



Annual Report 2010

Pūrongo ā Tau 2010



Human Rights Commission
Te Kāhui Tika Tangata

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

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

Tātou tātou ē



Report of the

Human Rights Commission

Te Kāhui Tika Tangata

And

The Office of Human Rights Proceedings

Te Tari Whakatau Take Tika Tangata

For the year ended 30 June 2010

Presented to the House of Representatives pursuant
to section 150 of the Crown Entities Act 2004.

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Human Rights Commission

Te Kahui Tika Tangata

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Chief Commissioner
Te Amokapua

Joris de Bres
Race Relations
Commissioner
Kaihautū Whakawhanaunga
ā Iwi

Judy McGregor
EEO Commissioner
Kaihautū Ōriteanga Mahi

Karen Johansen
Commissioner
Kaihautū

Joy Liddicoat
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Jeremy Pope
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The Hon. Minister of Justice

Minister
Pursuant to section 150 of
the Crown Entities Act 2004,
I hereby transmit to you the
Annual Report of the Human
Rights Commission for the
year ended 30 June 2010.

Yours faithfully

Rosslyn Noonan
Chief Commissioner
Te Amokapua

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Introduction

He Whakataki

The global economic recession has revealed, in New Zealand as elsewhere, that a robust human-rights environment requires not only strong legal protections but also fair and equitable economic and social policies.

This annual report records a mixed year for human rights developments in each of its six strategic-priority areas: the human rights environment, the rights of disabled people, race relations, the right to work, Te Mana i Waitangi, and international connectedness.

The instability of the global economic environment and the very slow recovery from the recession in New Zealand has had a pronounced impact on economic and social rights, deepening already entrenched inequalities. As youth unemployment figures so graphically illustrate, the Government's legislative, economic and social policies and programmes have strengthened human rights implementation in some areas while undermining protections and progress in others.

Three notable developments indicated growing appreciation of the value to New Zealanders of the international human-rights standards and the human-rights mechanisms that monitor them. They were the Minister of Justice's leadership of the official delegation to the United Nations Human Rights Committee, where New Zealand's implementation of the International Covenant on Civil and Political Rights was scrutinised; the Government's support for the Declaration on the Rights of Indigenous Peoples; and the Minister of Disability Issues' 2010 Budget initiatives to implement the Convention on the Rights of Persons with Disabilities.

The report acknowledges legislative changes, policy developments and legal cases which will strengthen the realisation of human rights in very practical ways. These include provisions in the Immigration Act 2009 and funding provided through Vote Education in this year's Budget, which will enable children without legal immigration status to attend primary and secondary school. In a seminal case the Human Rights Review Tribunal found in favour of a group of parents, caring for severely disabled adult children, who were represented by the Director of Human Rights Proceedings.

In other areas, however, the report signals the likelihood of some significant erosion in the fulfilment of human rights. With economic and social rights, this is most obvious in relation to the right to work and erosion aspects of labour market reform. Equally, aspects of local government reform in Auckland and intervention in Canterbury have raised issues relating to civil and political rights.

Participation is a key element in effective democracy and an essential component in building a robust human-rights environment. Throughout the year the Commission has raised concerns about the lack of adequate time for public consideration of significant legislation. As a result, it is recommending a minimum 12-week period for making submissions on bills before Parliament.

The breadth of the Commission's mandate and the extent of its impact are evident throughout this report. A highlight this year was publication of the results of the National Conversation about Work. This two-year inquiry was the largest work-based project the Commission has undertaken. It involved over 3000 people – employers, employees, local-body representatives and community members – in a range of industry sectors throughout New Zealand. Its findings will form the basis of the development of an Equal Employment Opportunities framework in the coming year.

Across all areas of its work – enquiries and complaints, advocacy and protection, promotion and education, human rights litigation – the Commission has experienced growing expectations and increased demands. These domestic demands are matched by the international community's requirements on national human-rights institutions to provide authoritative legal analysis and empirical evidence on the national human-rights situation, as well as the many complex human-rights issues under consideration at international level.

The Commission is made up of three full-time Commissioners, up to five part-time Commissioners and a staff of 67 people spread across offices in Auckland, Wellington and Christchurch. While the three full-time Commissioners lead and co-ordinate the six priority areas of the

Commission's work and are the most publicly visible, the contributions and expertise of the part-time Commissioners in key portfolio areas, as well as in governance, are vital to the Commission's achievements. During this year the part-time Commissioners' major portfolio responsibilities have included:

Commissioner Karen Johansen: human rights dimensions of the Treaty of Waitangi and Indigenous peoples' rights; right to education; human rights education; and regional engagement – Tairāwhiti/East Coast.

Commissioner Joy Liddicoat: human rights and the internet; sexual orientation and gender identity; and human rights in the Pacific.

Commissioner Jeremy Pope: criminal justice; legal interventions and litigation strategy; right to an adequate standard of living; and Chair of the Audit Committee.

Commissioner Richard Tankersley: disability issues focusing on Māori and Pacific people; inter-faith activities in the Diversity Action Programme; human rights and genetics; and regional engagement – Te Waipounamu/South Island.



Commissioner Robyn Hunt, whose term on the Commission ended in June 2010, provided outstanding leadership on the rights of disabled people at all levels of the Commission's work. Her determination to ensure disabled people are able to participate fully in all aspects of life and to

remove the barriers that prevent them from doing had an impact in New Zealand and internationally.

ACKNOWLEDGEMENTS

Working with others – Officers of Parliament, Crown entities, central government agencies, local bodies, businesses and trade unions, community groups and non-government organisations, academics and educational institutions – has been central to the Commission's effectiveness. And the range and impact of the work undertaken would not have been possible without the dedication and skills of the Commission staff, led by Executive Director Joanna Collinge.

Rosslyn Noonan

THE HUMAN RIGHTS COMMISSION 2010



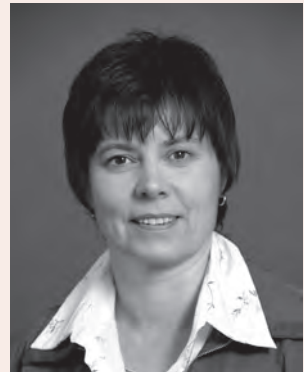
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Chief Commissioner
Te Amokapua



Karen Johansen
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Commissioner
Kaihautū



Joris de Bres
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JAMcGregor
Judy McGregor
EEO Commissioner
Kaihautū Ōriteanga Mahi



Jeremy Pope
Jeremy Pope
Commissioner
Kaihautū



Richard Tankersley
Richard Tankersley
Commissioner
Kaihautū

The Human Rights Environment

Te Taiao Tika Tangata

OVERVIEW

Two factors have contributed significantly to what has been a very mixed year in terms of strengthening human rights in law, policy and practice. The first was the economic recession and its impact particularly on economic and social rights. The second was the Government's wide-ranging legislative and policy programme which has raised a range of human rights issues but has also involved some incorporation of human rights standards into New Zealand's law.

The economic recession has had a pronounced impact on the human rights environment, deepening entrenched inequalities that have persisted through more stable economic times. It has led to increased unemployment and more people struggling to afford healthy, secure housing and meet the basic necessities of life. It has also led to changes, some with human rights implications, in the public provision of services in areas such as early childhood and adult education.

The Government's legislative and policy programme, particularly in the areas of criminal justice, the labour market and local government reform, have raised a range of human rights issues.

The Commission responded to a wide range of bills before Parliament and policy initiatives. The Commission has raised concerns about risks to the public's participation in law-making through the use of urgency, the limited time for responding to legislation before select committees, and inadequate explanatory notes on significant government bills. Only rarely, as with the process for developing the Electoral Finance Bill, could the Commission point to an example of best human rights practice.

However the Commission acknowledged three notable developments which indicated a commitment to better realising of the international human rights standards at the national level and in the lives of New Zealanders. These were the Minister of Justice's leadership of the official delegation to the United Nations Human Rights Committee to discuss New Zealand's implementation of

the International Covenant on Civil and Political Rights; the Government's statement of support for the Declaration on the Rights of Indigenous Peoples; and the Minister of Disability Issues 2010 Budget initiatives to implement the Convention on the Rights of Persons with Disabilities.

There was also welcome progress, reflected in policy and practice developments, on some of the recommendations made in *To Be Who I Am, Kia noho au ki toku ano ao*, the report into the Commission's inquiry into discrimination experienced by transgender people.

In this period the Commission began the update of its major assessment on the status of human rights, *Human Rights in New Zealand Today Ngā Tika Tangata O Te Motu*, published in 2004. Chapters from *Review of Human Rights in New Zealand 2010* were released for public consultation. Once completed the review will record where New Zealand has made significant progress in the implementation of human rights over the last five years and pinpoint areas where the country must do better. *Review of Human Rights in New Zealand 2010* will provide the evidential analysis that will guide the Commission's work and assist the Government and civil society to identify and take action on key human rights priorities over the next five years.

HUMAN RIGHTS AND GOVERNMENT

Advocacy and protection

The Commission has made more than 60 legal and policy interventions over the year. They included submissions on legislation or policy being considered by Parliament and expert advice to government on papers being prepared for public consultation.

There is evidence of the impact of the Commission's interventions in a number of areas, including:

- Changes were made to the law (Immigration Act 2009) and provision in Vote Education for funding in the 2010 Budget for children of compulsory school age without legal immigration status.

- The regulatory impact statement for the Electoral Finance Bill 2010 notes the Commission's contribution to the process and the bill deals with all the issues raised by the Commission.
- Following a human rights analysis by the Commission and public debate, the Search and Surveillance Bill 2010 was sent back for revision. The select committee recommended among other changes the Commission's proposal that it contain a statutory reference to human rights values in the purpose statement as a way of creating greater clarity and certainty in the law.
- Encouraged by the Commission to respond to the Office of the High Commissioner for Human Rights (OHCHR) on the World Programme on Human Rights Education, the Ministry of Education stated its commitment to human rights-based education in schools, particularly in relation to the New Zealand curriculum.



The Commission's work contributed to the wider legal debate. *The New Zealand Law Journal* highlighted the Commission's publication, *Religion in New Zealand Schools*. The Commission's discussion paper on freedom of religion and belief and its submissions on the Courts

(Remote Participation) Bill and the Social Assistance (Future Focus) Bill featured in a number of legal publications.

The Commission worked with a range of institutions and communities to build understanding and respect for human rights and to demonstrate the value to policy development and review of the human rights approach. The abatement of overseas retirement pensions, which has caused distress for many New Zealand immigrants, is one such example. The Auckland University Retirement and Pensions Research Centre and the Commission produced working papers on the historical and current

legislative and policy frameworks surrounding entitlement to and abatement of New Zealand superannuation. The centre and the Commission proposed a policy framework based on principles of equity, transparency, sustainability, economic efficiency and clear administration. The Commission also initiated discussion with the Ministry of Social Development about discrimination against women who are denied access to New Zealand superannuation because of their marital status.

Legal interventions

The Human Rights Commission was involved in a number of cases to advance the body of human rights jurisprudence in New Zealand.

McAlister v Air New Zealand [2009] NZSC 78

The Commission intervened in the Supreme Court in *McAlister v Air New Zealand*.

In this case a pilot claimed he had been discriminated against because of his age when he was demoted because he could no longer fly Boeing 747 aircraft to certain countries as he was 60. The Commission appeared as intervener to address the issue of how a comparator should be constructed in order to establish discrimination. The Commission took the position that where it was necessary to identify a comparator it should be done in a non-technical manner, so as not to undermine the purpose of the legislation. Although *McAlister* was a decision under the Employment Relations Act 2000, the decision is relevant to both to part 2 of the Human Rights Act (HRA), where the statutory wording requires a comparative analysis, and in interpreting discrimination for the purposes of part 1A HRA.

Hamilton City Proposed District Plan

November 2001 Proposed Variation 13:

Residential Centres to the Proposed District Plan

The Commission appeared before the Hamilton City Council in relation to proposed changes to the District Plan which affected people with mental disabilities. The Council was generally open to the Commission's concerns with the variation and its approach to policy development, requesting the Commission to assist local government officials and politicians with training in this area and human rights more generally.

**New Zealand Land Transport Agency v Reza Moradi HC AK CIV 2009-40402507
Ney Thet v New Zealand Land Transport Agency DC AK CIV 2009-004-0064**

The Commission's help was sought in two cases involving applications for endorsement of the driver's licence of two people – to enable them to become a bus driver, in the case of Ney Thet, and a taxi driver, in the case of Reza Moradi. The applicants were refugees and unable to get the necessary police clearance from their country of origin to satisfy the 'fit and proper person' requirements under sections 29A and 30D of the Land Transport Act. Both cases were resolved in favour of the applicants.

HUMAN RIGHTS AND THE COMMUNITY

Taku Manawa

The Taku Manawa (My Human Rights) project continued to build human rights knowledge and expertise in regional communities. This year the project was extended to Southland. By the end of 2009, 59 key community representatives had gained the NZQA Adult Education Standard required to graduate as Taku Manawa facilitators. Through the regional networks, facilitators have supported the Commission's priorities, contributed to consultation, run human rights education activities and co-ordinated key human rights events such as Race Relations Day.

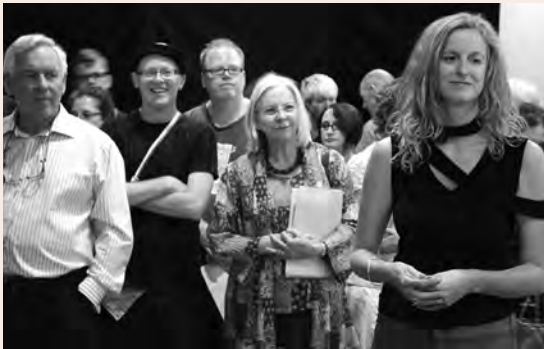
To strengthen the network a gated e-network has been established for the nationwide Taku Manawa Advisory Group to share resources, skills and knowledge. Meanwhile external evaluators have begun to develop case studies from each of the regions where Taku Manawa has been launched. One goal is for the Taku Manawa participants to deliver a range of human rights activities for their communities. The participants exceeded their target by more than 50 per cent.

Notable events delivered by facilitators through the Taku Manawa project included:

- Tairāwhiti Eastern Bay of Plenty Human Rights Network organised a hui at Awatere Marae, Te Araroa, with a focus on Te Tiriti and the UN Declaration on the Rights of Indigenous Peoples. Race Relations Commissioner Joris de Bres and Commissioner Karen Johansen were keynote speakers at the hui, attended by around 60 people.
- Murihiku Taku Manawa facilitators organised a human rights expo in Invercargill that included workshops about health, education, employment and sexuality and attracted around 100 people. The Commission is planning to run this as an annual event in Southland.
- Tai Tokerau Taku Manawa facilitators ran an art competition and a human rights workshop in Kawakawa. The Commission purchased the right to reproduce one entry created by a 12-year-old boy in the Youth Section of the Human Rights Art Competition. The image was used for postcards and posters for Race Relations Day.

Transgender Inquiry

Progress continued on the implementation of recommendations made in the Commission's report, *To Be Who I Am, Kia noho au ki toku ano ao*, the inquiry into discrimination experienced by transgender people. The Transgender Inquiry has demonstrated the importance of committing resources to follow-up and promoting the inquiry outcomes. This year the Commission hosted the second national Trans Human Rights hui in Wellington. This included a presentation by the Department of Internal Affairs about changing sex details on a birth certificate,



Photographer Rebecca Swann (far right) and Chief Commissioner Rosslyn Noonan (left) at the launch of the photographic exhibition Assume Nothing, Moving Image Centre, Auckland

passport, or citizenship or evidentiary certificate.

The hui resulted in the establishment of regional and national networks to support the Counties Manukau DHB-led Trans Health Review, run public workshops, launch a website collating trans resources (Transsource) and undertake strategic litigation on legal recognition issues for trans people.

In July 2009, the Commission met with a small number of intersex people and groups, along with health professionals, academics and government agencies. As a result, a senior Auckland clinician offered to co-ordinate a group of people interested in developing a best practice model for providing health care to intersex infants, children and young people. The Commission and Waikato Museum partnered with Intersex Awareness New Zealand to run an inaugural human-rights education programme on intersex issues.

A European Union Commissioner for Human Rights Issues Paper cited the inquiry as a good example of how a national human rights institution (NHRI) can address gender identity discrimination.

Promotion and education

The Commission's promotion and education programme had a busy year delivering human rights workshops, presentations and courses, developing and co-ordinating networks to share and promote good practice, building relationships with key stakeholders to progress human rights priorities, organising human rights events and

forums, and developing human rights information and resources.

There were over 470 engagements by the Commission's community advisors where the Commission provided education, advice and guidance to government agencies, local government and communities. This work has been carried out in most regions of the country. It has prioritised sectors most vulnerable to human rights abuses and worked closely with organisations and agencies that have the ability and the mandate to address them. Of these engagements, 39 per cent were responses to requests to the Commission. The remainder have been activities planned in accordance with the Statement of Intent and the Commission's regional engagement strategy. One key focus this year has been responding to requests for the provision of bullying and harassment workshops.

A review of promotion and education outcomes has shown:

- increased awareness of human rights and responsibilities in communities, amongst agencies and in specific sector groups such as disabled people, youth, transgender groups, and ethnic and religious minorities
- application of a human rights approach to planning, policy and practices by agencies and organisations
- application of the human rights framework as part of submissions to legislation and policy change
- brokering of strategic relationships
- enhanced international human rights reporting
- strengthened relationships between the Commission and its stakeholders.

Disabled People

Te Hunga Haua

GOAL

Disabled people enjoy full and effective participation in New Zealand society and are respected for who they are.

OVERVIEW

Disabled people continue to experience persistent barriers to participation in society. Responding to the underlying issues and developing ways to address the discrimination disabled people face on a daily basis is a major area of work for the Commission.

Complaints of unlawful discrimination received by the Commission from disabled people remained the highest single source of complaints – approximately 30 per cent of all complaints.

Disabled people have been disproportionately affected by redundancy and job losses in the prolonged economic recession, and disabled children face continuing barriers to access education.

A key barrier to participation in society for disabled people remained the lack of consistent accessibility to public land transport throughout the country. The Commission continues to work with the Ministry of Transport to provide tools and advice to encourage the adoption of accessible public land transport.

Initial action to establish a framework for monitoring the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) was announced as part of Budget 2010. The budget decisions were closely aligned to the Commission's analysis.

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

The Commission views full implementation of the convention, ratified by New Zealand in 2008, as one of the most important means of addressing the barriers faced by disabled people.

The Commission has continued to promote and monitor progress towards its implementation. It has assessed the current status of disabled people's rights for its *Review of*

Human Rights 2010 and the analysis will inform its independent assessment to the UN Committee considering New Zealand's first report on the implementation of the convention, scheduled for mid 2011.

The Commission has worked in partnership with disabled people's organisations and through advice from its newly established Disability Experts' Reference Group.



Professor Ron McCallum

As part of its advocacy role, the Commission hosted the visit of United Nations expert Professor Ron McCallum, chair of the UN Committee on the Rights of Persons with Disabilities in May, 2010. The committee is a body of independent experts that monitors implementation of the CRPD by State parties. The Com-

mission facilitated meetings between Professor McCallum and government officials, disabled people's organisations and civil society groups, where he provided guidance and insight into the requirements for monitoring the implementation of the Disability Convention.

The Commission welcomed the provision of funding in Budget 2010 to protect, promote and monitor the convention.

EMPLOYMENT

The Commission report *National Conversation about Work* concluded that people with disabilities found it increasingly difficult to secure and sustain employment. Disabled people with tertiary qualifications experienced the same level of unemployment as non-disabled people without qualifications and disabled people were twice as likely to be unemployed as non-disabled people. During the course of the project the Commission visited 'business enterprises' which provide jobs for people with disabilities who, it is argued, would be unable to compete for work in the open labour market. The Commission also

heard from disability advocacy groups about the low pay rate received by some disabled workers – sometimes as low as 15c an hour. They believed that while business enterprises which operated like sheltered workshops remained an option, the potential for work opportunities in the open labour market was not fully realised.

ADVICE AND EXPERTISE

The Commission produced a paper, *Disabled Children's Right to Education*, to provide information and advice to the review. The paper collated the relevant complaints and enquiries to the Commission, analysed how the issue fitted into New Zealand's legal and policy frameworks, outlined the concepts of inclusive and special education, and provided information on the international human rights framework and the legal and policy approaches in comparable overseas jurisdictions.

Parent representatives on the ministerial advisory panel on special education took two issues made in the paper – the statutory right to inclusive education and the need for an independent review authority for education complaints – for further discussion with the Ministry of Education and the education minister.

Civil society groups used the paper as the basis for their submissions to the review.

