

# LAW COMMISSION ANNUAL REPORT

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**2017 – 2018**



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Presented to the House of Representatives pursuant to section 150(3) of the Crown Entities Act 2004

Law Commission, Wellington 2018

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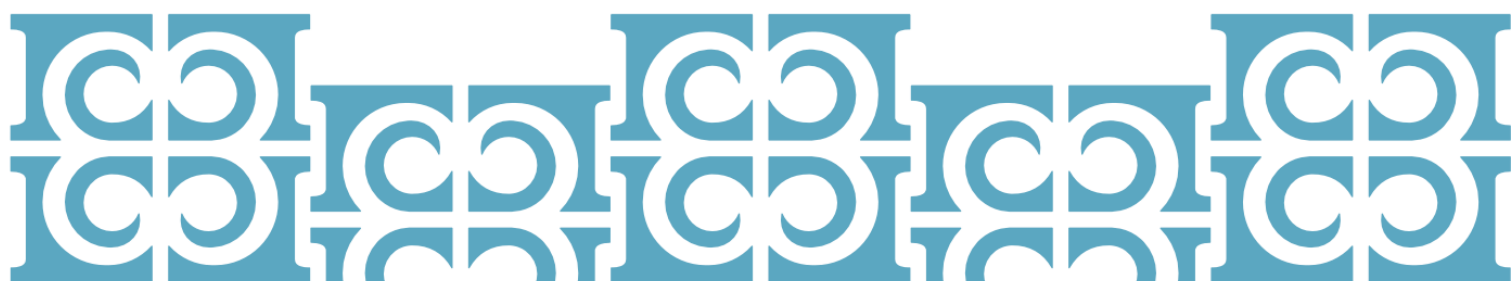


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# Letter of transmittal



Minister Responsible for the Law Commission  
Parliament Buildings  
WELLINGTON

**President**

The Hon Sir Douglas White

Dear Minister

**Commissioners**

Donna Buckingham

Belinda Clark QSO

Helen McQueen

I have the honour to present to you the Annual Report of the Law Commission for the year ended 30 June 2018.

PO Box 2590

Wellington 6011

New Zealand

Phone 04 473 3453

This report is prepared under section 150 of the Crown Entities Act 2004.

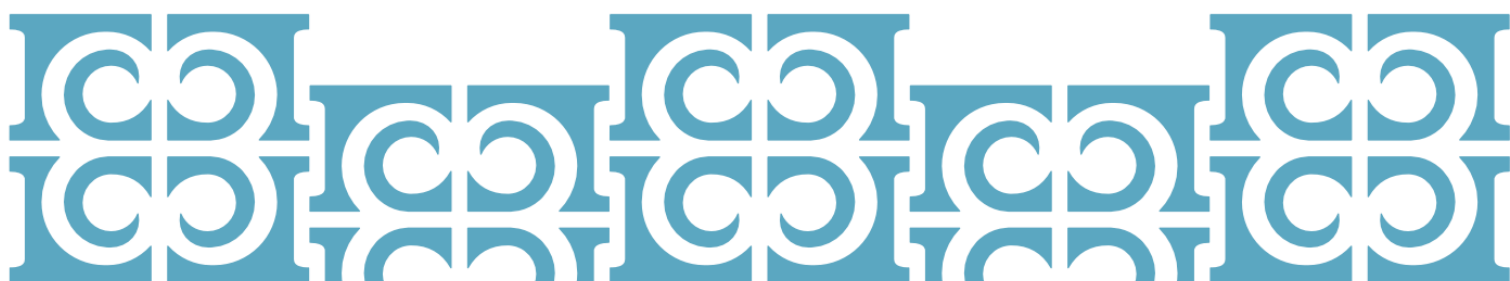
[lawcom.govt.nz](http://lawcom.govt.nz)

Yours sincerely

A handwritten signature in blue ink that reads 'Douglas White.' The signature is written in a cursive, slightly slanted style.

Douglas White

President



# Introduction from the President

I am pleased to present the 2017-18 Annual Report for the New Zealand Law Commission: Te Aka Matua o te Ture (the parent vine of the law).

## SUMMARY

The year under review has seen further changes and initiatives for the Commission. We have welcomed a new Commissioner, Belinda Clark QSO, former Secretary for Justice. We have also welcomed a new General Manager and six new staff, and farewelled six staff. We have completed two issues papers and received a priority request from our new Minister, Hon Andrew Little, for a ministerial briefing paper. We have continued to enhance our various external relationships. Finally, in May 2018 we moved to our new premises in Solnet House. The move was achieved under budget and will result in significant savings in rent.

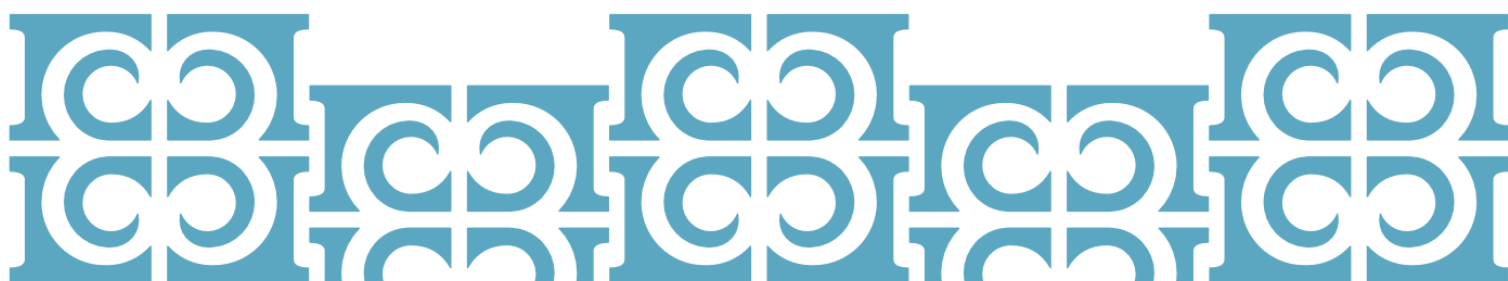
## LAW REFORM

The Law Commission started the year with five projects in its programme: the second statutory review of the Evidence Act 2006, the reviews of the Property (Relationships) Act 1976 (PRA), the Criminal Investigations (Bodily Samples) Act 1995 (DNA), Trust Law Reform – Stage 2 (Statutory and Corporate Trustees) and Class Actions and Litigation Funding.

Following the election of the new Government, the Law Commission received a priority request for a ministerial briefing paper on abortion law reform in February 2018. The paper, which is to address the alternative legal frameworks which could be adopted in the event the Government decides to treat abortion as a health issue, is to be completed by 26 October 2018.

As a result of receiving this request and ongoing resourcing constraints during the year under review, it was necessary for the Commission to redeploy staff from other projects to work on the abortion law project. The Trust Law Reform project was put on hold and completion of the PRA and DNA projects were delayed. It also subsequently became necessary for the Class Actions and Litigation Funding project to be put on hold.

The Commission therefore ended the year with four active projects and three projects on hold, namely reviews of the Declaratory Judgments Act 1908, Trust Law Reform and Class Actions and Litigation Funding.



During the year the Commission published Issues Papers for the PRA review (IP41 *Dividing Relationship Property – Time for Change? Te mātatoha rawa tokorau – Kua eke te wā?*) and the second statutory review of the Evidence Act (IP42 *Second Review of the Evidence Act 2006 – Te Arotake Tuarua i te Evidence Act 2006: He Puka Kaupapa*) as well as a PRA Study Paper (SP22 *Relationships and Families in Contemporary New Zealand: He Hononga Tangata, He Hononga Whānau Aotearoa O Nāianeī*).

At the end of the year under review the Commission is confident of completing the abortion law reform Briefing Paper due in October 2018 and the Final Report for the second review of the Evidence Act due in February 2019.

The Commission also plans to publish an Issues Paper for the DNA project and a Preferred Approach Paper for the PRA project before the end of 2018.

During the year under review the Government adopted the Administration of Justice (Reform of Contempt of Court) Bill, which was included in the Commission's 2017 Report on contempt of court (NZLC R140 *Reforming the Law of Contempt of Court: a Modern Statute Ko Te Whakahou I te Ture Mo Te Whawhati Tikanga Ki Te Koti: He Ture Ao Hou*).

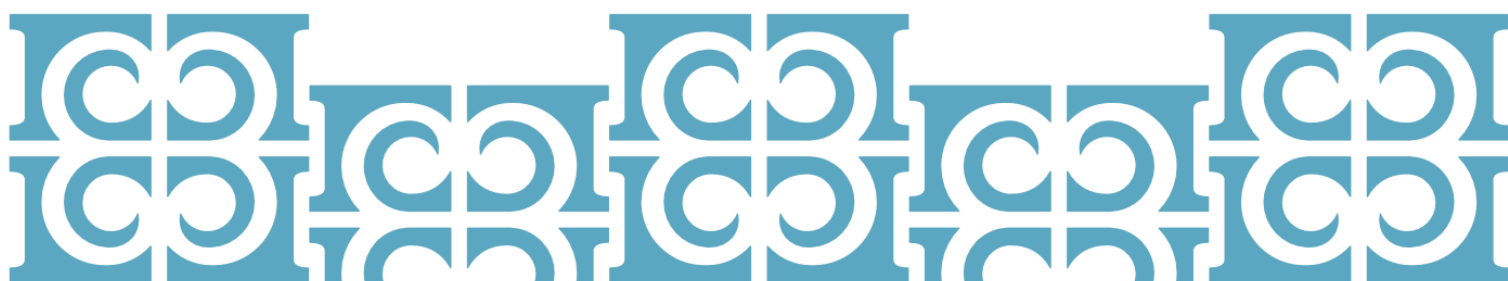
As in previous years, the Commission continued to keep the law of New Zealand under review in a systematic way by maintaining a record of possible future law reform projects and by assisting the Minister in determining future references for inclusion in the Commission's programme.

## TE AO MĀORI

The Commission has continued to acknowledge its statutory obligation to take into account te ao Māori in all aspects of its work. In addition to ongoing regular meetings with its Māori Liaison Committee, it has built a close relationship with Te Hunga Rōia Māori o Aotearoa, the New Zealand Māori Law Society, including attending and presenting at its annual hui. The Commission is also building a relationship with the new Aotearoa New Zealand Centre for Indigenous Peoples and the Law at Auckland University. The Commission remains committed to developing its capacity to engage with Māori.

## FINANCE

The Commission sought increases in its appropriation for the last two years, but it has been unsuccessful. Its annual income figure of \$3.99 million has therefore remained unchanged.



The Commission has done its best to manage its operating budget prudently. The year under review has resulted in an annual operating deficit of \$147,863 against a forecast operating deficit of \$259,403 with a residual equity of \$1,951,833.

This was achieved by strictly controlling the cost of the Commission's move to its new premises (26% below budget) and receiving an unbudgeted landlord contribution to the fit out costs and a financial contribution from the Ministry of Justice for additional resources to manage the large numbers of submissions received on the Abortion Law Reform project. These three amounts totalling \$326,763.95 were one-off benefits which are not going to be repeated.

Notwithstanding savings, including the non-replacement of several permanent staff members, the Commission's budget for 2018/19 forecasts a deficit of \$484,816. As this deficit will reduce the Commission's reserves to the Ministerially agreed minimum of \$1.05 million, the Commission will, as I foreshadowed in my introduction to the Annual Report last year, then face real challenges in meeting its deliverables.

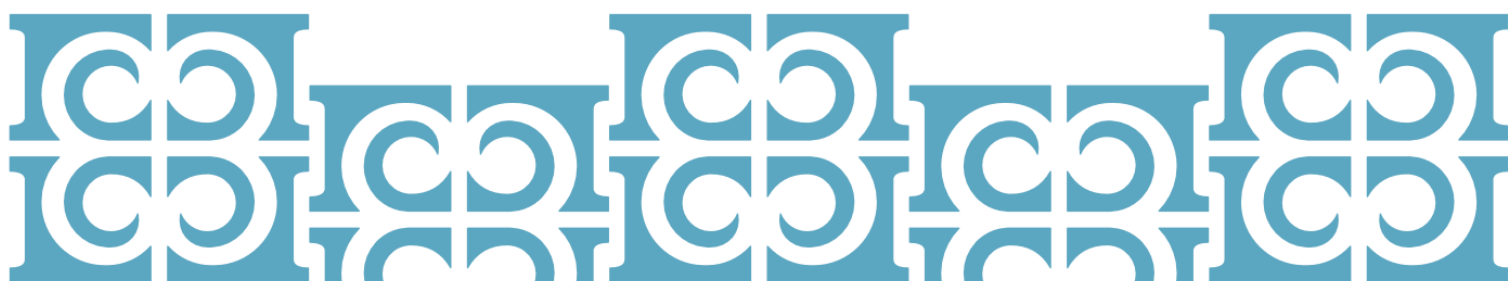
In practical terms, with reducing permanent staff numbers, the Commission will be limited in the number and nature of law reform projects it will be able to include in its annual programme for its Minister. It will also face ongoing difficulties in meeting its other obligations under the Law Commission Act 1985 and completing its work on the projects in its programme in a timely manner.

## ACCOUNTABILITY

The Commission has continued during the year under review to comply with its various accountability obligations under the Law Commission Act, the Crown Entities Act 2004, the Public Finance Act 1989 and the State Sector Act 1988. These obligations required the Commission to complete a Briefing for the Incoming Minister, a Statement of Performance Expectations for 2018-19, a new Funding Agreement with the Ministry of Justice, trimester reports for the Ministry of Justice, Audit NZ interim and annual audits, six monthly Official Information Act reporting to the State Services Commission, and Crown Financial and Information System (CFISnet) financial reporting to Treasury.

I described the Commission's new approach to the assessment of its performance in my introduction to the Annual Report for 2017-18. With one change required by our new Minister, the approach remains the same for this year.

The change required by Hon Andrew Little is to note that he is not prepared to provide feedback on the performance of the Commission once a year using a number scale. His feedback will be provided during the year in the course of our regular discussions. As a suitable alternative mechanism for providing an impact measure



rating for the delivery of the Commission's work programme, he has suggested an independent peer review by a person or organisation of our choice.

As the Commission is not going to be able to implement the Minister's independent peer review suggestion until the 2018/19 year, the Minister has also suggested that for this year only we should record, as we do, that the Minister has not provided a rating due to the shortened assessment period.

The Minister considers the results of all other performance measures will provide a useful assessment of the Commission's progress in relation to its strategic intentions as set out in the statement of intent. The other performance measures show that the Commission completed its Issues Papers on time and that the quality of its Contempt Report was viewed as excellent.

### EXTERNAL RELATIONSHIPS

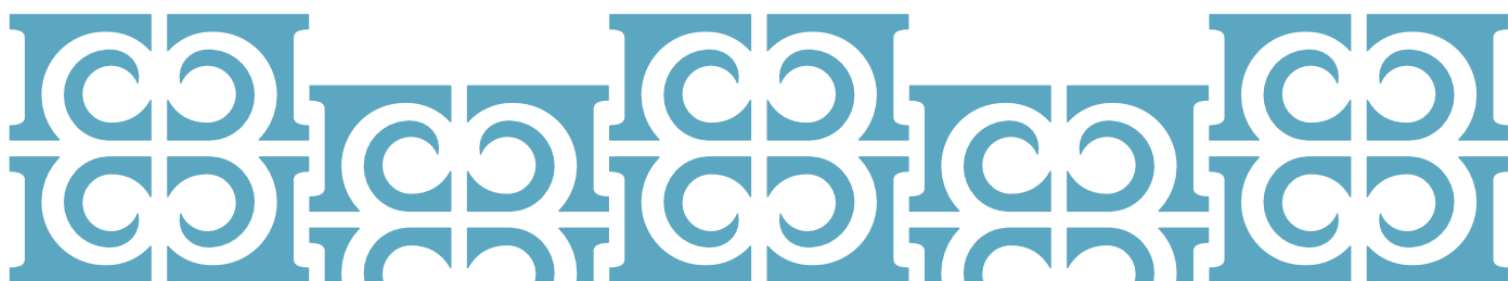
In recognition of the Commission's significant role in leading law reform in New Zealand, we have continued to maintain and enhance our relationships with other members of the law reform community, including our Ministers, the Ministry of Justice, the Judiciary, the Office of Parliamentary Counsel, the Law Societies and the Universities.

