



Human Rights  
Commission  
*Te Kāhui Tika Tangata*



# Te Rito

Human rights case studies

March 2011



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# Te Rito

## Responding to human rights complaints

Te Rito is the heart or core of the flax bush,  
as human rights are at the heart of  
the Commission's enquiries and complaints service.

Hutia te rito o te harakeke,  
kei hea te kōmako e ko?  
Kī mai ki au, he aha te mea nui?  
Māku e ki 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.

Names and details of cases have been changed to protect privacy.



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# Introduction

The cases in this publication illustrate just some of the ways human rights issues affect the lives of New Zealanders. They are about situations people experience in the workplace, in education, the provision of goods and services, and access to places and accommodation.

The New Zealand Human Rights Commission's free Enquiries and Complaints Service deals with complaints of unlawful discrimination. As part of this service, the 0800 InfoLine number received 4647 requests for assistance in the year ending June 2010. Of these, 1908 involved unlawful discrimination and were referred to a member of the dispute resolution team.

The following cases highlight the Commission's mediation-based process. With an emphasis on low-level and informal dispute resolution, it aims to achieve solutions that are acceptable for all those involved.

Some complaints involved human rights issues wider than claims of unlawful discrimination. This includes the right to education, freedom to practice your own religion, the rights of seasonal and migrant workers, racial tension in the community, and freedom of speech.

Not all complaints go through the mediation process. Some situations are better dealt with by providing complainants with information, discussing ways they might progress a matter themselves, and facilitating communication between parties.

Where mediation does not resolve a matter, the complainant can approach the Director of Human Rights Proceedings for legal representation in the Human Rights Review Tribunal.

If you or someone you know has an enquiry or complaint about a human rights issue, contact the Human Rights Commission. Contact details are on the inside cover of this booklet.

# Race

**Complaints and enquiries related to race, colour, ethnic or national origins, racial harassment and racial disharmony make race-based issues the highest percentage of approaches to the Commission.**

## Successful road to taxi licence

### What happened?

Omar had lived in New Zealand since he was a young boy, when he had arrived as a refugee. After applying to become a taxi driver, his passenger endorsement licence was declined because he was unable to produce documented proof from his country of origin that he had no criminal convictions.

### The mediation process

Omar approached the Commission and asked for assistance. The Commission wrote to the NZ Transport Agency, outlining Omar's circumstances.

Refugees have difficulty being able to produce official documentation from their country of origin. Each case is different and assessed in light of the NZ Transport Agency's Foreign Jurisdiction Policy.

### Outcome

Because Omar arrived in New Zealand at an age before he could realistically have had any convictions, the NZ Transport Agency agreed to grant his passenger endorsement. Omar was able to apply for a taxi licence.

### Note

There have been a number of court decisions on the interpretation of section 29A of the Land Transport Act 1998 which requires applicants to establish that they are "fit and proper" persons by providing evidence that they have not been convicted of certain specified crimes from the applicant's country of origin. Taken together, the cases indicate that if specific evidence cannot be obtained, it is the totality of all material provided and all relevant circumstances that must be considered in deciding whether the applicant is a fit and proper person.

## Bar entry refusal

### What happened?

Sione had been going to a local bar for many months when he was refused entry one night. He claimed he and his friends started to experience problems getting into the bar when a new manager started working there. Sione claimed he was refused entry because of his race.

### The mediation process

Sione approached the Commission, who put the complaint to the owner of the bar. Pete, the bar owner, and Sione both agreed to attend mediation.

At the mediation meeting, Pete disputed Sione's account of how the manager and doorman had behaved and that Sione had been told "blacks aren't welcome".

Sione and Pete described and discussed what had been happening over several weeks, but they were unable to agree on exact events. Sione described instances of being turned away from the bar. Pete said the bar was always full of people from many different ethnicities.

Both felt upset about words and actions being attributed to them, as they each felt they were "not that kind of person".

### Outcome

Pete refunded several entry fees for Sione and his friends. While not admitting anything had been done incorrectly, he apologised to Sione.

