Independent Monitoring Mechanism (IMM)

Quarterly Strategic Meeting 30 April 2019

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| **Date** | 30 April 2019 |
| **Time** | 10am -12 noon |
| **Location** | **Wellington:** Office of the Human Rights Commission, Level 8, Vector Building, 44 The Terrace  **Auckland:** Office of the Human Rights Commission, Level 7, AIG Building, 41 Shortland Street |

**Attendees:**

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| **Human Rights Commission (HRC)** | Frances Anderson, (Acting Chair) Heather Lear |
| **Office of the Ombudsman (OOTO)** | Emma Leach, Chloe Longdin-Prisk |
| **Disabled People’s Organisations Coalition (DPO Coalition)** | Rose Wilkinson, Victoria Manning Tristram Ingham, Gaylene Te Rauna |
| **Secretariat** | Frances Anderson, Heather Lear |
| **Other invited guests** | Kevin Allan - Health and Disability Commission (HDC) |
| **Office for Disability Issues (ODI) from 11145pm** | Brian Coffey, Jacinda Keith |
| **Apologies** | Andrew Becroft (OCC), Paula Tesoriero, Simon Latimer  Rose Wall |

*An Independent Monitoring Mechanism (IMM) was designated by the New Zealand Government in 2010 to fulfil obligations under Article 33 (National implementation and monitoring) of the Convention of the Rights of Person with Disabilities (CRPD). It is made up of the Human Rights Commission, the Office of the Ombudsman and the Disabled People’s Organisation Coalition (DPOs).*

# Action from IMM meeting 30 April 2019

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| **No.** | **Description** | **Responsible** | **Status** |
|  | Upload the November 2018 IMM Minutes to respective websites. | HRC | May 2019 |
|  | OOTO and HRC send Rose a brief description of agency roles including any circumstances that may restrict or prevent engagement in the “promote” aspect of the IMM purpose. | OOTO Emma and HRC Frances | Due 15 May |
|  | Rose to incorporate the agency descriptions (including DPO Coalition) and the changes agreed at the April quarterly meeting into the first draft Terms of Reference.  Rose to send this updated version (second draft) Terms of References to the DPO Coalition for discussion at DPO Coalition meeting 23 - 24 May.  DPO Coalition feedback to be incorporated and third draft Terms of Reference to be circulated to IMM members by end May 2019 | Rose and DPO Coalition | End May 2019 |
|  | Secretariat to upload the updated IMM Terms of Reference when finalised | OOTO | End June 2019 |
|  | Rotate the role of Chair to DPO Coalition, DPO Coalition and the role of secretariat to Office of the Ombudsman. |  | 1 June 2019 |
|  | OOTO to explore the practicalities involved in having an IMM secretariat e-mail address.  OOTO and HRC to each explore any security implications of a shared IMM secretariat e-mail address. | Emma/Chloe  Frances | End June 2019 |
|  | DPO Coalition to draft information on Article 4.3 and General Comment 7, for inclusion as an agenda item for the June meeting between the IMM and Ministers. | Rose | Due 10 May 2019 |
|  | HRC to provide written confirmation to the Office for Disability Issues the information to be provided by Govt agencies in advance of the June meeting between IMM and Ministers.  And information on the agenda item for discussing Article 4.3. | Frances | Superseded by Action 11. |
|  | DPO Coalition to provide feedback on Survey | Rose | asap |
|  | Kevin will circulate the response that HDC provided to the Minister regarding the Mental Health Inquiry report |  | Completed |
|  | Action Brian to provide IMM with the March 2019 DDEWG meeting minutes.  Action HRC to provide written overview of this discussion to ODI to ensure all parties are clear on approach for June IMM Ministers meeting. | Brian  Frances | 15 May 2019 |
|  | OOTO to issue invitations for remaining 2019 IMM Quarterly meetings. | Chloe | 15 May 2019 |
|  | OOTO to issue invitation for an IMM preparation meeting in for the day prior to the IMM meeting with Ministers in June 2019. | Chloe | 15 May 2019 |
|  | Review the Updated Project Plan for Making Disability Rights Real Report publication December 2019 and each agencies obligation to meet the timeframes. | All |  |

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Meeting minutes

## Welcome and introductions

The (acting) Chair opened with karakia and welcomed new DPO coalition attendees Tristram Ingham and Gaylene Te Rauna

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## Agenda check

There were no agenda items additional to those circulated, and the agenda was confirmed.