### THANKS

I pay tribute to my three Commissioner colleagues and all our staff for their dedicated commitment to the work of the Commission over the past year.



Douglas White  
President





# The Law Commission – who we are and what we do

The Law Commission is a publicly funded law reform organisation established under the Law Commission Act 1985. It is an independent Crown Entity under the Crown Entities Act 2004.

## WHY MIGHT LAWS NEED TO CHANGE?

Our job is to provide advice to the Minister responsible for the Law Commission about how to reform the law.

Laws may need to change for many reasons, including:

- changing attitudes and values in society;
- changes in technology;
- laws that are out-of-date; and
- laws that are too complex.

We promote open and informed debate on law reform issues, make recommendations to the Minister on the improvement of law and provide implementation and other advice on law reform issues.

## WHERE DO OUR PROJECTS COME FROM?

Each report is tabled in Parliament by the Minister responsible for the Law Commission.

Our annual work programme is agreed with the Minister responsible for the Law Commission.



## RECOMMENDATIONS FOR LAW REFORM

The Law Commission aims to improve the law for all New Zealanders by improving its quality, relevance and effectiveness.

Our recommendations are based on extensive consultation with the public and anyone can make a submission on our projects.

In making our recommendations, we must take into account te ao Māori (the Māori dimension) and give consideration to the multicultural character of New Zealand.

When we complete a project, we publish a report for the Minister with independent practical recommendations to make the law fairer, up to date, and accessible.

The extent to which the Law Commission's recommendations are acted upon is a matter for Parliament.

## ADVICE ON IMPLEMENTATION OF LAW REFORM

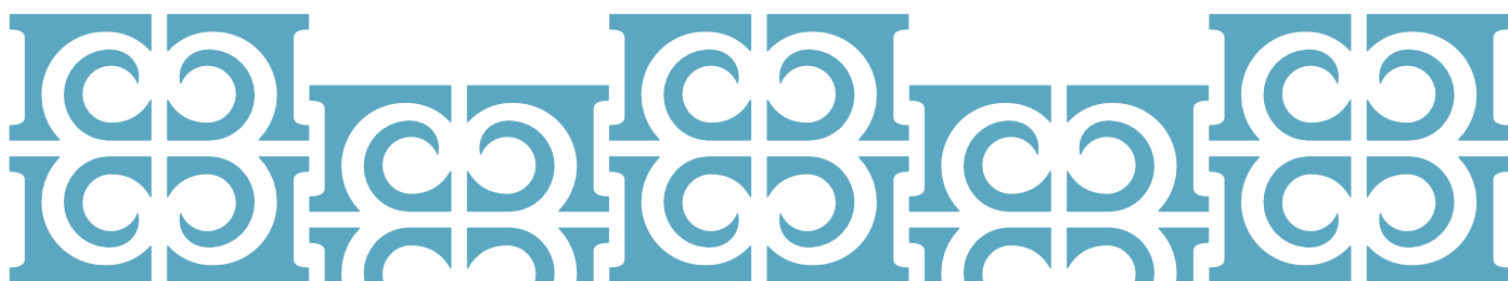
We also provide advice on the implementation of our law reform recommendations. This work can include assisting with the preparation of cabinet papers and legislative drafting instructions and attending select committees.

## OTHER FUNCTIONS – PARLIAMENTARY CERTIFIER

The Legislation Act 2012 introduced a mechanism for systematically revising the presentation of some New Zealand statutes to make them more accessible and for their re-enactment as revision Bills. The President of the Law Commission is one of the required certifiers.

## FUNDING THE LAW COMMISSION

Money is appropriated by Parliament as part of Vote Justice: Non-departmental Other Expenses: Justice Advocacy, Advice and Promotion Services. This appropriation is intended to achieve the efficient and effective provision of advice by the Law Commission.



## THE COMMISSIONERS

The Commission has a full-time President and Chief Executive and three full time Commissioners who are appointed by the Governor General for a five year term. The Commissioners are also the Commission's Board members.

The Commissioners as at 30 June 2018 were:

Sir Douglas White (term of appointment expires on 8 February 2021);

Helen McQueen (term of appointment expires on 8 February 2021);

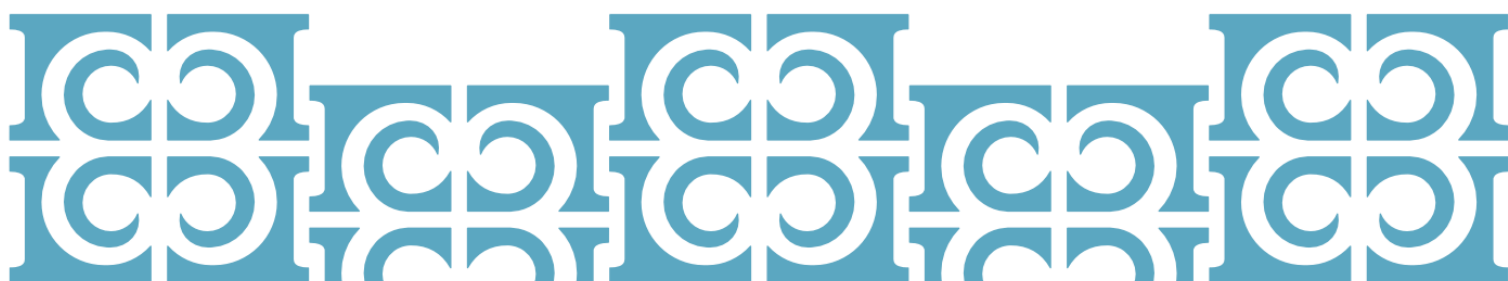
Donna Buckingham (term of appointment expires on 15 May 2021); and

Belinda Clark QSO (term of appointment expires on 31 July 2022).

Commissioners decide on the contents of reports, including recommendations, published by the Law Commission.

## STAFF

The Commission has a small team of Legal and Policy Advisers and law clerks who support the Commissioners to conduct research, consultations, and draft and publish reports. Many have practised as lawyers with government, in private practice, or in the community sector. The Commission also has a General Manager and a small team of corporate staff.



# Our job is to review the law

The Minister responsible for the Law Commission refers an area for law reform to us to consider.

## THE PROJECT STARTS: RESEARCH AND SCOPING

Lead and supporting Commissioner are chosen to work on each project. Legal and Policy Advisers are allocated to the project including a Lead Adviser, and law clerks.

*“One of the strengths of the Law Commission’s work is this ability to walk backwards into the future – to be courageous in re-examining legal frameworks and exploring law reform options, while respecting the deep-rooted principles, shared understandings and culture that have shaped the course thus far.”*

*The Rt Hon Dame Patsy Reddy, GNZM, QSO*

*Law Commission 30th Anniversary Symposium Speech*

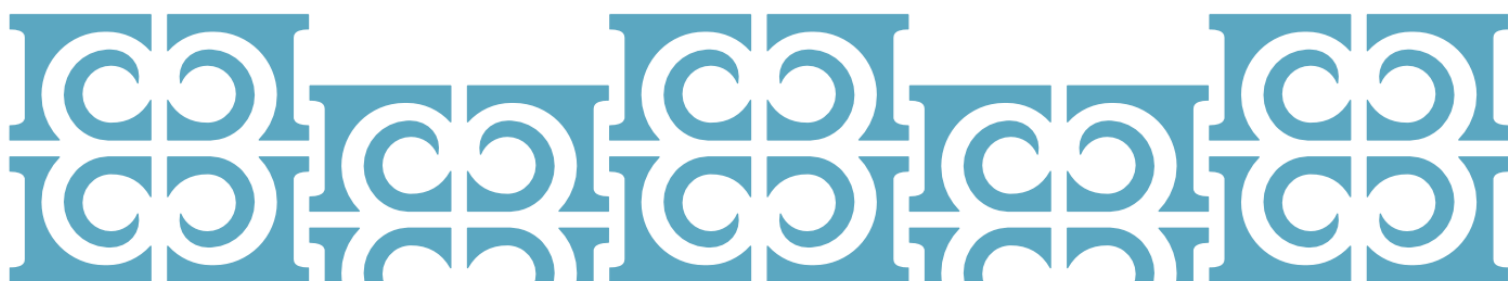
*3 November 2016*

## RESEARCH AND EXPERT INPUT

The project team studies relevant legislation and cases, considers similar laws overseas, talks to people affected and identifies the issues.

A panel of experts (an Expert Advisory Group) will usually be appointed to provide assistance.

The Commission usually publishes an issues paper for each project. This paper identifies the issues, asks questions and invites the public to respond.



## CONSULTATION AND SUBMISSIONS

The purpose of consultation is to help us discover, know and understand people's views about and experiences of the law under review.

The Commission consults with people affected by the law and takes care to include a wide range of different groups. We may create a website specifically for the project to assist people to provide us with feedback on the issues.

In some cases, Commission staff may travel around the country to consult as many people as possible.

The format of consultation depends on the project. Consultations can range from informal private conversations to public community meetings.

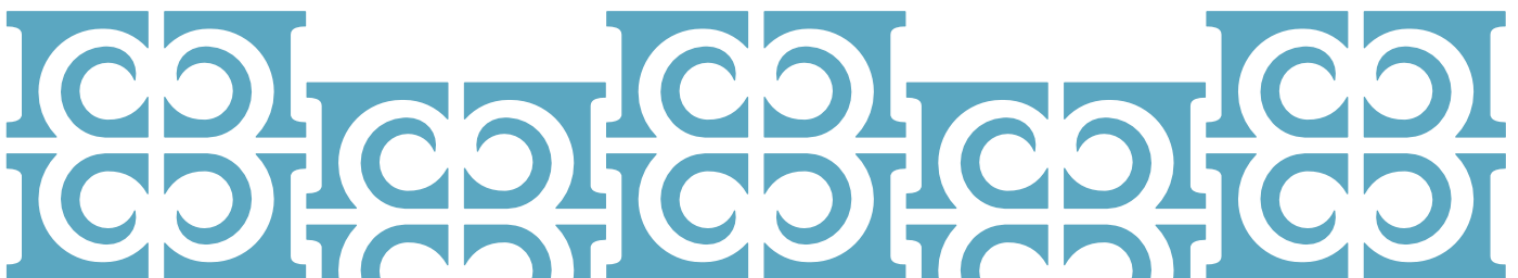
We also seek information through written submissions.

The Commission uses the submissions, consultations, the advice of the expert panel and public input, as well as its research findings, as the basis for its recommendations.

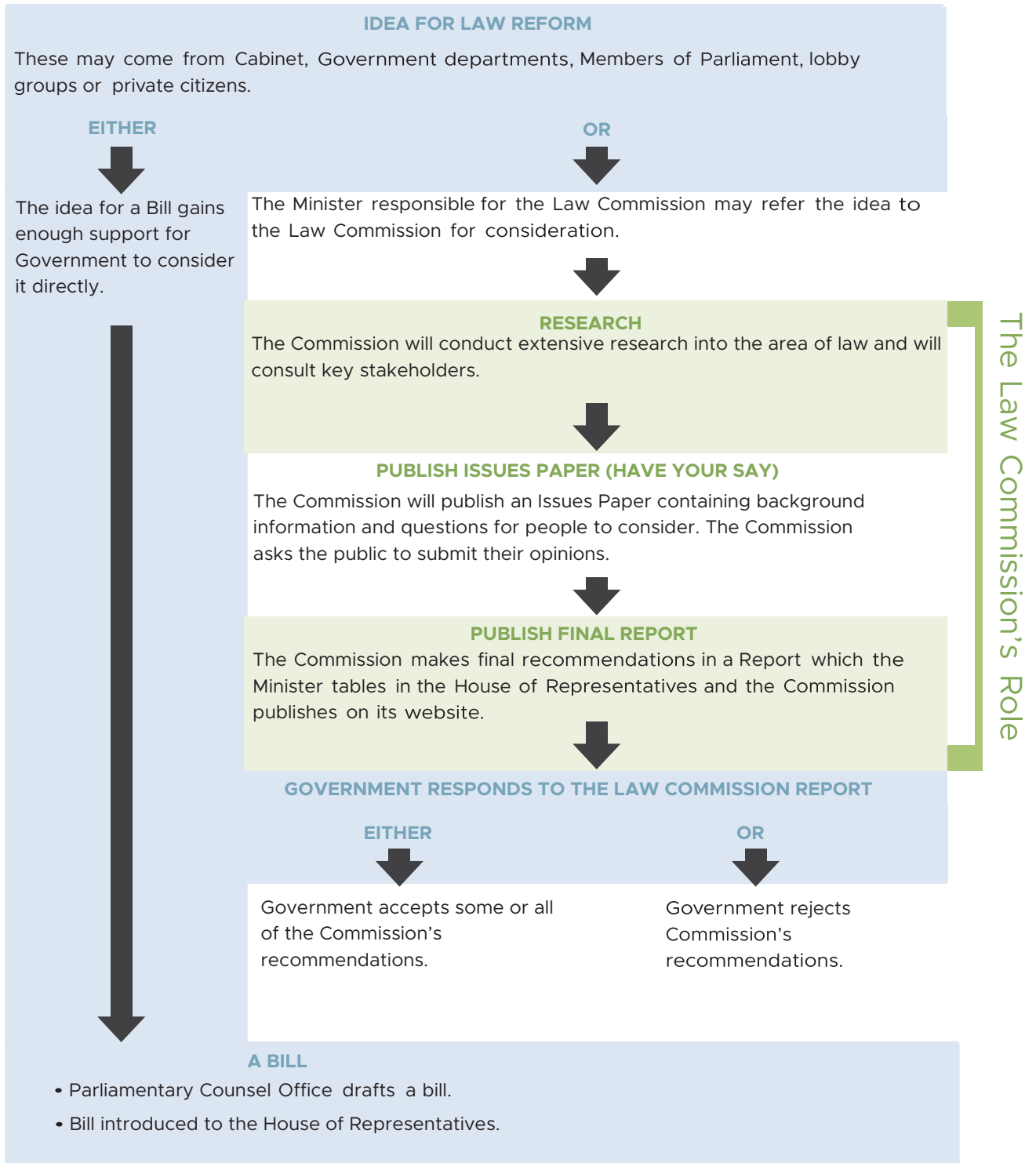
## FINAL REPORT

The final report includes recommendations for reform agreed by the Commissioners.

The report is delivered to the responsible Minister by the required date and is published on the Commission's website. The responsible Minister tables the report in the Parliament.



# The law reform process



## Timeline

## Ministerial Briefing Paper on Legal Frameworks for Abortion Law

**27 February 2018**  
Start of project

This project was referred to the Commission on 27 February 2018 by the Minister of Justice Hon Andrew Little and completion is required by 26 October 2018.

**Reference  
received**

This project is to provide advice to the Minister on options for reforming the legal framework for abortion to make the treatment of abortion consistent with a health approach.

This advice is to be provided by way of a Ministerial Briefing Paper and was prioritised by the Minister under section 7 (3) of the Law Commission Act 1985.

**3 April  
2018**

**Website  
Launched**

Public input was sought through a variety of channels including a dedicated website. In addition input was obtained from health professionals and regulatory bodies.

Almost 3,500 individuals and organisations shared their views.

**18 May  
2018**

**Submissions  
Closed**

The Commission worked closely with the Ministry of Health and the Ministry of Justice, as required by the Minister of Justice.

**October  
2018**

**Briefing Paper  
to be sent to  
the Minister**

The final advice will set out options for a new legal framework for abortion that could be adopted to align abortion with other health services.

**26 October 2018**  
Completion of  
project



## Timeline

Review of the Criminal Investigations  
(Bodily Samples) Act 199527 June 2016  
Start of project

The Commission has been asked to conduct a comprehensive review of the Criminal Investigations (Bodily Samples) Act 1995. This project was referred to the Commission on 27 July 2016 and completion of the Final Report is planned for June 2019.