The paper also informed the Commission's own submission to the review, prepared with the advice from the Commission's disability experts reference group. The Commission's submission outlined the design elements necessary for an inclusive education system based on the Special Rapporteur on Education's recommendations and experience in the United Kingdom and Australia. The need for a statutory positive duty and an independent review authority were part of that framework. The same process informed the Commission's submission to the associated deaf education discussion paper.

Statistics New Zealand acknowledged that submissions from the Commission and others helped to ensure that the National Disability Survey, to be run in conjunction with the national census in 2011, would be more outcome-focused. A sharply framed survey will enhance the

quality of data and, through this, the monitoring of the disability convention.

ACCESSIBLE PUBLIC LAND TRANSPORT

The Commission continued to lead initiatives to meet the recommendations made in its report into public transport for disabled people, *The Accessible Journey: Report of the Inquiry into Accessible Public Land Transport*. Assessments of progress will inform the Commission's monitoring and reporting of progress towards full implementation of the disability convention.

A Commission survey of disabled people's experiences of using public land transport helped to inform the Commission's advice to contractors hired by the New Zealand Transport Agency to develop an accessibility audit tool for territorial local authorities.

The Commission provided advice to the Ministerial Advisory Committee on Disability Issues on priorities to provide accessible public transport quickly and without major cost implications.

SUPPORT FOR COMPLAINANTS

The Human Rights Commission supported People First NZ in its complaint to the Broadcasting Standards Authority

PARENTS AS CAREGIVERS

Of particular significance to the disability community was a legal intervention by the Office of Human Rights Proceedings before the Human Rights Review Tribunal, on behalf of a group of plaintiffs in the *Atkinson and Others v the Ministry of Health* case, commonly known as the *Parents as Caregivers* case. The tribunal found in the plaintiffs favour. However the Crown has decided to appeal the ruling. A fuller account can be found in the section on *The Office of Human Rights Proceedings* on page 42.

(BSA) that Television New Zealand (TVNZ) did not take sufficient action after *Breakfast* host Paul Henry called singer Susan Boyle a “retard”. More than 300 people contacted the Commission to complain.

People First NZ, a national advocacy organisation led by and for people with intellectual disabilities, had initially complained, with the Commission’s support, to TVNZ. The broadcaster agreed with People First NZ and upheld a breach of broadcasting standards relating to good taste and decency.

Mr Henry was quoted in the press about the matter and had issued a statement to the BSA, but nothing was broadcast on TVNZ. People First NZ appealed to the BSA, with support from the Commission, on the grounds that the broadcaster had taken insufficient action.

As a result, the BSA ordered TVNZ to broadcast a statement to be aired on the *Breakfast* programme. The majority of the authority said: “We consider that Mr Henry’s comments and behaviour, including his casual assumption that his audience should share his sentiments, had the effect of reinforcing and legitimising particularly repugnant attitudes towards intellectually disabled people.”

It also said of his comment: “We consider that it had no place in a national news and magazine programme carried by the State broadcaster.”

Race Relations

Whakawhanaungatanga ā Iwi

GOAL

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.

OVERVIEW

The major challenge to New Zealand's increasing diversity and achieving of equality between ethnic groups in 2009-10 has been the impact of the economic recession. In the year from July 2009 to June 2010, the Māori unemployment rate rose from 12.6 per cent to 16.4 per cent, the Pacific unemployment rate from 12.8 per cent to 14.1 per cent and the Asian unemployment rate from 7.8 per cent to 10.5 per cent. These figures compare to an overall unemployment rate that rose from 5.7 per cent to 6.8 per cent over the same period. The impact on Māori only and Pacific only youth has been particularly detrimental, with unemployment rates of 36.4 per cent and 27.4 per cent respectively in the April-June 2010 quarter.

Rising unemployment provoked some backlash against migrant workers who, in media coverage, were accused of depriving New Zealanders of jobs. The Government moved to limit the flow of temporary migrant workers, with policy changes that included strengthening labour market tests and reviewing skills shortage lists. Migrant advocacy groups reported that migrant workers feared for their jobs and the impact of increased xenophobia and racism in hard times.

The new immigration act was passed in 2009, and provides a revised structure for migration and refugee resettlement. It includes measures to provide free access to education for children of undocumented migrants. While there was support for many aspects of the legislation, the Commission remains concerned about the human rights implications of some elements of the new law.

Public discussion about Māori representation in local government was reignited by the Government's decision not to include three councillors representing Māori on

the new Auckland Council, as recommended by the Royal Commission on Auckland Governance. The participation of Pacific and ethnic peoples was also downgraded from the original proposals, and the legislation currently provides for advisory panels for the first term only of the Auckland Council.

The Commission's data revealed a significant rise in the number of complaints around racial discrimination and harassment. The controversy over MP Hone Harawira's racially offensive email prompted over 800 complaints to the Commission.

Statistics New Zealand's first General Social Survey (GSS) indicated that 10 per cent of New Zealanders experienced some form of discrimination; among these, racial discrimination is the most common. Continued discrimination against Asian New Zealanders in particular was evidenced both in the GSS and in a survey of public perceptions of discrimination.

DIVERSITY ACTION PROGRAMME

The Commission acts as a facilitator for the New Zealand Diversity Action Programme (NZDAP), as a means of encouraging community action on race relations. The fifth anniversary of NZDAP was marked at the New Zealand Diversity Forum in Wellington in August 2009. In the past five years, NZDAP has grown to include around 250 organisations annually taking practical initiatives to recognise and celebrate the cultural diversity of New Zealand. By the end of the 2009 calendar year, by which NZDAP operates, 250 participants renewed or registered with NZDAP, contributing 616 projects.

Four networks aimed at promoting and supporting diversity – for language policy, religious diversity, media and diversity, and refugee issues – attracted a growing number of subscribers. The Commission produced monthly newsletters for each of the four networks, and organised sessions on each of these topics at the annual forum.

In conjunction with the Victoria University of Wellington's religious studies programme, the Commission developed

guidelines for religious diversity in schools. The resulting booklet, *Religion in New Zealand Schools – Questions & Concerns* was launched at the diversity forum.

DIVERSITY FORUM

The forum is the signature event of NZDAP, held every August, is organised by the Commission in partnership with a range of NZDAP participants. The 2009 forum was held in Wellington, and key partners included Te Papa Tongarewa, Settling In, the New Zealand National Commission for UNESCO, and Wellington City Council.

The size of the forum increased from the previous year: 47 forums, workshops and other events held over two days. There was a record level of participation, with an estimated 4000 people attending at least one or more events associated with the forum. There was a special focus on Asian communities in New Zealand. Other events ranged from a national youth forum through to forums for professional groups, such as academic researchers, librarians and museum staff, and public forums on a wide variety of issues.

The forum concluded with the annual Diversity Awards. Twelve organisations received awards in recognition of their outstanding contribution to positive race relations.

RACE RELATIONS DAY

Race Relations Day, held on March 21 each year, marks the International Day for the Elimination of Racial Discrimination. The theme in 2010 was 'It's about us – whanau', and it highlighted how diverse groups within communities make up the wider family of New Zealand. It involved more than 90 cultural festivals and events across the country, from smaller first-time community events to large and well-established cultural festivals. In 2010 the Commission was present at over 60 events around the country. Activities began with key Waitangi Day events in early February and concluded with community events mid April. The Commission ran a successful social media campaign to promote the event.



RACE RELATIONS REPORT

The Commission launched its sixth annual review of race relations, *Tūi Tūi Tuitiā: Race Relations*, in 2009. The report provides factual and contextual information on race relations in New Zealand and



The Governor General, Rt Hon Sir Anand Satyanand (left) and Race Relations Commissioner Joris de Bres (right), congratulate 2009 Diversity Award winner Patrick O'Connor of PEETO, a multicultural learning centre based in Christchurch.

records events and developments relating to community action on diversity, discrimination, the Treaty of Waitangi, inequalities, migration and settlement and other issues. Key issues cited were increased ethnic disparities in unemployment as a result of the recession, increasing representation and participation of Māori, Pacific and other ethnic groups in local government, addressing discrimination against Asian New Zealanders and reviewing the place of the Treaty of Waitangi in New Zealand's constitutional arrangements. The report was launched at ceremonies in Waitakere, Wellington and Christchurch to coincide with Race Relations Day.

MĀORI LANGUAGE WEEK

The Commission worked with Te Taura Whiri i te Reo Māori and Te Puni Kōkiri to prepare for and promote Māori Language Week from 27 July to 2 August 2009 as an opportunity for all New Zealanders to celebrate te reo Māori. In 2009 the theme was 'Te reo i te hapori' ('Māori language in the community'). Commissioners and staff were involved in events around the country. In October the Commission participated in the Māori Language Awards and He Huia Kaimanawa, the Māori Language Expo.



SAMOAN LANGUAGE WEEK

For the second year running, the Commission worked with the Association of Samoan Language Teachers (FAGASA), and other partners to promote and celebrate Samoan language and culture during Samoan Language

Week, from 30 May to 5 June 2010. The 2010 theme was 'O la Tātou gagana Sāmoa i Niu Sila' ('Our Samoan language in New Zealand'). A range of events and activities were held in schools and communities around the country, and internationally (particularly in Australia), and the profile of the week increased from the previous year.

The Commission ran a successful social media campaign to promote the week and, in conjunction with FAGASA and other partners, initiated the first Samoan Language Champions awards.

AUSTRALIA–NEW ZEALAND RACE RELATIONS ROUNDTABLE

At the annual Australia and New Zealand Race Relations Roundtable in November, the rights of international students were identified as a significant human rights concern. Commissioners viewed recent instances of racial harassment, abuse and violence directed at international students as symptoms of human right issues that need to be addressed urgently. They also heard from international student representatives, researchers, education providers and government agencies. Commissioners made a number of resolutions aimed at addressing international students' rights to non-discrimination: equality of treatment; security of the person; access to justice, housing and information; freedom of religion and culture; and labour rights.

Right to Work

Tika ki te Whai Mahi

GOAL

All people in New Zealand have equal employment opportunities and access to decent and productive work.

OVERVIEW

The global recession of 2009, the largest and longest since the Great Depression of the 1930s, has continued to have a profound effect on the labour market.

In the last quarter of 2009, New Zealand's official unemployment rate rose to 7.3 per cent, the highest level in sixteen years. By the first quarter of 2010 unemployment had dropped to 6 per cent but grew by 19,000 New Zealanders to 6.8 per cent by the end of June. This has most affected groups traditionally disadvantaged in employment, such as disabled people, young, Māori and Pacific peoples. The most startling increase in unemployment has been among males aged 20–24, which jumped from 6500 a year ago to 18,100 by June 2010.

Like many Western countries New Zealand has an ageing population and many people are staying longer in the workforce for both economic and social reasons. However there has been little systematic planning to address the issues arising from an ageing workforce.

These issues and others, such as the difficulties disabled people have gaining work, will continue to have a significant impact on progress on equal employment opportunities (EEO) initiatives. In response the Commission initiated a major project, the National Conversation about Work, as a new way to consult about fairness-at-work issues as the economy went into recession. The data and results will inform the foundation for a new EEO framework.

Information from Statistics New Zealand indicates that the pay gap between men and women continues to be 12 per cent. Information gained from the project, supported by a survey of Crown entities, suggests that action to address pay and employment equity has stalled.

The country's employment framework is facing substantial change. The Government's proposals include extending

the 90-day trial period to all employers, allowing employees to trade their fourth week of annual leave for cash, transferring public holidays, limiting union access to workplaces, and requiring workers to provide proof of illness when they take sick days.

The Commission is concerned that the cumulative effect of these proposals may undermine workers' rights, and it will continue to monitor their impact.

NATIONAL CONVERSATION ABOUT WORK

The Commission has published 16 regional reports and the summary report of the national conversation. This is the largest work-based project the Commission has undertaken and represents the views of more than 3000 New Zealanders working in a variety of industry sectors throughout all 16 regions of the country.

The Commission sought out a range of perspectives, meeting with employees; management; community



groups and unions; and people working in a variety of ways, such as self-employed, contract workers, wage-earners and salary-earners. The methodology included face-to-face meetings, online participation and national conferences.

The national conversation project team sought advice and shared information with local MPs in the course of regional visits and provided briefings to ministers and spokespeople about the project.

Participants in the national conversation were sent a draft report for comment to ensure the document accurately reflected the perspectives raised by those involved. The draft summary report of the project, *What next? National Conversation about Work*, was also sent to all 3000 participants for verification.

The project has delivered a rich source of qualitative data and insights on working life and employment in New Zealand that will provide the basis of the development of an EEO framework in the coming year. It included 12 case studies of companies demonstrating innovative best practice around fairness at work.

GOOD EMPLOYER MONITORING

The Commission completed *Crown Entities and the Good Employer: A Progress Report*, the third annual scrutiny of how Crown entities are reporting on their good employer obligations. Forty-five Crown entities responded to questions on pay and employment equity, including reporting on the numbers of women in senior roles. Within the respondent Crown entities, women accounted for 61 per cent of the staff, but only six women held chief executive roles. Women were represented in 42 per cent of tier-two management positions and 39 per cent of tier-three management positions. Of the Crown entities that acknowledged a gender pay gap, the gap ranged from 3 to 29 per cent.

When analysing annual reports and remuneration this year, the Commission resolved to pay specific attention to district health boards (DHBs). Thirty-three per cent of DHBs responded to the Commission's pay and employment questions. None of the respondent DHBs

had women chief executives and none indicated the presence of a gender pay gap.

The Commission's analysis of 21 DHB annual reports for 2009 showed just over half made reference to having an equitable, transparent and gender-neutral remuneration system. The other 10 DHBs failed to mention remuneration in any meaningful way.



EEO Commissioner Dr Judy McGregor hosted a roundtable on pay equity challenges for business leaders, union representatives, government agencies, academics and women's organisations at the Wellington office of the Human Rights Commission.

PAY AND EMPLOYMENT EQUITY

As part of the EEO Commissioner's mandate to develop guidelines and voluntary codes of practice to promote equal employment opportunity, the Commission has developed *Towards Pay and Employment Equity*, a new pay and employment equity self-assessment and monitoring tool. The tool contains general information and step-by-step specifics relevant for public- and private-sector organisations seeking to improve fairness in the workplace. The tool provides a way for organisations that have not undertaken pay and employment equity reviews to perform a quick 'health check'. For departments and agencies that have undertaken reviews and developed response plans, the pay and employment equity-monitoring tool gives key indicators to gauge progress.

The Commission sought a legal opinion on the legal obligations of chief executives in regard to pay and employment equity. Public-sector chief executives must address pay inequities in their organisations as part of

their good-employer obligations, according to the opinion that was released publicly at the pay equity roundtable, hosted by the Human Rights Commission. This is now available on the National Equal Opportunities Network (NEON) website and provides a guide for chief executives in the public service.

REVIEW OF HUMAN RIGHTS 2010

The Commission is updating its landmark status report on human rights, *Human Rights in New Zealand Today – Ngā Tika Tangata o te Motu*, which was first published in 2004 and provided a platform for the New Zealand Action Plan for Human Rights 2005–2010.

The Commission has released for public consultation a draft chapter on 'Human Rights and Women', a new area of human rights analysis that did not appear in 2004. Economic equality, violence and representation in public life are three immediate challenges for New Zealand. The draft discussion document notes that while New Zealand women are faring well in many areas, there are persistent hurdles to overcome before they achieve equity. The consultation chapters will be published as *Review of Human Rights 2010* and form the evidence base for the Commission's future work.

In the reporting period work began on the 'Right to Work' chapter. This chapter has undergone an extensive rewrite from the previous status report to include commentary on the effect of the global recession, changes to the New Zealand legislative framework in relation to employment, and incorporation of the national conversation findings.

NATIONAL EQUAL OPPORTUNITIES NETWORK

The National Equal Employment Opportunities Network is an initiative co-hosted by the Commission and the Equal Employment Opportunities Trust that advocates for and promotes leading employment practices to employers, employees, trade unions, human resources professionals and small business owners, as well as New Zealanders seeking case studies and the latest news and information about decent and fair work issues.

As well as publishing a regular e-newsletter, NEON maintains a website which in this financial year continued to

show gains in usage. During the period March 2009 to March 2010 an increase from 14,839 visits to 16,790 was experienced, an increase of 13 per cent. An electronic engagement strategy for the national conversation involved a website for participants to have their say about work. It included a sign language introduction and accessible features for use by people with disabilities. At the time the national conversation was completed, visitor numbers peaked in June 2010, with 33,283 visits recorded. Through the NEON website the Commission has made EEO publications and resources available to the wider public.

NOTABLE EVENTS

In conjunction with the EEO Trust, the Commission hosted Dr Susan Vinnicombe, a leading researcher on diversity in state and private sector boards who is based at the Cranfield School of Management in the United Kingdom. Dr Vinnicombe is the Professor of Organisational Behaviour and Diversity Management and Director of the International Centre for Women Leaders. Dr Vinnicombe attended a breakfast meeting hosted by Women's Affairs Minister the Hon Pansy Wong and met with a number of groups in Auckland and Wellington, including members of The University of Auckland Business School promoting strategies for women's advancement in senior management and governance.

The Commission and the EEO Trust launched a forum "A Place at the Table", aimed at promoting diversity in the boardroom. Guest speakers included Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination Elizabeth Broderick, from the Australian Human Rights Commission.

Human Rights and the Treaty of Waitangi

Te Mana i Waitangi

GOAL

The Treaty relationship between the Crown and Tangata Whenua operates effectively at all levels for the protection of the rights of Tangata Whenua and the benefit of society as a whole.

OVERVIEW

Crown–Tangata Whenua agreements and disputes continue to dominate the Treaty of Waitangi landscape. This year has included a number of positives such as a change to the Government’s position on the UN Declaration on the Rights of Indigenous Peoples, continued momentum in Treaty settlements, the decision to fly a preferred Māori flag from government buildings on Waitangi Day, the announcement that the Foreshore and Seabed Act 2004 would be repealed, and a decision to adopt both spellings of Wanganui/Whanganui. Challenges to the relationship have been made by the decision not to include dedicated Māori seats on the new Auckland Council.

A significant development pertaining to the relationship between the Crown and Tangata Whenua was New Zealand’s decision to support the UN declaration. While not legally binding, the declaration sets a significant standard for the treatment of indigenous people. It affirms that indigenous people have the same rights as everyone else: to culture, identity, language, employment, health, education and other factors integral to a dignified life.

The Office of Treaty Settlements maintained its momentum with a number of settlements. Hui between claimants and the Crown were held to discuss how best to meet the goal of completing all Treaty settlements by 2014. The most controversial matter relating to Treaty negotiations was the Cabinet’s decision in May 2010 that ownership of Te Urewera National Park would not be part of any settlement with Tuhoë.

Following a series of nationwide hui, the Government announced it would repeal the Foreshore and Seabed Act 2004 and pursue new legislation that replaced Crown

ownership of the public foreshore and seabed with a non-ownership model. The new regime would also restore the right of Māori to seek customary title through the courts or settlement negotiations.

The New Zealand Geographic Board voted to change the spelling of Wanganui to Whanganui, and the Minister for Land Information subsequently approved the use of both names.

The Government approved the rollout of the Whānau Ora initiative to advance the wellbeing of Māori, with an initial focus on the health sector.

Despite the recommendations of the Royal Commission on Auckland Governance, the Government confirmed its decision not to include three Māori seats on the new Auckland Council. The Human Rights Commission has emphasised the importance of increasing Māori representation and ensuring that the new council consider establishing Māori seats and continue previously established Treaty of Waitangi relationships.

A number of developments to which the Commission contributed involved some greater protection and promotion of the rights of Tangata Whenua. Alongside these were others that reflected the continuity of challenges to full realisation of the rights of Māori. Most significant of these were the impact of the economic recession and its deepening of longstanding economic and social inequalities.

CROWN–TANGATA WHENUA RELATIONSHIPS

The Commission has focussed on promoting constructive case studies highlighting good practice in Crown–Tangata Whenua relationships. This year, the Commission developed five case studies in collaboration with Tangata Whenua. The case studies were prepared following discussions with the parties in each relationship. Twenty-two case studies have been completed to date and posted on the Commission’s website.

One example was a profile of a relationship developed between a Child Youth and Family (CYF) and Whakatū marae in Nelson. A CYF social worker was placed on a

six-month secondment to the marae with the intention of creating a more cohesive relationship between the organisations and with whānau. This model was based on an understanding of best practice for Māori whānau and supported by a memorandum of understanding. It has been a successful collaboration for both parties.



DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

Since the adoption of the Declaration on the Rights of Indigenous Peoples, the Commission has used it to promote and protect indigenous rights, as well as clarify what actually constitutes indigenous rights. For instance, the

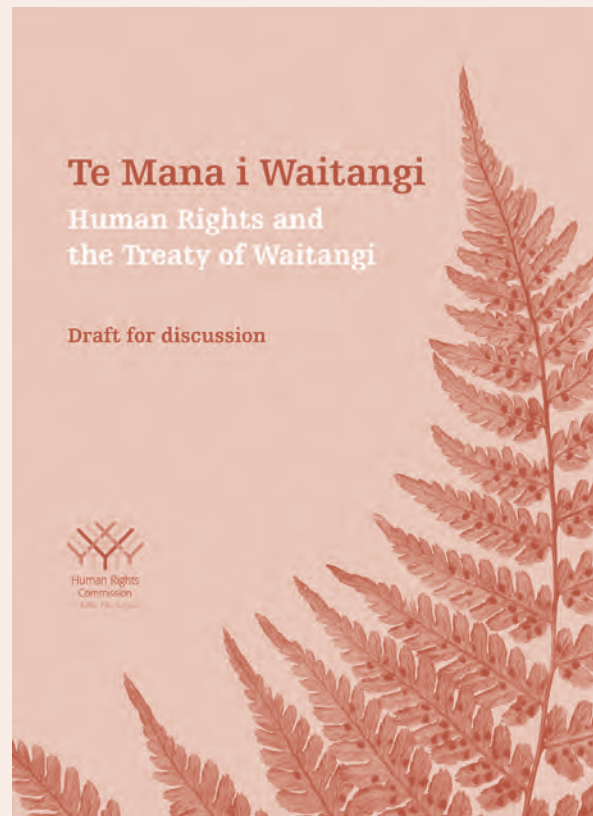
Commission has drawn on the declaration to clarify the rights of Tangata Whenua in a number of submissions, such as those on replacement legislation for the Foreshore and Seabed Act 2004, Māori participation in the new Auckland Council, and the debate over the spelling of Whanganui.

The Commission also promoted the Declaration by publishing an 'easy-to-use summary' in both Māori and English, which was made available online and posted out through the Commission's Te Mana i Waitangi network.

A representative from the Commission attended a UN workshop on the declaration in Thailand in December 2009. The focus of the workshop was on action and challenges at the country level. The workshop emphasised the opportunity to move towards stronger engagement by NHRIs in the implementation of Indigenous peoples' rights.

TE MANA I WAITANGI

The Te Mana i Waitangi network continues to grow and by the end of June it had 1505 participants. Over the year they received eight copies of the bilingual newsletter *Whitiwhiti Korero*, which provides information about a



range of contemporary Treaty and human rights issues. This year it has focussed on foreshore and seabed hui, support for the declaration, language issues and the *Review of Human Rights in New Zealand Today*.

An online survey of participants to ascertain the impact of the network was conducted in May with 134 respondents. They identified a number of strengths of the network and provided suggestions on how it could be improved.

HUMAN RIGHTS DIMENSIONS OF THE TREATY

A draft discussion paper on 'Human Rights and the Treaty' was produced and launched on Waitangi Day, 2010, to inform discussion on Treaty issues, and as a new chapter for the Commission's 2010 *Review of Human Rights in New Zealand Today*. The Commission subsequently conducted a series of consultation hui with Tangata Whenua, invited public comments, and hosted a roundtable discussion with Treaty experts about the issues raised by the discussion paper. The paper has been revised in light of this public consultation.

The Commission has developed a Te Mana i Waitangi Framework from its engagement with Tangata Whenua, both in communities and via the Te Mana i Waitangi network. The framework was developed to help people identify the human rights dimensions of the Treaty in a way that advances understanding and discussion. It is also aimed at helping the public sector apply the Treaty to their work practice.

TANGATA WHENUA ENGAGEMENT

The Commission has continued to implement its plan of engagement with iwi and hapū, and has held and participated in hui around the country. These engagements have not only strengthened the Commission's relationships with Tangata Whenua, but also contributed to the Commission's work both in revising the 'Human Rights and the Treaty' paper and developing the Te Mana i Waitangi framework.

FORESHORE AND SEABED

The Commission continued to respond to developments relating to the foreshore and seabed. In May 2010 the Commission made a brief submission in response to the government's proposals for a new foreshore and seabed regime. The Commission reiterated its previous position and called for greater consultation aimed at building consensus with Tangata Whenua and other New Zealanders.

International Connectedness

Kāpititia ā Taiao

GOAL

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

OVERVIEW

This year has seen the country undertake significant steps in acknowledging and monitoring its obligations under international human rights law and, in doing so, enhance New Zealand's reputation in global forums. There have been human rights developments in relation to civil and political rights, as well as the rights of Indigenous peoples, people with disabilities and people in detention. All of these areas have been a focus of the Human Rights Commission's work. Aspects of domestic human rights developments have attracted international interest and requests for New Zealand's involvement in supporting human rights initiatives across Asia and the Pacific. Internationally the Commission has been aware of the growing demands on national human rights institutions to actively contribute to the development of international standards and jurisprudence. The Commission has a role to play in building an effective relationship between national human rights institutions and international human rights monitoring mechanisms.

MONITORING INTERNATIONAL CONVENTIONS

This year, in addition to the regular monitoring of implementation of the international human rights treaties that New Zealand has ratified, the Commission's work has focussed in particular on the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of Persons with Disabilities (CRPD) and the Optional Protocol to the Convention against Torture (OPCAT).

The Commission has also reported to the Committee on the Elimination of Racial Discrimination on progress in implementing its most recent recommendations to New Zealand. The Commission has also responded to United Nations requests for information and analysis on eight

CONNECTEDNESS THIS YEAR

Developments that most visibly demonstrated the strengthening of domestic engagement with the international human rights framework included:

- **the Minister of Justice leading the New Zealand delegation to New York to present and be examined on New Zealand's fifth periodic report under the ICCPR by the UN Human Rights Committee on the progress of implementation**
- **the Government's statement of support for the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)**
- **the Government's invitation to Professor James Anaya, the UN's Special Rapporteur on human rights and fundamental freedoms of indigenous people, to review developments in New Zealand**
- **the Commission's hosting of the visit of Professor Ron McCallum, chair of the UN Committee on the Rights of Persons with Disabilities, to advise on the implementation of the CRPD**
- **additional funding in the 2010 budget to meet the requirements of Article 33 of the convention for implementation and monitoring**
- **outcomes from the year's implementation of the OPCAT.**

significant human rights issues, including the elimination of discrimination against women; the protection of the rights of children in the context of migration; the participation in decision-making of Indigenous peoples; practical means to address racism, racial discrimination, xenophobia and racial intolerance; and human rights education.

In its comprehensive review of human rights in New Zealand in 2010 (to be published in December 2010), the Commission is systematically assessing compliance with and implementation of all New Zealand's human rights treaty obligations. This review, coupled with developments on the Commission's website, will make it easier for citizens to track progress and engage on the issues.

Convention on the Rights of Persons with Disabilities

The Commission worked with key government agencies, members of the disability community and their organisations to understand the requirements of the CRPD as well as develop ways to monitor how effectively these are being applied. The Commission also established a Disability Experts Group to advise the Commission on the promotion, protection and monitoring of the rights and responsibilities set out in the convention.

Decisions announced by the Minister of Disability Issues at the time of Budget reflected a significant degree of alignment with the recommendations that the Commission had been making to the Government. (See also section 2, 'Disabled People')

Optional Protocol to the Convention against Torture

The second OPCAT annual report was tabled in Parliament in November 2009 and transmitted to the UN Subcommittee on the Prevention of Torture. The Human Rights Commission, designated under the Crimes of Torture Act 1989 as the Central National Preventive Mechanism, is responsible for co-ordinating the five designated national preventive mechanisms (NPMs), identifying systemic issues, liaising with the UN subcommittee and publishing the Annual Report. The four other NPMs are the Office of the Ombudsmen, the Independent Police Conduct Authority, the Office of the Children's Commission and the Inspector of Service Penal Establishments.

The OPCAT system, which involves monitoring places of detention by independent bodies, contributes to the State's ability to meet its obligations to prevent torture and ill treatment of people deprived of their liberty. The report on the second year's operations highlighted how the process was already beginning to identify and bring



about changes required to meet the standards of the Convention against Torture.

A consistent feature of the OPCAT experience has been the high level of co-operation provided by the detaining agencies and willingness to engage with the OPCAT process in order to achieve

positive improvements. NPMs have continued to receive referrals and co-operation from staff, who recognise the benefits and potential of the OPCAT mechanism to improve conditions, eliminate risks and prevent harm.

During this third year of implementation the practical changes that have resulted illustrate how the OPCAT process is working to protect the rights of those in detention and enhancing New Zealand's reputation for meeting its international obligations. Examples of changes as the result of monitoring included:

- addressing individual situations – identified through complaints analysis or during visits
- significant changes within an institution – e.g. an OPCAT visit to one prison found that unlock hours were inadequate and the practice of prisoners eating in cells in close proximity to toilets was unhygienic and unacceptable. The prison took on board the recommendations, resulting in increased unlock hours and resumption of use of the prison dining room for meals
- nationwide improvements – e.g. introduction of a 'suggestion box' initiative and provision of new mattresses throughout CYF residences.

OPCAT monitoring was used proactively to assess new initiatives. In light of the potential human rights implications of increased double-bunking and development of a 'container' unit, the Office of the Ombudsmen conducted OPCAT visits to each of the sites concerned prior to their opening. The Ombudsmen were thus able to provide

assurance that the necessary processes and procedures were in place to minimise any issues around the management of prisoners, as well as their safety, security, dignity and privacy.

A number of other thematic issues have been highlighted:

- physical conditions in older facilities – the findings of OPCAT visits have highlighted inadequate conditions in some of the older facilities in particular, and the need for substantial investment in order to bring them up to standard
- use of restraints – any use of force, personal searches or mechanical restraints represents a significant interference with individual rights and freedoms. Accordingly human rights standards require stringent safeguards and restrictions around their use. OPCAT visit findings have highlighted some issues around the legislative basis, policies and practices regarding use of restraints and searches of people in detention
- health issues – adequate provision of health and mental health services poses a number of challenges, particularly in light of the health needs of many people in detention

Liaison between NPMs has developed this year. At the regular meetings there is a focus on strengthening professional practice by discussing experiences and challenges as they arise. Each of the NPMs is also drawing on staff from other NPMs to participate in monitoring of visits. With the support of the Asia-Pacific Forum of national human rights institutions (NHRIs) and the international Association for the Prevention of Torture, the Commission was able to bring two experts to New Zealand for a workshop with NPMs and meetings with government agencies on developments to date, any desirable changes and priorities for future development.

The New Zealand model of ‘multiple mechanisms’ with a central co-ordinating body is continuing to create interest internationally. The Commission was asked to provide a representative to take part in OPCAT symposia in Japan, South Korea and Australia as part of those governments’ consideration of OPCAT ratification.

International Covenant on Civil and Political Rights

Examination of New Zealand’s fifth report on its implementation of the International Covenant on Civil and Political Rights (ICCPR) took place in New York at the UN Rights Committee in March this year. In addition to reviewing and commenting on the Government’s report at its request, the Commission had prepared a separate issues paper for the UN committee highlighting significant achievements and identifying key issues requiring further attention.

The Commission welcomed the decision of the Minister of Justice to lead the government delegation as a signal of the seriousness with which the Government views its international human rights obligations and the value it recognises in the process of external expert scrutiny. Candour in his assessment of where New Zealand met the international standards as well as where improvements were required and a willingness to engage in constructive discussion with the Committee experts were notable features of the minister’s presentation.

The Commission was represented at the committee session by the EEO’s Commissioner, Dr Judy McGregor, and its Principal Legal and Policy Advisor. They were able to respond to requests from the committee for supplementary information and further analysis, and engage with the government delegation and the civil society organisations participating.

The committee’s findings and recommendations generally reflected the Commission’s analysis of civil and political human rights priorities in New Zealand today. They acknowledged a number of achievements, such as efforts to reduce violence against children and young people; adoption of the Civil Union Act 2005; and ratification of the CRPD and the OPCAT. Areas the committee identified as requiring action included legislating to give full effect to all covenant rights; further encouraging the participation of women in public and private sector high-level and managerial positions; ensuring counter-terrorism legislation is fully compliant with the covenant and not applied in a discriminatory manner; reducing the over-representation of Māori, in particular Māori women, in prisons; and extending the mandate of the Human

Rights Commission to cover immigration laws, policies and practices. The committee also welcomed the Government's initiatives for constitutional reform, which aims to give greater effect to the Treaty of Waitangi, and stresses the importance of effective consultation.

Strengthening regional and international human rights protections

The Commission's ability to work more effectively to improve the realisation of human rights in New Zealand has been improved by its direct engagement with the international human rights system on those issues that are particularly relevant to New Zealanders. Further membership of the Asia-Pacific Forum of national human rights institutions (APF) and the International Co-ordinating Committee of national institutions for the promotion and protection of human rights (ICC) has provided the Commission with opportunities to draw on others' experience and expertise; offer professional development opportunities to staff; and bring experts to New Zealand to engage with government, the Commission and civil society.

This year the Commission's contributions to strengthening global respect for international human rights law have focussed on:

- the promotion and protection of human rights in the Pacific region in conjunction with the APF, including through a partnership with the Pacific Islands Forum
- collaboration with the Commission for Human Rights of the Philippines (CHRP) on the Philippines Indigenous Peoples' Human Rights Community Development Project
- the ICC, the global body representing NHRIs internationally and at the UN.

Pacific developments

This year the Commission consolidated strategic relationships with key agencies involved in the promotion and protection of human rights in the Pacific region. Central to this strategy is its partnership with the regional inter-government organisation the Pacific Islands Forum. The Commission and the Pacific Islands Forum Secretariat

(PIFS) have created the Partnership for Human Rights Capability Development project. The collaboration has provided impetus for an increased commitment by the PIFS to promote and protect human rights in the region. With support from both the Commission and the APF, a designated human rights advisor has now been appointed at the secretariat.

In collaboration with the Office of the High Commissioner for Human Rights (OHCHR), the Commission established the Pacific Human Rights Partners Forum, a regular regional inter-agency, NGO and civil society forum. This forum has helped organisations improve the co-ordination and effectiveness of aid development activities, and promote and protect human rights in the region. International donor agencies and embassy representatives are active participants.

Throughout the year the Commission continued to respond to regional requests for advice and assistance. This included collaborating with the Commonwealth Secretariat in the delivery of a two-day seminar on how to establish a national action plan on human rights in the Solomon Islands.

In conjunction with the APF, the Commission responded to a number of requests for advice and assistance from Samoa and Nauru, particularly in relation to establishing NHRIs there.

This year the Commission completed a comprehensive three-year regional project aimed at increasing human rights expertise within Pacific news media organisations. In its third and final year the project held two major workshops: a post-tsunami editors' forum entitled 'Post-tsunami construction: What's the media's role?' and an environmental journalism workshop. The third activity this year, and a lasting outcome of the project, was the development of the Pacific Media Human Rights website.

The Commission completed the third phase of the Philippines Indigenous Peoples' Human Rights Community Development Project. Developed in collaboration with the Commission for Human Rights of the Philippines (CHRP), it aimed to strengthen the ability of indigenous communi-

ties to identify and confront human rights abuses; encourage the integration of human rights into the practices of the police and military in those communities; develop a community development model for three selected indigenous communities that could be adapted for other communities.

The project involved participating indigenous communities identifying their own human rights priorities and, among other things, engaging directly with government agencies, specifically those that might have violated their human rights in the past. This included representatives from local and national government agencies, the military and the police. A full evaluation of the outcomes of the three-year project will be completed by the end of 2010.



The Commission hosted representatives from indigenous Philippines communities on their New Zealand visit as part of a community-development and human-rights training project funded by NZAid.

International Co-ordinating Committee of National Institutions for the Promotion and Protection of Human Rights

The ICC contributes to the strengthening of national and global respect for international human rights law in two particular ways. First, it emphasises the requirement for NHRIs to meet the UN 'Paris Principles' and supports them in a variety of ways to improve their effectiveness in promoting and protecting human rights at the national level. In conjunction with the UN Office of the High Commissioner for Human Rights it undertakes the accreditation of national institutions in accordance with the 'Paris Principles'. Second, it promotes the role of national institutions within the UN as sources of authoritative human rights information and analysis about what is happening at the national level, thus enabling the international human rights mechanism to be more relevant and effective.



In March 2010, on the nomination of the Asia-Pacific region, Chief Commissioner Rosslyn Noonan was elected chair of the ICC. The focus of the ICC this year is on developing the ability of national institutions to undertake work on business and human rights, on the UN Human Rights Council review and on supporting national institutions to contribute more widely to both the national and thematic work of treaty bodies.

Enquiries and Complaints

Ngā Tono Me Ngā Pātai

OVERVIEW

In the 12 months ending 30 June 2010, the Commission dealt with a record number of enquiries and complaints. The year has seen an increase in all three categories of approaches to the Commission.

In this period 8000 new human rights enquiries and complaints were recorded. Of these, 4647 requested the Commission to intervene and 1908 of the complaints featured an element of unlawful discrimination. There were 2795 requests for the Commission to engage in other ways than resolving a complaint.

These included requests for human rights training or legal and policy advice, and data requests from the media and other external sources such as government departments, students, universities and community organisations.

The Commission has broad powers to advocate for and promote human rights under section 5 of the Human Rights Act. These human rights matters do not have an element of discrimination but sit under the Commission’s legislative mandate for advocacy and promotion. This year the Commission dealt with 3574 of these human rights matters, compared with 2084 last year. Approaches under section 5 included, for example, issues relating to the right to education, the rights of migrant and seasonal workers, and freedom of speech.

Two incidents in particular accounted for the increase in enquiries and complaints to the Commission. There was a total of 831 approaches concerning racially offensive comments made by Hone Harawira in an email which

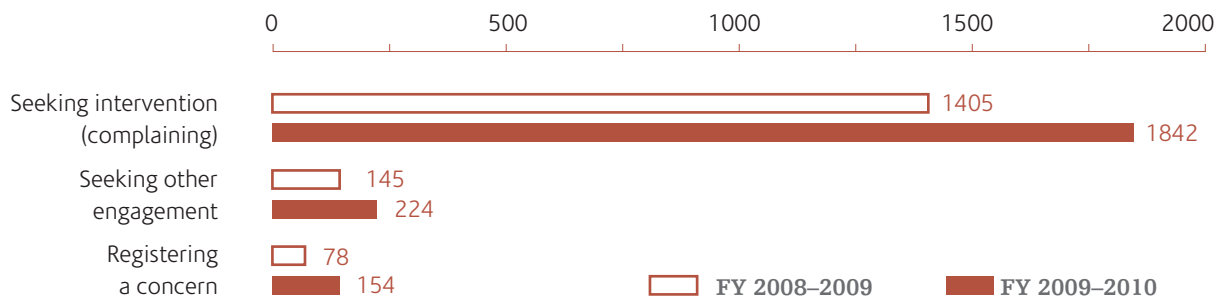
was made public. A total of 308 approaches were recorded to do with Paul Henry’s comments on morning television about labelling a person a “retard”, six of which were from people recording their support of Henry. The Commission responded to all approaches about both matters within three and two weeks respectively.

The Human Rights Act provides a statutory dispute resolution process for the management and resolution of complaints about unlawful discrimination. The process centres on mediation. The resolution of complaints invariably provides positive outcomes for the parties involved, increases awareness of rights and responsibilities, and has wider benefits for others in reducing discriminatory policies and practices.

Highlights of the wider benefits this year included:

- religious beliefs being accommodated by employers in several situations, where discussions about these alongside work needs have led to greater understanding
- several sexual harassment complaints being resolved with recognition of the need for anti-harassment policies and training to be put in place
- resolution of a number of education complaints where children with disabilities have been better accommodated at school
- resolution of complaints from people with disabilities about access and public transport, which improved access for all

UNLAWFUL DISCRIMINATION MATTERS



- application forms and interview procedures changed to focus more appropriately on the needs and skills of the job
- discussions and mediation to raise awareness of accessibility issues such as seating in theatres, holding public events on ground floor level, and advertising the proximity of accessible parking to events and venues
- changes in practice and policy in organisations, developments of codes of conduct, and commitments to undertaking anti-harassment or human rights training
- apologies, assurances and compensation (sometimes substantial) achieved for many individual complainants.

COMPLAINT MANAGEMENT

In 2009–2010, the Commission's dispute resolution team closed 1756 complaints that raised issues of unlawful discrimination. Of these:

- 53 per cent were closed after further assessment, mediator discussion and/or exploration of issues with the complainant. After discussion with a mediator, many complainants go on to resolve the dispute themselves or to take other action more appropriate to their dispute
- 22.5 per cent were resolved or partially resolved between the parties with mediator assistance
- 21 per cent were discontinued by one or other party. This can be because of changes in the complainants' circumstances or their withdrawal of the complaint; parties not engaging in mediation; complainants choosing not to proceed further on receipt of an initial response from the respondent; or complainants deciding to take the matter to the Human Rights Review Tribunal
- 3.5 per cent were found, on closer examination, to be outside discrimination jurisdiction.