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## Review of actions and minutes from the previous IMM November 2018 meeting

The minutes were confirmed.

Actions were reviewed and had all been completed, with a minor clarification re Action Item 7 that the Mental Health Commissioner had not shared the report with the IMM but had sent to the Disability Rights Commissioner who passed it on to IMM.

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## Discussion of Amended Terms of Reference

The IMM Terms of Reference were reviewed at the DPO Coalition Meeting in February 2019. The DPO Coalition developed a first draft of the amended Terms of Reference incorporating the agreed changes. The first draft had been circulated in advance of the meeting. Members offered some further amendments and those agreed in principle are summarised at the end of these minutes. The DPO Coalition will discuss at their next meeting 23 -24 May 2019.

**Action**. OOTO and HRC send Rose a brief description of agency roles including any circumstances that may restrict or prevent engagement in the “promote” aspect of the IMM purpose.

**Action** Rose to incorporate the agency descriptions (including DPO Coalition) and the changes agreed at the April quarterly meeting into the first draft Terms of Reference.

**Action** Rose to send this updated version (second draft) Terms of References to the DPO Coalition for discussion at DPO Coalition meeting 23 - 24 May.

**Action** DPO Coalition feedback to be incorporated and third draft Terms of Reference to be circulated to IMM members by end May 2019

Summarised at the end of these minutes are the changes agreed in principle by those attending.

Members confirmed that the role of Chair and secretariat would rotate on June 1st 2019.

**Action** Rotate the role of Chair to DPO Coalition, and the role of secretariat to Office of the Ombudsman.

The members agreed that the Terms of Reference would be published (uploaded) when finalised.

**Action** Secretariat to upload the updated IMM Terms of Reference when finalised

The merit of having a fixed point of contact (e.g. secretariat@imm) for external stakeholders was discussed and agreed in principle pending exploration of the practicalities. Consideration of information security would be paramount as all partners receive sensitive and confidential information. Those conducting investigations and or receiving complaints such as OOTO and HRC have a statutory obligation to maintain confidentiality.

**Action** OOTO to explore the practicalities involved in having an IMM secretariat e-mail address. And OOTO and HRC to each explore any security implications of a shared IMM secretariat e-mail address.

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## Preparation for Ministers Meeting 26 June 2019

In recent meetings between the Disability Rights Commissioner (DRC) and the Minister for Disability Issues, the topic of (ODI) how to maximise the value of the next meeting between the IMM and Ministers had been discussed. And in particular how to maintain the momentum and action focus achieved at the December 2018 meeting between IMM and Ministers.

A key to achieving this would be providing ODI with very clear reporting parameters to standardise the written information provided by agencies in advance of the next meeting. This would focus agency updates on concrete actions and milestones. Some starter ideas for the content of a template had been circulated in advance of the meeting.

Our meeting purpose will also determine the nature of information gathering required. The end of June will closely coincide with when the Making Disability Rights Real Report project team will be seeking specific information from agencies, but it could be confusing to agencies if we were to try and incorporate this into the information to be provided by agencies in advance of the IMM/Ministers meeting

The option most favoured by members was for targeted requests for how agencies were giving effect to Article 4.3 as articulated in General Comment 7. This item is significant for the DPO Coalition and it would be of value to also have the IMM reinforce its importance.

ODI could be asked to precis the content of the article and general comment for agencies and ask them how they were implementing.

There must be an opportunity for meaningful discussion not didactic information provision from agencies both in relation to Article 4.3 and any alarm bells or queries about the information provided by agencies in advance of the meeting.

A second preference was to include a specific data focus within each of the priority IMM themes. Although data is a standalone priority, it is important that all agencies share collective responsibility for improving disability data and using it to inform their work.