Sione said the mediation had allowed him to say what he had wanted to say to Pete but he remained unhappy at the treatment he and his friends had received. He hoped things would change after mediation and he would be able to enter the bar without any further problems.

# Disability

**Disability issues make up the second highest number of complaints to the Commission. The following case studies illustrate that significant change can occur through reasonable accommodation of disabled people's access to services.**

## Problem with online identity

### What happened?

Daniel wanted to use an online service but was frustrated to find the only confirmation of personal identification was a driver's licence. Daniel has been blind since birth and, as such, does not have a driver's licence.

Daniel's computer has voice-activated software, allowing him a high level of functionality and the ability to fill in forms and access services online. However, in this instance, Daniel had to make a special trip to town and engage the assistance of a sighted person to fill out the form.

When Daniel asked them about this, the company explained it had explored a range of personal identification options and found drivers' licences were the only form that gave them the required security. The company apologised for the inconvenience caused but said it could not do anything further.

### The mediation process

The explanation did not satisfy Daniel, who believed there were other options the company might not have considered. He approached the Commission for assistance to arrange a meeting with the company.

At mediation, Daniel explained a system that used the Royal New Zealand Foundation of the Blind's (RNZFB) database as confirmation of identity for visually impaired people. The company agreed to investigate this further.

### Outcome

A few months later, the company confirmed it would be launching a new online service. Members of the RNZFB can now place a request over the phone and use a credit card when online payment is required.

## Telephone services for Deaf

### What happened?

Ralph, who is Deaf, said he was unable to access a company's telephone service using the national phone service for Deaf or hearing impaired people – the NZ Relay Service. He felt this was not fair, as it meant he could not access a service in the same way hearing people could.

He claimed that when he phoned the company via the NZ Relay Service, the company would hang up, saying it was unable to verify his identity.

### The mediation process

Ralph made a complaint of disability discrimination to the Commission. He wanted to be able to use the same telephone service others had access to.

Mediation was set up between Ralph and representatives from the company. Ralph was accompanied by a New Zealand Sign Language interpreter.

At mediation, Ralph explained that the NZ Relay Service involves a relay assistant serving as the “ears and voice” on phone calls between Deaf, hearing-impaired, deaf-blind, or speech-impaired users and a hearing party. The relay assistant speaks the words being typed by a Deaf user on a Textphone (TTY) or via the internet and types the hearing person's spoken response back to the Deaf person.

### Outcome

Representatives from the company visited the NZ Relay's operation centre so they could better understand how the service worked. As a result of that meeting, the company altered its procedures. It now offers a telephone service to Deaf customers who make calls via the NZ Relay Service.

### Note

A number of companies have made their telephone services accessible to people who are Deaf, hearing-impaired, deaf-blind and speech-impaired by recognising the NZ Relay Service in their policies and procedures.

# Disability

## School excludes autistic student

### What happened?

Suzie's daughter, Zoe, has an autistic spectrum disorder. Suzie claimed that Zoe's special needs were not met by her school, which had led to Zoe being suspended and eventually excluded.

Suzie spoke to the school, saying she considered it had not followed good practice for managing behaviour in children with Zoe's type of disability. The school responded that it had done everything possible to accommodate Zoe's needs but felt certain safety issues could no longer be ignored.

Suzie complained to the Commission that the school had discriminated against Zoe because of her disability.

### The mediation process

The Commission organised mediation, which was attended by the school principal and senior teacher in charge of the junior school, Suzie and Suzie's mother as her support person.

Mediation was the first opportunity for the parties to have a candid discussion about the difficulties from their different perspectives. Two meetings were held – the first to discuss and clear the air about incidents involving Zoe during her time at the school, and the second meeting to discuss possible outcomes.

### Outcome

The school would not agree to reversing the exclusion. It did agree to review its policies and procedures in relation to special needs students, in consultation with the Ministry of Education. It also agreed to arrange external professional development for staff dealing with special needs students.

Suzie felt that given everything that had happened, Zoe needed to make a clean break and start at a new school. While Suzie still felt Zoe's situation could have been handled differently, she appreciated that the school was prepared to listen to her views.