Co-mediation with the Department of Labour mediation service has proven to be worthwhile where particular conditions exist and complaints involve employment and human rights jurisdictions. An example is where there have been outstanding pay issues and alleged constructive dismissal alongside disability and reasonable accommodation issues.

HOW COMPLAINTS ARRIVE

| Mode of contact | Number | Percentage |
|--------------------------|-------------|-------------|
| Infoline call | 2611 | 56.18% |
| Online complaint form | 956 | 20.57% |
| Email | 651 | 14.01% |
| Letters and faxes | 254 | 5.47% |
| Visit | 70 | 1.51% |
| Hard-copy complaint form | 58 | 1.25% |
| Duty mediator call | 24 | 0.52% |
| Community contact | 23 | 0.49% |
| Total | 4647 | 100% |

While parties always have the option to take an unresolved complaint to the review tribunal with or without the assistance of the Office of Human Rights Proceedings, they rarely do. The Commission's dispute resolution process frequently results in complainants having a better understanding of the legal and evidential merits of their complaints.

PERFORMANCE STANDARDS

The Commission exceeded its performance standards in dealing with enquiries and complaints. Ninety-five per cent of enquiries were closed within three working days, and 100 per cent received an initial response within this time. Eighty-three per cent of complaints were closed within three months and 93.5 per cent within one year. Quality standards are measured through feedback from questionnaires sent to all parties involved in mediation.

Of the 94 who returned the questionnaire:

- 95 per cent said the process was explained 'very well' or 'well'
- 95 per cent said the mediator facilitated in a 'very fair' or 'fair' manner
- 91 per cent said the issues were explored 'very well' or 'well' in mediation.

ACCESSIBILITY AND VISIBILITY

Human rights enquiries and complaints often involve people from the most vulnerable sections of society and the Commission is committed to enhancing access to its enquiries and complaints service and ensuring that complainants are appropriately supported. In this reporting year, developments have included:

- The collection of demographic details from complainants and callers has provided a profile of the people who come to the Commission and has helped to identify groups that may not be accessing the service.
- Mediators travelled widely to provide dispute resolution and have engaged translators and interpreters where necessary.
- A workshop session was held with 12 other complaint agencies to discuss challenges and share possible solutions to the accessibility of our services, particularly for people from Asian communities.
- Recognising that social media and electronic communication are growing as a primary means of communication, the Commission has updated its technology and practice in order to be able to respond quickly and effectively to matters received through this means.
- The ability to text complaints to the Commission was added to the range of ways to contact us.
- The Commission's on-line complaints form, available in plain English and six community languages, is increasingly used, with the first complaint in Chinese received this year.
- A number of responses to frequently asked questions that arise from broader human rights matters and enquiries and complaints have been developed and placed on the website.
- To increase visibility, an edition of *Te Rito* (25 case studies highlighting process and outcomes of unlawful discrimination complaints) has been published.

Technical enhancements have been made to enable better collection and extraction of demographic data about the people who make complaints to the Commission.

Gender information was collected from 82 per cent of people who made complaints to the Commission in the last year. A little more than half (51 per cent) of the complainants were male, 48 per cent were female and 1 per cent identified as 'other'. This differs from last year where the proportions for male and female were 48 per cent and 51 per cent respectively, reflecting Census data which shows that 51 per cent of the population is female and 49 per cent is male. Statistics New Zealand does not provide results for other gender categories.

This change in the proportions of male/female approaches is accounted for by the larger proportion of males who approached the Commission in relation to an email by MP Hone Harawira. Of more than 800 complaints and enquiries received, 65 per cent were made by males.

The breakdown of complainants by ethnicity, where this information is stated, is roughly in line with census figures, with an average of 65 per cent of complainants identifying as Pakeha or European (compared with 68 per cent in the Census), 16 per cent identifying as Maori (15 per cent in the Census), 9 per cent identifying as Asian (as in the Census) and 5 per cent identifying as Pacific peoples (7 per cent in the Census). Just over half of the people who made complaints to the Commission provided ethnicity information (51 per cent).

Regional data shows the majority of complaints come from the Auckland region, followed by Wellington, Canterbury, Bay of Plenty and Waikato – a pattern that reflected population distribution.

UNLAWFUL DISCRIMINATION COMPLAINTS AND ENQUIRIES BY GROUND

Thirty-four percent of all enquiries and complaints with an element of discrimination were related to the comments made by MP Hone Harawira in November 2009. Because this topic generated the highest number of approaches ever received on a single issue by the

Commission, inclusion of figures distorted the overall figures. Figures based on this issue have been excluded to produce a more valid year-by-year comparison.

Among single grounds of unlawful discrimination, disability was identified in the highest percentage of complaints (28.5 per cent, compared with 30.6 per cent last year) followed by sex (13.5 per cent) and ethnic or national origins (12.7 per cent).

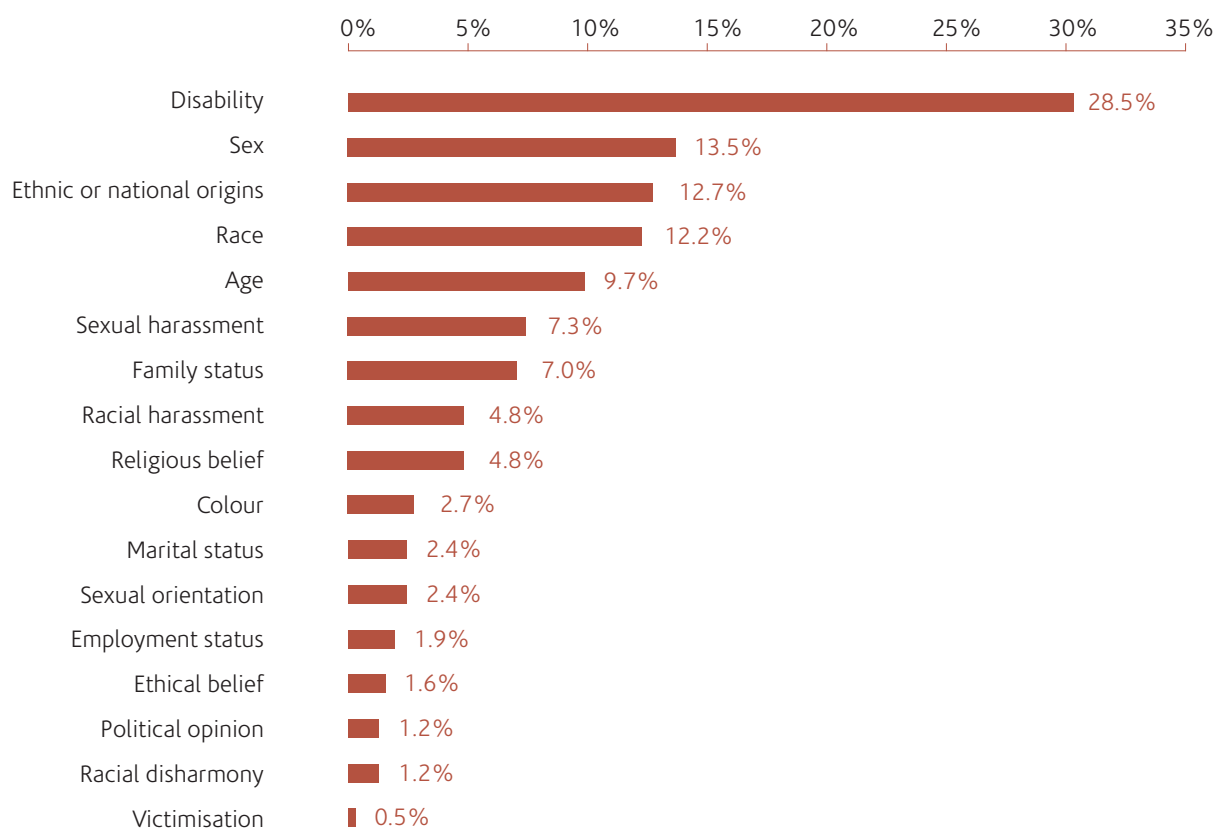
However, when the various grounds were consolidated, as was the case in previous years, race was the basis for the highest percentage of complaints, with 28.8 per cent – a slightly higher proportion than disability.

Race

Race-based complaints and enquiries (race, colour, ethnic or national origins, racial harassment and racial disharmony) showed that 28.8 per cent of enquiries and complaints received relating to unlawful discrimination had an element of race – the highest percentage in total. The proportion of race-related approaches rises to 53 per cent if the approaches relating to Hone Harawira are included.

Janice overheard her manager talking about Māori staff in a derogatory way to another manager. It made her feel unsafe at work and she was reluctant to continue working there.

**PERCENTAGE OF UNLAWFUL DISCRIMINATION APPROACHES BY GROUND 2009–2010
(EXCLUDING APPROACHES ABOUT HONE HARAWIRA)**



She outlined her concerns to management – both for herself and on behalf of other staff – and received an apology and a written reference.

Disability

A total of 28.5 per cent of all approaches were on the ground of disability – a figure slightly lower than for the previous year (30.6 per cent).

A deaf person complained that he did not have access to a telephone customer service in the same way as hearing people. At his suggestion, representatives from the company visited the NZ Relay Service’s operation centre in Auckland so they could better understand how the service worked. As a result of that meeting the company altered its procedures and now offers a telephone service to deaf customers who make their calls via NZ Relay. Now, a number of companies have made their telephone services accessible to deaf, hearing-impaired, deaf-blind and speech-impaired people by recognising the NZ Relay Service in their policy/procedures.

At the suggestion of a complainant who couldn’t use the internet for one of the company’s services, the company installed a ‘redirection process’ which enables customers who are blind to be connected to the database of the Royal New Zealand Foundation of the Blind. This enables confirmation of identity for visually impaired people who couldn’t otherwise provide online identification.

The proportion of disability complaints relating to public sector activity rose to 33.8 per cent in 2009–10, from 29.5 per cent the previous year, but the actual number of discrimination approaches in this area decreased from 147 to 142. Similarly, although the proportion of approaches

relating to employment increased from 24.9 per cent to 29.4 per cent, the number of approaches decreased by one from 124 to 123.

Sex

Taken alone, the ground of sex was the basis for 13.5 per cent of approaches – a rise from last year’s 11.5 per cent. When the grounds of sex, sexual harassment and sexual orientation are consolidated, they were the basis for 22.4 per cent of all approaches.

The Commission was contacted when a company investigated and upheld an employee’s complaints of bullying but not her allegation of sexual harassment. She felt the omission trivialised her experience. She left work and was diagnosed with post-traumatic stress disorder. Mediation resulted in a significant monetary award and an agreement that the company put in place anti-sexual harassment policies and training.

When a complainant announced the happy news of her pregnancy, she found some of her job tasks withdrawn and her hours cut back. Her employer believed lighter work was in her best interests but hadn’t thought about the effect on the complainant’s take-home pay.

Age

This year, 9.7 per cent of approaches were on the basis of age – marginally lower than the percentage last year. The proportion of age approaches in the area of government activity continued to rise this year, with 28.9 per cent (compared with 27.2 per cent in 2009–10, 24.5 per cent in 2007–08 and 17 per cent in 2006–07). Although approaches relating to government activity were the highest individual area, the combined related areas of employment and pre-employment were particularly high over the last year, accounting for slightly over half (51 per cent) of age discrimination approaches. This is an increase from 45.7 per cent last year and 42.7 per cent in 2007–08.

Religion and ethical belief

Just 4.8 per cent of approaches were on the basis of religious belief and 1.6 per cent on the basis of ethical belief (meaning the lack of a religious belief), compared with 4.2 per cent and 0.5 per cent respectively last year.

In two separate cases, employees were required to work days contrary to their respective religious beliefs. In both cases, after discussion with the mediator, the complainants approached their employers and discussed requirements for accommodation of religious belief. Both employers took the complaints seriously and issues around the religious obligations were resolved.

A local pool designated 'women's only' time as part of an initiative to encourage healthy communities. When some regular male swimmers objected, the pool manager explained that the initiative also particularly catered for Muslim and other women who would otherwise not be able to exercise and socialise in a public place. The swimmers accepted the reasoning.

UNLAWFUL DISCRIMINATION COMPLAINTS BY AREA

The Commission receives complaints under two broad areas, public-sector (part 1A) and private-sector activities (part 2).

Public sector

Complaints and enquiries against government policy, legislation and practice that might breach part 1A of the Human Rights Act totalled 374 this year. Of these, 37.7 per cent related to disability. The highest proportion (28.7 per cent) related to people having difficulty within the education sector. These approaches involved either schools or tertiary institutions and were to do with enrolment problems; children being suspended or excluded due to behaviours associated with their disabilities; and difficulties in children or adult students having their

disabilities accommodated. A further 27 per cent related to a race ground. As with disability approaches, the most common approaches were to do with education, accounting for 19 per cent of the part1A race-related approaches.

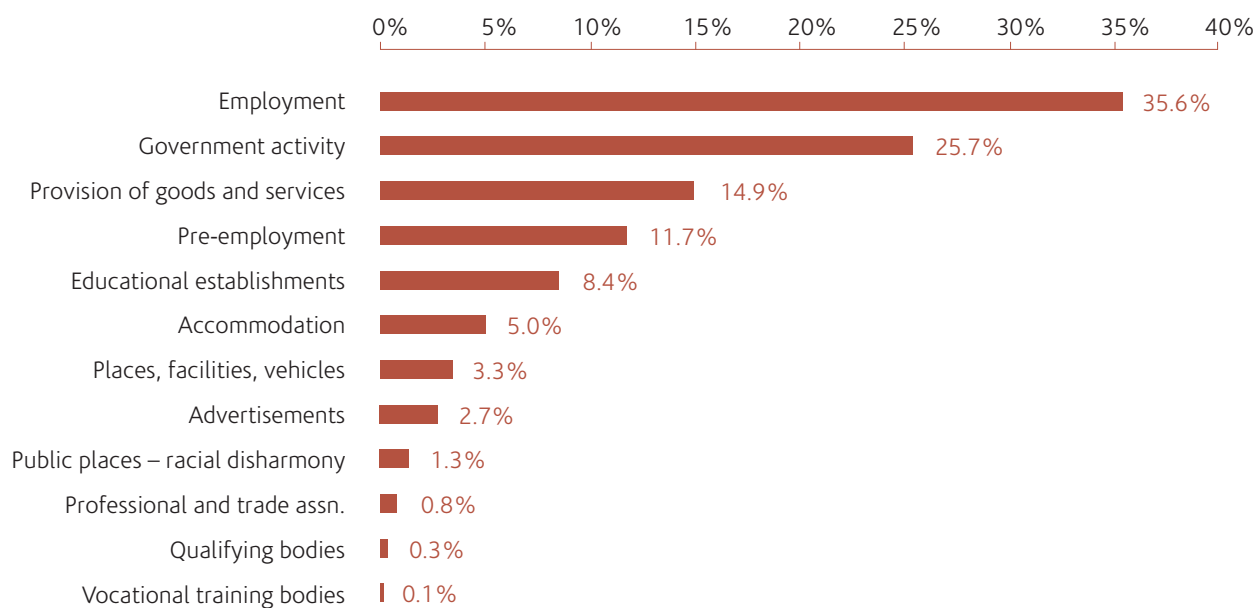
Suzie's daughter has autistic spectrum disorder (ASD). Suzie claimed that her daughter's special needs were not being met by her school and as a result she was suspended and eventually unlawfully excluded. Suzie felt the school was not managing the behaviour associated with this type of disability. The school considered that it did everything possible to accommodate the child's needs. In the end it felt the safety issues could no longer be ignored. In mediation, the parties agreed to renewed communication and a review of procedures with the Ministry of Education's assistance.

X arrived in New Zealand as a refugee when he was a young boy. When he wanted to become a taxi driver, he was declined a passenger endorsement because he was unable to produce documented proof from his country of origin that he had no traffic or criminal convictions. The Commission wrote to the NZ Transport Agency outlining X's special circumstances. Each case is different and assessed in light of the Agency's Foreign Jurisdiction Policy. Because X had arrived in New Zealand at an age before he would realistically have had convictions, the NZ Transport Agency agreed to grant X his passenger endorsement. It enabled him to apply for a taxi licence.

Employment

The most prominent area of complaint was employment, which on its own accounted for the highest proportion of discrimination approaches (35.6 per cent) – a rise from 31.4 per cent last year. When combined with pre-employment, these areas accounted for 46.1 per cent

UNLAWFUL DISCRIMINATION APPROACHES BY AREA 2009–2010



of approaches – higher than last year's 43 per cent. Of these complaints, 27.3 per cent related to one of the race grounds: 24.6 per cent to disability; 16.2 per cent to sex discrimination (with 30.4 per cent related to the three sex-related grounds); and 10.6 per cent to age discrimination.

Education establishments

Discrimination approaches related to access to educational establishments were slightly lower this year, accounting for 8.4 per cent compared with 9.8 per cent last year. Of these approaches, 44.7 per cent related to disability, which was a decrease on the 56.3 per cent received last year. Race grounds accounted for 24.4 per cent of the approaches – a small rise from 23 per cent last year.

A number of complaints were resolved through the provision of information, enabling people to either progress their concerns directly or with the low-level involvement of a mediator. Some matters were closed after exploration of the issue demonstrated that not all the elements of unlaw-

ful discrimination were present. However that process itself frequently clarified the issues and enabled other avenues of resolution.

Some complaints led to a broader Commission review of the particular issues of concern. For other complainants, expressing their concerns to decision and policy-makers through mediation provided the resolution needed. Others received outcomes enabling, for example, participation in a relevant review.

For some, while concrete steps were taken to address many of the complainant's concerns, the complainant still reserved their right to take the matter to the Human Rights Review Tribunal. Some matters were completely resolved for the parties.

INFOLINE ENQUIRIES

The Commission's Infoline service is the gateway to the Commission. Public and agency approaches come through Infoline, in the first instance, to be responded to at that

point or referred either within the Commission or externally. Infoline closed 5227 matters over the year and referred 2839 to other teams within the Commission. In closing a matter, Infoline will have either assisted the caller to resolve the problem themselves by providing information and options for resolution or referred the matter to a more appropriate external agency.

OTHER HUMAN RIGHTS COMPLAINTS

Under section 5 of the Human Rights Act, the Commission has the role of promoting respect for, and encouraging understanding of, human rights in New Zealand society. The section provides the Commission with a range of functions to enable it to do this.

Of the 8000 enquiries and complaints received by the Commission over the reporting period, 6734 related to human rights issues other than discrimination. These complaints were resolved in a variety of ways including policy initiatives, provision of legal advice and intervention in legal proceedings. The Infoline service also provided general information and referral to other agencies where appropriate.

The complaints received included:

- beneficiaries concerned about the apparent omission to provide tax cuts in the recent Budget for people on benefits
- questions about alleged conflicts of interest when local government employees wished to stand for office or support a particular candidate in the local body elections
- the relationship between human rights and the Smoke Free Environments Act 1990 and the right to smoke in places of detention
- questions about how to complain about articles in the media which people found offensive but did not meet the threshold of section .61 HRA
- complaints about the adequacy of legal representation for people appearing at committal hearings

under the Mental Health (Compulsory Assessment and Treatment) Act 1992 in some areas

- questions from academics about the ethical implications of some types of research
- the criteria for qualification for the student loan scheme and the link with parental income.

Certain complaints – for example, those relating to changes to the ACC regime and their impact on certain groups – informed the Commission's policy work and contributed to the submission it made to the Select Committee on the Injury Prevention Rehabilitation and Compensation Amendment Bill. Others related to immigration and fell outside the Commission's jurisdiction, and were referred to the appropriate agency or mechanism.

At times the skills of the disputes resolution team were drawn on to resolve issues which required expertise to facilitate a conversation between two parties even though there was no evidence of discrimination but rather two conflicting views. An example was where customers believed they were treated differently in shops because of their race or religious or political affiliation.

Under section 5 the Commission can also make statements about compliance with the HRA and the New Zealand Bill of Rights Act 1990, and its advice is often sought about the legitimacy of proposed measures to ensure equality or the legality of clubs or services provided only for women or another prohibited group.

The process for identifying such complaints provides a mechanism that allows the Commission to identify emerging human rights issues or systemic issues (such as people with disabilities who feel victimised by aspects of the criminal justice system) and an opportunity to address them proactively rather than waiting for a complaint.

Organisational Health and Capability

Te Kaha Ora o te Kāhui

OVERVIEW

The economic climate and government expectations of the State sector required the Commission to undertake measures to manage within a static budget, and to measurably improve efficiency in its programme delivery.