Important to have attendance from Ministers/agencies whose responsibilities range across government such as State Services Commission, Department Internal Affairs, Department of Prime Minister and Cabinet, Te Puni Kōkiri, also Ministry of Justice, Stats NZ, Housing, Health and Education.

**Action** DPO Coalition to draft up data questions. Superseded by Item 7, Action DPO Coalition to draft information on Article 4.3 and General Comment 7, for inclusion as an agenda item for the June meeting between the IMM and Ministers. Due 10 May 2019

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## Update on the Making Rights Real Report

Emma provided an overview of the updated project plan for the Making Disability Rights Real report. The revised publication date is December 2019. The updated plan had been circulated to the board and approval provided by e-mail. The meeting agreed that the approval be documented in the minutes.

The associated activities of drafting, consulting, and information gathering from government agencies will occur over May June and July. The remaining period will be required for updates, editing and producing in accessible formats.

**Action** DPO Coalition to provide feedback on Survey Questions as soon as possible.

## Updates from each agency

**Guests (HDC)** Kevin Allan

Kevin provided an overview of the HDC response to the MH Inquiry Report which was released in December. The government response has been deferred further and is expected in May. Broadly support the recommendations and direction signalled.

Previous concerns that the mental health unit proposed for Waikeria prison could become a default forensic setting had been allayed with further detail provided by health.

There are a range of views on what the function of the proposed Mental Health and Wellbeing Commission should be. The HDC view is that it should focus solely on independent oversight, rather than combining implementation and monitoring functions within the same agency.

Expect that the upcoming budget will make some provisions for expanded resourcing in mental health supports within primary care settings.

The repeal and/or replacement of the Mental Health Compulsory Assessment and Treatment Act 1992 will be a complex social debate. There will be competing perspectives on how legislation might govern situations of risk, while remaining consistent with the CRPD.

Paucity of data, including prevalence effects the ability to plan, particularly with the Inquiry report signalling the need to expand significantly beyond current eligibility.

**Action** Kevin will circulate the response that HDC provided to the Minister regarding the Mental Health Inquiry report

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**OOTO**

In addition to the Making Disability Rights Real Report and recent launch of the Optional Protocol guide, the OOTO has two systemic investigations related to people with intellectual disability underway (further detail below).

The new OPCAT designation to monitor secure aged care residential settings, including those of the private sector expands the volume of this work considerably. A successful budget bid to reflect the increased work will see a threefold increase of staff working in this area over the next three years.

OOTO has also recently been designated new oversight of complaints and investigations of children in care. (Oranga Tamariki) OOTO is committed to developing a child and whānau centred approach, to Te Ao Māori and to being more acessible in community. Other aspects of these developments include:

* The Childrens Commissioner will maintain advocacy role.
* MSD will develop monitoring of Care Standards for children in care with a proposed handover to the Children’s Commissioner.
* OOTO role is an enhanced complaints and investigation oversight process. Strengthened systemic monitoring will include an expectation that Oranga Tamariki provide proactive notifications to OOTO of any signifcant issues. The focus for this work will be on the most vulnerable, including children with disabilities.

The growth associated with these new delegations will be managed carefully over the next three years.

Systemic Investigations people with an intellectual disability:

1. The first phase of the investigation into the quality of data about deaths in residential facilities is complete with the foundational data gathered and analysed. Interviews are now being arranged with the Ministry of Health and providers of services to gather more specific information. On schedule to report in the second half of 2019.
2. The investigation of secure residential facilities for people with complex support needs, is well underway, with all 5 DHB based sites visited. A case study approach will be taken. The initial visits have included identifying, informing and securing the agreement of people proposed for case studies.

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## Arrival of ODI. Discussion re preparation for IMM and Ministers Meeting in June

The Chair gave an overview of the IMM preference to focus the upcoming meeting on Article 4.3.

Brian reflected the existing confusion amongst stakeholders of the relationship between the IMM six key issues, the recent Disability Action Plan consultation around those issues, and the 8 outcomes of the disability strategy. Agencies see there being multiple actions plans.

An alternative to introducing a new focus to the information asked of agencies, Brian proposed that the current draft disability action plan, structured around the six priority themes remains the focus for the advance information, that agencies provide. It is unlikely that by June the plan will have had Cabinet approval, but the draft will form the basis of the Ministers communication to colleagues of expectation for a defined programme of action over the next four years including clear milestones.