## Bouncer misunderstanding

### What happened?

Mike is a young man who has two mild disabilities: cerebral palsy and autism. His cerebral palsy means his speech is slightly slurred.

Mike was visiting a night club with friends in the early hours of the morning. The bouncer told him he wouldn't be allowed in, as he was intoxicated.

Mike explained he was not drunk but that he had cerebral palsy and autism. The bouncer yelled out to another person on the door, "He reckons he's got cerebral palsy and autism." He was then allowed into the club.

Mike was embarrassed that his disabilities had been yelled out like that, where 50 or so patrons queuing behind him could hear.

### The mediation process

Although he had eventually been given access to the club, Mike wanted some reassurance it wouldn't happen again, to him or others in the same situation. He was aware the security company

employed bouncers in a number of bars and clubs in town.

Mike approached the Commission, making a complaint of disability discrimination. The Commission contacted the security firm and it agreed to attend mediation.

Representatives from the security company apologised to Mike during mediation for any embarrassment their staff had caused him. They assured him there had been no intention to discriminate against him. They explained the bouncers call out to each other using a number code when a patron comes in drunk or dressed inappropriately. They said they might adopt the same system for people with disabilities when the disability gives the appearance they have been drinking.

### Outcome

The mediation was concluded amicably. Mike was happy with the apology and the suggestion that a system of identification be developed. He considered the matter resolved.

# Disability

## Wheelchair too heavy for plane

### What happened?

Dave, who uses a wheelchair, was unable to take his powered wheelchair on to a plane because it was in excess of the airline's weight limit.

### The mediation process

Dave emailed the Commission, using the online complaint form. The Commission contacted the airline and sent Dave's complaint to its management team. Over several telephone conversations between the management and Commission, the airline explained its equipment was currently unable to manage the load. The weight of the wheelchair created health and safety issues for baggage handlers and they were in the process of purchasing suitable lift equipment.

### Outcome

The airline spoke to Dave on the telephone, sent him an apology in writing and reimbursed him for the costs of buying a ticket with another carrier. The airline assured Dave of their intention to be able to accommodate wheelchairs in the near future. It advised him of the time frame for the installation process of the lifting equipment.

Dave told the Commission he was "very happy" with the way the Commission and the airline had responded to his complaint.

## Priority seating on plane

### What happened?

After months of saving for a long-awaited trip to visit an ailing relative, Maisie rang to book airline tickets. Maisie's son, Ben, has a disability and uses a wheelchair. He would require the assistance of a caregiver on the flight. It was a difficult process trying to find out whether her son would be able to travel comfortably, but eventually Maisie felt assured and booked the tickets. She was pleased to find the wheelchair would travel free and that the airline could cater for her son's dietary needs.

Maisie was later told the airline could not guarantee Ben would be able to fly on the designated day. This was because he would need the extra room available in bulkhead seats and would not be able to travel in an ordinary seat.

The airline explained that because the bulkhead seats were near bassinets, priority would be given to passengers with babies.

### The mediation process

Maisie put the booking on hold and asked the Commission to assist. The Commission contacted the airline and Maisie was able to speak directly to the customer service manager. The manager was sympathetic to the problems Maisie had in having to deal with so many people during the booking process.

He told Maisie the policy giving priority for bulkhead seats to families with babies had changed and she would be able to specifically book and be guaranteed those seats when Ben needed to travel.

### Outcome

The airline said it did not have a blanket rule giving priority to passengers with disabilities. The disability must be such that it requires a bulkhead seat. For example, a person with a hearing or respiratory disability would not take priority for those seats over an adult with a young infant, but a person with a fused leg would. The airline said it is best if passengers with disabilities pre-notify the airline and check in early.

# Disability

## Mental health disclosure

### What happened?

During an investigation into absenteeism, Colleen told her supervisor she experienced depression from time to time and this accounted for her absences. The company's management then claimed she had failed to disclose a medical condition on her job application and she was given a warning.