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

Within this context, the Commission undertook a number of initiatives that have contributed to the strengthening of its organisational effectiveness, growing the capacity and capability of its people and the accessibility of its information and services. These included:

- enhanced performance management processes
- a continuing professional development programme, and policies to meet the Commission's responsibilities as a good employer
- 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

- initiatives to improve the accessibility of its services, including the provision of multilingual and multi-format resources and an online complaints form
- increasing and systematic engagement with community groups throughout New Zealand and with the private sector. This is through a number of programmes which improve the Commission's ability to understand their issues and concerns, and to discuss and respond to relevant human rights matters.

Along with targeted evaluations and improved planning, monitoring and financial systems, the 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 the Commission's early human rights assessments. The Commission also received an excellent 2009 audit assessment for its financial systems.

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

FINANCIAL POSITION

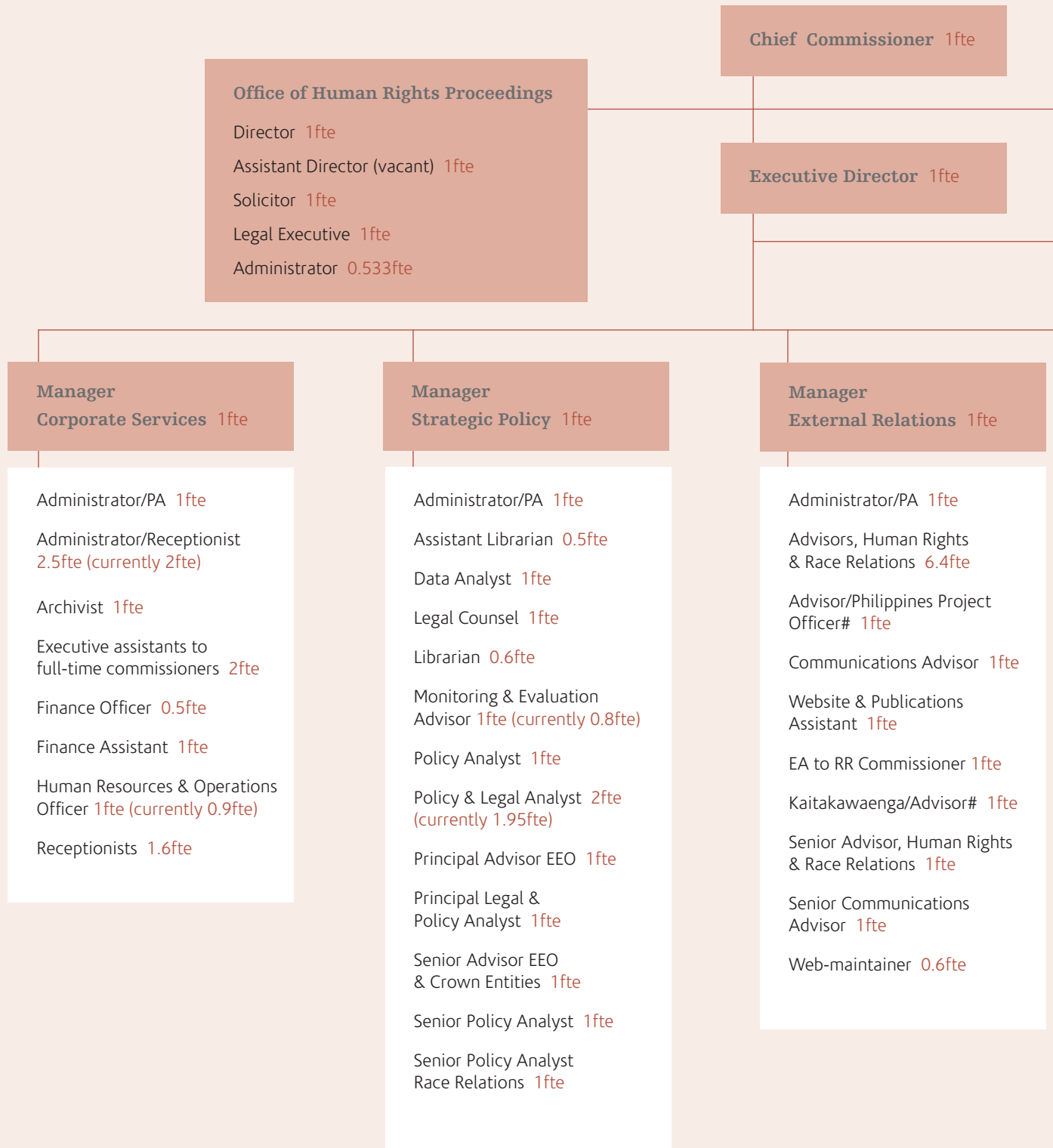
The Commission is a small, modestly resourced agency. A baseline review in 2006 realigned the Commission's cost base and structured its organisation and activities to best provide services, and to give effect to its statutory functions. In 2007, the Commission gained three-year funding, including some new or increased funding for specific activities, which enabled it to deliver its mandate with a measure of financial stability for the following two years. This allowed for an extension of its programme to build human rights capacity in the regions and rural areas of New Zealand and an increased number of legal interventions – a priority advocated by Ministry of Justice officials to increase New Zealand's human rights jurisprudence. The Commission has also begun to renew its obsolete IT infrastructure.

As agreed in the budget bid process, the Commission was using committed reserves, established to balance its current and out-year forecasting over the next three years. All committed reserves were to be used over this period, by 2010. The committed reserves are also required to provide funding for litigation undertaken when necessary by the Office of Human Rights Proceedings (OHRP). The office also provides a service to the Privacy Commission for privacy complaints, for which it receives no separate funding. Privacy cases have increased significantly since the establishment of the OHRP.

This year the Commission planned in accordance with government expectations of tight, realistic budgeting and in recognition of the predicted five years of public sector deficits. In this changed economic context, the Commission took steps to manage within its existing baseline for a further three years until 2013. In doing so, it has deferred some elements of its infrastructure development for which it was specifically funded. It has also committed to other measures, including achieving savings in personnel costs of three full-time equivalents and a 10 per cent reduction in its projects budget. The Commission made concentrated and successful efforts to reduce its overheads through shared services and robust contract negotiation, and has significantly increased the use of video-conferencing to reduce travel costs.

The Commission welcomed additional funding in Budget 2010 for its disability programme, which will be spent on an enhanced programme to support the full implementation of the Disability Convention.

THE HUMAN RIGHTS COMMISSION



Race Relations Commissioner 1fte
EEO Commissioner 1fte
Part-time Commissioners x5 (1 vacant)

Office of the Executive Director
 Principal Advisor, Race Relations 1fte
 Executive Assistant 1fte
 International Advisor# 0.8fte

Manager
Dispute Resolution 1fte

Administrator 1fte
 Infoline advisors 1.2fte
 Infoline Team Leader 0.8fte
 Mediators 6.06fte (0.7 vacant)
 Senior Mediator 1fte

Ahi Kaa
Kaiwhakarite 2fte

Kaitakawaenga/Advisor# 1fte
 Kaituitui/Administrator 1fte

= funded or part-funded through ODA
 fte = full-time equivalent

The Office of Human Rights Proceedings

Te Tari Whakataua Take Tika Tangata

OVERVIEW

The Office of Human Rights Proceedings has conducted a total of 77 human rights and privacy matters this year under the Human Rights Act 1993 and the Privacy Act 1993.

The year saw the Human Rights Review Tribunal signal its wish to review the general level of damages it awards, in a decision where the Director represented a plaintiff in a case involving sexual harassment in the workplace. The tribunal's award of \$10,000 to the plaintiff was the highest sum it has awarded under the Human Rights Act to date.

In January 2010 the tribunal's decision in favour of the plaintiffs against the Ministry of Health in what became commonly known as the 'Parents as Caregivers' case was viewed by the disability sector as a significant victory. The decision has been appealed and the Director of the Office of Human Rights Proceedings will continue to provide representation.

HUMAN RIGHTS ACT

In the reporting year 48 decisions concerning representation under the Human Rights Act 1993 were made. The Director agreed to provide representation to eight applicants, 28 applications were declined and six were referred back to the Human Rights Commission's Enquiries and Complaints Service for mediation. Four applications were withdrawn, one matter was settled, and in another matter, the earlier offer of representation was withdrawn when further information was provided by the applicant.

In the eight matters where the Director agreed to provide representation, the issues included:

- sexual harassment in employment
- political opinion in employment
- several respondents in an appeal to the High Court from a decision of the tribunal, relating to *Atkinson et ors v MOH*, which is reported fully below
- disability/race in accommodation

- an appeal to the Court of Appeal against a decision of the High Court, reported in detail below as *Attorney-General v Howard*
- a respondent in an appeal to the High Court from a decision of the tribunal. As reported below, in April 2010 the tribunal released a decision in sexual harassment proceedings; however both defendants have appealed the tribunal's decision to the High Court
- sex in employment – the case concerns a woman who was declined employment in the motor industry on the grounds of her sex. The employer appears to be raising the defence of 'genuine occupational qualification'.

PRIVACY ACT

In the reporting year a total of 29 decisions were made on matters that had either been referred by the Privacy Commissioner under section 77 of the Privacy Act 1993 or by the tribunal under Regulation 14 of the Human Rights Review Tribunal regulations. The Director agreed to either issue proceedings or intervene in nine cases, and four matters were settled. The Director declined to issue proceedings or intervene in 16 matters. Proceedings have been issued in six cases:

- three complaints about access to personal information held by the police
- access to personal information held by a credit reporting agency
- access to files held by the crown research institute Environmental Science and Research (ESR)
- collection of an individual's personal information from a third party and without that individual's consent, when there was no lawful purpose in doing so.

CASE HIGHLIGHTS

Atkinson et ors v MOH 8HRNZ 902 [2010]
NZHRR 1

The Human Rights Review Tribunal released its long-awaited decision in January 2010. The case was heard over several weeks in late 2008, and involved a challenge by the parents of profoundly disabled adult children to the



Jean and Stuart Burnett, plaintiffs in the 'Parents as caregivers' case.

Ministry of Health's policy of not paying family members to provide certain personal care to their children, where those children had been assessed as requiring care. The Ministry will fund external caregivers, but when the disabled person indicated a preference for his/her family member to provide those additional cares and/or supports, funding was not available to the family members. The Tribunal decided that this policy infringed the right to be free from discrimination on the grounds of family status, and further rejected the Ministry's argument that it was a justified limitation on the right to be free from discrimination. The Tribunal's decision received widespread media coverage and was hailed by many in the disability sector as a significant victory. The Ministry has appealed the decision to the High Court. The Director will represent the plaintiffs in the appeal.

DHRP v OD [2010] NZHRRT 3

In February 2010 the Tribunal released its decision in proceedings heard during December 2009 in relation to a claim by the Director against a health practitioner who refused a patient access to personal information he held about the patient. The facts were unusual and involved the health practitioner receiving personal information about patient A from patient B, with a request that it not be shown to patient A. Patient A learned of its existence and requested release of the personal information. The health practitioner considered that his ethical duties lay in favour of not releasing the information to Patient A. The Tribunal robustly disagreed, and affirmed the Privacy Act 1993 as a code which dealt with the circumstances in which personal information could be withheld, and that none of the withholding grounds applied to these facts. The Tribunal awarded the complainant \$7500 in general damages, and commented on the need for a review of damages awards, as well as the need for the Tribunal to take account of inflation when assessing damages by reference to earlier cases.

Attorney-General v Howard [2010] NZCZ 58

In 2009 the Annual Report noted the High Court's decision which disallowed the Attorney-General's application for leave to bring an appeal out of time against the Tribunal's first declaration of inconsistency under the Human Rights Act in relation to legislation in the case *Howard v Attorney General* [2008] NZHRRT 10.

The Attorney-General sought leave to appeal the High Court decision to the Court of Appeal. The Court heard the appeal in October and December 2009. In March 2010 it released its decision declining the Attorney-

General's appeal. This means the Tribunal's decision stands. The legislation was subsequently amended by Parliament to remove the discriminatory provisions.

EN v KIC [2010] NZHRRT 9

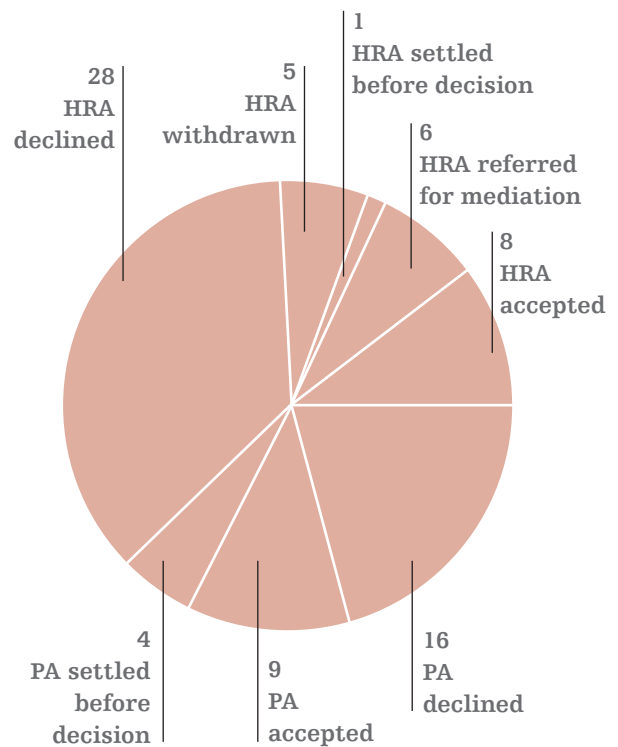
In April 2010 the Tribunal released a decision in a sexual harassment case. The case is significant for a number of reasons. Firstly, the fact that the award of general damages (\$10,000) was the highest made by the Tribunal in proceedings under the Human Rights Act alleging sexual harassment in the workplace. Secondly, the Tribunal made an order directing the defendants to attend Human Rights Commission training on sexual harassment prevention. Thirdly, the Tribunal signalled its wish to review levels of general damages awards with a view to these being increased in future. This was not such a case, as the defendants represented themselves. Such a review is best carried out following full adversarial argument by counsel.

The defendants have appealed the Tribunal's decision, and that appeal is awaiting a hearing before the High Court.

Henderson v Privacy Commissioner & Director of Human Rights Proceedings CIV 2009-485-1037

Judicial review proceedings had previously been issued against the Privacy Commissioner and the Director by a defendant (a health practitioner) in relation to proceedings brought by the Director against the health practitioner under the Privacy Act 1993. The health practitioner claimed that the Privacy Commissioner's investigation was flawed, and that this in turn infected the Director's decision to issue proceedings. It was also argued that the Director's decision-making process was itself flawed. In April

APPROACHES TO THE OHRP



2010 the High Court released its decision in the Judicial Review proceedings. It accepted some of the criticisms that had been made of the Privacy Commissioner's investigative processes, but upheld the referral to the Director and the Director's decision to issue proceedings against the health practitioner. The Director's proceedings against the health practitioner are now awaiting a hearing before the Tribunal. These proceedings involve a decision by the health practitioner to release patient information to the patient's employer, without that patient's authority.

Financial Performance

1 July 2009 to 30 June 2010

The statements of financial performance for the 12 months ended 30 June 2010 are attached to this report. The statements show a positive financial result for the year and a sound balance sheet at year end.

The Commission's focus during the year was on securing financial sustainability while still achieving its goals in organisational health and capability and programme delivery. The pressure on the public sector from the impact of the global economic recession remained high and demanded that the Commission further extend its ability to live within its committed reserves and not call on additional baseline funding for an extended period.

The Commission has used every effort to contain its costs and to generate more revenue where possible, and this has resulted in a favourable position for the year. Overall costs are lower than the budgeted amounts, largely due to extended scheduling of some project activities combined with realised cost savings.

Total revenue is slightly above budget but, when adjusted for the impact of the lower than anticipated revenue for the international work that it undertakes through the official development assistance programme, is at 103 per cent of budget. This is a result of the receipt of more interest revenue than anticipated and the receipt of a rent subsidy and sublease rental income from a change in tenancy arrangements during the year.

Two key areas of expenses – salaries and general overheads – are monitored closely against targets.

Salaries are closely monitored to be not more than 60 per cent of revenue, ensuring that the work programme can be adequately resourced. This target was achieved at 60 per cent of revenue and 99.6 per cent of budget.

Overhead costs were slightly above budget at 101 per cent, predominantly as a result of increased rental cost, although this is offset by additional sublease rental and rental subsidy revenue.

The Statement of Financial Position shows accumulated funds of \$3,846,722 and a good working-capital position. However, for the 2010–2013 programme to be funded

and delivered, a significant part of these funds will be drawn down.

The Human Rights Commission negotiates an annual MOU with the Ministry of Justice. An agreed-on schedule of outputs and the Commission's statement of intent are attached to this. The ministry has been notified that the Commission plans to draw on a large part of its reserves over the next three to five years to implement the programmes agreed on through the budget process.

ORGANISATIONAL GOALS

That the Commission improves its organisational health and capability:

- Staff are supported to develop their knowledge and skills.
- Quality systems are in place to plan, monitor progress, manage risks, knowledge and opportunities, and to evaluate the Commission's work.

That the Commission has quality relationships:

- The Commission is regarded by the Government, business, Tangata Whenua, the community sector and other key stakeholders as credible, trustworthy and relevant. The organisation is viewed as a source of quality analysis, comment and practical help.
- The Commission is regarded by the public as a source of information and practical assistance on human rights and discrimination, and as a guardian and champion of human rights for New Zealand and the region.
- The Commission is working successfully in partnership with other organisations, groups and individuals for shared outcomes.

Statement of Service Performance

1 July 2009 to 30 June 2010

The statement of service performance reports the Commission's performance against the key activities, standards and measures set out in the statement of intent for the previous year.

The Commission's outputs are determined by its range of statutory functions. The Commission categorises these as:

- promotion and education
- advocacy and protection
- enquiries and complaints
- human rights and privacy litigation.

They are presented as:

Key activities: what the Commission will do

Performance standards: the result of the activity

Performance measurers: how the Commission will measure and report its achievement of the performance standard.

Output: Promotion and education

This output involves engaging with communities and individuals to promote understanding, develop relationships and foster action to build community-wide respect, protection and fulfilment of human rights. In these activities, the Commission often acts as a catalyst and works in ways that encourage others to take action.

The Commission undertook to deliver an estimated 16 promotion and education programmes during 2009–10. This consisted of:

- developing, maintaining and supporting national networks
- developing and delivering education programmes
- organising and facilitating events
- planning, delivering and evaluating community development programmes.

> Strategic priority

Human rights in the community (human rights environment outcome area)

> Key activities

Local human rights capacity developed in the three Taku Manawa Programme regions

> Performance standard

Human rights education activities delivered across all regions

In Murihiku and Tai Tokerau, community organisations committed to delivering human rights activities.

> Performance measure

Thirty-five human rights activities delivered – regular participant evaluation shows increased knowledge of human rights and an enhanced partnership with the Commission

Partnerships developed with 12 community organisations.

Results

Sixty-four human rights education activities have been delivered including human rights workshops, presentations and education sessions, a human rights expo, an art exhibition, stalls and displays, fora, hui and media engagements.

Taku Manawa facilitators have participated in regular evaluations showing increased knowledge and application of human rights in their context and a stronger relationship with the Commission and the other facilitators.

External evaluators are currently undertaking a case study of the three programmes.

Twelve community partnerships and collaborations were developed.

- > Strategic priority

- New Zealand Diversity Action Programme (race relations outcome area)**

- > Key activities

- Leading and facilitation of the New Zealand Diversity Action Programme by maintenance and promotion of networks and events; and identification and publicising of good practice.

- > Performance standard

- The number of participants maintained and the quality of projects developed

- The diversity networks maintained and the number of members in diversity networks and subscribers to diversity newsletters increased

- Increased participation in the New Zealand Diversity Forum and positive feedback from participants.

- > Performance measure

- Annual participation by 250 organisations in Diversity Action Programme – annual review of race relations outlines examples of quality projects as case studies of good practice

- Network and newsletter statistics showing increase in members and subscribers – five diversity network e-newsletters published at least 10 times a year

- Diversity forum evaluation report showing increased participation and positive feedback.

Results

The 250 NZDAP participants renewed or registered by end of the calendar year under which NZDAP operates. They contributed 616 projects. *Tūi Tūi Tuituiā; Race Relations 2009* records the recipients of the diversity awards as case studies of good practice.

Five diversity network newsletters have been published 10 times this year.

The language network grew by 12 per cent with 803 members; the media network by 16 per cent with 497 members; the religious diversity network by 11 per cent with 595 members; and the refugee network by 34 per cent with 524 members. The NZDAP update network grew by 31 per cent with 488 members.