July  
2016

Referred to the Commission and Terms of Reference published

The purpose of the review is to assess whether the Act is fit for purpose and keeping pace with developments in forensic science, international best practice and public attitudes. The review will consider whether human rights and tikanga Māori are being appropriately recognised. It will also focus on ways to simplify the legislation and improve its accessibility.

Research and consultation phase

<http://dnareview.lawcom.govt.nz>

With assistance from Police and ESR, the Commission launched a website containing 4 scenarios to introduce the public to the science of DNA as a powerful forensic tool and the legal and ethical issues that lie behind its use as technology develops and the law remains static. The website invited preliminary public views on a number of issues but was mainly designed to introduce the issues underlying the use of DNA in an accessible way. It was launched via social media.

September  
2017

Educational website launched

Public submissions will be sought. Methods of consultation to take account of both the 'expert' and the public communities who have expressed interest in this review.

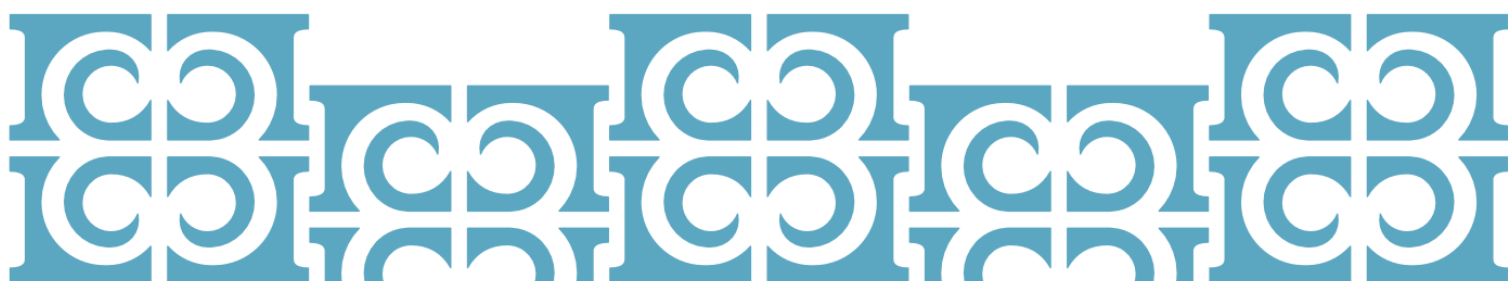
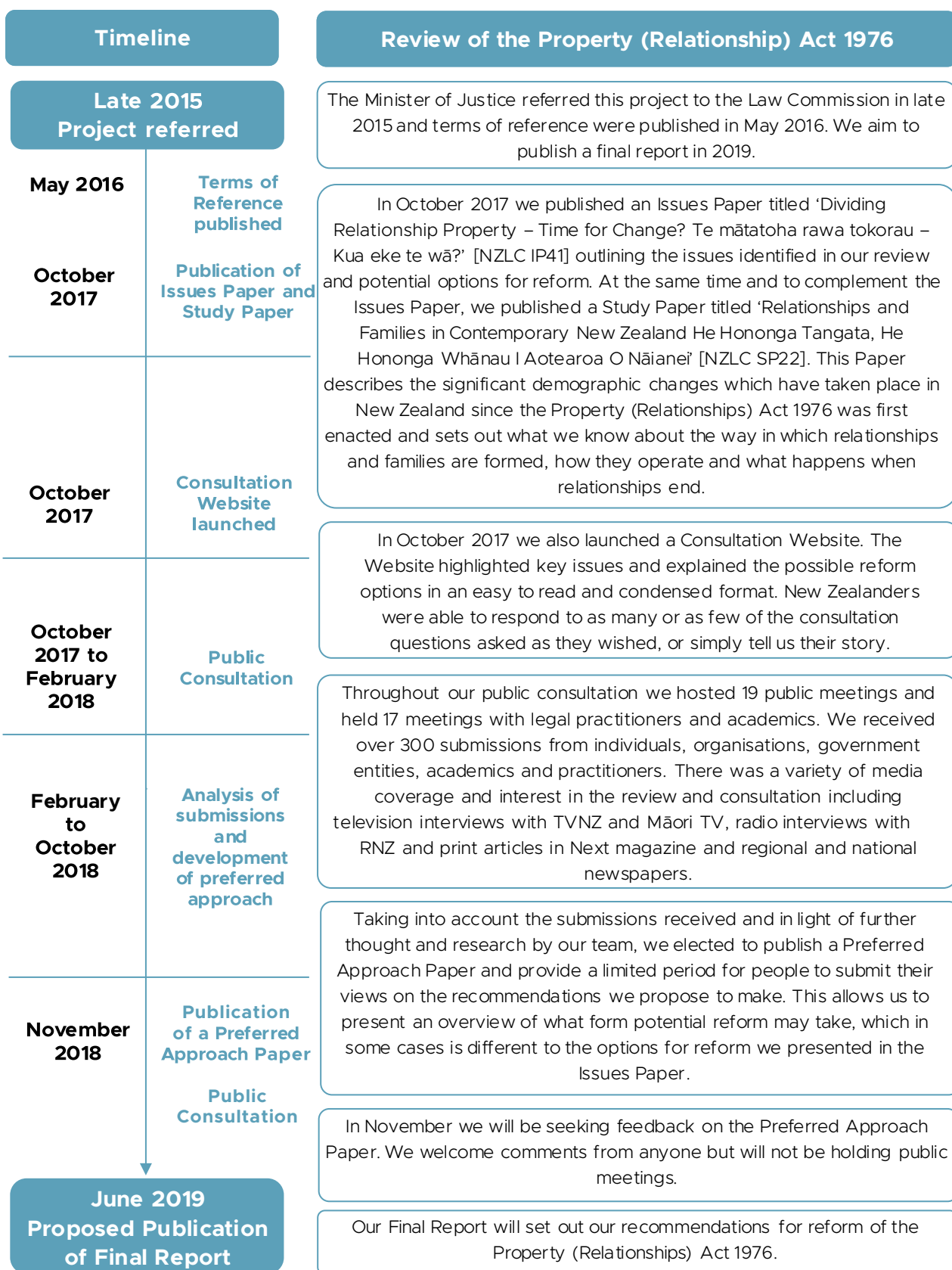
November  
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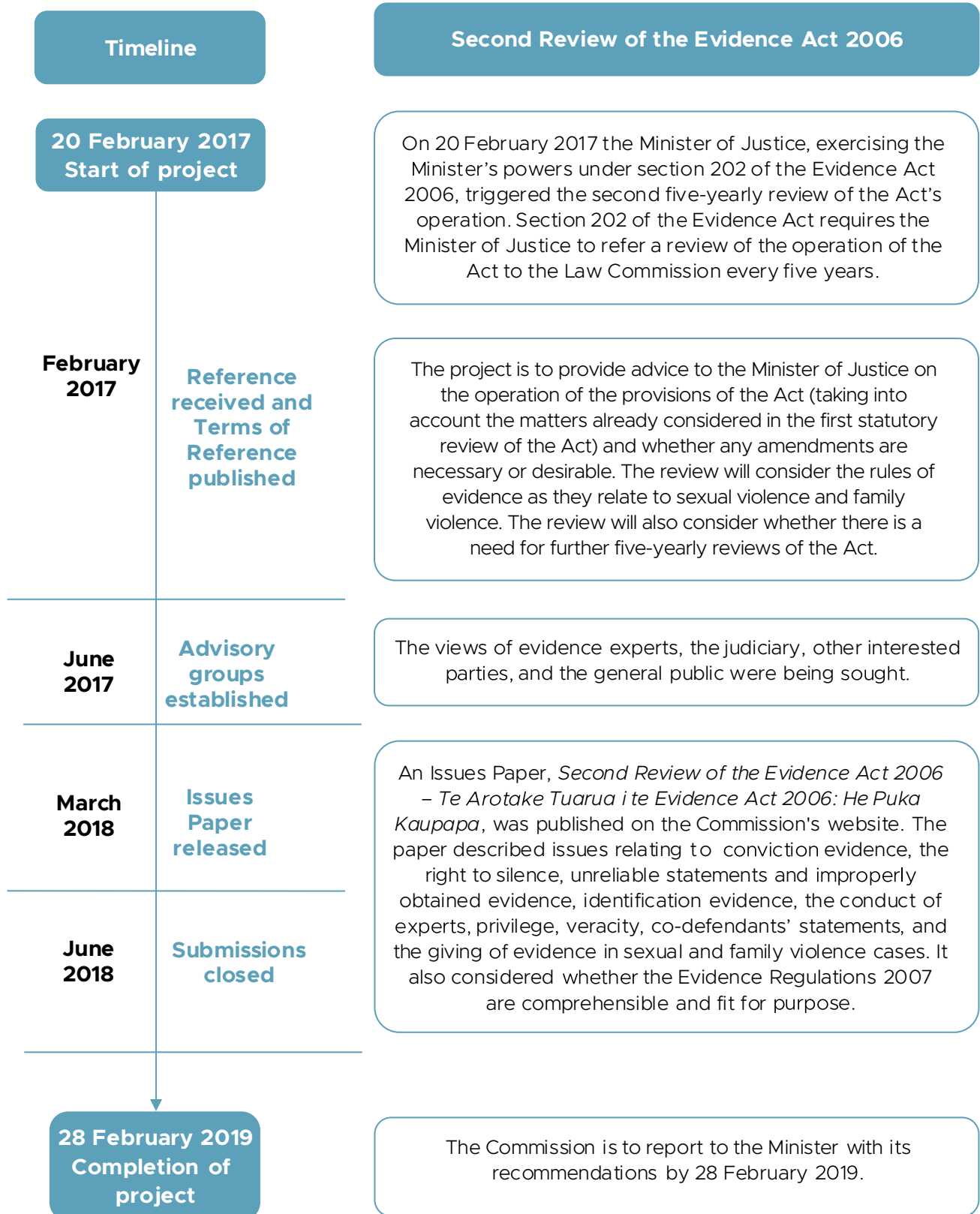
Target publication of Issues Paper and associated documents

Our final advice will contain recommendations on the legislation that recognise the public and private interests in the use of DNA in criminal proceedings.

June 2019  
Proposed publication of final project







# Our contribution to law reform in New Zealand

## CHANGES TO THE LAW

A range of government activities, independent of the Law Commission, are required to achieve improved confidence that New Zealand has laws that support the rule of law, a modern democracy, a just society, and an efficient economy.

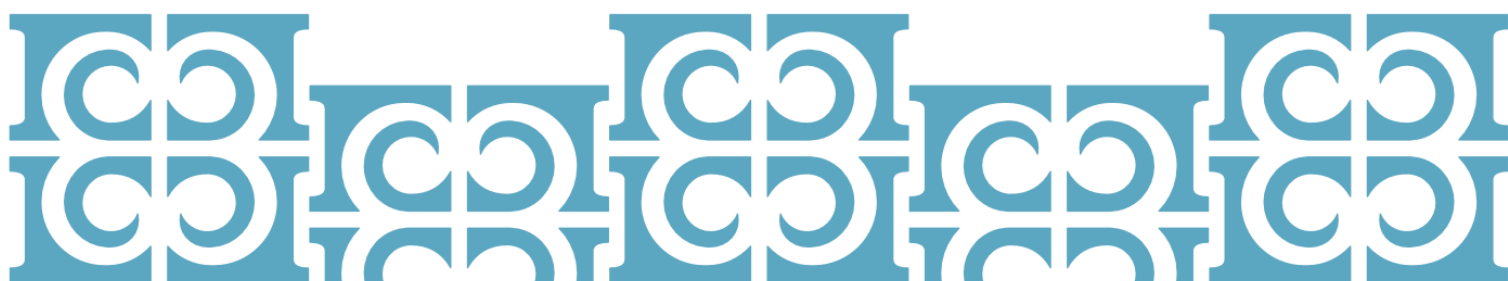
The complex nature of law reform and the multiple parties involved in the reform process means the influence of the Commission's work on this outcome will only emerge over time.

While the Law Commission makes independent recommendations for reform to improve the law in New Zealand, it cannot control what happens once the final report is tabled in Parliament. It is the role of Parliament to amend the law. The Government decides what action it will take on the Commission's recommendations. Recommendations made by the Law Commission may be accepted in whole or only on certain aspects of the law.

The Government may act on the recommendations quickly, or, following a change in Government, recommendations may not be acted on for some years.

If the Government decides to introduce new legislation, Parliament debates changes to the law, which may be accepted, amended or rejected. When new (or amended) legislation is passed by Parliament, and receives royal assent, the process of law reform is complete.

The following examples demonstrate how the work we do contributes to the wider justice sector to improve the legal system over time. They also show the range of responses to the independent recommendations made by the Law Commission.



## REFORMING THE LAW OF CONTEMPT OF COURT: A MODERN STATUTE (NZLC R140)

The Law Commission's Final Report was tabled in Parliament in June 2017. The Bill was drawn from a private Member's ballot and had its first reading in Parliament on 2 May 2018 and was referred to the Justice Select Committee.

### What was the Commission's task?

The Commission was asked to undertake a first principles review of the law of contempt of court. An Issues Paper seeking public submissions on the review was published in May 2014.

Submissions on the Issues Paper or comments (formal or informal) on the Issues Paper were received until August 2014. Due to the Government prioritising other Law Commission work, the contempt reference was put on hold at the end of 2014. In February 2016, work recommenced and the Final Report was tabled in Parliament in June 2017.

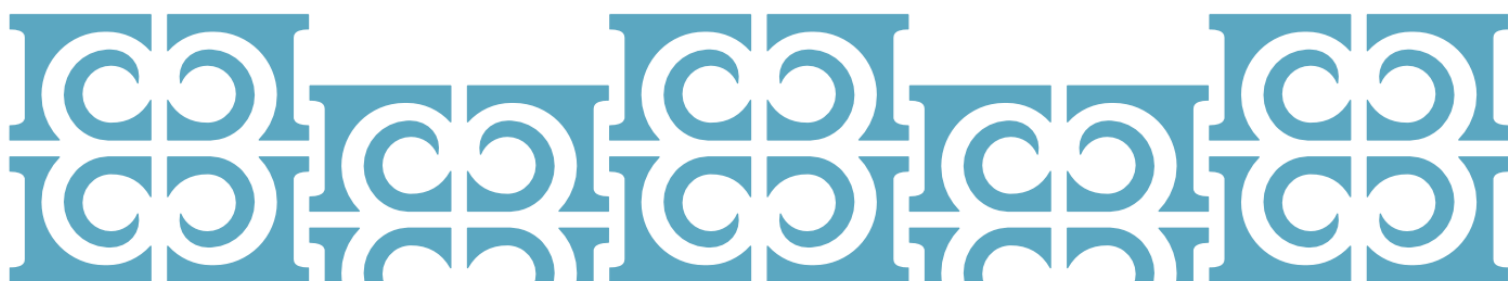
### What was this project about?

The objective of the law of contempt of court is to protect the integrity of the justice system and a defendant's right to a fair trial. The Issues Paper outlined its proposals for the modernisation and reform of the laws of contempt.

### Why did the law need to change?

The law of contempt is largely inaccessible to the New Zealand public because much of it is judge-made law contained in the decisions of judges and not in Acts of Parliament. Those parts of contempt law that are in statute are scattered across several Acts making it difficult to find all the relevant law. The areas of contempt contained in judicial decisions are also vague in scope, and use out-dated language and concepts. Much of the law was developed prior to the internet age and the enactment of the New Zealand Bill of Rights Act 1990.

The advent of social media and digital communication technologies has presented real challenges for the law of contempt, both as a matter of principle and practicality.



### What was recommended?

To reform the law, the Law Commission recommended a new statute, the Administration of Justice (Reform of Contempt of Court) Act, which will consolidate and modernise the laws relating to contempt in one Act. The Act will replace old judge-made law with new statutory offences and new enforcement provisions and processes.

The Report made 68 recommendations covering five types of contempt.

A Bill for the proposed Act was included in the Final Report. Amongst other matters, the Bill provides clearer rules for the media when reporting on court cases. By clarifying the limits on reporting during a criminal trial for the news media and bloggers the proposed law draws a clearer line between reporting that could prejudice a person's fair trial and informing the public.