Colleen said the attitude of her colleagues changed and they started making derogatory comments and jokes. She became ill and resigned from her job because of the impact her colleagues' conduct had on her health.

### The mediation process

Colleen complained to the Commission, alleging disability discrimination. She believed her employer had a responsibility to ensure a safe work environment.

Colleen did not feel well enough to attend mediation. The employer did not wish to negotiate via "shuttle mediation", where the mediator communicates to each party. As the Commission was unable to conclude the issue through its mediation process, the file was closed.

### Outcome

When a complaint is unable to be resolved with the Commission's assistance, the complainant may take the matter to the Human Rights Review Tribunal.

Colleen approached the Office of Human Rights Proceedings, requesting assistance with representation at the Tribunal. The Office referred the complaint back to the Commission for mediation, and by this time Colleen was well enough to attend.

The parties settled the matter at mediation. Colleen was paid \$3000 for the stress and humiliation she experienced.

### Note

Job applicants do not have to disclose a medical or physical condition unless that condition would prevent or compromise an applicant from satisfactorily carrying out the work.

# Sex

**Complaints about sex, sexual harassment and sexual orientation were the basis for almost a quarter of all complaints and enquiries to the Commission in the past year. This number has remained steady over the last few years.**

## **Pregnancy cutback**

### **What happened?**

When Helen announced her pregnancy to work colleagues, she found some of her job tasks withdrawn and her hours cut back.

Her employer believed lighter work was in Helen's best interests but had not thought about the effect on her take-home pay. Although her work did involve some physical work, Helen expected to be able to carry on these tasks for longer than her employer had envisaged.

### **The mediation process**

Helen contacted the Commission, enquiring whether her employer was able to change her job and hours because she was pregnant.

The Commission contacted the company and explained it could not make changes to an employee's work

duties without consultation with the employee. A mediation meeting was arranged so the company and Helen could discuss the situation.

At mediation, Helen and her employer reached an agreement about lighter work duties and set a leaving date for her. The leaving date was sooner than Helen would have liked, but the company explained it would not be able to sustain lighter duties on a full-time basis for very long.

### **Outcome**

The company sent Helen an apology for the reduction in hours and reimbursed her for the loss of work over the two-week period.

# Sex

## Women-only swimming

### What happened?

Joe and Matt swam regularly at their local pool. One morning, they turned up to discover the time slot in which they usually swam had now become a women-only session.

They complained to the swimming facility that the 'women only' time at the local pool was discriminatory and inconvenient, and had been introduced without consultation.

### The mediation process

Joe and Matt approached the Commission, making a complaint of gender discrimination under the provision of the goods and services section of the Human Rights Act.

The Commission set up a meeting between Joe and Matt and the manager of the pool. At mediation, the pool manager explained the women-only sessions were part of its obligations under the local council's healthy communities plan. The initiative aims to encourage women, particularly Muslim women, to exercise and socialise.

### Outcome

Joe and Matt accepted the reasoning for the new swimming sessions.

In light of Joe and Matt's complaint, the council said it was aware of the need to undertake wider community consultation when introducing initiatives.

## Unwanted workplace behaviour

### What happened?

Noelene felt the behaviour of her supervisor at work had become increasingly inappropriate. She said she felt coerced into an unwanted sexual scenario because she believed her job was at stake.

The sexual attention from her supervisor persisted in spite of her protestations, and after her work came under extra scrutiny, she complained to management. The company investigated and found the supervisor had bullied and harassed her but did not address her complaint of sexual harassment. The supervisor was moved to another department and censured but remained in a role where Noelene often had to deal with him. She grew increasingly distressed by his presence and felt that in failing to address the sexual harassment, her experience and distress had been belittled. She resigned and was treated for stress-related depression.

### The mediation process

It continued to upset Noelene that her experience of sexual harassment had not been investigated. She made a complaint to the Commission, citing both the company – for its lack of process around sexual harassment – and the supervisor in her complaint.

Mediation was arranged with the company but Noelene felt unable to meet the supervisor face to face. The company agreed to discuss the matter with him and its effect on Noelene.