The forum report estimates that 4000 people attended sessions and associated events in 2009. In 2008 there were 32 sessions and associated events, with 1600 attending one or more sessions. For 2009 the number of sessions and associated events increased to 47. Forty-two people completed the evaluation questionnaire and indicated a high level of satisfaction. Separate feedback was received from the 26 participants at the National Forum on Public Libraries and Diversity, and informal feedback supportive of the forum was received from another 19 people afterwards. This included a letter from Ethnic Affairs Minister Pansy Wong, a key note speaker, regarding the success of the forum.

- > **Strategic priority**

- National Conversation about Work (Right to work outcome area)**

- > **Key activities**

- Ten regions in New Zealand visited to establish EEO issues for employers, unions, workers and the community.

- A summary report with recommendations produced by June 2010.

- > **Performance standard**

- Development of comprehensive benchmark of EEO issues, identification of future legislation, policy and practice options

- Establishment of relationships with employers, unions, workers and community agencies

- Report outlining major issues and key recommendations for improving EEO in the public and private sectors.

- > **Performance measure**

- Ten regional reports verified for accuracy, to reflect issues brought to the Commission

- NEON website contact list showing a 25 per cent increase in employer subscribers

- Summary report endorsed by the national conversation reference group.

Results

The national conversation was completed in this period. It is the Commission's largest ever work-related inquiry. It represents the views of over 3000 people in cities, provinces and rural communities around New Zealand.

Between July 2009 and June 2010 the Commission engaged with participants in 10 regions. Approximately 200 meetings were held with employers, workers and community agencies in a variety of industry sectors including agriculture, horticulture, viticulture, business services, retail, manufacturing, health services, and public- and private-sector enterprise.

Following each regional visit, reports were produced that reflected participant's views and summarised the employment issues faced. All reports were verified by participants and feedback was overwhelmingly positive.

An online video of 13 New Zealanders' work stories was produced for the NEON website, and face-to-face meetings and an electronic engagement strategy for submissions to the national conversation saw a number of disabled people not engaged in the paid workforce respond about their access to work.

The final national conversation summary report, produced in June 2010, is a comprehensive benchmark of EEO issues and outlines key recommendations. Ten top priorities for EEO have been established, including legislation, policy and practice options. These will inform the development of a new EEO framework. The standard of endorsement for the summary report moved from verification by a smaller reference group to endorsement by all participants.

The conversation's electronic engagement has helped increase the NEON website employer contact list by 62 per cent, from 247 to 653. Between March 2009 and June 2010, NEON website visits had increased from 14,839 to 33,283.

- > **Strategic priority**

- Treaty relationships (Te Mana i Waitangi outcome area)**

- > **Key activities**

- New publication that identifies and explains human rights elements of the Treaty of Waitangi

- Te Mana i Waitangi network maintained and strengthened.

- > **Performance standard**

- Identification and explanation of all key issues to invite involvement and meet international and domestic standards

- More participants in the network.

- > **Performance measure**

- Content and approach that satisfies external stakeholders

- Around 1500 participants in the network

- Online survey indicating strengths of network activity and ideas for improvement.

Results

A paper was published that identified the issues relating to the human rights dimensions of the Treaty of Waitangi. Feedback was received from 11 individuals and 17 groups and iwi, showing satisfaction with the process and content.

By the end of June 2010 the network had 1505 participants.

The online survey was carried out in May 2010, with 134 members taking part. The top four strengths of the network were identified as providing information; advocating for and promoting human rights; indigenous rights and the Treaty; and explaining Crown–Tangata Whenua relationships. Suggested improvements included more information about current and emerging issues; linking the Treaty to more human rights treaties; a calendar of coming events; and reflection on the contributions of rangatira who have passed on.

Output: Advocacy and protection

This output includes strengthening and protecting constitutional arrangements in accordance with human rights standards. This may involve enquiries into possible infringements of human rights; developing guidelines and voluntary codes of practice; investigating, monitoring and reporting on compliance with international human rights standards; and bringing proceedings and intervening in court proceedings. It also involves making submissions on bills before Parliament, presentations to parliamentary select committees, and developing discussion documents and reports.

The Commission undertook to deliver an estimated 12 advocacy and protection programmes, and made an estimated 40 submissions and policy interventions.

> Strategic priority

Human rights in government (Human rights environment outcome area)

> Key activities

Policy interventions in relation to draft legislation and policy, with significant human-rights implications.

> Performance standard

Quality interventions which reflect and promote the human rights approach.

> Performance measure

Meeting of internal quality standards

Annual selection of case studies that demonstrates the impact of interventions.

Results

A total of 68 policy interventions have been made over the year, meeting internal quality standards as follows:

Timeliness: Four extensions of time have been requested or granted.

Participation: Where appropriate and feasible the Commission provided opportunities for the views of government agencies, civil society, affected parties and the wider public to be taken into account. A number of submissions were developed after consultation with the most affected parties.

Thoroughness: Policy interventions are required to be evidence-based, accurate and based on comprehensive research and analysis. The Commission's internal checks and consultation with affected parties ensured this happened. The Review's online submission form included specific questions about inaccuracies and omissions. The Commission is consistently commended for the quality of its policy work

Accessibility: The Commission uses a variety of approaches to ensure its policy interventions are accessible to those people most affected. The Commission has developed an online accessibility policy and has developed an approach to using plain language for all of its publications and policy interventions

Value: The impact and value-added register demonstrates the impact of the Commission's advice and guidance on the development and assessment of laws, policies and programmes.

The selected case studies demonstrate the Commission's impact at both central government and territorial authority level.

> Strategic priority

Action Plan for Human Rights (Human rights environment outcome area)

> Key activities

Completion of research and consultation to identify issues.

> Performance standard

Research and consultation that covers key areas and identifies pressing human-rights issues.

> Performance measure

Consultation and agreement with stakeholders on the process and identification of issues.

Results

Research and a targeted consultation process have been carried out for the first stage of the development of the Action Plan: the *Review of Human Rights in New Zealand 2010*. With a staged production process allowing adequate time for consultation, the review will now be completed in December. It will provide the evidence base for the Action Plan, which will be developed from the review. Consultation on some chapters has been completed. The extent of the research and consultation processes for each chapter has depended on how much the situation has changed since the first review was produced in 2004; the importance of the human rights issues involved; and the availability of good quality, comprehensive information from other sources. Consultation included liaison with government agencies, the formation of an experts group in one area, roundtable discussions, community forums and hui, and formal and online submissions. This has enabled the Commission to establish that it has identified the most pressing issues, from the perspective of stakeholders.

The consultation process has included:

- informal consultation on an early draft of chapters to seek responses from relevant government departments
- formal public consultation over 6–8 weeks
- continued informal consultation
- consideration of all comments for inclusion in the chapter.

Consideration has also been given to the accessibility of the process. For example, the draft ('Rights of disabled people') chapter of the review was provided in eight alternative formats to make the consultation process as accessible as possible.

- > Strategic priority

- Disability Convention (disabled people outcome area)**

- > Key activities

- Development of a proposal for the independent monitoring of the convention

- Comprehensive assessment of progress towards land-transport services accessible by the public.

- > Performance standard

- A mechanism allowing for disabled people to participate as equal partners

- All major initiatives and programme plans included in the assessment.

- > Performance measure

- Support of proposed mechanism by the disabled peoples' organisations and disabled people consulted

- The Accessible Transport Action Committee's agreement with the assessment.

Results

The development of a mechanism for monitoring the convention that allows for the full participation of disabled people has been delayed because the Government has not yet formally designated the roles to protect, promote and monitor the convention. Budget 2010 broadly announced roles for the Commission, the Office of the Ombudsmen and a coalition of six disabled person's organisations. The three groups have begun discussions on the development of the mechanism. The Commission has formed a disability experts group comprising disabled people to assist it with the development of the *Review of Human Rights in New Zealand 2010* and implementing its independent report to the United Nations on the convention.

An assessment of progress towards achieving accessible public land transport services has been carried out, and the findings are incorporated in the 'Rights of disabled people' chapter of the review. The action committee has provided comprehensive comments which support the Commission's assessment and provide additional detail.

- > Strategic priority

- Monitoring of international conventions (international connectedness outcome area)**

- > Key activities

- Actively engagement with international and national monitoring of application of international human rights treaties in New Zealand, including the Commission's specific responsibilities for the monitoring of OPCAT.

- > Performance standard

- Systematic monitoring of New Zealand's reporting and the subsequent documenting of Treaty body recommendations

- Contributions to State reports, and if appropriate, provision of supplementary reports to the Treaty bodies

- Response to requests for contribution from the Human Rights Council and Treaty bodies

- Meeting of the commission's specific responsibilities to co-ordinate the monitoring of OPCAT.

- > Performance measure

- Production of reports which demonstrate the Commission's impact

- Evidence of internal documents to demonstrate progress by the Government

- Evidence of responses where sought

- Satisfactory progress report on national preventive mechanisms, and production of the Annual Report.

Results

The Government's seven key priorities for action presented in its universal periodic review to the UN Human Rights Council were all in accordance with the Commission's recommendations, and reflected feedback from the three consultation meetings held by the Ministry of Justice that the Commission assisted. In addition the Commission recommended that the Government support the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and take more action on reducing socio-economic disparities. The Government has since reported to the UN that it now supports UNDRIP.

The Commission has reviewed progress in implementing the 2007 recommendations of the Committee on the Elimination of Racial Discrimination's (CERD), and noted significant progress in the hearing and settlement of Treaty claims. It also noted that an independent ministerial panel had reviewed the Foreshore and Seabed Act.

The Commission commented on New Zealand's implementation of the International Covenant on Civil and Political Rights and made a presentation to the UN Human Rights Committee (UNHRC). The committee, in its concluding observations, identified several concerns for New Zealand to address which were advocated by the Commission, including the over-representation of Māori in prisons; the conforming of counter-terrorism legislation with New Zealand's international obligations; and the need for proper consultation with Māori in the review of the Foreshore and Seabed Act.

The Commission responded to requests for information from the Special Rapporteur on Education on the rights of migrants, refugees and asylum-seekers to education; the Office of the High Commissioner for Human Rights on Children and Migration; the Expert Mechanism on the Rights of Indigenous Peoples about the right to participate in decision-making; and the UNHRC about implementation of the Vienna Declaration and the Programme of Action.

The Commission has met its responsibilities under OPCAT. The collated annual report of the five NPMs to the Optional Protocol on the Convention against Torture (OPCAT) was tabled in Parliament in December and presented to the Subcommittee on the Prevention of Torture. Roundtable meetings of the NPMs have been held to co-ordinate activities and discuss emerging issues, and the NPMs report satisfactory progress. A series of meetings have been held with the NPMs and representatives of civil society to seek their views on key issues regarding the conditions and treatment of people in detention.

Output: Enquiries and complaints

The Commission has a statutory responsibility to deal with complaints of unlawful discrimination in the areas covered by the Human Rights Act. The Commission's Enquiries and Complaints Service provides a process for the effective and informal resolution of complaints of unlawful discrimination, and an information and referral service for enquirers on human rights matters.

The Commission expected to receive and manage 15,000 individual contacts initiated by members of the public during 2009–10, of which 6000 were predicted to be new human rights matters and 1600 would have an element of unlawful discrimination.

> Strategic priority

Disability Convention (Disabled people outcome area)

> Key activities

Provision of an enquiries and complaints service, in which:

- information is provided and referrals are made in relation to human rights matters
- unlawful discrimination complaints are resolved as efficiently, informally and cost-effectively as possible
- individual and organisational behaviour and practice change as a result of the dispute-resolution process.

> Performance standard

Enquiries responded to within three working days

80 per cent of complaints closed within one year and the situation advanced for the enquirer/complainant

95 per cent of complaints dealt with to agreed-on internal quality and timeliness standards

Changes to policies, procedures and practices as a result of this process.

> Performance measure

Feedback from enquirers and complainants, and timeliness reports from the database

Enquiries and complaints service that meets national human rights institutions' good-practice quality measures

Annual selection of case studies, demonstrating changes in policy, procedure and practice.

Results

In the 12 months to June 2010, 17804 approaches to the Commission were recorded. Of these, 8000 were new human rights matters, with 1908 having an element of unlawful discrimination. This number is larger than predicted because 1139 were in response to two matters which generated record numbers of approaches to the Commission.

Of all enquiries, 95 per cent were closed within three working days, and 100 per cent were responded to within this time.

Of all complaints, 93.5 per cent were closed within one year.

Quality standards were measured through feedback from questionnaires sent to all parties involved in mediation. Of those who returned the questionnaire:

- 95 per cent said the process was explained 'very well' or 'well'
- 95 per cent said the mediator facilitated in a 'very fair' or 'fair' manner
- 91 per cent said the issues were explored 'very well' or 'well' in mediation.

A comparison between the Australian Human Rights Commission good-practice measures for complaints and the New Zealand Commission's quality measures was undertaken to establish how well the Commission met good practice for NHRIs. This showed a consistency of approach. The Australian measures were developed with some benchmarking, including with some NHRIs. The Commission's measures are also consistent with those suggested by the International Council on Human Rights Policy for assessing the effectiveness of complaints processes.

Research undertaken over the 2009 calendar year identifies the number of cases which have specifically resulted in changes to policy, procedure and practice. Case studies printed in the Commission's booklet *Te Rito* also illustrate cases where systemic change has resulted, as well as examples where individuals have agreed that behavioural changes are needed.

Output: Human rights and privacy litigation

The Office of Human Rights Proceedings provides legal representation before the Human Rights Review Tribunal or related proceedings. Proceedings can be taken under either the Human Rights Act 1993 or the Privacy Act 1993.

> Quantity

The Director of Human Rights Proceedings will:

- provide legal representation before the tribunal or related proceedings for cases which the Director has decided meet the criteria in section 92 of the Human Rights Act
- provide representation of the Human Rights Commission in appropriate cases
- conduct an anticipated 70–90 human rights and privacy matters
- take proceedings under the Privacy Act 1993 in appropriate cases referred to the Director by the Privacy Commissioner
- intervene in appropriate proceedings under the Privacy Act 1993.

> Quality and timeliness

- 80 per cent of decisions on representation are made within 60 days of application
- 90 per cent of human rights and privacy matters are conducted to agreed-on internal standards.

Results

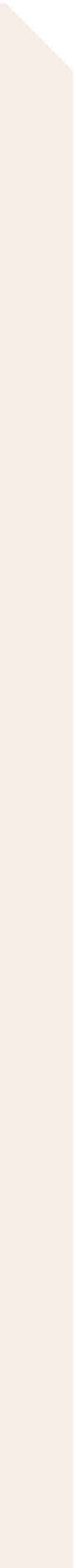
Seventy-seven human-rights and privacy matters were conducted and 41 per cent of decisions on representation were made within 60 days of the applications.

Considerable progress was made during the year with clearing the backlog of decisions. The turn-around time on decision-making is expected to improve over the next year. The predominant reasons for the target not being met were:

- the significant resources required in the Parents as Caregivers case
- matters now coming to the office under the Human Rights Act that involve more complex areas of law and policy than previously, for both part 1A and part 2 cases. Although part 2 of the HRA has been in force since 1997, the complaints coming to the office under part 2 are now focussing more on issues of justification rather than liability – those provisions are still relatively untested
- recognition that the target does not allow for the period from the point of application to when the office receives documents that it then requests from the Commission under section 82. In future, the target will be set as “decisions on representation made within 60 days of receipt of section 82 documents from the Commission”.

Of all human rights and privacy matters, 95 per cent were conducted to agreed-on internal standards:

- 100 per cent compliance with the Lawyers and Conveyancers Act 2006
- 100 per cent compliance with tribunal and court timetables
- 95 per cent of complainants being satisfied with decisions.



Statement of Comprehensive Income

for the year ended 30 June 2010

| Actual 2009 \$ | | Notes | Actual 2010 \$ | Budget 2010 \$ |
|--|---|-------|---------------------|---------------------|
| REVENUE | | | | |
| 9,163,000 | Revenue from Crown | | 9,277,000 | 9,277,000 |
| 729,679 | Official development assistance | 2 | 691,304 | 901,000 |
| - | Funding to support ICC Chair | 3 | 19,814 | - |
| 299,601 | Interest received | | 172,829 | 75,000 |
| 91,707 | Other income | | 151,015 | 2,000 |
| - | Gains | | 11 | - |
| 493,309 | Lease surrender incentive | | - | - |
| 10,777,296 | Total revenue | | 10,311,973 | 10,255,000 |
| EXPENSES | | | | |
| (6,202,178) | Employee benefit costs | 4 | (6,231,696) | (6,255,000) |
| (388,539) | Travel costs | | (367,835) | (367,000) |
| (1,940,111) | Overhead and other expenses | 5 | (1,953,687) | (1,936,000) |
| (837,060) | Projects | | (715,367) | (829,000) |
| (619,043) | Official development assistance | 2 | (578,781) | (901,000) |
| - | Support of ICC Chair | 3 | (19,814) | - |
| (114,434) | Depreciation & amortisation | | (217,157) | (264,000) |
| (8,122) | Losses | | - | - |
| (10,109,487) | Total expenses | 6 | (10,084,337) | (10,552,000) |
| 667,809 | Net surplus/(deficit) for the year | | 227,636 | (297,000) |
| - | Other comprehensive income | | - | - |
| 667,809 | Total comprehensive income | | 227,636 | (297,000) |
| Total comprehensive income is attributable to: | | | | |
| 667,809 | Human Rights Commission | | 227,636 | (297,000) |

Explanations of significant variances from budget are detailed in note 20.

The accompanying notes form an integral part of these financial statements.

Statement of Financial Position

as at 30 June 2010

| Actual 2009 | | Notes | Actual 2010 | Budget 2010 |
|--------------------------------|--------------------------------------|-----------|------------------|------------------|
| \$ | | | \$ | \$ |
| ACCUMULATED FUNDS | | | | |
| 3,619,086 | Human Rights Commission | | 3,846,722 | 2,082,000 |
| 3,619,086 | Total accumulated funds | 14 | 3,846,722 | 2,082,000 |
| CURRENT ASSETS | | | | |
| 495,697 | Cash & cash equivalents | 7 | 490,850 | 2,781,000 |
| 37,334 | OHRP bank account | 7 | 35,490 | - |
| 2,600,000 | Short-term deposits | | 3,200,000 | - |
| 1,257,788 | Debtors | 8 | 470,719 | 20,000 |
| 31,112 | Accrued revenue | | 39,801 | - |
| 281,059 | Prepayments | | 137,116 | 17,000 |
| 3,795 | Other receivables | 8 | 3,643 | 25,000 |
| 4,706,785 | Total current assets | | 4,377,619 | 2,843,000 |
| CURRENT LIABILITIES | | | | |
| 949,700 | Creditors | 9 | 238,075 | 416,000 |
| 546,470 | Employee entitlements | 10 | 571,192 | 595,000 |
| 78,330 | Other payables | 9 | 158,464 | - |
| 855 | Funds held in trust | 11 | 935 | - |
| 115,040 | GST payable | | 120,433 | - |
| 70,560 | Revenue received in advance | | 121,530 | - |
| 1,760,955 | Total current liabilities | | 1,210,629 | 1,011,000 |
| 2,945,830 | Working capital | | 3,166,990 | 1,832,000 |
| NON-CURRENT ASSETS | | | | |
| 768,757 | Property, plant & equipment | 12 | 729,354 | 240,000 |
| 17,020 | Intangible assets | 13 | 45,311 | 10,000 |
| 785,777 | Total non-current assets | | 774,665 | 250,000 |
| NON-CURRENT LIABILITIES | | | | |
| 32,420 | Revenue received in advance | | - | - |
| 80,101 | Employee entitlements | 10 | 94,933 | - |
| 112,521 | Total non-current liabilities | | 94,933 | - |
| 3,619,086 | Net assets | | 3,846,722 | 2,082,000 |

The accompanying notes form an integral part of these financial statements.

Statement of Changes in Equity

for the year ended 30 June 2010

| Actual 2009 | | Note | Actual 2010 | Budget 2010 |
|------------------|--|------|------------------|------------------|
| \$ | | | \$ | \$ |
| 2,951,277 | Opening accumulated funds | | 3,619,086 | 2,379,000 |
| 667,809 | Total comprehensive income | | 227,636 | (297,000) |
| 3,619,086 | Closing accumulated funds | 14 | 3,846,722 | 2,082,000 |
| | Total comprehensive income is attributable to: | | | |
| 667,809 | Human Rights Commission | | 227,636 | (297,000) |

The accompanying notes form an integral part of these financial statements.