### What has happened to progress law reform?

The Commission's Final Report was completed and tabled in Parliament on 21 June 2017. The Government accepted the Law Commission's assessment that the law of contempt required modernisation and clarification and requested the Ministry of Justice to consider the Commission's recommendations in detail.

On 22 March 2018, the Hon Christopher Finlayson QC introduced the Administration of Justice (Reform of Contempt of Court) Bill prepared for the Law Commission as a Private Member's Bill. The Bill, which had its first reading in Parliament on 2 May 2018, was subsequently taken over by the Government and was referred to the Justice Committee.

### REVIEW OF THE SEARCH AND SURVEILLANCE ACT 2012 (NZLC R141)

Start date for this project was 28 June 2016. The Final Report was tabled in Parliament on 30 January 2018. Awaiting Government response.

### What was the Commission's task?

The Minister of Justice requested the Law Commission and the Ministry of Justice to review the operation of the Search and Surveillance Act 2012 and to advise whether any amendment should be made to it.

That Act controls how police and some other government agencies search people or property or use surveillance devices for the purpose of investigating crime.



This project was a joint statutory review undertaken with the Ministry of Justice. The joint Final Report was submitted to the Minister on 27 June 2017.

### **What was this project about?**

The Search and Surveillance Act was enacted in 2012. It brought together all the law relating to search and surveillance and introduced some new powers for law enforcement agencies.

### **Why did the law need to change?**

A section in the Act requires the Law Commission and the Ministry of Justice to jointly review how the Act has been operating after four years. The review provision was included to ensure the Act is effectively protecting the rights of individuals as well as meeting the operational needs of law enforcement agencies.

### **What were the issues?**

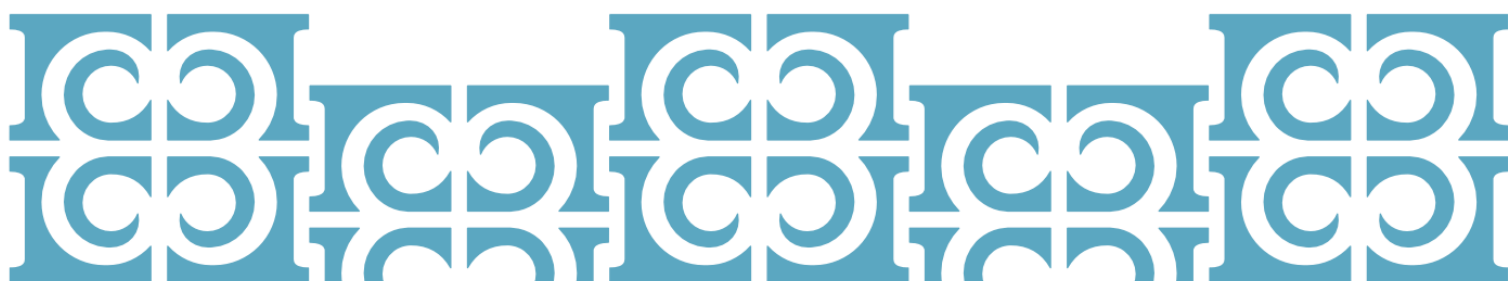
The Report found that the Act has largely been working well and does not need a major overhaul.

### **What was recommended?**

The 67 recommendations in the Report aim to: (1) provide greater clarity and transparency in the Act around when and how enforcement officers can exercise search and surveillance powers; and (2) update the Act to keep pace with developments in technology.

### **What has happened to progress law reform?**

The Final Report was tabled in Parliament on 30 January 2018. The Law Commission is awaiting the Government's response.



## REVIEW OF THE PRIVACY ACT 1993: REVIEW OF THE LAW OF PRIVACY STAGE 4 (NZLC R123)

The start date for this project was 12 October 2006. The Law Commission's Final Report was tabled in Parliament in June 2011.

In March 2018, seven years after the Report was tabled, a Bill (Privacy Bill 34-1 2018) was introduced to implement the Law Commission's recommendations. The Bill passed its first reading and has been referred to the Justice Committee.

### What was the Commission's task?

To review the Privacy Act 1993 with a view to updating it.

### What was this project about?

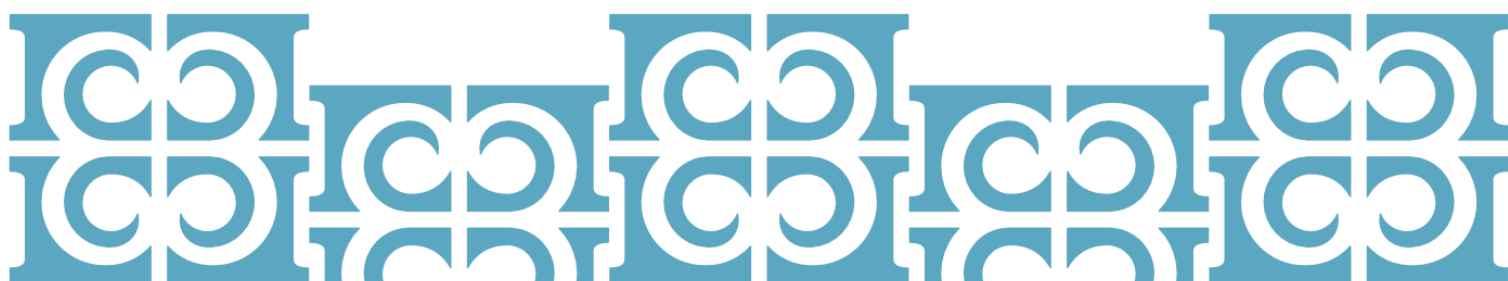
This was the final stage of a large 5-year project, reviewing the Privacy Act 1993 as part of a wider review of privacy laws in New Zealand.

### Why did the law need to change?

At the time of the report, the Privacy Act 1993 was already 18 years old. Technology, and its ability to gather, store and disseminate information about people, had already advanced beyond anything imagined when the legislation was enacted.

### What were the issues?

The considerations borne in mind by the review were: the need to keep the Act consistent with international privacy instruments; the need to ensure that it is able to keep pace with technological developments; the need to learn from the practical experience of working with the Act; and the need to remember that privacy is not an absolute value – meaning that privacy must be balanced against other important values such as freedom of information, health and safety, law enforcement and the effectiveness of government and business.



### What was recommended?

The Law Commission recommended replacing the current Act with a new Act to improve clarity, certainty, navigability, efficiency and the flexibility of the Act to apply to changing technology, while maintaining public confidence in the security and use of personal information. We recommended that the principles-based approach of the existing Act be retained rather than moving to a rules-based approach, and further recommended increased education and guidance for those applying the Act. Some key recommendations included: increasing the enforcement and information gathering powers of the Privacy Commissioner; strengthening cross-border data flow protections; and mandatory reporting of privacy breaches.

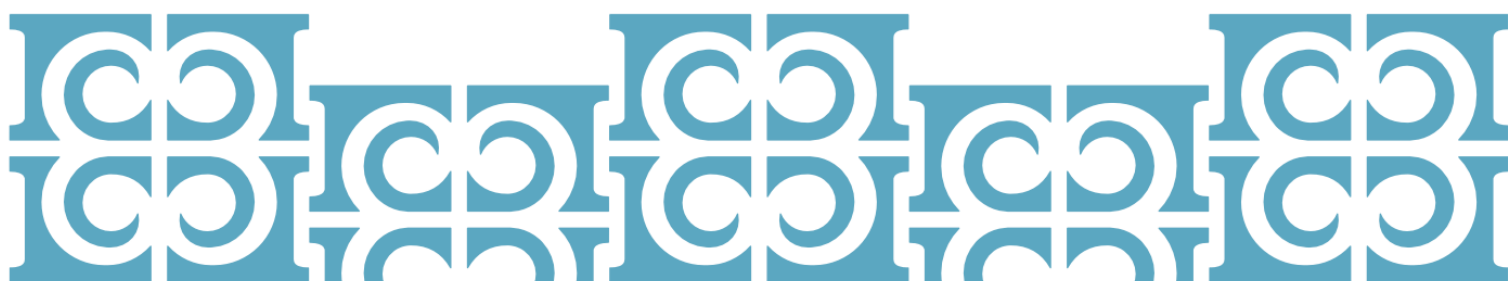
### What has happened to progress law reform?

The Government of the time agreed with the Law Commission's key recommendation to replace the Act with a new Act, but required further analysis of some recommendations before progressing it. In March this year, seven years after the Report was tabled, a Bill (Privacy Bill 34-1 2018) was introduced to implement the Law Commission's recommendations. The Bill passed its first reading and has been referred to the Justice Committee.

Although the Law Commission completed its work in 2011, its reports and recommendations seem increasingly pertinent now. Many people's online private data continues to grow exponentially through social media platforms. Recently, news that British company Cambridge Analytica had used data from millions of Facebook users to influence their vote in the US Presidential elections raised concerns about privacy to a new level.

The Justice Minister Andrew Little told the media that the Bill is likely to pass by the end of the year. "We got the bill to a point where we met the recommendations of the Law Commission. We could've spent longer getting it absolutely perfect but that would have delayed its introduction by a few months."

The Privacy Commissioner John Edwards has welcomed the Bill saying the 2011 review recommendations will help modernise the Privacy Act.





## UNDERSTANDING FAMILY VIOLENCE: REFORMING THE CRIMINAL LAW RELATING TO HOMICIDE (NZLC R139)

The start date for this project was July 2015. The Final Report was completed May 2016. This was the third report completed by the Law Commission on domestic violence. It was preceded by reports completed by the Law Commission in 2001 and 2007. The Government is yet to respond to this Report.

### What was the Commission's task?

The Law Commission considered whether the law in respect of a victim of family violence who commits homicide can be improved.

### What was this project about?

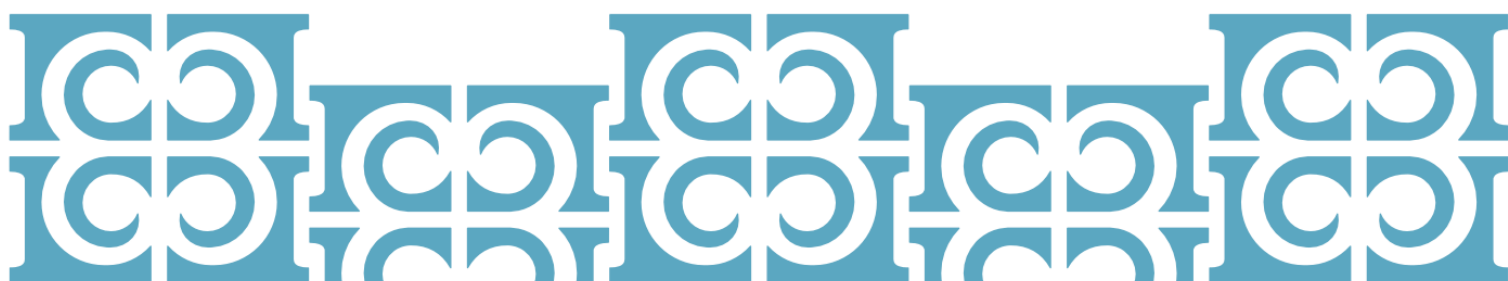
Since the 2009 repeal of section 169 of the Crimes Act 1961, which had provided for the partial defence to murder of provocation, the Family Violence Death Review Committee has been gathering data on all family violence homicides in New Zealand. In its Fourth Annual Report published in 2014, the Committee concluded that New Zealand is out of step in how the criminal justice system responds to victims of family violence when they face criminal charges for killing their abusive partners. To address this, the Committee recommended that the Government re-examine the options for amending the defence of self-defence and introducing a targeted partial defence to murder.

### Why did the law need to change?

New Zealand has the highest reported rate of family violence in the developed world. Half of all homicides in this country happen within families and most occur within intimate partner relationships.

### What were the issues?

In 2001 the Law Commission published a report examining the legal defences available to protect those who commit criminal offences as a reaction to domestic violence: *Some Criminal defences with Particular Reference to Battered Defendants* (NZLC R73). Of particular note, the Report recommended repeal of the partial defence to murder of provocation, an amendment to the defence of self-defence and abolition of the mandatory sentence of life imprisonment for murder.



In 2002 Parliament introduced discretionary sentencing in murder cases, subject to a presumption in favour of life imprisonment.

In 2007 the Law Commission published a second Report: *The Partial Defence of Provocation* (NZLC R98). The Report again recommended repeal of this partial defence. The Commission concluded that its major deficiency was that the partial defence of provocation had been primarily used by violent offenders in respect of unwelcome advances or slights against their honour. It was seldom available to victims of family violence. Given this conclusion, the Commission re-examined whether the defence of self-defence should be amended to ensure that it is available to victims of family violence in appropriate cases. In answering this question the Commission noted the work undertaken as part of the Government Response to the Commission's 2001 Report. That work concluded that amendment to section 48 of the Crimes Act 1961 (self-defence and defence of another) was not required to meet the needs of battered defendants, and might be undesirable in light of the fact that the section is generally regarded as working well.

The Ministry reviewed recent case law, which tended to suggest that problems previously encountered were being ironed out in the courts. It concluded that the real problem previously was one of social awareness, rather than of law. The Ministry found that overwhelmingly stakeholders were comfortable with letting matters take their course. The Commission stated: "we are content at this stage to concur with the Ministry's conclusions".

In 2009 Parliament repealed section 169 of the Crimes Act 1961, which had provided for the partial defence to murder of provocation.

### **What was recommended?**

The Law Commission made recommendations for changes to the criminal law to better serve victims of family violence who kill their abusers.

### **What has happened to progress law reform?**

The Government is yet to respond to this Report.



## REVIEW OF THE LAW OF TRUSTS (NZLC R130)

The start date of this project was 14 March 2009. The Final Report on the first stage was tabled on 11 September 2013.

### What was the Commission's task?

To review the Trustee Act 1956 and trust law generally.

### What was this project about?

This project was the Government's response to the recommendation by the Justice and Electoral Committee in 2007 that there should be a wider inquiry into the law of trusts than the changes recommended in 2002 by the Law Commission in its report *Some Problems in the Law of Trusts* (NZLC R79). The first stage was completed in 2013 with publication of *Review of the Law of Trusts: a Trusts Act for New Zealand* (NZLC R130). Two later reviews were planned: one on charitable trusts, and one on statutory trust companies and other corporates acting as trustees.

### Why did the law need to change?

The Trustee Act 1956 was over 50 years old and no longer represented good practice. There was confusion in the community about the roles of settlors, the duties of trustees and the rights of beneficiaries.

### What were the issues?

The Law Commission's approach was guided by three principles: eliminating confusion by embedding a common understanding of what a trust is; making New Zealand trust law fit for purpose and consistent with trust law in other common law countries to which New Zealand often compares itself; and respecting the rights of individuals to hold and transfer property as they wish.

### What was recommended?

The Law Commission recommended replacing the 1956 Act with a new broader Trusts Act setting out the core characteristics of a trust and requirements for creating a trust, clarifying what is and is not a trust and summarising the basic obligations that trustees owe to beneficiaries. The Commission also recommended amending the Family Proceedings Act 1980 and the Property (Relationships) Act 1976 to remedy injustices regarding de facto relationships and the removal of relationship property to a trust.



## What has happened to progress law reform?

The Government agreed with the Law Commission's key recommendation to replace the 1956 Act with a new Trusts Act. A redrafted Trusts Bill was introduced to Parliament on 1 August 2017 and referred to the Justice Committee which is due to report on 5 September 2018.

The Law Commission's recommendations regarding property relationship and family proceedings are being considered as part of the current Review of the Property (Relationships) Act 1976 which is due for completion by November 2018. In 2017 the Law Commission received instructions from the Government to include the reference on Trust law reforms - Stage 2: statutory and corporate trustees in its work programme. Due to other work priorities, however, this reference has not yet commenced and is on hold for the time being.

## A NEW LAND TRANSFER ACT (NZLC R116)

The start date of this project was 1 July 2007. The Final Report was tabled in June 2010.