### Outcome

The company's general manager agreed to attend anti-sexual harassment and bullying training, in order to implement appropriate policies in the workplace.

The supervisor would also attend anti-sexual harassment training. The company paid Noelene \$11,000 to compensate for stress, hurt and humiliation.

# Sex

## Offensive workplace imagery

### What happened?

Malia applied for a job with a manufacturing company in a small town. She had sent in her CV and the company contacted her about some part-time work it had available.

Malia was very interested in the role as it involved a good mix of work. She went to see them and thought she would enjoy working there so signed on and started the next day. She was shown her work station, which was surrounded by pictures she described as pornographic and which she found offensive.

On the second day of work, Malia explained to the office manager how the pictures made her feel and asked if they could be taken down. The office manager consulted the company owner and Malia was told the pictures were staying. Malia was very upset by the images and by the refusal to consider her point of view.

### The mediation process

Malia contacted the Commission for advice and help in setting up a meeting

so she could discuss her concerns with the company. The Commission sent information to Malia and the company about section 62(2) of the Human Rights Act (see note below) and a mediation meeting was held.

### Outcome

The company agreed to take the pictures down. It said it was unaware images like that could be described as sexual harassment and, as such, could be considered unlawful.

In recognition that businesses around New Zealand may not be aware displaying visual material can be offensive, the Commission agreed to write to the Small Business Advisory Group asking them to bring information about sexual harassment to the attention of its members.

### Note

Visual material of a sexual nature which is unwelcome or offensive and is of such a significant nature that it has a detrimental effect on a person may be deemed to be sexual harassment under section 62(2) of the Human Rights Act 1993.

# Religious and ethical belief

**Complaints about religious and ethical belief accounted for just over six per cent of all unlawful discrimination complaints for the year ending June 2010. This is a slight increase over the previous year and is probably accounted for by greater awareness of different religious beliefs within New Zealand and the need to accommodate them.**

## Religious days accommodated at work

### What happened?

Sally, a Seventh-Day Adventist, complained her boss was forcing her to work on two Saturdays over a busy period, even though he knew she was unable to work on Saturdays. In previous situations such as this, it had never been a problem, until she transferred to a different branch of the company. Sally telephoned the Commission for advice on how to raise the problem with her boss.

### The mediation process

The mediator told Sally the Commission could provide mediation with her and her company, but suggested she could try to resolve the issue with the company first. The Commission provided practical suggestions and information about the Human Rights Act, and Sally approached her company's human resources personnel.

Sally explained that her religion required her to keep Saturdays free of work. She pointed out material provided by the Commission about employers accommodating religious or ethical beliefs, where it was able to, within the needs of the business.

### Outcome

Sally informed the Commission that she and her employer had come to an agreement that she no longer had to work the required Saturdays.

She agreed to work several extra days over the busy period to assist the company, in lieu of working Saturdays. She was very happy that it could be sorted out without needing to take further action.

# Religious and ethical belief

## Pōwhiri at work

### What happened?

Phil worked for a company that held pōwhiri to welcome newcomers to the organisation. An aspect of each pōwhiri was the karakia – a prayer or blessing.

Phil objected to having to be present for a ceremony involving religion, as he felt religion had no place in the organisation. When he brought this up with his employer, Phil was told he was required to attend because of his senior position in the company. His employer felt Phil attending pōwhiri was an aspect of showing respect to Māori staff and newcomers.

Phil did not agree. He had many discussions with the company but a stalemate was reached and he lodged a complaint with the Commission. Phil said he respected others' religious beliefs but objected to having others' views imposed on him. He felt the organisation should be neutral in relation to religion.

### The mediation process

Mediation was set up with Phil, kaumatua from the organisation and local community, and the Commission's Māori advisor. The discussion ranged widely across various types of ceremony and tradition.

### Outcome

It was agreed that Phil could opt out of attending any events that included religious content.

The organisation said it did not promote Christianity but intended to continue with pōwhiri. It felt it was a useful process in itself and an acknowledgment of the culture of most of its staff and the community where the company was located.