Proposed that oversight of the plan will include six monthly reporting to the IMM.

IMM members stressed that the IMM role is one of monitoring which differs from a governance oversight role.

The December 2018, meeting agenda allowed for the addition of 1-2 items beyond the six priority themes, and that provides the opportunity for a focus on Article 4.3. Suggested that the IMM provide an illustration of what good implementation of Article 4.3 would look like.

Responding to the discussion on the second proposal for a data focus for the June meeting, Brian suggested that the charter-based approach that has occurred for Accessibility, and for Diversity and Inclusion could work for data, i.e. SSC lead a cross government agency commitment to collect disaggregated disability data. Brian also gave an overview of the annual plan for the disability data and evidence working group.

**Action** DPO Coalition to draft up precis of Article 4.3 and/or general comment 7 and illustration of what good implementation would look like.

**Action** Brian to provide IMM with the March 2019 DDEWG meeting minutes.

**Action** HRC to provide written overview of this discussion to ODI to ensure all parties are clear on approach for June IMM Ministers meeting.

There was an informal discussion at the end of the meeting regarding the number of people who would attend the IMM meeting with Ministers in June. Indications were for two from OOTO, tw from HRC and 4-6 from the DPO Coalition including, IMM members Rose, Victoria, Gaylene and Tristram.

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## Agency Updates continued.

Time constraints prevented DPO Coalition and HRC from being able to share updates during the meeting. Written updates to be supplied to HRC, who will include in the minutes.

**Action** DPO Coalition and HRC to provide these in writing to be included in the April 2019 minutes

[**HRC Update**](#IMM)

The Disability Commissioner was elected Chair of the Global Alliance of National Human Rights Institutions (GANHRI) Working Group on the Rights of Persons with Disabilities in March 2019. This occurred during the GANHRI Bureau meeting held at the United Nations in Geneva.

This also provided opportunity for very productive meetings with the International Disability Alliance, (IDA) the International Labour Organisation,(ILO) the Special Rapporteur on Rights of Persons with Disabilities, the CRPD secretariat and secretariat of the Convention on Elimination of Discrimination Against Women, details of which have been shared with IMM partners. As noted, the expected timeframe for New Zealand’s next CRPD examination is late 2020. Also advised by IDA, was to aim for one combined shadow report to help the CRPD committee understand the most critical issues.

Domestically, there has been considerable activity to strengthen Inclusive Education. This includes submissions on the Early Learning Plan and the Report of the Tomorrow Schools Taskforce and presenting to the Senior r Leadership Team of the Ministry of Education.

Responding to the events of March 15th in Christchurch has been a priority for the whole of the Human Rights Commission. For the Disability Rights Commissioner this has included regular communication with the disability sector to monitor the impact on disabled people.

The adequacy of disability support services funding and potential cuts to critical services has also been a strong area of advocacy.

Raising understanding of the potential risks posed to the value of disabled people's lives, and the woefully inadequate safeguards, within the proposed End of Life Choice Bill, has also been a significant focus of strategic advocacy.

A programme of disability responsiveness amongst new Police recruits was initiated by the Commissioner while Patron of one wing of the Police College. .

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**10. Close**

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**Summary of changes to the First Draft Amended Terms of Reference**

**Page 7 Costs**

Change the Title from Costs to Reasonable Accommodation.

Move the First Bullet Point to Page 5, section on Meetings and add the requirement for reasonable notice to be given for the required reasonable accommodations.

Expand agreements to meeting reasonable accommodations not specifically NZSL. And similarly expand the secretariat responsibilities to arranging for reasonable accommodations.

**Page 7 IMM Partners** Expectations.

Bullet Point 3 reword that the **content and sender** of communications on behalf of, and/or in the name of the IMM will be agreed.

**Page 4** Scope of work Engagement -Add the State Services Commission to the list of agencies to engage with

**Description of Each Partners role**

Each partner to provide Rose with a brief description of their agency role and include any circumstances that may restrict or prevent engagement in the “promote” aspect of the IMM purpose. At the conclusion of these descriptions a final statement to be added that indicates each partner retains their autonomy and their own distinct roles.