Statement of Cash Flows

for the year ended 30 June 2010

| Actual 2009 | Note | Actual 2010 | Budget 2010 |
|--|---|------------------|------------------|
| \$ | | \$ | \$ |
| CASH FLOW FROM OPERATING ACTIVITIES | | | |
| <i>Cash was provided from:</i> | | | |
| 9,163,000 | | 9,277,000 | 9,277,000 |
| 152,879 | Other income | 1,667,903 | 918,000 |
| 299,601 | Interest on cash management | 164,139 | 60,000 |
| 197,767 | Goods & services tax (net) | 5,394 | - |
| <i>Cash was disbursed to:</i> | | | |
| (9,739,530) | Employees & suppliers | (10,315,092) | (10,288,000) |
| 73,717 | Net operating cash inflow | 799,344 | (33,000) |
| CASH FLOW FROM INVESTING ACTIVITIES | | | |
| <i>Cash was provided from:</i> | | | |
| 178 | Sale of property, plant & equipment | 270 | - |
| <i>Cash was disbursed to:</i> | | | |
| (2,600,000) | Short-term deposits | (600,000) | - |
| (636,320) | Purchase of property, plant & equipment | (168,007) | (236,000) |
| (18,503) | Purchase of intangible assets | (38,298) | - |
| (3,254,823) | Net investing cash outflow | (806,035) | (236,000) |
| (3,180,928) | Net increase/(decrease) in cash | (6,691) | (269,000) |
| 3,713,959 | Cash & cash equivalents at the beginning of the year | 533,031 | 3,050,000 |
| 533,031 | Cash & cash equivalents at the end of the year | 526,340 | 2,781,000 |
| RECONCILIATION OF CASH BALANCES | | | |
| 495,697 | Cash & cash equivalents | 490,850 | 2,781,000 |
| 37,334 | OHRP bank account | 35,490 | - |
| 533,031 | | 526,340 | 2,781,000 |

The GST (net) component of operating activities reflects the net GST paid and received with the Inland Revenue Department. The GST (net) component has been presented on a net basis because the gross amounts do not provide meaningful information for financial statement purposes.

Statement of Commitments and Contingencies

as at 30 June 2010

STATEMENT OF COMMITMENTS

The Commission leases office floor space and photocopier machines in the normal course of its business. These non-cancellable leases have termination dates and per annum lease payments as follows:

| Lease commitments | \$ p.a. | Until |
|---|------------------|------------------|
| Auckland | 384,467 | May 2011 |
| Wellington | 268,902 | April 2015 |
| Christchurch | 64,054 | July 2015 |
| Photocopier machines | 75,804 | November 2014 |
| Term classification of commitments | 2010 | 2009 |
| Less than one year | 738,630 | 786,293 |
| One to five years | 1,532,436 | 1,890,023 |
| More than five years | 5,338 | 278,786 |
| | 2,276,404 | 2,955,102 |

The Commission has a right to renew its leases of the Wellington office space for a further three-year term from April 2015, and the Christchurch office space for a further six-year term from July 2015. But it does not have any right to renew any other leases at their expiry, nor any option to purchase any of the assets at the end of the terms.

There are no restrictions placed on the Commission by any of the leasing arrangements.

The Commission has entered into a sublease arrangement as sublessor of part of its Wellington office space. As part of the terms of the sublease, the sublessee has undertaken a commitment to pay the following rental to the Commission:

| Sublease income | \$ p.a. | Until |
|---|----------------|----------------|
| Wellington | 33,905 | April 2015 |
| Term classification of commitments | 2010 | 2009 |
| Less than one year | 33,905 | 33,905 |
| One to five years | 128,259 | 135,620 |
| More than five years | - | 33,905 |
| | 162,164 | 203,430 |

Capital commitments

Nil (2009: nil)

STATEMENT OF CONTINGENCIES

The Commission is subject to a 'make good' clause in its accommodation lease contracts for the Auckland, Wellington and Christchurch offices. This clause, if invoked, would require the Commission to remove all leasehold improvements and leave the premises in a state not dissimilar to that received at the time it moved into the premises. At balance date, the Commission's intention into the foreseeable future is to continue leasing the premises. The likelihood of this clause being invoked is unknown, as is the cost of fulfilling the clause.

Other than that stated above, no contingencies are known to exist at balance date (2009: same).

Notes to the Financial Statements

for the year ended 30 June 2010

1. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES FOR THE YEAR ENDED 30 JUNE 2010

Reporting entity

The Human Rights Commission (the 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 the justice vote. The Commission prepares financial accounts which are audited by the Auditor-General and submitted to Parliament. The Commission prepares its Annual Report to the Minister of Justice on the exercise of its function during the year. A copy of the report is also being laid before Parliament.

The financial statements of the Commission are for the year ended 30 June 2010. The financial statements were authorised for issue by the Chief Commissioner, Audit Committee Chairperson and Executive Director on 29 October 2010.

The financial statements cannot be altered after they have been authorised for issue.

Basis of preparation

Statement of compliance

The financial statements of the Commission have been prepared pursuant to section 154 of the Crown Entities Act 2004, which includes the requirement to comply with New Zealand generally accepted accounting practices (NZ GAAP). Specific disclosures under section 152 of the Crown Entities Act 2004 are disclosed in the notes to the financial statements.

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

The accounting policies set out below have been applied consistently to all periods presented in these financial statements.

Measurement base

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 – these are presented in New Zealand dollars. The functional currency of the Commission is New Zealand dollars.

Changes in accounting policies

There have been no changes in accounting policies during the financial year.

The Commission has adopted the following revisions to accounting standards during the financial year, which have had only a presentational or disclosure effect:

NZ IAS 1 *Presentation of Financial Statements (Revised 2007)* replaced NZ IAS 1 *Presentation of Financial Statements* (issued 2004). The revised standard requires information in financial statements to be aggregated on the basis of shared characteristics and introduces a statement of comprehensive income. The statement of comprehensive income will enable readers to analyse changes in equity resulting from non-owner changes separately from transactions with owners. The Commission has decided to prepare a single statement of comprehensive income for the year ended 30 June 2010 under the revised standard. There has been no material effect on the financial statement information as a result of adopting this standard.

STANDARDS, AMENDMENTS AND INTERPRETATIONS ISSUED THAT ARE NOT YET EFFECTIVE AND HAVE NOT BEEN EARLY ADOPTED

Standards, amendments and interpretations issued but not yet effective that have not been early adopted and are relevant to the Commission include:

NZ IFRS 9 *Financial Instruments* will eventually replace NZ IAS 39 *Financial Instruments: Recognition and Measurement*. NZ IAS 39 is being replaced through the following three main phases: Phase 1 Classification and Measurement, Phase 2 Impairment Methodology, and Phase 3 Hedge Accounting. Phase 1 on the classification and measurement of financial assets has been completed and has been published in the new financial instrument standard, NZ IFRS 9. This uses a single approach to determine whether a financial asset is measured at amortised cost or fair value, replacing the many different rules in NZ IAS 39. The approach in NZ IFRS 9 is based on how an entity manages its financial instruments (its business model) and the contractual cashflow characteristics of the financial assets. The new standard also requires a single impairment method to be used, replacing the many different impairment methods in NZ IAS 39. The new standard is required to be adopted for the year ended 30 June 2014. The Commission has not yet assessed the effect of the new standard and expects it will not be adopted early.

Revenue

Revenue is measured at the fair value of consideration received.

Revenue from the Crown

The Commission is primarily funded through revenue received from the Ministry of Justice for the provision of outputs set out in the memorandum of understanding signed by the Chief Commissioner and the Minister of Justice. Revenue from the Crown is recognised as revenue when earned and is reported in the financial period to which it relates.

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 commencement 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 surplus or deficit.

Cash and cash equivalents

Cash includes cash on hand and funds on deposit at banks with an original maturity of three months or less.

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 method, less any provision for impairment.

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 cashflows, 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 surplus or deficit. 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 transaction dates. 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 surplus or deficit.

Property, plant and equipment

Property, plant and equipment consist of motor vehicles, equipment, furniture and fittings, leasehold improvements, and library books.

Property, plant and equipment are shown at cost or valuation, less any accumulated depreciation and impairment losses.

Additions

The cost of an item of property, plant and equipment is recognised as an asset, if future economic benefits or service potential associated with the item will probably 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 surplus or deficit.

Subsequent costs

Costs incurred after initial acquisition are capitalised only when future economic benefits or service potential associated with the item will probably 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 licences 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.

Trademarks

Trademarks are capitalised on the basis of the costs incurred to register the trademark with the Intellectual Property Office of New Zealand.

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 surplus or deficit.

The useful lives and associated amortisation rates of major classes of intangible assets have been estimated as follows:

| | | |
|-------------------|-----------|--------|
| Computer software | 3–5 years | 20–33% |
| Trademarks | 10 years | 10% |

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 surplus or deficit. A reversal of the impairment loss is also recognised in the surplus or deficit.

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 cashflows based on accrued entitlements at current rates of pay. These include 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.

Long-service leave and retirement leave have been calculated on an actuarial basis.

The calculations are based on the likely future entitlements accruing to staff, based on years of service, years to entitlement, the likelihood that staff will reach the point of entitlement and contractual entitlements information. They are also based on the present value of the estimated future cashflows.

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 recognised as an expense in the surplus or deficit as incurred.

Defined benefit schemes

The Commission currently 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
- 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 are 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 are 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 cashflow in the statement of cashflows.

Commitments and contingencies are disclosed exclusive of GST.

Income tax

The Commission is a public authority and therefore is exempt from the payment of income tax. Accordingly, no charge for income tax has been provided for.

Budget figures

The budget figures are those included in the Commission's Statement of Intent and subsequent MOU for the financial year being reported on. They were prepared in accordance with good management practice.

Cost

Direct costs are those directly attributable to an output – they are charged to the relevant project activity and reported in the statement of comprehensive income as project expenditure.

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 judgments 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. The estimates and assumptions that have a significant risk of causing material adjustment to the carrying amount of assets and liabilities within the next financial year are discussed below:

Useful lives of property, plant and equipment and intangible assets

Management has made an estimate as to the useful lives and residual amounts in respect of property, plant and equipment and intangibles. Notes 12 and 13 detail the carrying amounts of property, plant and equipment and intangible assets respectively.

Critical judgments in applying the Commission's accounting policies

No critical judgments of a material nature were made by management in applying the Commission's accounting policies.

2. OFFICIAL DEVELOPMENT ASSISTANCE

The Commission receives project funding from the New Zealand Agency for International Development's (NZAID) Official Development Assistance (ODA) fund for the provision of human-rights advice, expertise, and other relevant activities in the Asia and Pacific regions. Income is recognised when the reimbursement of actual and reasonable costs incurred in implementing the project activities is charged back to NZAID and drawn down against the funding provided for in each project's MOU between NZAID and the Commission.

3. FUNDING TO SUPPORT ICC CHAIR

On 26 March 2010 the Chief Commissioner, Rosslyn Noonan, was elected Chair of the International Co-ordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). This appointment does not attach to the position of Chief Commissioner of the New Zealand Human Rights Commission. All costs associated with this role are funded from the ICC and should have no impact on the finances of the Commission. In addition, the Commission has received funding from the Asia Pacific Forum (APF), an international human-rights body, to fund the provision of the additional administrative support required to enable the Chief Commissioner to undertake this role.

4. EMPLOYEE BENEFIT COSTS

| | 2010 | 2009 |
|--|------------------|------------------|
| Salaries and wages | 5,830,285 | 5,596,719 |
| Employer contributions to defined contribution plans | 42,162 | 37,730 |
| Increase/(decrease) in employee entitlements | 39,554 | 109,034 |
| Other | 319,695 | 458,695 |
| Total employee benefit costs \$ | 6,231,696 | 6,202,178 |

Employer contributions to defined contribution plans include contributions to KiwiSaver, the Government Super-annuation Fund and the National Provident Fund.

5. OVERHEAD AND OTHER EXPENSES

| | 2010 | 2009 |
|---|------------------|------------------|
| <i>Fees to auditor:</i> | | |
| Audit of the financial statements | 31,278 | 29,964 |
| Audit-related fees for assurance and related services | - | - |
| Fees for tax and other services | - | - |
| Operating lease payments | 778,114 | 792,571 |
| Other costs | 1,144,295 | 1,117,576 |
| Total Overhead and other expenses \$ | 1,953,687 | 1,940,111 |

6. EXPENSES CLASSIFIED BY COST CENTRE

| Cost Centre | Employee | | | | Employee | | | |
|-----------------------------|------------------|----------------|------------------|-------------------|------------------|----------------|------------------|-------------------|
| | Benefits | Travel | Other | Total 2010 | Benefits | Travel | Other | Total 2009 |
| Ahi Kaa | 283,081 | 28,116 | 12,826 | 324,023 | 308,977 | 26,284 | 26,761 | 362,022 |
| Commissioners | 960,064 | 133,900 | 38,746 | 1,132,710 | 962,759 | 157,406 | 33,312 | 1,153,477 |
| Corporate Services | 850,424 | 21,356 | 1,864,407 | 2,736,187 | 814,437 | 25,246 | 1,793,586 | 2,633,269 |
| Disputes Resolution | 800,237 | 26,151 | 24,672 | 851,060 | 805,709 | 11,815 | 24,912 | 842,436 |
| Executive Director's Office | 384,956 | 44,692 | 17,185 | 446,833 | 467,523 | 34,895 | 77,531 | 579,949 |
| External Relations | 1,314,504 | 24,521 | 318,537 | 1,657,562 | 1,278,729 | 31,108 | 457,517 | 1,767,354 |
| Support for ICC Chair | - | - | 19,814 | 19,814 | - | - | - | - |
| Office of HR Proceedings | 430,248 | 39,861 | 266,739 | 736,848 | 470,599 | 44,390 | 196,950 | 711,939 |
| Official Dev. Assistance | - | - | 578,781 | 578,781 | | | 619,043 | 619,043 |
| Strategic Policy | 1,208,182 | 49,238 | 343,099 | 1,600,519 | 1,093,445 | 57,395 | 289,158 | 1,439,998 |
| Total \$ | 6,231,696 | 367,835 | 3,484,806 | 10,084,337 | 6,202,178 | 388,539 | 3,518,770 | 10,109,487 |

Costs are allocated across nine cost centres. Corporate Services includes the cost of all major overhead expenses such as rent, and Commissioners includes the cost of all overseas travel undertaken by Commissioners and guests of the Commission.

7. CASH AND CASH EQUIVALENTS AND OHRP BANK ACCOUNT

Cash and cash equivalents and OHRP bank account comprise solely cash at bank and on hand. Cash, and cash equivalents and OHRP bank account are stated at fair value.

8. DEBTORS AND OTHER RECEIVABLES

The carrying value of debtors and other receivables approximates their fair value.

As at 30 June 2010 there were no debtors past due. All receivables have been assessed for impairment and there is no impairment.

10. CREDITORS AND OTHER PAYABLES

| | 2010 | 2009 |
|--|----------------|------------------|
| Creditors | 238,075 | 949,700 |
| Other payables | 158,464 | 78,330 |
| Total creditors and other payables \$ | 396,539 | 1,028,030 |

Creditors and other payables are non-interest-bearing and are normally settled on 30-day terms, so the carrying value approximates their fair value.

10. EMPLOYEE ENTITLEMENTS

| | 2010 | 2009 |
|--|----------------|----------------|
| Current employee entitlements are represented by: | | |
| Annual leave | 550,554 | 530,834 |
| Retirement and long service leave | 20,638 | 15,636 |
| Total current portion \$ | 571,192 | 546,470 |
| Non-current employee entitlements are represented by: | | |
| Retirement and long service leave | 94,933 | 80,101 |
| Total non-current portion | 94,933 | 80,101 |
| Total employee entitlements \$ | 666,125 | 626,571 |

The liability for employee entitlements is carried at the present value of estimated future cash flows.

Two key assumptions used in calculating the retirement and long-service leave liability include the discount rate and the salary inflation factor. Any changes in these assumptions will impact on the carrying amount of the liability.

A discount rate of 6.00% was used, which reflects the expected long-term interest rate on government bonds. A salary inflation factor of 3.5% was used, which is the long-term annual increase in salaries and wages expected by the New Zealand Treasury.

11. FUNDS HELD IN TRUST

This liability is for monies held in trust by the OHRP as an independent intermediary in the transfer of funds from defendants to claimants who have been discriminated against.

12. PROPERTY, PLANT AND EQUIPMENT

| | Motor Vehicles | Equipment | Furniture & Fittings | Library | Leasehold Improvements | Total |
|---|-------------------|------------------|-------------------------|----------------|---------------------------|------------------|
| COST | | | | | | |
| Balance, 1 July 2008 | 107,579 | 1,487,125 | 594,410 | 115,052 | 357,234 | 2,5661,400 |
| Additions | - | 82,483 | 62,178 | - | 491,659 | 636,320 |
| Disposals | - | (62,793) | (30,000) | - | (94,222) | (187,015) |
| Balance, 30 June 2009 | 107,579 | 1,506,815 | 626,588 | 115,052 | 754,671 | 3,110,705 |
| Balance, 1 July 2009 | 107,579 | 1,506,815 | 626,588 | 115,052 | 754,671 | 3,110,705 |
| Additions | - | 85,422 | 23,571 | - | 59,013 | 168,006 |
| Disposals | - | (259) | - | - | - | (259) |
| Balance, 30 June 2010 \$ | 107,579 | 1,591,978 | 650,159 | 115,052 | 813,684 | 3,278,452 |
| ACCUMULATED DEPRECIATION & IMPAIRMENT LOSSES | | | | | | |
| Balance, 1 July 2008 | 85,325 | 1,292,868 | 581,641 | 115,052 | 346,349 | 2,421,235 |
| Depreciation expense | 7,137 | 77,921 | 6,930 | - | 11,790 | 103,778 |
| Impairment losses | - | - | - | - | - | - |
| Eliminate on disposal | - | (62,030) | (30,000) | - | (91,035) | (183,065) |
| Balance, 30 June 2009 \$ | 92,462 | 1,308,759 | 558,571 | 115,052 | 267,104 | 2,341,948 |
| Balance, 1 July 2009 | 92,462 | 1,308,759 | 558,571 | 115,052 | 267,104 | 2,341,948 |
| Depreciation expense | 6,719 | 69,679 | 19,417 | - | 111,335 | 207,150 |
| Impairment losses | - | - | - | - | - | - |
| Eliminate on disposal | - | - | - | - | -) | - |
| Balance, 30 June 2010 \$ | 99,181 | 1,378,438 | 577,988 | 115,052 | 378,439 | 2,549,098 |
| CARRYING AMOUNTS | | | | | | |
| At 1 July 2008 \$ | 22,254 | 194,257 | 12,769 | - | 10,885 | 240,165 |
| At 30 June and 1 July 2009 | 15,117 | 198,056 | 68,017 | - | 487,567 | 768,757 |
| At 30 June 2010 | 8,398 | 213,540 | 72,171 | - | 435,245 | 729,354 |

There are no restrictions over the title of the Commission's property, plant and equipment, nor are any assets pledged as security for liabilities.

13. INTANGIBLE ASSETS

| | Software | Trademarks | Total |
|---|---------------|--------------|---------------|
| COST | | | |
| Balance, 1 July 2008 | 343,371 | - | 343,371 |
| Additions | 18,503 | - | 18,503 |
| Disposals | (300,683) | - | (300,683) |
| Balance, 30 June 2009 \$ | 61,191 | - | 61,191 |
| Balance, 1 July 2009 | 61,191 | | 61,191 |
| Additions | 34,358 | 3,940 | 38,298 |
| Disposals | - | - | - |
| Balance, 30 June 2010 \$ | 95,549 | 3,940 | 99,489 |
| ACCUMULATED AMORTISATION & IMPAIRMENT LOSSES | | | |
| Balance, 1 July 2008 | 329,847 | - | 329,847 |
| Amortisation expense | 10,656 | - | 10,656 |
| Impairment losses | - | - | - |
| Eliminate on disposal | (296,332) | - | (296,332) |
| Balance, 30 June 2009 \$ | 44,171 | | 44,171 |
| Balance, 1 July 2009 | 44,171 | | 329,847 |
| Amortisation expense | 9,662 | 345 | 10,007 |
| Impairment losses | - | - | - |
| Eliminate on disposals | - | - | - |
| Balance, 30 June 2010 \$ | 53,833 | 345 | 54,178 |
| CARRYING AMOUNTS | | | |
| At 1 July 2008 | 13,524 | - | 13,524 |
| At 30 June and 1 July 2009 | 17,020 | - | 17,020 |
| At 30 June 2010 | 41,716 | 3,595 | 45,311 |

There are no restrictions over title of the Commission's intangible assets, nor are any intangible assets pledged as security for liabilities.