### What was the Commission's task?

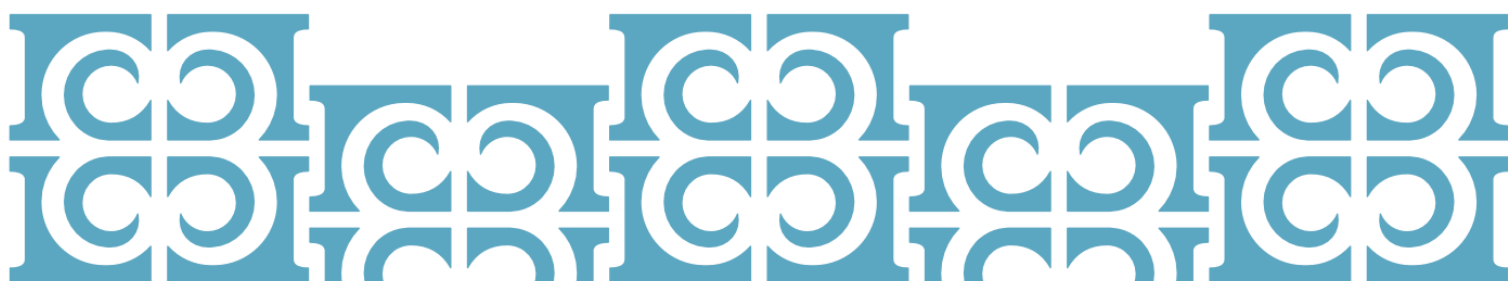
To review, in conjunction with Land Information New Zealand (LINZ) and with the active cooperation of the Ministry of Justice, the Land Transfer Act 1952 and amendment Acts, and to produce a draft bill for a reformed Act.

### What was this project about?

The aim of the review was to modernise, simplify and consolidate the legislation, without making fundamental changes to the Torrens system of registration.

### Why did the law need to change?

The 1952 Act was largely a re-enactment of earlier legislation going back to 1870, and although there had been significant amendments, there had never been a full review of the Act. Consequently much of the language was outdated and in parts ambiguous. Some provisions were obsolete and the Act needed to reflect the change to an electronic system of registration. There were also two standalone amendment Acts.



## What were the issues?

The Commission was asked to:

- ensure the integrity of the Land Transfer system and make recommendations to improve it;
- ensure that the provisions of the Act took into account other developments in property law, both statutory and by judicial decisions;
- ensure that the law is certain and clearly expressed, and supply any omissions in it;
- examine the adequacy of the provisions concerning state guaranteed title; and
- examine electronic developments and how the law should deal with them.

## What was recommended?

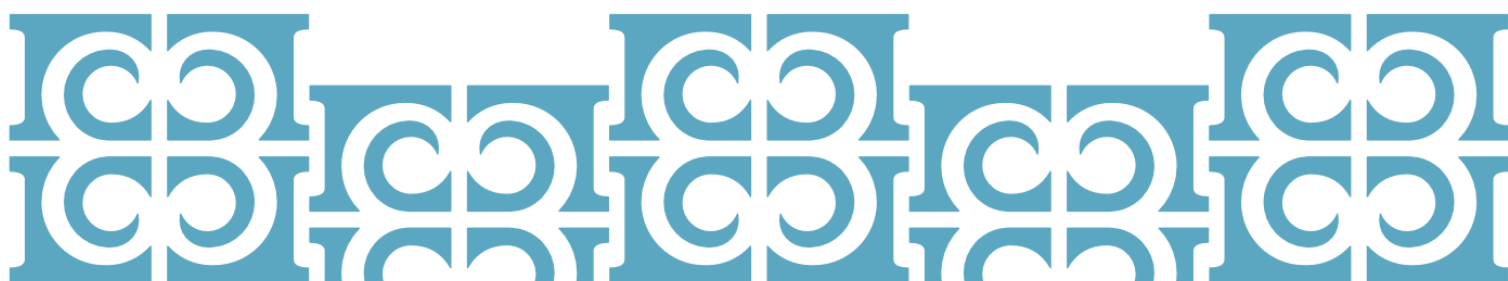
The Law Commission made 25 recommendations, the primary one being to replace the 1952 Act with a new Act to improve clarity and accessibility. Other recommendations included: modifying the law around indefeasibility of title; redefining fraud in relation to land transfer; clarifying the status of registered estates versus unregistered estates or interests; clarifying the powers of the Registrar General; providing for compensation or loss caused by Registrar's error, the operation of the land transfer system or reliance on a guaranteed register search; providing for registered title to be limited by "overriding interests" in other statutes; and providing for the notification of covenants in gross on the record of a title. An in-depth review into the registration of Māori land in relation to the Te Ture Whenua Māori Act 1993 was also recommended as this was outside the scope of the review.

## What has happened to progress law reform?

The Government accepted all the Law Commission's recommendations in 2010, but it was not until early 2016 that a bill implementing the recommendations was introduced to repeal and replace the 1952 Act and its two standalone amendment Acts. The Land Transfer Act 2017 was enacted in July 2017.

An expert panel was appointed in June 2012 to review Māori land law, including registration, and the Te Ture Whenua Māori Bill was introduced in April 2016 but has not progressed beyond its second reading in December 2016.

The Report was tabled on 11 September 2013. The Land Transfer Bill completed the Committee of the Whole House process in June 2017 and received Royal Assent on 10 July 2017. The Land Transfer Act 2017 followed the Law Commission's 2010 report, *A New Land Transfer Act* (NZLC R116, 2010).



## THE 2013 REVIEW OF THE EVIDENCE ACT 2006 (NZLC R127)

The start date for this project was 28 February 2012. The Final Report was tabled in Parliament on 5 April 2013. The Evidence Amendment Bill 2016 received Royal Assent on 22 September 2016.

### What was the Commission's task?

To review the operation of the Evidence Act 2006.

### What was this project about?

Section 202 of the Evidence Act required the Commission to report to the Minister of Justice on the operation of Act. The review was not intended to be a first principles review, but was rather an operational review, focusing on whether the Act was working as intended and what, if anything, needed to be done to address any problems or improve its operation.

### Why did the law need to change?

The Evidence Act for the first time largely codified the law of evidence in New Zealand. Accordingly, it was important to review the Act to ensure it was working well in practice.

### What were the issues?

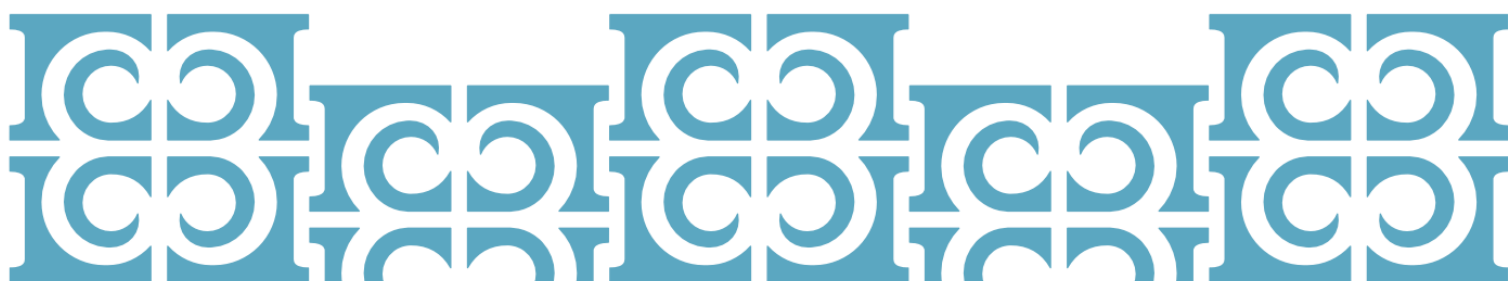
The review considered the operation of all of the provisions of the Evidence Act. This included key provisions dealing with matters of admissibility and the trial process.

### What was recommended?

The Commission recommended a relatively small number of amendments of a minor nature aimed at improving the Act's operation. The review included one recommendation of a major nature which suggested that section 35(1) and (2) of the Act (which deal with prior consistent statements) should be repealed.

### What has happened to progress law reform?

Many of the Commission's recommendations were included in the Evidence Amendment Bill 2015 which came into force as the Evidence Amendment Act 2016 on 8 January 2017.



# Organisational Capability

## OUR PEOPLE

Our people are highly capable with the right skills and expertise needed to deliver on our work programme and support the corporate functions required.

## GOOD EMPLOYER

We are committed to being a good equal opportunities employer, and this commitment is led by the President, Commissioners and the General Manager. We have policies and processes to support our equal opportunities commitment, and they are regularly reviewed in consultation with staff.

The Law Commission is committed to take into account te ao Māori in its work, including regular meetings with its Māori Liaison Committee and building its relationship with Te Hunga Rōia Māori o Aotearoa (the Māori Law Society). Commissioners and staff are also offered weekly te reo Māori lessons.

The Law Commission has an open and impartial employment process, which includes selection and interviewing by panels comprising Commissioners and staff. We value diversity in the workforce and apply an equal opportunities and 'best person for the role' approach in our recruitment.

Our tailored induction process for new personnel is regularly monitored and reviewed. We are committed to employee development, and deliver this through lunch-time seminars, in-house coaching and mentoring, external courses and opportunities to progress.

The Law Commission is committed to a flexible workplace where staff can enjoy a balance between work and home. Our work-life balance initiatives play a role in enabling our people to perform at their best while also recognising their commitments outside of work. We have ICT facilities to enable staff to work off-site and in flexible ways, including reasonable accommodation for employees with disabilities.

We have a remuneration policy that recognises performance of employees, amongst other factors such as affordability and prevailing market conditions. Employee remuneration is reviewed annually, as agreed under individual employment contracts. Other provisions include Kiwisaver contributions, flexible working provisions, annual leave, and sick leave for individuals and to care for dependants and bereavement leave.

The Law Commission is working to increase diversity over time among its staff.



The following statistics have been collected during 2017-2018.

Ethnicity	Ethnicity <sup>1</sup>	Gender <sup>1</sup>		Disability <sup>1</sup>
		Male	Female	
European	29	7	22	0
Māori	1	0	1	0
Asian	4	1	3	0
Pacific peoples	0	0	0	0
Middle Eastern / Latin American / African (MELAA)	1	0	1	0
Did not wish to respond	0	0	0	0
<b>TOTAL</b>	<b>35<sup>2</sup></b>	<b>8<sup>2</sup></b>	<b>27<sup>2</sup></b>	<b>0</b>
		6.4 FTEs <sup>2</sup>	20.18 FTEs <sup>2</sup>	

<sup>1</sup> These figures are self-reported by staff

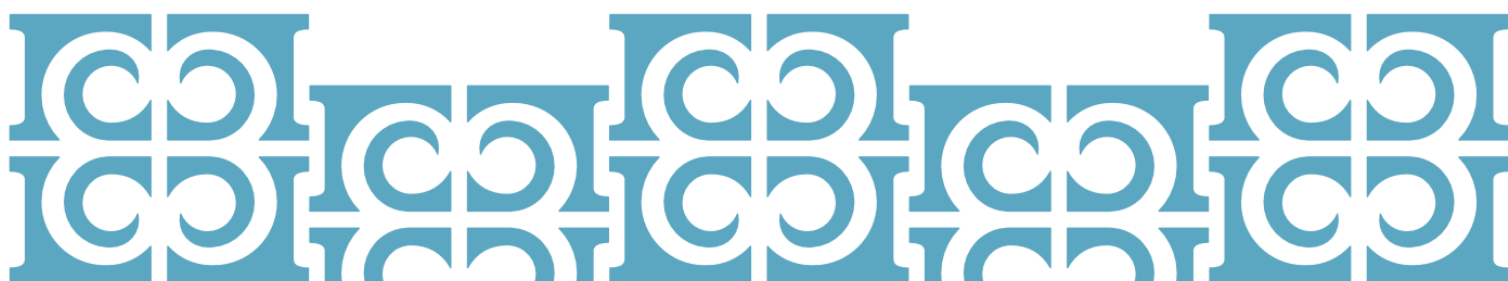
<sup>2</sup> These figures cover all staff employed (excluding Commissioners) during the annual reporting period

We do not have a gender equity pay gap or a motherhood pay gap at the Law Commission. We have more senior women working in full time roles compared with male employees.

During the year, we moved into new office accommodation at Level 9, 70 The Terrace Wellington. It is 582.8sq m. We have a nine year initial lease with right of renewal for six years. The building has a seismic rating of 90-100% NBS.

We offer a range of well-being assistance to our people, including an Employee Assistance Programme, on-site flu vaccinations, ukulele practice sessions, and as part of our new office accommodation, we have ergonomic sit-stand desks for all employees and workstation assessments.

All staff have free access to an on-site gym fully equipped with an extensive range of modern cardio and weight equipment, and a table tennis table and large boxing area as part of our new office accommodation.





We have implemented health and safety tools and resources including first aid training, emergency management, and incident/hazard management processes and have revised our Emergency Management Plan in light of moving to our new accommodation on The Terrace.

Our supportive culture and policies, together with the State Services Standards of Integrity and Conduct, detail our expected behaviours. The Law Commission does not tolerate bullying or harassment. We have policies and processes in place to respond to and resolve any concerns relating to such behaviour in the workplace.

### **EFFICIENT AND EFFECTIVE SYSTEMS AND PROCESSES**

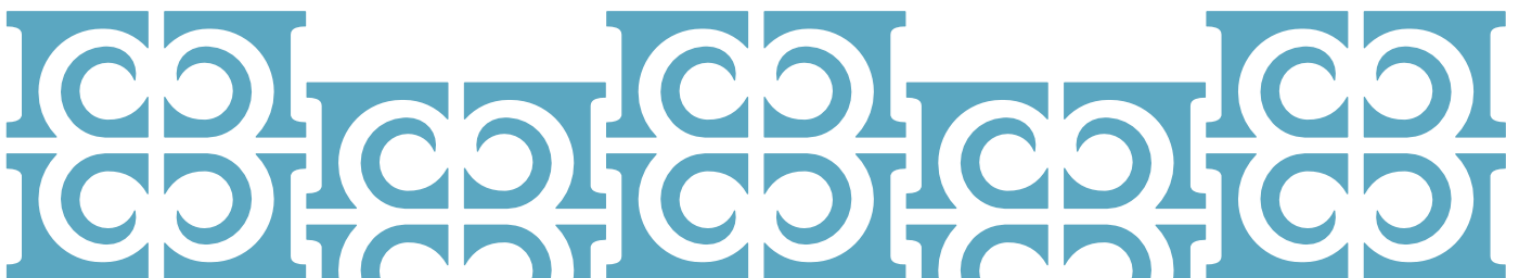
As part of our new office relocation, we have continued to review our systems and the way we operate our business and the tools we use to achieve and deliver our work programme so that they are fit-for-purpose.

The library's collection strategy prioritises electronic resources over hard copy where possible, supplemented by a small physical library covering core legal and law reform topics and borrowing from other libraries. This is currently being reviewed to better focus future acquisitions.

### **OUR PROGRESS OVER THE LAST YEAR**

We have made significant progress over the past year. Our focus has been:

- project managing new office accommodation we moved into in May 2018;
- upgrading our ICT systems to adopt more cloud-based services to increase our business continuity resilience;
- commissioning a new records management system;
- tightening our fiscal controls and implementation of a new budgeting model;
- reviewing our library collection – one of the Law Commission's major assets;
- continuing to implement productivity gains through use of online reference material;
- significant review and updating of our assets register and implementing a new policy for managing assets; and
- making use of the All-of-Government procurement options that meet our needs.



# Statement of Responsibility

We are responsible for the preparation of the Law Commission's statement of performance, financial statements and the judgements made in them.

We are responsible for any end-of-year performance information provided by the Law Commission under section 19A of the Public Finance Act 1989.

We have the responsibility for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of financial reporting.

In our opinion the financial statements and statement of performance fairly reflect the financial position and operations of the Law Commission for the year ended 30 June 2018.

Signed on behalf of the Board:



Douglas White  
President  
26 October 2018



Helen McQueen  
Commissioner  
26 October 2018



# Statement of Performance for the year ended 30 June 2018

The Law Commission receives funding through an appropriation within Vote Justice. The appropriation was from the Non-Departmental Output Expenses: Services from the Law Commission, and provided a 2017–18 appropriation of \$3.993 million.

