# Independent Monitoring Mechanism Quarterly Strategic Meeting Minutes

**Date:** 7 December 2016

**Time**: 9:30am – 11:30am

**Location**: Wellington Office of the Ombudsman, Level 7, Solnet House, 70 The Terrace

Auckland Office of the Ombudsman, Forsyth Barr Tower Level 10, 55-65 Shortland Street

**Attendees**:

Human Rights Commission: Paul Gibson (W), Janet Anderson-Bidois (W), Douglas Hancock (W), Erin Gough (W),

Ombudsman: Judge Peter Boshier (A), Andrew McCaw (W), Paul Brown (A), Simon Latimer (A)

Convention Coalition: Mary Schnackenberg (A), Pati Umaga (W)

Office for Disability Issues (from 10:30am): Megan McCoy (W), Paul Dickey (W), Jacinda Keith (W)

Invited guests: Rose Wall (HDC)

**Apologies**: Emma Leach (Ombudsman), Nigel Ngahiwi (Convention Coalition), John Hancock (HRC)

**Agenda Items**

1. **Karakia, welcome and introductions**

Judge Boshier presided over the meeting as Chair and opened the meeting with a Karakia.

Those attending the meeting in both Wellington and Auckland introduced themselves.

Simon agreed to take notes during the meeting.

1. **Agenda check**

The agenda was agreed and confirmed.

1. **Minutes of previous meeting**

The minutes from the IMM’s previous Quarterly Strategic Meeting on 7 September 2016 were confirmed by agreement.

All action items listed subsequent to the meeting on 7 September 2016 have been followed-up or completed.

1. **IMM Meeting with the Ministerial Committee on Disability Issues**

Several of those who attended the IMM’s Meeting with the Ministerial Committee on Disability Issues on 1 December 2016, spoke to their experience. It was noted that only Minister Wagner and Minister Lotu-Iiga attended the meeting which was disappointing.

Judge Boshier noted that the IMM had seen the meeting as a possibility to try to get some traction around disability issues heading into 2017. He felt that there was a degree of optimism which could be sensed through the body language of Ministers and other officials.

Judge Boshier noted that subsequent to the meeting he had drafted letters to senior government officials. These letters aim to give the IMM a more frequent hearing by relevant government agencies and figures, and advocate for increased engagement from Ministers. Paul Gibson and Mary Schnackenberg noted they had reviewed Judge Boshier’s letters. However, it was noted that a recent Cabinet Paper indicated there would be changes to the way the IMM would meet with the Ministerial Committee and this would need to be discussed with the Office for Disability Issues when they joined the meeting at 10.30am. Subsequent to this, Judge Boshier would be able to clarify who his letters should be addressed to.

Pati Umaga noted that he felt the meeting had a cursory feel to it, and he had also felt the same about previous meetings he had attended with senior government officials as part of Disabled People’s Organisations or the Convention Coalition. Other members of the IMM agreed that they too had felt the meetings were at times perfunctory.

1. **Launch of the updated New Zealand Disability Strategy (2016-2026)**

Paul Brown provided a summary of his involvement as the IMM-observer as part of the NZDS Strategy Revision Group. He noted that the NZDS was officially launched on 29 November 2016 in conjunction with the 2016 Attitude Awards. Paul noted that while the Strategy has now been finalised, there is still work to do concerning how it will be monitored, and an ‘outcomes framework’ is an important component of this. Paul noted that the Strategy Revision Group will be working with the Data and Evidence Working Group in 2017 to work towards developing an ‘outcomes framework’.

Those present at the meeting felt that the updated NZDS has got intentions but at this point it is a ‘jigsaw’ and it is not clear how all the pieces fit together, and which agency is responsible for each particular component. It was also noted that a lot of support will be required to implement the Strategy effectively.

Mary noted that the ‘outcomes framework’ was central to the NZDS and without it there would be no effective way to measure progress. She felt there needed to be a way to operationalise the NZDS. Paul Gibson advised that he wants the ‘outcomes framework’ to have high accountability and clearly state the benefits of investing in the disability community.

General discussion ensued noting that for the NZDS to succeed, clear accountability is required. It was agreed that members of the IMM would draft a short briefing to the State Services Commission prior to our next meeting with officials from that agency in 2017, asking for information on how the NZDS will be effectively operationalised.

1. **Optional Protocol Fact Sheet**

Simon Latimer noted that New Zealand acceded to the Optional Protocol of the Convention on 4 November 2016. He noted this was one of the IMM’s key recommendations from previous work, and could be viewed a ‘big win’. Those present at the meeting agreed that it was pleasing that New Zealand had finally taken this step.