# Family and marital status

**Family status is a prohibited ground of discrimination; it includes having or not having dependants, or being in a relationship with, or related to a particular person.**

## Mother and daughter work together

### What happened?

Sarah worked at the same company as her daughter, first as a casual staff member and then on a short-term contract.

After applying for a new contract, Sarah was surprised to find it would not be offered to her. The company said policy dictated that family members could not be employed at the same location.

Sarah felt humiliated and hurt, as she had worked there without incident for a long time.

### The mediation process

Sarah lodged a complaint with the Commission of alleged discrimination on the grounds of family status.

Mediation was arranged with representatives from the company's head office, the on-site manager and Sarah. The meeting explored the different jobs Sarah and her daughter carried out and what the risks were for

head office. The on-site manager expressed her support for both Sarah and her daughter.

### Outcome

The organisation agreed to make an exception to its policy and offered Sarah a new contract.

The organisation believed it still needed the policy in place, but said it would approach any similar issues differently in future as a result of this complaint.

### Note

The Human Rights Act allows the placing of restrictions on an employee who is married to, in a civil union or de facto relationship with, or is a relative of another employee at that work place if there would be a reporting relationship between them or if there is a risk of collusion between them to the detriment of the employer.

# Family and marital status

## Children not part of job application

### What happened?

Donna had worked in a shop for a short period on a full-time basis before having children. Since then, she had been working part-time and applied for a management position. One of the managers rang her to conduct a phone interview, as she had accidentally been omitted from the interview schedule.

During the interview, the manager asked about her children and child-care arrangements. He commented that her youngest child, at 10 months old, was "a bit young". She told him she had full-time care organised and weekend care was readily available. After the interview, the manager told Donna she was on a shortlist of three for the management position.

A few days later, Donna received a letter from her employer telling her it considered her priorities to be with her children. Her employer said it would consider her again if a position came up in the future.

Donna wrote to the company, saying that she had expected to be considered on her merits and experience, without regard to her family situation. She asked if they would reconsider her application and suggested mediation with an appropriate agency.

### The mediation process

Having received no reply to her letter, Donna contacted the Commission to make a complaint. The Commission wrote to the company outlining the details Donna had described.

### Outcome

In response to the complaint, the company wrote to Donna with an apology and an assurance this would not affect her future prospects with the company. She was given a date for a wages review, which had occurred while she was on maternity leave.

Donna said she was very pleased with the outcome.

## Father misses out

### What happened?

Mark's employer provided a health insurance scheme for employees. This also provided cover for employees' children, as long as the children were in the primary custody of the employee.

Mark had regular contact with his children, but it was not a 50/50 custody arrangement, as his job required he travel much of the time.

He complained to his employer that health insurance cover for his children was denied because he was not the primary or 50/50 joint caregiver.

### The mediation process

Mark approached the Commission to enquire about 'family status' discrimination. He was interested to know if the policy was within the Human Rights Act if it treated people differently depending whether they were full-time parents or not.

The Commission advised Mark that it was potentially unlawful and notified the company of the complaint.

### Outcome

The company agreed that the policy could potentially discriminate against parents without full or joint custody of their children. It amended the policy, to take effect immediately for Mark.

# Family and marital status

## Interview questions inappropriate

### What happened?

Gemma applied for work at a local bar. On the application form, she was asked for her date of birth, marital status, the number of dependants she had, whether she had any disabilities and her country of birth. Gemma was disturbed by these questions but went along to the interview as she was very interested in the role. During the interview, Gemma was asked her race and she said she was part-Indian.

She did not hear back about the job and wondered if it was related to any of the questions she had answered in the application and interview process.

### The mediation process

Gemma contacted the Commission to check the validity of the application form that had asked questions unrelated to the skills and experience required for the job. She felt applicants could be discriminated against on the basis of their answers to the questions about personal characteristics. Gemma thought perhaps she had been subjected to such discrimination.

The Commission contacted the bar about Gemma's complaint and concern with the application form. The mediator sent the company a copy of the Commission's pre-employment guidelines, *Getting a Job: An A to Z for employees and employers*, and discussed aspects of the Human Rights Act with the company's human resources advisor.

