454	865
Depreciation	264	264
<b>Total Expenses</b>	<b>10,283</b>	<b>10,027</b>
<b>Net operating Surplus (Deficit)</b>	<b>(86)</b>	<b>(490)</b>



# Forecast statement of financial position

As at 30 June 2011

	2009/2010 Forecast Projected Actual \$000s	2010/2011 Proposed Budget \$000s
<b>Current assets</b>		
Cash at bank	3,064	2,557
Accounts receivable	846	163
GST receivable	25	25
Prepayments	20	10
<b>Total Current Assets</b>	<b>3,955</b>	<b>2,755</b>
<b>Deduct Current liabilities</b>		
Accounts payable	1,215	472
Provision for annual leave	625	638
<b>Total Current Liabilities</b>	<b>1,840</b>	<b>1,110</b>
<b>Working capital</b>	<b>2,115</b>	<b>1,645</b>
<b>Non current assets</b>	<b>750</b>	<b>730</b>
Accumulated Funds	2,865	2,375
<b>Balance B/f</b>	<b>2,951</b>	<b>2,865</b>
<b>Net Surplus (Deficit)</b>	<b>(86)</b>	<b>(402)</b>
Accumulated Funds	2,865	2,375

# Forecast statement of cash flows

As at 30 June 2011

	2009/2010 Forecast Projected Actual \$000s	2010/2011 Proposed Budget \$000s
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Cash was provided from:		
Vote Justice operating grant	9,276	9,395
Other income	921	142
	10,197	9,537
Cash was dispersed to:		
Employees and suppliers	10,019	9,763
	10,019	9,763
Net operating inflow/(outflow)	178	(226)
<b>CASH FLOW FROM INVESTING ACTIVITIES</b>		
Cash was dispersed to:		
Purchase of fixed assets	246	281
Net investing cash inflow/(outflow)	246	281
Net cash	(68)	(507)
Add opening cash at bank	3,132	3,064
Total cash at bank	3,064	2,557

# Statement of accounting policies

## Reporting entity

The Human Rights 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, replaces the 1977 Act, and extends 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:

- the Chief Commissioner
- the Race Relations Commissioner
- the Equal Employment Opportunities Commissioner
- 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 being laid before Parliament.

The proposed budgeted financial statements of the Commission are for the year ended 30 June 2011.

## Basis of preparation

The proposed budgeted financial statements of the Commission have been prepared pursuant to section 41 of the Public Finance Act 1989, which includes the requirement to comply with New Zealand generally accepted accounting practices (NZ GAAP) and the Crown Entities Act 2004.

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

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.

## Revenue

Revenue is measured at the fair value of consideration received.

## Government grant

The Government grant is received from the Ministry of Justice for the provision of outputs set out in the Memorandum of Understanding as signed by the Chief Commissioner and the Minister of Justice. The grant is recognised as income when earned.

## 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 beginning 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.

#### **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, less impairment changes.

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 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 included 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.

## Superannuation schemes

### Defined contribution schemes

Obligations for contributions to KiwiSaver, the 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 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 is 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; it is exempt from the payment of income tax. Accordingly, no charge for income tax has been provided for.

### **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 project item in the statement of financial performance.

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.

### **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.

### **Comparatives**

Where necessary, comparative information has been reclassified to achieve consistency in disclosure with the current year.

### **Changes in accounting policies**

There have been no changes in accounting policies since the date of the last audited financial statements. All accounting policies have been applied on a basis consistent with those used in the previous year.

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 (motu)**

**Tātou tātou ē**



**Human Rights Commission**  
**Te Kāhui Tika Tangata**

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