Simon noted that the IMM Working Group is looking at putting together a ‘fact sheet’ on the Optional Protocol for the public. He advised that the United Nations Website does have some information available on how to make a complaint under the Optional Protocol but it is very technical. It was agreed that plain language guidance would be a worthy project. Simon and Douglas Hancock also noted they had attended a Multi Agency Group Meeting (focussing on reducing discrimination associated with mental illness in New Zealand) and members of the group were also hoping that clear information would become available around the Optional Protocol. Brief discussion took place about what constitutes exhausting a domestic remedy in the New Zealand context, and it was agreed this should be an important part of the fact sheet.

The Office of the Ombudsman agreed to undertake some background research on the Optional Protocol in the next two months and work with the HRC to progress this matter. Janet Anderson-Bidois stated that Michael White from the HRC would be a good person to speak to about this project and it was agreed the Office of the Ombudsman would take up this offer. Progress around the fact sheet will be discussed at the IMM Working Groups first meeting in 2017.

1. **Next ‘Making Disability Rights Real’ Report**

Douglas spoke to the paper (CRPD, HRC and IMM Shadow Reports Process 2017) that was promulgated to all IMM members before the meeting. The IMM thanked the HRC for doing background work in this area and noted it was useful to have the timeframes documented. Douglas noted he would undertake to transfer the timeline into a more formal project plan and report to the IMM Working Group in early-2017.

It was agreed that the last ‘Making Disability Rights Real’ Report had been a significant amount of work, and planning could have been better. Both Janet and Simon noted they had commenced their jobs during the drafting of the last report, and they had spent almost six months entirely focussed on this project. However, despite the intensive work required, it was agreed the report had been very useful, and that the UN Committee had clearly reviewed our work, and closely aligned its Concluding Observations with our findings.

Paul Gibson and Judge Boshier concluded that the report is important but it has to be well planned. There was also a need to encourage relevant agencies to work with the IMM when seeking information and collecting data.

It was agreed the IMM Working Group would give this report further thought early in 2017, with careful consideration given to timetabling, formatting and research required.

1. **Education matters**

A discussion took place on the recent complaints about seclusion in schools, and the consequential media attention. It was noted Judge Boshier had on a number of occasions been interviewed not only about seclusion in schools but also about inclusive education. It was agreed that the education area will continue to be a focus for the IMM in 2017. Discussion also ensued on the significant difference between ‘time out space’ and seclusion rooms.

Paul Gibson noted that this was all good work but wondered whether the HRC and the Office of the Ombudsman could better collaborate on the seclusion in schools matter. Judge Boshier agreed and will liaise with the HRC after his next briefing from internal staff on this matter.

1. **Services for People with an Intellectual disability**

It was noted that various members from the HRC and the Office of the Ombudsman had recently attended meetings with external stakeholders who had concerns about services being provided to persons with intellectual disabilities. The first meeting concerned a number of concerned individuals currently working in the sector, and the second involved meeting with Professor Werry, a retired respected psychiatrist who had raised broad concerns.

It was noted that the concerns raised were significant and services for people with an intellectual disability is an area that the IMM should focus on in 2017 (whether it is making it a key component of the ‘Making Disability Rights Real’ Report, or doing a thematic report).

Judge Boshier expressed a personal concern about those with intellectual disability (noting previous experience in the Family Court). He also noted that the Office of the Ombudsman has considered undertaking a wider administrative investigation in this area but is currently focussed on completing work around school closures, and exploring mental health in prisons.

Janet noted that the HRC is continuing to liaise with Professor Werry around how to submit a shadow report to the United Nations expressing his concerns.

It was agreed that this matter would be further discussed at the next IMM Quarterly Strategic Meeting due to the number of items on the present agenda.

1. **MAG Group**

Douglas and Simon noted that they recently attended a Multi-Agency Group Meeting set up to reduce discrimination around mental illness in New Zealand. Both the HRC and the Office of the Ombudsman are now formally affiliated to this group.

At the last meeting, other attendees queried the individual roles of the HRC and the Office of the Ombudsman, and it became clear that plain-language guidance around the functions of both agencies might be useful (i.e. CRPD/COTA/IMM etc).

Douglas advised that he would check whether the HRC was able to obtain some funding/resourcing for this project and he would report back at the next IMM Quarterly Strategic Meeting.

1. **Individual updates from each agency on work priorities**

This agenda item was not discussed due to the shortage of time available, and the fact that members from the Office for Disability Issues joined the meeting at 10.30am.