### Outcome

The company agreed to amend the application form, removing questions that might appear to discriminate or indicate an intention to discriminate. A question about age was added, asking applicants whether they would be able to legally serve alcohol, and another question about the ability to lift kegs of a certain weight was also included.

Gemma was satisfied with the company's explanation as to why she did not get the job, and was happy the application form had been changed.

### Note

The pre-employment guidelines are available on the resources section of the Commission's website [www.hrc.co.nz](http://www.hrc.co.nz).

# Age

**Almost 10 per cent of complaints to the Commission in the past year related to age. Of these, most related to employment or pre-employment, where an older person was overlooked for work in preference for a younger person.**

## Too old to work

### What happened?

Carey was referred for a short-term fruit-picking job by a job agency. When Carey turned up for the job, he was told he wasn't needed, but the two other people referred with him were hired.

Carey suspected it was because he was at least 20 years older than the other two workers. This turned out to be the case, as the employer told Carey he needed young and fit people for the demanding work. Carey felt humiliated and annoyed, because hard labour had been his life's work.

### The mediation process

Carey complained to the job agency and to the Commission. The job agency encouraged the employer to give Carey a two-week trial. At the end of the trial, Carey was hired for the season.

### Outcome

The Commission's role in this case was to explain the requirements of the Human Rights Act to the job agency and Carey. These state that unless an exception applies, an applicant declined a job offer because of age will have grounds for an age-discrimination complaint to the Human Rights Commission.

### Note

If you would like to know more about the exceptions to age discrimination, please call the Commission's InfoLine on 0800 496 877.

# Advertisements

## Rental ad bias

### What happened?

Leilani questioned the legality of an advertisement for a two-bedroom property that stated it would suit a “professional married couple, no children”. Leilani said she had already been disheartened while looking for a place for herself and her six-month-old baby, and this ad was another set-back.

While Leilani was receiving a benefit, she didn't feel it was relevant for the landlord to know information beyond the fact she was able to pay the rent. She also questioned whether the website advertising the property was allowed to reproduce the 'discriminatory' requirements of the landlord.

### The mediation process

Leilani approached the Commission to ask whether the advertisement was legal, since it appeared to exclude people on the basis of family and employment status. The Commission rang the company that advertised the rental properties. The company was aware it had a responsibility not to post advertisements with potentially

unlawful and discriminatory conditions. It said this time the advertisement had slipped past its editorial staff and it would review its procedures.

The Commission also approached the landlord, who declined mediation but said they would consider an application from Leilani.

### Outcome

Leilani had decided she would not pursue the property in question, but felt she had made a point with the advertising website and the landlord about the provisions of the Human Rights Act.

### Note

There are some exceptions in the Human Rights Act that relate to shared accommodation, hostels and disability issues. However, a person wishing to purchase, rent or lease land, housing or other accommodation may not be discriminated against on any of the grounds in the act. A person acting for the property owner may not impose a term or condition that would limit the person or class of person who is seeking accommodation.

## Trade Me

The Commission has received complaints about advertisements listed by advertisers on the Trade Me auction website, such as “female cleaner required”, “young person needed”, and “English as a first language”.

When complaints like these are received by the Commission, people are encouraged to use the Trade Me complaints process to contact the website in the first instance (e.g. via the Community Watch link at the bottom of each listing).

This course of action usually leads to a positive outcome, when the person advertising the job becomes aware of their responsibilities.

There is a help page on the Trade Me website for advertisers to check their responsibilities before advertising:  
<http://www.trademe.co.nz/help/724/human-rights-act>.

### **Confidentiality of complaints and enquiries**

The Human Rights Commission treats enquiries and complaints as confidential.

The Commission is required by the Official Information Act to make a case-by-case assessment of whether information requested under that act should not be disclosed. It is unlikely that complaints and enquiries will have to be disclosed.

As part of any assessment the Commission will make all reasonable efforts to contact the provider of the information to discuss any concerns.



Human Rights  
Commission  
*Te Kahui Tika Tangata*