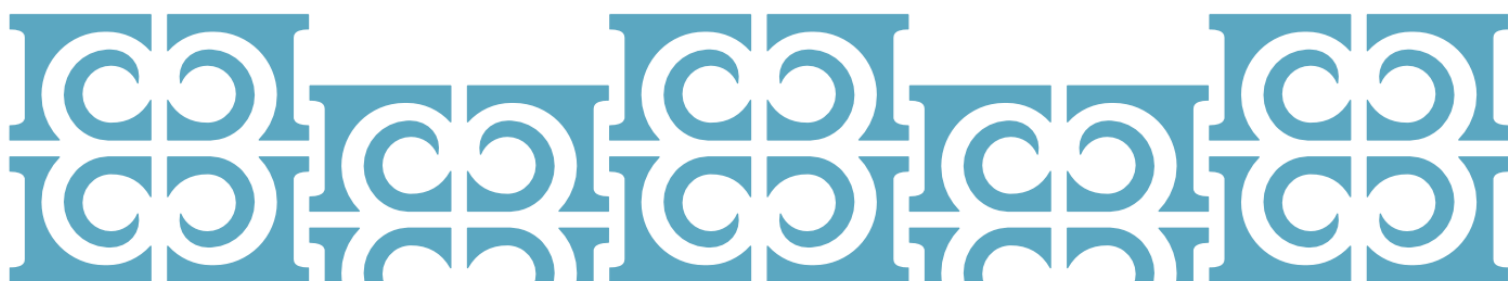
From the Output: Law Reform the Commission produced independent recommendations for the reform and development of parts of the law of New Zealand within the programme received from the Minister responsible for the Law Commission and Parliament.

The Law Commission assessed its output performance with both quantitative and qualitative measures.

The quantitative measures are the timely completion of issues papers, final reports, other papers and other advice and managing the work programme within the total revenue and reserves as agreed with the responsible Minister.

The qualitative measures assessed how we identified and addressed the substantive legal issues within completed references or requests for advice and how effective our processes were relating to engagement and consultation. We used external feedback from a range of interested parties including participants in the Expert Advisory groups.

We provided this information to the responsible Minister for an assessment of the Law Commission's impact.



**LAW COMMISSION'S IMPACT 2017-2018**

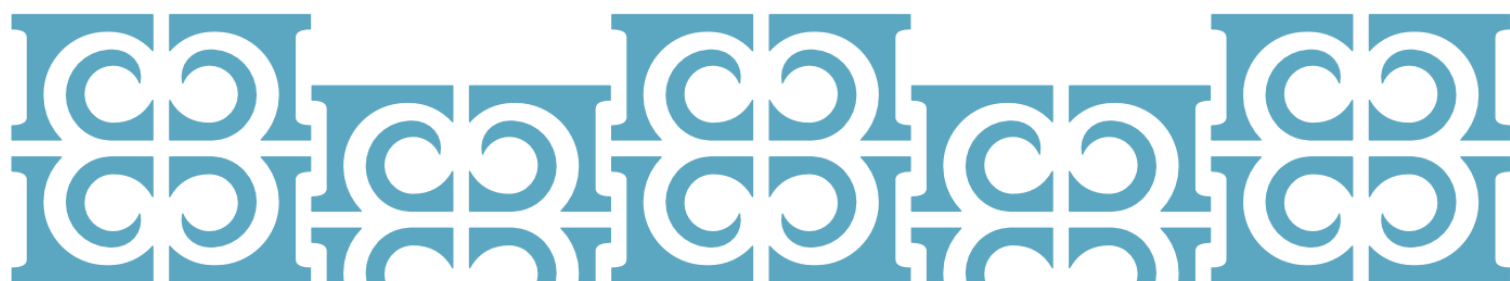
	Planned 2017- 2018	Achievement 2017- 2018	Comment
<b>The Minister's assessment of the delivery of the Commission's work programme</b>			
<b>Measure</b> The Law Commission's delivery of its work programme to the Minister's expectations	<b>Target</b> 7/10	Not Applicable in 2017-2018.	For this year only, the Responsible Minister has not provided a rating due to a shortened assessment period. For information to assess the impact of the Law Commission's work, refer to pages 13 to 28.

**LAW COMMISSION'S OUTPUTS 2017-2018**

	Planned 2017- 2018	Achievement 2017- 2018	Comment
<b>Quantitative measures</b>			
<b>Measure</b> Production of final reports	<b>Target</b> 0 reports completed	There were no final reports planned or completed during this year as part of the work programme agreed with the responsible Minister.	The nature of the Law Commission work programme agreed with the responsible Minister means that at times in the project cycle of work no final reports are planned.



	Planned 2017- 2018	Achievement 2017- 2018	Comment
<b>Quantitative measures</b>			
<b>Measure</b> Publishing issues papers	<b>Target</b> Issues papers published for 3 references	<b>Partially Achieved</b>	The issues papers published for references were: <ol style="list-style-type: none"> <li>1. The review of the Property (Relationships Act) 1976 - the issues paper plus a study paper were published on 16 October 2017;</li> <li>2. The second statutory review of the Evidence Act 2006 – the issues paper was published on 28 March 2018; and</li> <li>3. The review of the Criminal Investigations (Bodily Samples) Act 1995 - the issues paper that was to be published in June will now be published in November 2018 because of resourcing constraints and the priority given to the ministerial briefing paper on abortion law reform under s7(3) of the Law Commission Act 1985.</li> </ol>
<b>Measure</b> Management of the work programme	<b>Target</b> Within total revenue and reserves as agreed with the Minister	<b>Achieved</b>	The Commission used \$0.147m of its reserves in addition to the \$3.993 million of appropriation Non-Departmental Output Expenses: Services from the Law Commission.



	Planned 2017- 2018	Achievement 2017- 2018	Comment
<b>Qualitative measures</b>			
<b>Measure</b> High quality evidence based analysis	Feedback from members of the Expert Advisory Group and other interested parties on completed references	<b>Achieved<sup>1</sup></b>	During the 2017/2018 year the Commission completed an external peer review assessment on one report. This was for our review of the Law of Contempt of Court in May 2017.  As the feedback on the quality of our report on the Law of Contempt of Court was sought and obtained during the 2017/18 year, we reported to the Minister this year summarising the feedback on that report. The “peer review” feedback was very favourable.
<b>Measure</b> Engagement and consultation	Feedback from members of the Expert Advisory Group and other interested parties on completed references	<b>Achieved<sup>2</sup></b>	
<b>Measure</b> Clear and understandable reports	Feedback from members of the Expert Advisory Group and other interested parties on completed references	<b>Achieved<sup>1</sup></b>	
<b>Measure</b> Independent and practicable recommendations	Feedback from members of the Expert Advisory Group and other interested parties on completed references	<b>Achieved<sup>1</sup></b>	

1 Refer below for further information about the achievement of this measure.

2 The achievement of ‘Engagement and consultation’ is based on the list of submitters in Appendix 3 to the Contempt of Court Report and the number and nature of the responses to the feedback questionnaire.



## THE LAW COMMISSION'S REVIEW OF LAW REFORM OUTPUTS

### Summary of external feedback on Report NZLC R140 *Reforming the Law of Contempt of Court: A Modern Statute Ko te Whakahou i te Ture mō Te Whawhati Tikanga ki te Kōti : He Ture Ao Hou.*

As part of the Law Commission's new approach to the measurement of its performance, the Commission sought feedback by way of questionnaire on its Contempt of Court Report dated May 2017 from the experts in the field.

The Law Commission's General Manager sent each person a letter dated 27 July 2017. Feedback on this law reform report was sought from legal experts. Completed responses were received during the following three months from 13 of the 17 people approached.

Responses from legal experts:

An analysis of the 13 completed responses shows that the Report received the following average assessments out of a possible 10.

Subject	Overall Score	Comment
Quality of Legal Research	9	The achievement of "High quality evidence based analysis" is based on the answers to Question 1 in the feedback questionnaire which read as follows: 'Quality of the Law Commission's legal research – the current law was accurately and thoroughly explained'.
Quality of Policy Analysis	9	The achievement of "High quality evidence based analysis" is based on the answers to Question 2 in the feedback questionnaire which read as follows: 'Quality of the Law Commission's policy analysis – the relevant issues were identified and analysed, and appropriate options for reform were identified'.
Quality of Report	9	The achievement of "Clear and understandable reports" is based on Question 4 in the feedback questionnaire which read as follows: 'Quality of the Law Commission's report – it is presented in as clear, understandable and constructive manner as the technical nature of the subject matter allows'.



Subject	Overall Score	Comment
Quality of Recommendations	8.7	<p>The achievement of “Independent and practicable recommendations” is based on the answers to Question 3 in the feedback questionnaire which read as follows: ‘Quality of the Law Commission’s recommendations – the recommendations:</p> <ul style="list-style-type: none"> <li>- Are supported by appropriate analysis;</li> <li>- Take into account the relevant context; and</li> <li>- Recognise practical issues of implementation, cost, technical feasibility and timing’.</li> </ul>

The overall average assessment was therefore 9.

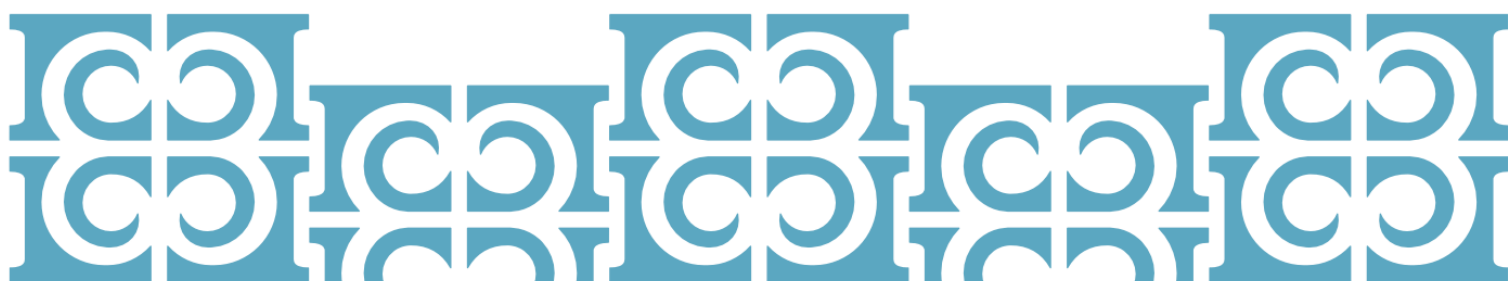
Responders who added specific comments were invariably favourable. Several responders included favourable general comments:

- *The Commission’s willingness to engage with those in the operational area was excellent and should be continued;*
- *I enjoyed my interaction with the Commission;*
- *The Contempt project was excellent. A very useful report that thoroughly analysed the issues and clearly stated the law. Reform proposals flowed naturally and were sensible;*
- *My impression is that the Commission’s standing and the respect it is held in has been enhanced by recent appointments and the evident quality of its work;*
- *[the Commission] is a very valuable part of the New Zealand legal system;*
- *The stages that have been worked through, consultations through to draft report, enable the law and issues to be thoroughly examined;*
- *The report clearly identified the issues for a reform of the law of contempt of Court with appropriate references to legislation and case law; and*
- *One responder included a suggestion for improvement, namely that when a report is delayed, an explanation should be given. We note that in fact the Report included an explanation why it had been delayed: see [1.79] to [1.85].*

#### **WHAT HAS HAPPENED WITH THIS EXTERNAL FEEDBACK ON PROJECTS?**

The Responsible Minister and the Ministry of Justice have been provided with this feedback on the Contempt of Court report.

The Commission found the feedback useful and will continue to take all feedback into account in improving its processes for current and future projects.





# Financial Statements for the year ended 30 June 2018

## STATEMENT OF COMPREHENSIVE REVENUE AND EXPENSE FOR THE YEAR ENDED 30 JUNE 2018

		2018 Actual	2018 Budget	2017 Actual
	Note	\$	\$	\$
<b>Revenue</b>				
Funding from the Crown	2	4,118,000	3,993,000	3,993,000
Interest revenue	2	53,866	54,000	91,420
Sale of publications	2	1,226	2,000	1,362
Other revenue	2	57,019	14,000	42,682
<b>Total revenue</b>		<b>4,230,111</b>	<b>4,063,000</b>	<b>4,128,464</b>
<b>Expenditure</b>				
Personnel costs	3	3,311,037	3,284,000	2,915,181
Direct project costs		61,307	49,000	60,641
Library		77,710	61,000	49,480
Occupancy	4	526,499	782,000	514,505
Depreciation and Amortisation	8	24,399	71,000	67,239
Audit		33,000	30,000	29,353
Other operating	4	344,021	252,000	313,934
<b>Total expenditure</b>		<b>4,377,973</b>	<b>4,529,000</b>	<b>3,950,333</b>
<b>Net surplus/(deficit)</b>		<b>(147,862)</b>	<b>(466,000)</b>	<b>178,131</b>
<b>Total comprehensive revenue</b>		<b>(147,862)</b>	<b>(466,000)</b>	<b>178,131</b>

The accompanying notes form part of these financial statements.

Explanations of major variances against budget are detailed in note 18.



## STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2018

		2018 Actual	2018 Budget	2017 Actual
	Note	\$	\$	\$
<b>Assets</b>				
<b>Current assets</b>				
Cash and cash equivalents	5	1,929,899	300,000	58,888
Receivables and prepayments	6	63,417	30,000	48,641
Investments	7	-	304,000	2,265,000
<b>Total current assets</b>		<b>1,993,316</b>	<b>664,000</b>	<b>2,372,529</b>
<b>Non-current assets</b>				
Property, plant and equipment	8	584,916	1,058,000	40,166
Intangible assets	9	-	-	89
<b>Total non-current assets</b>		<b>584,916</b>	<b>1,058,000</b>	<b>40,255</b>
<b>Total assets</b>		<b>2,578,232</b>	<b>1,722,000</b>	<b>2,412,784</b>
<b>Liabilities</b>				
<b>Current liabilities</b>				
Payables	10	254,361	100,000	103,136
Employee entitlements	11	191,856	100,000	115,358
Provisions	12	20,398	-	94,595
<b>Total current liabilities</b>		<b>466,615</b>	<b>200,000</b>	<b>313,089</b>
<b>Non-current liabilities</b>				
Provisions	12	159,784	-	-
<b>Total non-current liabilities</b>		<b>159,784</b>	<b>-</b>	<b>-</b>
<b>Total liabilities</b>		<b>626,399</b>	<b>200,000</b>	<b>313,089</b>
<b>Net assets</b>		<b>1,951,833</b>	<b>1,522,000</b>	<b>2,099,695</b>
<b>Equity</b>				
Accumulated surplus/(deficit)	14	1,951,833	1,522,000	2,099,695
<b>Total equity</b>		<b>1,951,833</b>	<b>1,522,000</b>	<b>2,099,695</b>

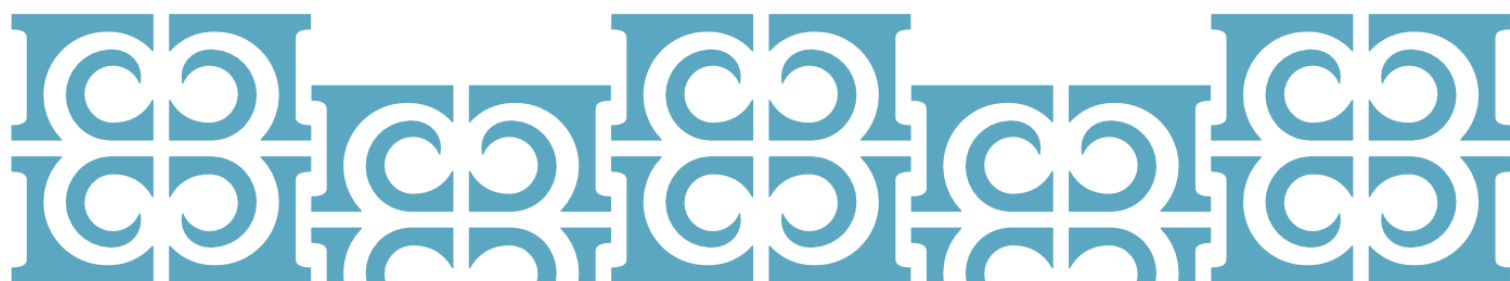
The accompanying notes form part of these financial statements. Explanations of major variances against budget are detailed in note 18.