**Action from IMM meeting 19 November 2018**

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| **No.** | **Description** | **Responsible** | **Status** |
|  | **Organise IMM preparation meeting prior to the Dec Minister’s Meeting (Rebecca M).** | Rebecca M | Completed |
|  | **Follow up with ODI to ensure update papers on priorities, requested from the relevant officials, are received as soon as possible.** | Doug | Completed |
|  | **Discuss the IMM strategic direction in February, in the New Year.** | All | Completed |
|  | **IMM working group to develop an agenda for the February meeting. Ensure that IMM strategic direction is included on the agenda.** | Working Group Members | Completed |
|  | **DPOs to report back by end of November on their view on Chairing the IMM for 6 months** | Rose | Completed |
|  | **Review the IMM Terms of Reference, including the role of the Chair in February (All)** | All | Completed |
|  | **Kevin to share the Mental Health Commission Report with the IMM when it is published.** | Kevin | Completed |
|  | **Rose to confirm who is attending the Dec 5th meeting from the DPOs** | Rose | Completed |
|  | **OOTO to update IMM on the progress of the bodily integrity working group** | Emma | Completed |

# Actions from IMM meeting of September 2018

# Action items

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| **No.** | **Description** | **Responsible** | **Status** |
|  | HRC to circulate information about the Universal Periodic Review to IMM members. | Frances | Complete -accompanied September Minutes |
|  | Publish the July 2018 IMM minutes on the HRC website. | Doug | Completed |
|  | Circulate the updated timeline for the Making Rights Real Report to the IMM for approval. | Emma | Completed 12/09/18 |
|  | IMM Chair to write to the CRPD secretariat to seek greater certainty around the dates for NZ’s examination by the Committee | Paula | Completed 10/09/18 |
|  | HRC to liaise with ODI to advise of the requirements for the meeting between relevant Ministers and the IMM in December. Written updates on the IMM priority issues to be circulated to the IMM in advance of the December meeting. | Doug | Completed |
|  | IMM members to advise HRC of topics additional to IMM priorities, to be discussed with relevant Ministers in the December Meeting. Due 26th September 2018. | Doug  All respond | Completed |
|  | IMM members to confirm with the HRC whether to initiate meetings with officials and advise of topics for discussion. | All |  |
|  | Link to Have My Say, the State Sector Act reform website to be circulated to members.  <https://www.havemysay.govt.nz/> | Frances | Completed Link provided in this Action Table |
|  | Provide a background briefing to Minister Sepuloni’s office on the proposed topics for the interactive dialogue with relevant Ministers at the meeting in December. | Doug | Completed |
|  | Write to Liz MacPherson Government Statistician regarding the critical importance of disability data collection. | Paula | In-progress |
|  | ODI to advise IMM members when the August Cabinet paper and associated documents have been published on the ODI website. Expect mid-September. | Brian |  |
|  | Advise ODI of the updated Making Rights Real Report timeframe and the corresponding government agency consultation timeline. | Emma |  |
|  | HRC to add as agenda items to the next working group and December IMM meetings, whether the IMM wishes to make a response to the draft government report. | Doug | Completed |

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**Actions from IMM meeting 2 July 2018.**

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| **No.** | **Description** | **Responsible** | **Status** |
| 1. | **Review of previous actions and minutes (Item 3):**   1. Request from the Chair, an additional fourth column headed with “Status” | 1. Rebecca | Completed |
| 2. | **Update on the List of Issues paper and preparations for ‘Making Disability Rights Real’ Report. Planning and process discussion (Item 4):**   1. Agencies Coalition consultation work-stream to be provided at the next IMM Quarterly meeting 2. Update from meeting with Jorge Araya, secretary of the Committee for the CRPD. | 1. Emma 2. Rebekah | Update to be provided  Update to be provided |
| 3. | **UPR submission:**   * 1. Priority Issues circulated to IMM   2. Invite the HRC legal team to the next IMM Quarterly Meeting to present on submission | 1. Emma 2. Rebekah | Completed  Updated to be provided |
| 4. | **Updates from agencies (Item 7):**   1. Mental Health and Addiction Inquiry update meeting will be held in early November 2018 | 1. Kevin | Completed |
| 5. | **Future meetings (Item 8):**   1. ODI to circulate Action Plan 2. Collate and distribute consultation to appropriate agencies when received | 1. Brian 2. Jacinda | Update to be provided  Update to be provided |