14. ACCUMULATED FUNDS

The Office of Human Rights Proceedings (OHRP) is part of the Commission but is required to act independently in the performance of its function. It is funded internally by the Commission and retains its reserves for its own future use.

| Accumulated Funds | 2010 | 2009 |
|--------------------------------------|------------------|------------------|
| OHRP | | |
| OHRP opening balance | 215,196 | 318,011 |
| Net deficit | (123,332) | (102,815) |
| OHRP closing balance \$ | 91,864 | 215,196 |
| Commission | | |
| Commission opening balance | 3,403,890 | 2,633,266 |
| Net surplus | 350,968 | 770,624 |
| Commission closing balance \$ | 3,754,858 | 3,403,890 |
| Total accumulated funds \$ | 3,846,722 | 3,619,086 |

15. RECONCILIATION OF NET SURPLUS TO NET CASH FROM OPERATING ACTIVITIES

| | 2010 | 2009 |
|--|----------------|------------------|
| Net surplus for the year \$ | 227,636 | 667,809 |
| Add/(less) non-cash items: | | |
| Increase in employee entitlements | 39,554 | 109,034 |
| Depreciation & amortisation | 217,157 | 114,434 |
| (Gains)/losses | (11) | 8,122 |
| Total non-cash Items \$ | 256,700 | 231,590 |
| Add/(less) Movements in Working Capital: | | |
| (Increase)/decrease in debtors & other receivables | 922,475 | (1,234,336) |
| Increase/(decrease) in creditors & other payables | (607,467) | 408,654 |
| Net working capital movement | 315,008 | (825,682) |
| Net operating cash inflow \$ | 799,344 | 73,717 |

16. RELATED PARTY TRANSACTIONS AND KEY MANAGEMENT PERSONNEL

Related party transactions:

During the year Handmade Productions Aotearoa was contracted by the Commission to produce web videos and a DVD of a draft of *Review of Human Rights in New Zealand 2010* translated into New Zealand Sign Language. The videos enabled the Commission to consult with the deaf community on the publication. The principal of Handmade Productions Aotearoa is the husband of a Commission staff member. The services were procured on standard commercial terms and the staff member was not involved in the procurement process. The value of the contract was \$7000. (2009: nil).

Key management personnel compensation:

| | 2010 | 2009 |
|---|------------------|------------------|
| Salaries and other short-term employee benefits | 2,206,672 | 2,191,109 |
| Post-employment benefits | 47,748 | 39,046 |
| Other long-term benefits | - | - |
| Termination benefits | - | - |
| Total key management personnel compensation \$ | 2,254,420 | 2,230,155 |

Key management personnel includes the Commissioners, the Director of the OHRP, the Executive Director and seven other members of the management team.

17. EVENTS AFTER THE BALANCE-SHEET DATE

There have been no significant events after the balance sheet date.

18. FINANCIAL INSTRUMENT RISKS

The Commission manages risks associated with financial instruments and seeks to minimise its exposure to these risks. Legislation does not allow the Commission to enter into any speculative transactions without the prior approval of the responsible minister. The Commission's activities expose it to the following financial instrument risks:

Market risk

During the year the interest rates earned by the Commission on its cash reserves, deposited at the National Bank of New Zealand, ranged from 2.50% to 4.90%.

Sensitivity analysis

As at 30 June 2010, if these interest rates had been 1% higher or lower, with all other variables held constant, the surplus for the year would have been \$47,000 higher/lower. This movement is attributable to increased or decreased interest revenue on deposits.

Credit risk

Credit risk is the risk that a third party will default on its obligation to the Commission, causing the Commission to incur a loss.

In the normal course of business, credit risk arises from debtors and deposits with banks. The Commission's only concentration of credit risk relates to bank deposits held at the National Bank, which has a high credit rating.

The Commission's maximum credit exposure for each class of financial asset is represented by the total carrying amount of cash and cash equivalents, and debtors and other receivables (see note 19). There is no collateral held as security against these financial instruments, including those instruments that are overdue or impaired.

19. CATEGORIES OF FINANCIAL INSTRUMENTS

The carrying amounts of financial assets and financial liabilities in each of the NZ IAS 39 categories are:

| | 2010 | 2009 |
|--|------------------|------------------|
| <i>Loans and receivables measured at amortised cost</i> | | |
| Cash and cash equivalents | 490,850 | 495,697 |
| OHRP bank account | 35,490 | 37,334 |
| Short-term deposits | 3,200,000 | 2,600,000 |
| Debtors | 470,719 | 1,257,788 |
| Accrued revenue | 39,801 | 31,112 |
| Prepayments | 137,116 | 281,059 |
| Other receivables | 3,643 | 3,795 |
| Total loans and receivables measured at amortised cost \$ | 4,377,619 | 4,706,785 |
| <i>Financial liabilities measured at amortised cost</i> | | |
| Creditors | 238,075 | 949,700 |
| GST payable | 120,433 | 115,040 |
| Other payables | 158,464 | 78,330 |
| Funds held in trust | 935 | 855 |
| Revenue received in advance | 121,530 | 70,560 |
| Total financial liabilities measured at amortised cost \$ | 639,437 | 1,214,485 |

20. EXPLANATION OF MAJOR VARIANCES FROM BUDGET

The Commission has maintained a satisfactory working capital position in 2010 by achieving a net operating surplus this financial year.

Revenue was \$57,000 greater than budget due to higher income from interest and other sources than had been anticipated. Other income was \$149,000 higher than budget due to the receipt of income from a rent subsidy and an office sublease. These income provisions had been netted off the rent expense item in the budget but have now been reported separately as other income. Interest received was \$98,000 more than anticipated as a result of a lower rate of spending than planned, which resulted in greater cash reserves than forecast throughout the year. However, income from official development assistance (ODA) projects was \$210,000 less than budget as funding is earned on a cost-recovery basis, and costs were less than anticipated.

Total costs were similar to the previous year but \$468,000 less than budget. This is largely as a result of lower spending than budgeted for ODA projects – \$322,000 less than planned. One project was completed at a lower cost than

expected, another was delayed – completion is now expected in 2010/11. Expenditure on general projects was \$114,000 less than budget, with a national research project completed at a lower cost than originally planned and the review and planned deferral of the implementation of a new records management system. A decision was made to defer the project in light of public sector deficits being forecast for the next four to five years and the projected impact this could have on the Commission's future resourcing.

Statutory Disclosures

for the year ended 30 June 2010

COMMISSIONERS' TOTAL REMUNERATION

Total remuneration includes all benefits paid during the period 1 July 2009 to 30 June 2010.

| Commissioner | Position | Amount \$ |
|--------------------|---|-----------|
| Rosslyn Noonan | Chief Commissioner | 277,670 |
| Joris de Bres | Race Relations Commissioner | 205,695 |
| Judy McGregor | Equal Employment Opportunities Commissioner | 205,695 |
| Robyn Hunt | Part-time Human Rights Commissioner | 56,625 |
| Karen Johansen | Part-time Human Rights Commissioner | 59,438 |
| Joy Liddicoat | Part-time Human Rights Commissioner | 64,688 |
| Jeremy Pope | Part-time Human Rights Commissioner | 50,251 |
| Richard Tankersley | Part-time Human Rights Commissioner | 61,313 |

The term of office for Robyn Hunt ended on 20 June 2010.

REMUNERATION INFORMATION

The Commission, as a Crown entity, is required to disclose certain remuneration information in its annual report. In essence, the information to be reported is the number of employees receiving total remuneration of \$100,000 or more per annum. In compliance, the table below has been produced, which is in \$10,000 bands to preserve the privacy of individuals. Because commissioners are not employees of the Commission, they have been excluded from the table.

Remuneration of employees over \$100,000 p.a.

| Total remuneration p.a. 2010 | 2009 | Total remuneration p.a. 2010 | 2009 | Total remuneration p.a. 2010 | 2009 |
|------------------------------|------|------------------------------|------|------------------------------|------|
| \$100,000–\$110,000 | 1 | \$140,001–\$150,000 | 2 | \$180,001–\$190,000 | |
| \$110,001–\$120,000 | 1 | \$150,001–\$160,000 | | \$190,001–\$200,000 | |
| \$120,001–\$130,000 | 2 | \$160,001–\$170,000 | 1 | \$200,001–\$210,000 | 2 |
| \$130,001–\$140,000 | 1 | \$170,001–\$180,000 | | \$210,001–\$220,000 | 1 |

INDEMNITY INSURANCE

The Commission's insurance policy covers public liability of \$10 million. Public liability includes cover for all amounts that the Commission becomes legally liable to pay as a direct compensation resulting from personal injury or damage to property, caused by an occurrence in connection with the organisation's operation. This also covers:

- defamation
- employees' personal effects
- indemnity to landlord
- landlords' liability
- mechanical plant and machinery
- tenant liability.

REDUNDANCY PAYMENTS

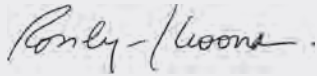
No redundancy payments were made in the year 1 July 2009 to 30 June 2010 (2009: nil).

Statement of Responsibility

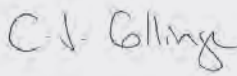
for the Year ended 30 June 2010

Pursuant to section 155 of the Crown Entities Act 2004, we certify that:

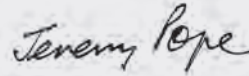
1. We have been responsible for the preparation of these financial statements and the judgments therein.
2. We have been responsible for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of financial reporting.
3. We are of the opinion that these financial statements fairly reflect the financial position as at 30 June 2010 and the operating results of the Commission for the year ended 30 June 2010.



Rosslyn Noonan
Chief Commissioner



Joanna Collinge
Executive Director



Jeremy Pope
Chairperson, Audit Committee

29 October 2010

Audit Report

TO THE READERS OF HUMAN RIGHTS COMMISSION'S FINANCIAL STATEMENTS AND STATEMENT OF SERVICE PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2010

The Auditor-General is the auditor of Human Rights Commission (the Commission). The Auditor-General has appointed me, David Walker, using the staff and resources of Audit New Zealand, to carry out the audit on her behalf. The audit covers the financial statements and statement of service performance included in the annual report of the Commission for the year ended 30 June 2010.

UNQUALIFIED OPINION

In our opinion:

- The financial statements of the Commission on pages 58 to 79:
 - comply with generally accepted accounting practice in New Zealand; and
 - fairly reflect:
 - the Commission's financial position as at 30 June 2010; and
 - the results of its operations and cash flows for the year ended on that date.
- The statement of service performance of the Commission on pages 44 to 56:
 - complies with generally accepted accounting practice in New Zealand; and
 - fairly reflects for each class of outputs:
 - its standards of delivery performance achieved, as compared with the forecast standards outlined in the statement of forecast service performance adopted at the start of the financial year; and
 - its actual revenue earned and output expenses incurred, as compared with the forecast revenues and output expenses outlined in the statement of forecast service performance adopted at the start of the financial year.

The audit was completed on 29 October 2010, and is the date at which our opinion is expressed.

The basis of our opinion is explained below. In addition, we outline the responsibilities of the Board and the Auditor, and explain our independence.

BASIS OF OPINION

We carried out the audit in accordance with the Auditor-General's Auditing Standards, which incorporate the New Zealand Auditing Standards.

We planned and performed the audit to obtain all the information and explanations we considered necessary in order to obtain reasonable assurance that the financial statements and statement of service performance did not have material misstatements, whether caused by fraud or error.

Material misstatements are differences or omissions of amounts and disclosures that would affect a reader's overall understanding of the financial statements and statement of service performance. If we had found material misstatements that were not corrected, we would have referred to them in our opinion.

The audit involved performing procedures to test the information presented in the financial statements and statement of service performance. We assessed the results of those procedures in forming our opinion.

Audit procedures generally include:

- determining whether significant financial and management controls are working and can be relied on to produce complete and accurate data;
- verifying samples of transactions and account balances;
- performing analyses to identify anomalies in the reported data;
- reviewing significant estimates and judgements made by the Board;
- confirming year-end balances;
- determining whether accounting policies are appropriate and consistently applied; and
- determining whether all financial statement and statement of service performance disclosures are adequate.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements and statement of service performance.

We evaluated the overall adequacy of the presentation of information in the financial statements and statement of service performance. We obtained all the information and explanations we required to support our opinion above.

RESPONSIBILITIES OF THE BOARD AND THE AUDITOR

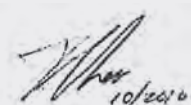
The Board is responsible for preparing the financial statements and statement of service performance in accordance with generally accepted accounting practice in New Zealand. The financial statements must fairly reflect the financial position of the Commission as at 30 June 2010 and the results of its operations and cash flows for the year ended on that date. The statement of service performance must fairly reflect, for each class of outputs, the Commission's standards of delivery performance achieved and revenue earned and expenses incurred, as compared with the forecast standards, revenue and expenses adopted at the start of the financial year. The Board's responsibilities arise from the Crown Entities Act 2004 and section 15 of the Public Audit Act 2001.

We are responsible for expressing an independent opinion on the financial statements and statement of service performance and reporting that opinion to you. This responsibility arises from section 15 of the Public Audit Act 2001 and the Crown Entities Act 2004.

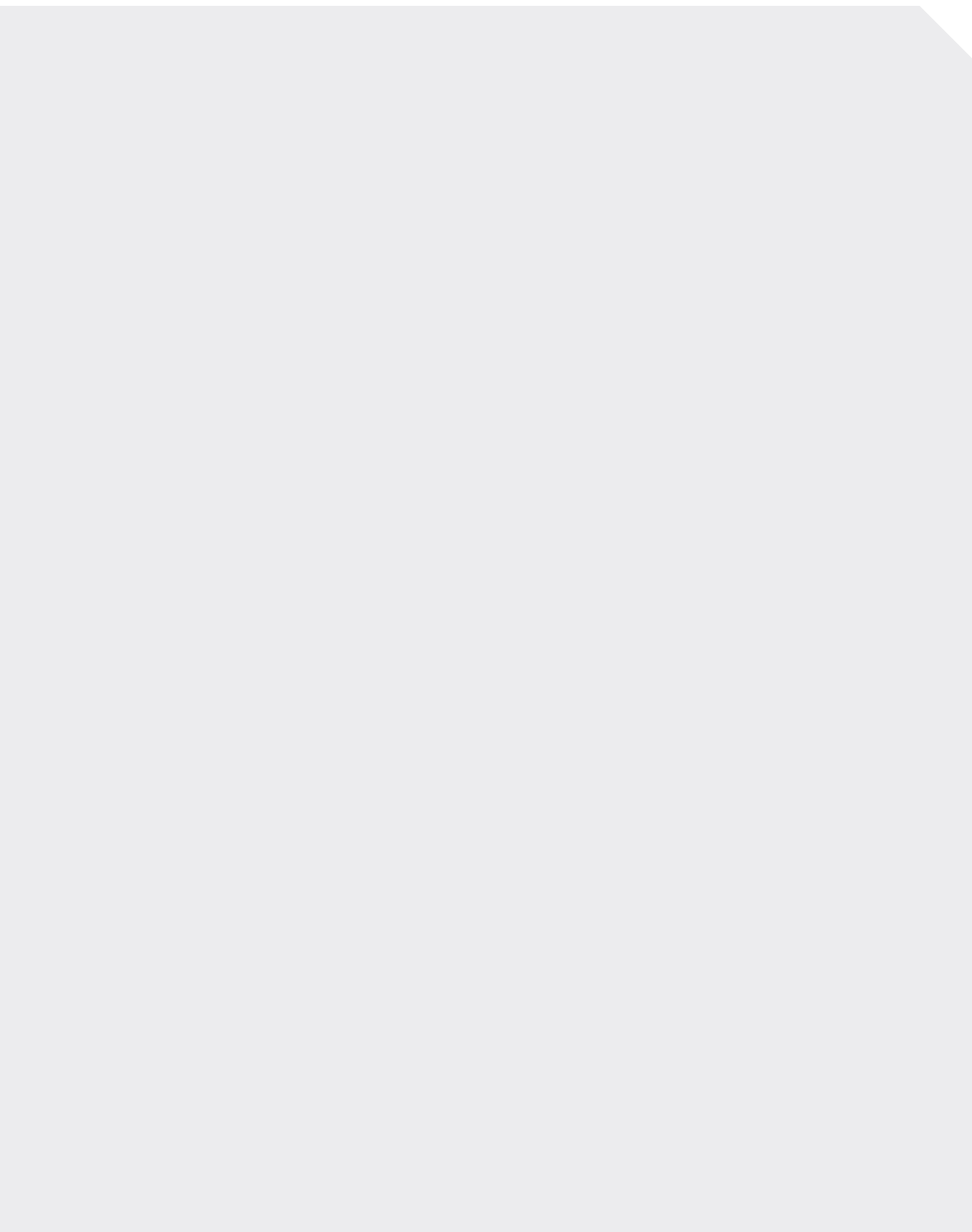
INDEPENDENCE

When carrying out the audit we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the New Zealand Institute of Chartered Accountants.

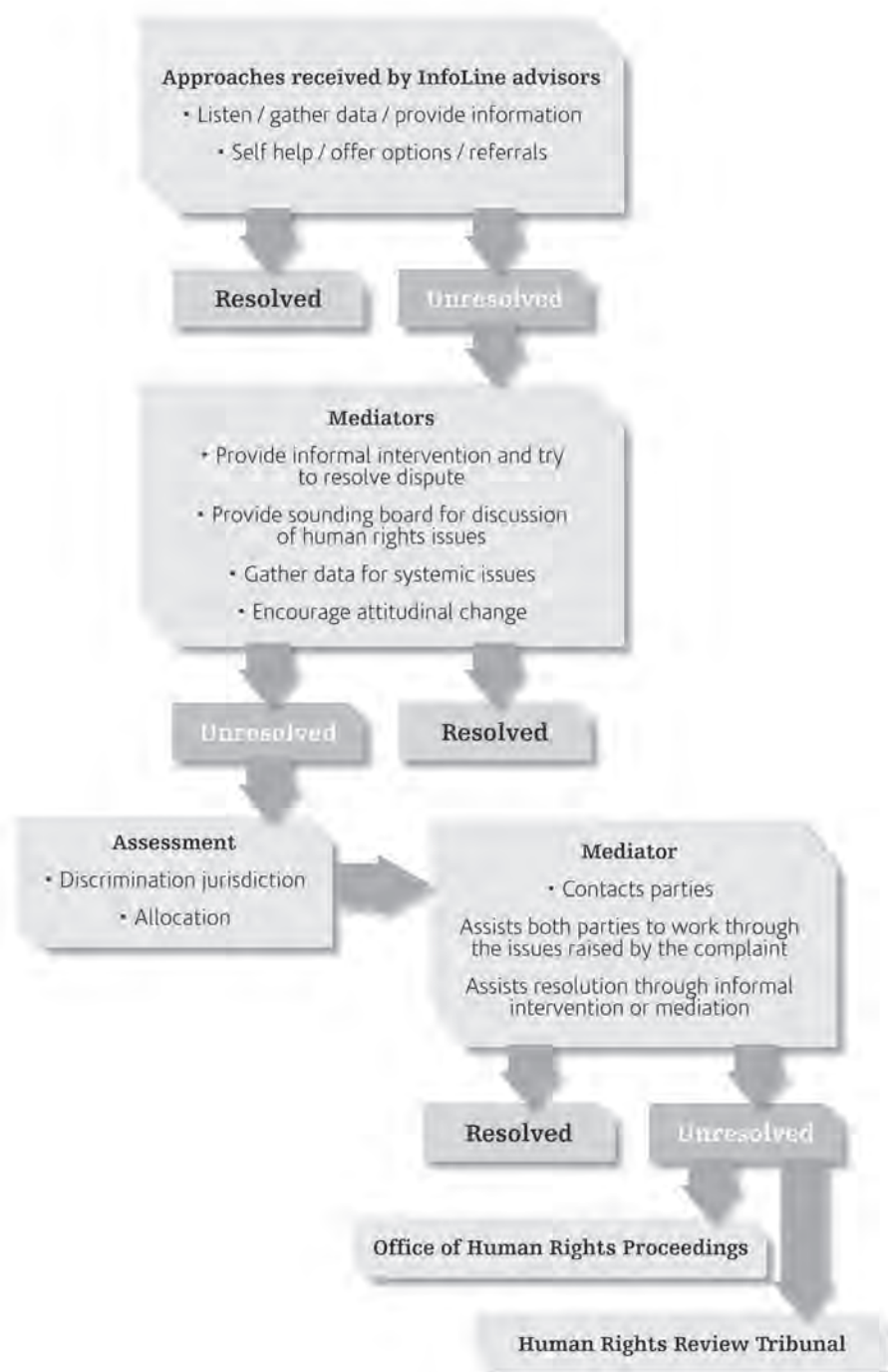
Other than the audit, we have no relationship with or interests in the Commission.



David Walker
Audit New Zealand
On behalf of the Auditor-General
Auckland, New Zealand



Human Rights Commission's dispute resolution process – discrimination complaints





Everyone
has the
responsibility
to ensure
the rights of
others are
respected

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