**STATEMENT OF CHANGES IN EQUITY FOR THE YEAR ENDED 30 JUNE 2018**

		2018 Actual	2018 Budget	2017 Actual
	Note	\$	\$	\$
<b>Balance at 1 July</b>		2,099,695	1,988,000	1,921,564
Surplus/(deficit)		(147,862)	(466,000)	178,131
Other comprehensive revenue		-	-	-
Total comprehensive revenue and expense for the year		(147,862)	(466,000)	178,131
<b>Balance at 30 June</b>	14	<b>1,951,833</b>	<b>1,522,000</b>	<b>2,099,695</b>

The accompanying notes form part of these financial statements.



## STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2018

		2018 Actual	2018 Budget	2017 Actual
	Note	\$	\$	\$
<b>Cash flows from operating activities</b>				
Receipts from the Crown		4,118,000	3,993,000	3,993,000
Interest received		82,345	44,200	77,501
Sale of publications and other income		61,478	23,826	75,043
Payments to employees		(3,234,538)	(3,294,000)	(2,928,439)
Payments to suppliers		(1,026,601)	(1,262,000)	(1,048,439)
Goods and services tax (net)		(4,992)	(28,826)	13,296
<b><i>Net cash flow from operating activities</i></b>		<b>(4,308)</b>	<b>(523,800)</b>	<b>181,962</b>
<b>Cash flows from investing activities</b>				
Placement of funds on term deposits		(-)	(-)	(465,000)
Maturity of funds on term deposits		2,265,000	1,046,000	(-)
Lease Incentive received		183,582	-	-
Purchase of property, plant and equipment		(576,063)	(776,200)	(4,142)
Proceeds from Disposal		2,800	-	-
Purchase (sale) of intangible assets		-	(13,000)	-
<b><i>Net cash flow from investing activities</i></b>		<b>1,875,319</b>	<b>256,800</b>	<b>(469,142)</b>
Net (decrease)/increase in cash and cash equivalents		1,871,011	(267,000)	(286,953)
<b>Cash and cash equivalents at the beginning of the year</b>	5	58,888	567,000	345,841
<b>Cash and cash equivalents at the end of the year</b>	5	<b>1,929,899</b>	<b>300,000</b>	<b>58,888</b>

The accompanying notes form part of these financial statements.

The Goods and Service Tax (net) component of operating activities reflects the net Goods and Service Tax paid and received by the Inland Revenue Department.

Explanations of major variances against budget are detailed in note 18.



# Notes to the Financial Statements

## NOTE 1 STATEMENT OF ACCOUNTING POLICIES

### *Reporting Entity*

The Law Commission is a Crown entity as defined by the Crown Entity Act 2004 and is domiciled and operates in New Zealand. The relevant legislation governing the Law Commission's operation includes the Crown Entities Act 2004 and the Law Commission Act 1985. The Law Commission's ultimate parent is the New Zealand Crown.

The Law Commission's role is to promote the systematic review, reform and development of the law of New Zealand. It undertakes law reform projects and provides advice to Ministers and public sector agencies.

The Law Commission has designated itself a public benefit (PBE) entity for financial reporting purposes.

The financial statements for the Law Commission are for the year ended 30 June 2018 and were approved by the Board on 26 October 2018.

### *Basis of Preparation*

The financial statements have been prepared on a going concern basis, and the accounting policies have been applied consistently throughout the year.

### *Statement of compliance*

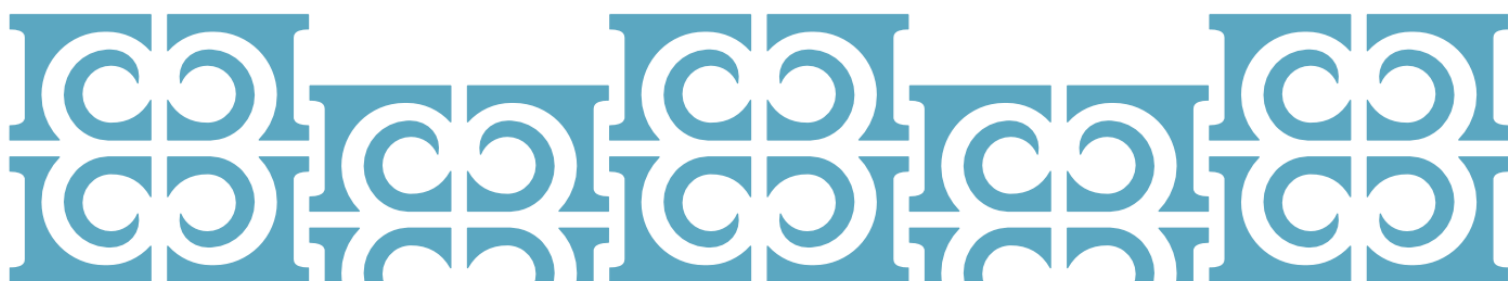
The financial statements of the Law Commission have been prepared in accordance with the requirements of the Crown Entities Act 2004, which includes the requirement to comply with New Zealand generally accepted accounting practice ("NZ GAAP").

The financial statements have been prepared in accordance with Tier 2 PBE accounting standards (PBE IPSAS 1 RDR 28.3).

The financial statements comply with PBE Standards.

### *Presentation currency and rounding*

The financial statements are presented in New Zealand dollars and all values are rounded to the nearest dollar.



### *Standards issued and not yet effective and not early adopted*

In 2015 the External Reporting Board issued *Disclosure Initiative (Amendments to PBE IPSAS1), 2015 Omnibus Amendments to PBE Standards and Amendments to PBE Standards and Authoritative Notice as a Consequence of XRB A1 and Other Amendments*. These amendments apply to PBEs with reporting periods beginning or on 1 January 2016. The Law Commission has applied these amendments in preparing the 2018 statements. There has been no effect.

### **Summary of significant accounting policies**

Significant accounting policies are included in the notes to which they relate.

Significant accounting policies that do not relate to a specific note are outlined below.

#### *Goods and Services Tax (GST)*

Items in the financial statements are presented exclusive of GST, except for receivables and payables, which are presented on a GST-inclusive basis. Where GST is not recoverable as input tax, 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 is included as part of receivables or payables in the statement of financial position.

The net GST paid to, or received from, the Inland Revenue Department, including the GST relating to investing and financing activities, is classified as a net operating cash flow in the statement of cash flows.

Commitments and contingencies are disclosed exclusive of GST.

#### *Income tax*

The Law Commission is a public authority and consequently is exempt from the payment of income tax. Accordingly, no provision has been made for income tax.

#### *Budget figures*

The budget figures are derived from the Statement of Performance Expectations as approved by the Board at the beginning of the financial year. The budget figures have been prepared in accordance with NZ GAAP, using accounting policies that are consistent with those adopted by the Board in preparing these financial statements.

#### *Cost allocation*

The Law Commission has one output class for the year ending 30 June 2018.



### *Critical accounting estimates and assumptions*

In preparing these financial statements the Law Commission has made estimates and assumptions concerning the future. These estimates and assumptions may differ from the subsequent actual results. Estimates and assumptions 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 a material adjustment to the carrying amounts of assets and liabilities within the next financial year are:

- Useful lives and residual values of property, plant, and equipment – refer to Note 8; and
- Onerous Lease – refer to Note 12.
- Provisions

## **NOTE 2 REVENUE**

### **Accounting policy**

The specific accounting policies for significant revenue items are explained below:

#### *Funding from the Crown*

The Law Commission is primarily funded from the Crown. This funding is restricted in its use for the purpose of the Law Commission meeting its objectives as specified in its founding legislation and the scope of the relevant appropriations of the funder.

The Law Commission considers there are no conditions attached to the funding and it is recognised as revenue at the point of entitlement. This is considered to be the start of the appropriation period to which the funding relates.

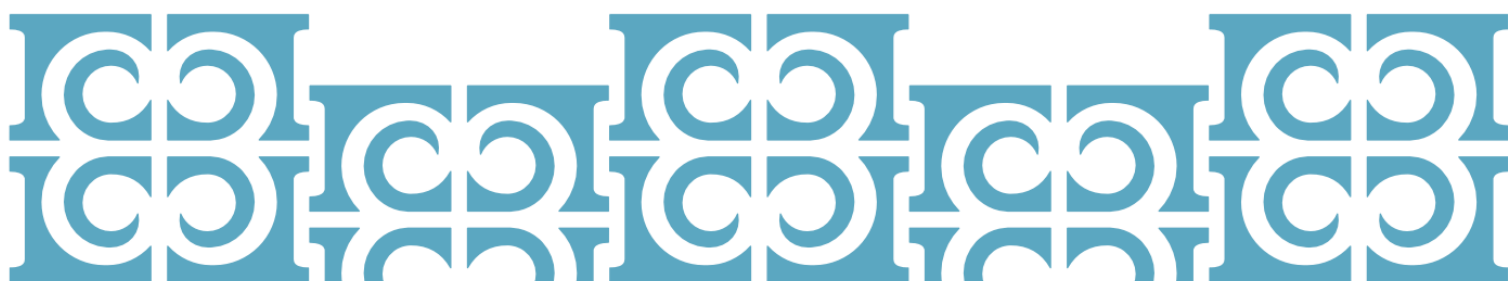
The fair value of revenue from the Crown has been determined to be equivalent to the amounts due in the funding arrangement.

#### *Interest revenue*

Interest revenue is recognised by accruing on a time proportional basis the interest due for the investment.

#### *Other revenue*

Lease receipts under an operating sublease are recognised as revenue on a straight-



line basis over the lease term.

### *Sale of publications*

Sales of publications are recognised as revenue when the product is sold to the customer.

## **NOTE 3 PERSONNEL COSTS**

### **Accounting policy**

#### *Superannuation schemes*

#### *Defined contribution schemes*

Employer contributions to KiwiSaver are accounted for as defined contribution superannuation scheme and are expensed in the surplus or deficit as incurred.

#### *Breakdown of personnel costs and further information*

	2018 Actual	2017 Actual
	\$	\$
Salaries and wages	3,164,778	2,852,755
Defined contribution plan employer contributions	69,761	97,908
Increase/(decrease) in employee entitlements (note 11)	76,498	(35,482)
<b>Total personnel costs</b>	<b>3,311,037</b>	<b>2,915,181</b>

#### *Employee remuneration*

Total remuneration paid or payable	2018 Actual	2017 Actual
\$100,000 and \$109,999	1	1
\$110,000 and \$119,999	3	2
\$210,000 and \$219,999 (up to 26 May 2018)	0	1
<b>Total employees</b>	<b>4</b>	<b>4</b>

During the year ended 30 June 2018, no employee received compensation and other benefits in relation to cessation (2017: \$ nil).





*Board member remuneration*

The total value of remuneration paid or payable to each Board member during the year was:<sup>3</sup>

	2018 Actual	2017 Actual
	\$	\$
Douglas White	404,110	424,753
Wayne Mapp	1,360	225,598
Helen McQueen	307,070	242,130
Donna Buckingham	317,210	311,908
Belinda Clark	289,540	-
<b>Total Board Remuneration</b>	<b>1,319,290</b>	<b>1,204,389</b>

No Board member received compensation and other benefits in relation to cessation (2017: \$ nil).

In terms of the Law Commission Act 1985, the President of the Law Commission is the Chairperson and Chief Executive.

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<sup>3</sup> The remuneration of the Board members is set by the Remuneration Authority.



## NOTE 4 OTHER EXPENSES

### Accounting policy

#### *Operating leases*

An operating lease is a lease that does not transfer substantially all the risks and rewards incidental to ownership of an asset to the lessee. Lease payments under an operating lease are recognised as an expense on a straight line basis over the period of the lease. Lease incentives are recognised in the surplus or deficit as a reduction of rental expense over the lease term.

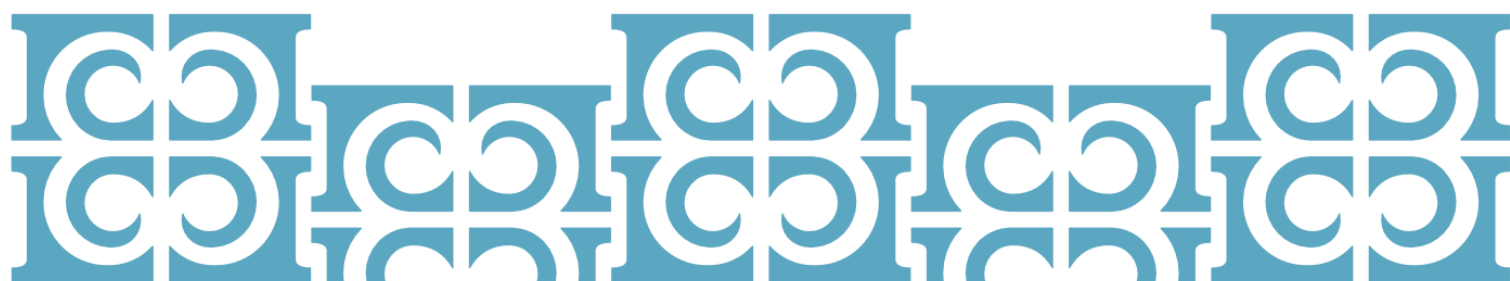
#### *Breakdown of other operating expenses*

	2018 Actual	2017 Actual
	\$	\$
Repairs and maintenance	8,115	6,633
Professional services	74,542	94,239
Communications	19,290	18,794
Loss on disposal	4,114	-
Other expenses	237,960	194,268
<b>Total other operating</b>	<b>344,021</b>	<b>313,934</b>

#### *Operating lease as lessee*

The Law Commission leases one property. The lease expires on 24 April 2027 and the Law Commission has the rights of renewal for two further terms of 3 years each.

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



The future aggregate minimum lease payments to be paid under non-cancellable operating leases are as follows:

	2018 Actual	2017 Actual
	\$	\$
Not later than one year	244,776	510,444
Later than one year and not later than five years	979,104	-
Later than five years	938,308	-
<b>Total non-cancellable operating lease</b>	<b>2,162,188</b>	<b>510,444</b>

#### *Occupancy costs*

	2018 Actual	2017 Actual
	\$	\$
Rent	521,461	520,631
Operating lease expense – premises	99,632	91,902
Onerous lease	(94,594)	(98,028)
<b>Total accommodation costs</b>	<b>526,499</b>	<b>514,505</b>

#### **NOTE 5 CASH AND CASH EQUIVALENTS**

Cash and cash equivalents includes cash on hand, deposits held on call with banks, and other short-term highly liquid investments with maturities of three months or less.

#### **Breakdown of cash and cash equivalents and further information**

	2018 Actual	2017 Actual
	\$	\$
Cash on hand and at bank	1,929,899	58,888
Term deposits with original maturities less than three months	-	-
<b>Total cash and cash equivalents</b>	<b>1,929,899</b>	<b>58,888</b>

The carrying value of cash at bank and short-term deposits with original maturities less than three months approximates their fair value.



## NOTE 6 RECEIVABLES AND PREPAYMENTS

### Accounting policy

Short-term receivables are recorded at the amount due, less any provision for uncollectability.

A receivable is considered uncollectable when there is evidence that the amount due will not be fully collected. The amount that is uncollectable is the difference between the amount due and the present value of the amounts expected to be collected.