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**Previous Action List from IMM Meeting 1 March 2017**

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| **No.** | **Description** | **Responsible** | **Status** |
| 1. | **Review of previous actions and minutes (Item 3):**   1. DPO Coalition to consider TOR as soon as practicable and send through revisions. 2. HRC to circulate link to IMM minutes 3. Paul Brown to liaise with the 1. Department of Corrections (Bronwyn Donaldson) to 2. obtain a copy of the presentation for the rest of the IMM | Rose  Doug  Paul | Completed  Completed  1. Completed  2. In progress |
| 2. | **Preparation for Video Conference with CRPD Committee (Item 4):**   1. Previous draft of ‘Traffic Lights’ report to be circulated. 2. The DPO Coalition to confirm attendees to the Video Conference and to provide the other IMM partners advance notice of the specific additional issues the DPOs may want to raise in the last phase of the video conference ASAP | Douglas  Rose | Completed  Completed |
| 3. | **Shadow report planning and process (Item 5):**   * 1. The OOTO with the IMM working group would ‘hold the pen’ on the first draft of this project plan.   2. HRC to coordinate with DPO coalition to develop a high-level Communications Strategy to be incorporated into the draft project plan, by the end of March 2018. | Emma  Douglas  Rose | Completed  Completed |
| 4. | **Updates from agencies (Item 7):**   1. Peter Boshier (who will be speaking on data matters in the Video Conference) and Andrew McCaw to discuss data with Geoff (and include Doug) 2. OOTO to share IMM guide with other IMM partners for feedback. HRC to add discussing the next guide to the agenda for the next meeting | Peter, Andrew, Douglas  Paul, Douglas | Completed  Completed |
| 5. | **Future meetings (Item 8):**  a. ODI to send the paper or briefing for this meeting to the HRC (Douglas)/IMM. | Brian | In Progress |

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**Previous Action List from IMM Meeting 27 October 2017**

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| **No.** | **Description** | **Responsible** | **Status** |
| 1. | **Terms of Reference (Item 4):**   1. Put the IMM ToR on the November DPO Coalition meeting agenda. 2. Discuss redrafting of ToR and putting IMM agendas and minutes online at the next IMM Quarterly Meeting. 3. IMM meeting administration notes to be sent to Paula. | Rose  Paula/All  Vicki | TBA  Completed  Completed |
| 2. | **UN Committee Issues Paper (Item 5):**   1. Draft Executive summary for the Working Group. 2. Remove column 3 in appendix 2 in finalised paper. 3. DPO Coalition representative on Working Group to be advised. 4. Finalised draft sent to ODI and SSC to seek agency feedback. 5. Finalised paper to be sent to Minister Sepuloni. | Douglas  Douglas  Rose  Douglas  Paula | Completed  Completed  Completed  Completed  Completed |
| 3. | **Making Disability Rights Real report (Item 6):**  Working Group to formulate draft project work plan to be presented at next IMM meeting. | Working Group | In progress |
| 4. | **Seclusion and restraint reports (Item 7):**   1. Rose Wilkinson to advise who will represent the DPO Coalition at this presentation. 2. Liaise with Jacki Jones to confirm when/where the Corrections’ presentation will take place. | Rose Wilkinson Paul | Completed  Completed |
| 5. | Update IMM on SSC’s Diversity and Inclusion Programme. | Geoff and Paula | Completed |
| 6. | **Future meetings (Item 11):**   1. Liaise with Carmel Sepuloni and advise LOIPR paper being prepared for UN Committee and set-up meeting as soon as possible. 2. Geoff to meet with IMM to advise most appropriate structure to ensure effective engagements with CEOs. | 1. Emma 2. Geoff | Completed  Completed |

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