1. **Update on disabled-led monitoring process from ODI**

Staff from the Office for Disability Issues joined the meeting at 10.30am. Megan McCoy advised that she had accepted the Disabled-led Monitoring Procurement Panel’s recommendation (of which Simon represented the IMM) for a reviewer to direct the project on disabled-led monitoring in New Zealand. Megan informed the IMM that ODI would have a further meeting with the successful agency on 16 December 2016 and that she hopes to announce the name of the group shortly after.

The IMM thanked ODI for involving it in the procurement process and all agreed it was a good process.

1. **Supported decision making**

A discussion took place around the need to hold a round table discussion on the topic of legal capacity for persons with disabilities. ODI would have liked this meeting to occur before the Christmas break in 2016 and for it to involve a number of stakeholders in the disability community. However, the IMM noted that it would be difficult to organise this meeting before the end of 2016 and advocated for it to take place in February 2017. While requesting that the meeting be postponed, members of the IMM noted they would be keen to attend given the emerging issues in this area. It was agreed that a round table discussion of this nature would be a good follow-up to the supported decision making Hui that took place earlier in the year.

Rose Wall from HDC also advised she (and potentially other staff from HDC) would be interested in attending any future meetings in this area, particularly as there are a number of contemporary discussions around Right 7(4) of the Health and Disability Commissioner Act 1994.

Retrospective note: Paul Dickey emailed members of the IMM subsequent to this meeting and indicated ODI will look at holding this round table discussion in February 2016 as we suggested.

1. **Update from ODI**

Megan spoke to the recent meeting between the IMM and the Ministerial Committee on Disability Issues and felt that while aspects of the conversation were good, there was a need to find a different and more dynamic way of working moving forward. A number of IMM representatives agreed but also noted Minister Wagner needs to encourage her peers to attend in future.

A lengthy discussion took place on the way the IMM and the Ministerial Committee on Disability Issues will meet in future. Not all parties had the same information on the principles of such meetings scheduled for 2017, so it was decided that this would be followed-up, clarified and promulgated after the meeting. However, Megan clarified that the Ministerial Committee on Disability Issues has not been disbanded; rather it now meets as part of the Cabinet Social Policy Committee. Some members of the IMM noted their concern that the relationship between the IMM and the Ministerial Committee on Disability Issues had been ‘downgraded’.

Megan did note that ODI felt there could be two priorities for IMM and Ministerial Meetings in 2017. The first priority might be around NZDS ‘outcomes framework’ developments, and the second might involve engaging over the IMM’s next ‘Making Disability Rights Real’ Report. Mary agreed that it may be worth both parties discussing the report, particularly in the preliminary stages. Paul Gibson stated that both suggestions may be acceptable but he would expect a better attendance from Ministers. However, members of the IMM made it clear that the ‘Making Disability Rights Real’ Report is a monitoring report, and not an opportunity to re-litigate. Judge Boshier noted that it is important for the IMM and government agencies to cooperate and collaborate, but the IMM must retain the ability to “say it like it is”.

1. **Dates for 2017 meetings**

At the time of writing the minutes, a date for the next IMM Quaterly Strategic Meeting has not yet been set. It was largely agreed this will take place in March 2017. However, it may need to be towards the end of March as ODI will be releasing a number of papers that the IMM may wish to provide feedback on. These include consultation on the ‘outcomes framework’ for the updated Disability Strategy and the Disability Action Plan.

1. **Closure**

The meeting was closed at 11.30am.

**Action item list from IMM Quarterly Strategic Meeting (7 December 2016)**

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| No. | Description | Responsible |
| 1 | Finalise letters to senior government officials on behalf of Chair of IMM (Judge Boshier). | Paul Brown and Simon |
| 2 | Draft a short briefing to the State Services Commission asking for information on how the NZDS will be effectively operationalised. | All to contribute |
| 3 | Optional Protocol Fact Sheet draft work | OOTO to lead, to consult HRC (key contact Michael White) |
| 4 | Develop a project plan for the next edition of ‘Making Disability Rights Real’ Report. | IMM Working Group |
| 5 | Transfer HRC Shadow Reporting Timeline into a more formal Project Plan and report to the IMM Working Group in early-2017. | Douglas and the IMM Working Group |
| 6 | Office of the Ombudsman to update HRC on developments in seclusion in schools investigations | Simon/Peter |
| 7 | Explore possibility of publication/brochure outlining the different role of HRC/OOTO | Douglas |
| 8 | Liaise with ODI around the date for the round table discussion on legal capacity | Completed subsequent to meeting |
| 9 | IMM and ODI to communicate further on structure of meetings with Ministerial Committee in 2017 | Simon/Paul Brown |
| 10 | Agree on date for first Quarterly Meeting in 2017 | Paul Brown/Simon |
| 11 | Intellectual disability issues to be discussed in greater details at next Quarterly Meeting | All |