### Breakdown of receivables and further information

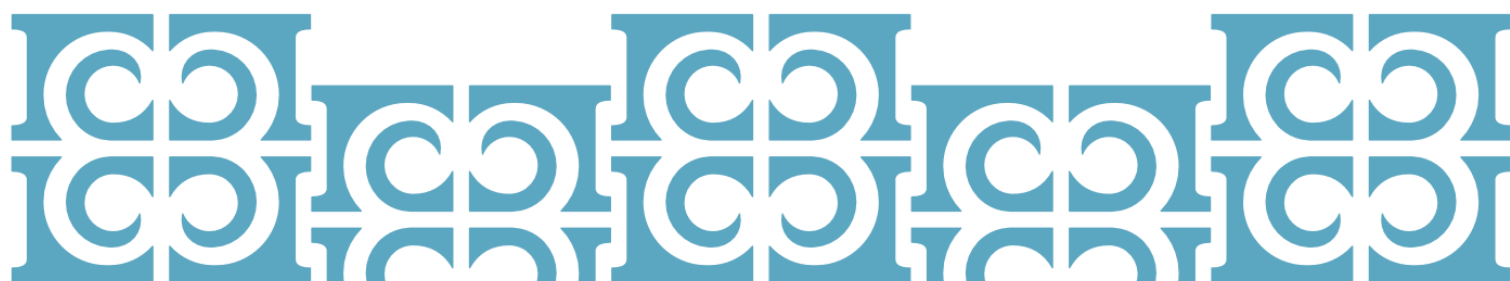
	2018 Actual \$	2017 Actual \$
<b>Exchange Receivables</b>		
Trade debtors	13,937	17,170
Less: provision for impairment	(-)	(16,985)
Accrued interest	(4,753)	23,726
<b>Non-Exchange Receivables</b>		
GST receivable	29,722	24,730
Prepayments	24,511	-
<b>Total receivables</b>	<b>63,417</b>	<b>48,641</b>

## NOTE 7 INVESTMENTS

### Accounting policy

#### *Bank term deposits*

Bank deposits are initially measured at the amount invested. Interest is subsequently accrued and added to the investment balance.



### Breakdown of investments and further information

	2018 Actual	2017 Actual
	\$	\$
<b>Current portion</b>		
Term deposits	-	2,265,000
Total Current Portion	-	2,265,000
<b>Non-current portion</b>		
Term deposits	-	-
Total Non-Current Portion	-	-
<b>Total investments</b>	-	<b>2,265,000</b>

The carrying amounts of term deposits with maturities less than 12 months approximated their market value. There is no impairment provision for investments.

### NOTE 8 PROPERTY, PLANT AND EQUIPMENT

#### Accounting policy

##### *Property, plant and equipment*

Property, plant and equipment consist of the following asset classes: library collection, furniture and fittings, computer hardware and office equipment.

All classes are initially recorded at cost.

##### *Additions*

The cost of an item of property, plant and equipment is recognised as an asset only when it is probable that future economic benefits or service potential associated with the item will flow to the Law Commission and the cost of the item can be measured reliably.

In most instances, an item of property, plant, and equipment is initially recognised at its cost. Where an asset is acquired through a non-exchange transaction, it is recognised at its fair value as at the date of acquisition.

Costs incurred subsequent to initial acquisition are capitalised only when it is probable that future economic benefits or service potential associated with the item will flow to



the Law Commission and the cost of the item can be measured reliably.

The costs of day-to-day servicing of property, plant and equipment are recognised in the surplus or deficit as they are incurred.

### *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 reported net in the surplus or deficit.

### *Depreciation*

Depreciation is provided either on a straight-line or diminishing value 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 property, plant and equipment have been estimated as follows:

Computer equipment	2-8 years	13-66%
Office equipment	5 years	20%
Furniture and fittings	3-10 years	10-40%
Library collection	5 years	20%
Leasehold improvements	9 years	11.11%

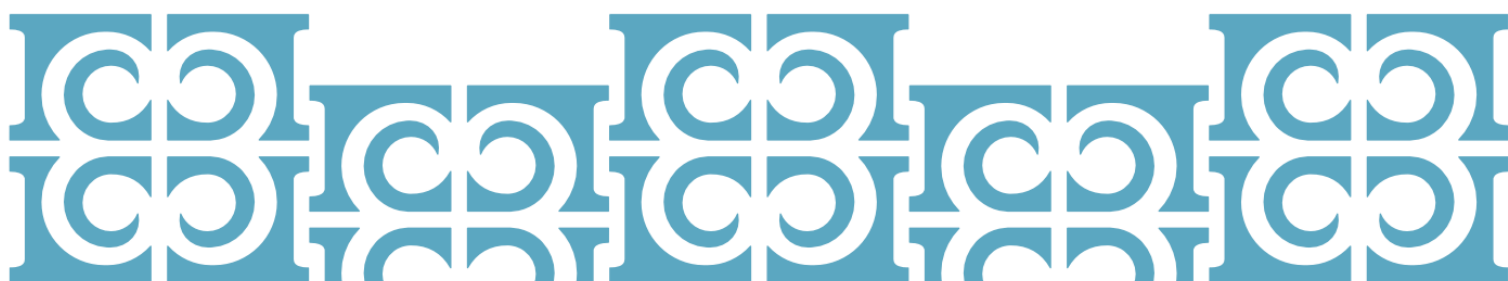
The residual value and useful life of an asset is reviewed, and adjusted if applicable, at each financial year end.

### **Impairment of property, plant, equipment**

The Law Commission does not hold any cash-generating assets. Assets are considered cash-generating where their primary objective is to generate a commercial return.

#### *Non cash generating assets*

Property, plant, and equipment held at cost 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 service amount. The



recoverable service amount is the higher of an asset's fair value, less costs to sell, and value in use.

Value in use is the present value of an asset's remaining service potential. It is determined using an approach based on either a depreciated replacement cost approach, a restoration cost approach, or a service units approach. The most appropriate approach used to measure value in use depends on the nature of the impairment and availability of information

If an asset's carrying amount exceeds its recoverable service amount, the asset is regarded as impaired and the carrying amount is written down to the recoverable amount. The total impairment loss is recognised in the surplus or deficit.

For assets not carried at revalued amount, the total impairment loss is recognised in the surplus or deficit.

The reversal of an impairment loss is recognised in the surplus or deficit.

#### *Estimating useful lives and residual values of property, plant and equipment*

At each balance date, the useful lives and residual values of property, plant, and equipment are reviewed. Assessing the appropriateness of useful life and residual value estimates of property, plant, and equipment requires a number of factors to be considered such as the physical condition of the asset, expected period of use of the asset by the Law Commission, and expected disposal proceeds from the future sale of the asset.

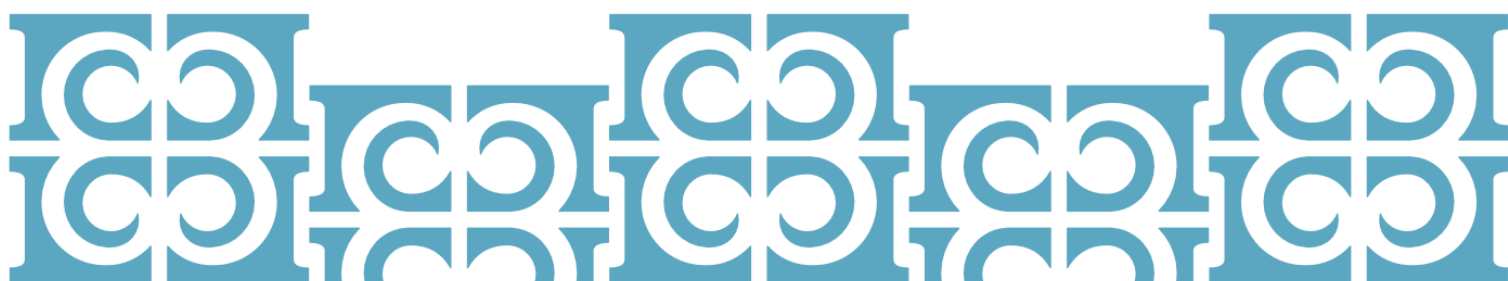
An incorrect estimate of the useful life or residual value will affect the depreciation expense recognised in the surplus or deficit, and carrying amount of the asset in the statement of financial position. Law Commission minimises the risk of this estimation uncertainty by:

- (a) physical inspection of assets;
- (b) asset replacement programs;
- (c) review of second-hand market prices for similar assets; and
- (d) analysis of prior asset sales.

The Law Commission has not made significant changes to past assumptions concerning useful lives and residual values

#### *Critical judgements made in applying accounting policies*

Management has exercised the following critical judgements in applying accounting policies:



### Lease classification

Determining whether a lease is a finance lease or an operating lease requires judgement as to whether the lease transfers substantially all the risks and rewards of ownership to the Law Commission. Judgement is required on various aspects that include, but are not limited to, the fair value of the leased asset, the economic life of the leased asset, whether or not to include renewal options in the lease term, and determining an appropriate discount rate to calculate the present value of the minimum lease payments. Classification as a finance lease means the asset is recognised in the statement of financial position as property, plant, and equipment, whereas for an operating lease no such asset is recognised.

Based on the above assumptions we have classified all lease agreements as operating leases.

### Breakdown of property, plant and equipment and further information

Movements for each class of property, plant and equipment are as follows:

	Computer equipment	Furniture and fittings	Leasehold Improvements	Office equipment	Library collection	Total
	\$	\$	\$	\$	\$	\$
<b>Cost or valuation</b>						
Balance at 30 June 2016	172,800	580,235	-	62,525	44,762	860,322
Additions	5,280	-	-	-	-	5,280
Adjustments/ Disposals	(423)	-	-	(716)	-	(1,139)
Balance at 30 June 2017	177,657	580,235	-	61,809	44,762	864,463
Additions	31,202	108,722	432,203	3,936	-	576,063
Adjustments/ Disposals	(11,502)	(534,629)	-	(50,387)	-	(596,518)
Balance at 30 June 2018	197,357	154,353	432,203	15,358	44,762	844,008





	Computer equipment	Furniture and fittings	Leasehold Improvements	Office equipment	Library collection	Total
	\$	\$	\$	\$	\$	\$
<b>Accumulated depreciation and impairment losses</b>						
Balance at 30 June 2016	163,872	525,288	-	59,301	8,953	757,414
Depreciation expense	6,420	50,679	-	831	8,953	66,883
Adjustments/ Disposals	-	-	-	-	-	-
Balance at 30 June 2017	170,292	575,967	-	60,132	17,906	824,297
Depreciation expense	3,770	2,991	8,003	683	8,952	24,399
Adjustment/ Elimination on disposal	(8,637)	(531,132)		(49,835)	-	(589,604)
Balance at 30 June 2018	165,425	47,826	8,003	10,980	26,858	259,092
<b>Carrying amounts</b>						
At 1 July 2016	8,928	54,947	-	3,224	35,809	102,908
At 1 July 2017	7,365	4,268	-	1,677	26,856	40,166
At 30 June 2018	31,932	106,527	424,200	4,378	17,905	584,916

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



## NOTE 9 INTANGIBLE ASSETS

### Accounting policy

#### *Software acquisition and development*

Computer software licenses are capitalised on the basis of the costs incurred to acquire and bring to use the specific software.

Costs that are not directly associated with the development of software for internal use are recognised as an intangible asset. Direct costs include software development employee costs and an appropriate portion of relevant overheads.

Staff training costs are recognised as an expense when incurred.

Costs associated with maintaining computer software are expensed when incurred.

Costs associated with the development and maintenance of the Law Commission's website are expensed when incurred.

#### *Amortisation*

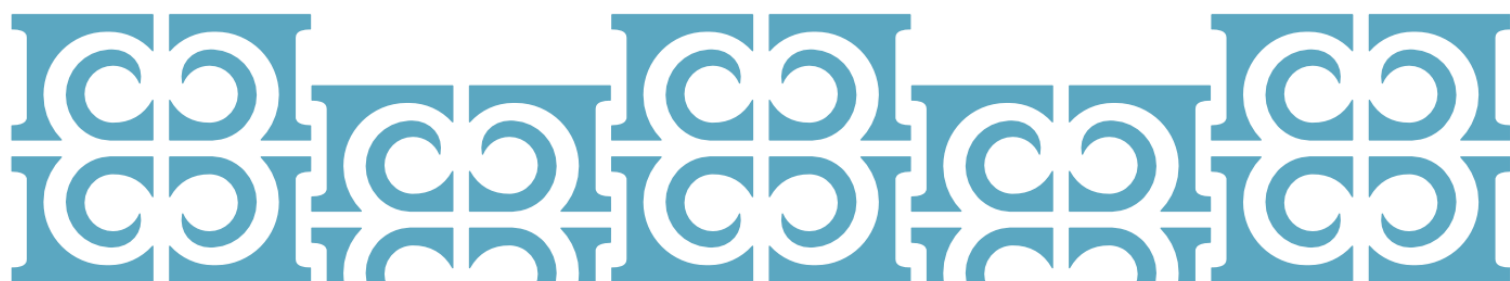
The carrying value of an intangible asset with a finite life is amortised on a straight-line basis over its useful life. Amortisation begins when the asset is available for use and ceases at the date that the asset is derecognised. The amortisation charge for each period is recognised in the surplus or deficit.

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

Computer Software	3 years	33.33%
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#### *Impairment of intangible assets*

Refer to the policy for impairment of property, plant, and equipment in Note 8. The same approach applies to the impairment of intangible assets.



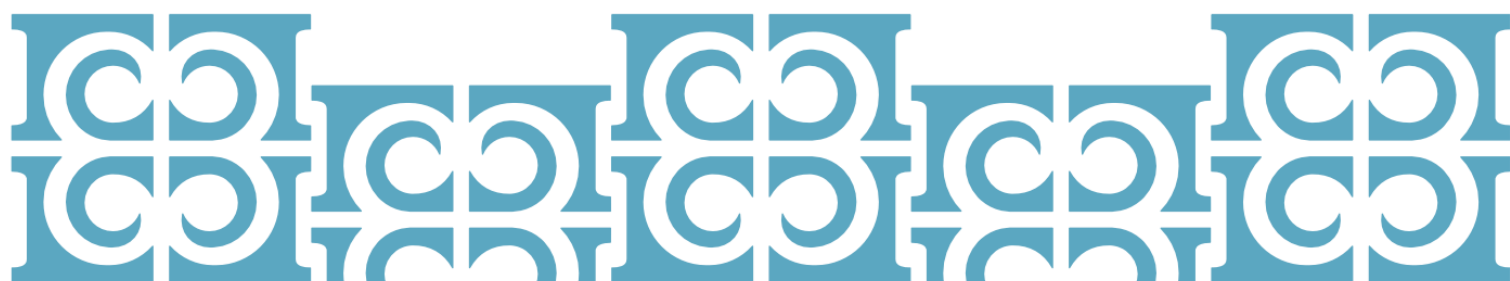
### Breakdown of intangible assets and further information

Movements for each class of intangible asset are as follows:

	Acquired software	Total
	\$	\$
<b>Balance at 30 June 2016</b>	<b>72,879</b>	<b>72,879</b>
Additions	-	-
Adjustments/ Disposals	-	-
<b>Balance at 30 June 2017</b>	<b>72,879</b>	<b>72,879</b>
Additions	-	-
Adjustments/Disposals	-	-
<b>Balance at 30 June 2018</b>	<b>72,879</b>	<b>72,879</b>
<b>Balance at 30 June 2016</b>	<b>72,434</b>	<b>72,434</b>
Amortisation expense	356	356
Adjustments/ Elimination of Disposal	-	-
Impairment losses	-	-
<b>Balance at 30 June 2017</b>	<b>72,790</b>	<b>72,790</b>
Amortisation expense	89	89
Adjustments/ Elimination of Disposal		
Impairment losses		
<b>Balance at 30 June 2018</b>	<b>72,879</b>	<b>72,879</b>
At 30 June 2016	445	445
At 30 June 2017	89	89
At 30 June 2018	-	-

#### Restrictions

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



**NOTE 10 PAYABLES****Accounting policy**

Short-term payables are recorded at the amount payable.

*Breakdown of payables*

	2018 Actual	2017 Actual
	\$	\$
<b>Payables under exchange transactions</b>		
Creditors	177,668	70,136
Accrued expenses	76,693	33,000
<b>Total payables</b>	<b>254,361</b>	<b>103,136</b>

**NOTE 11 EMPLOYEE ENTITLEMENTS****Accounting policy***Short term employee entitlements*

Employee benefits that are due to be settled within 12 months after the end of the year in which the employee provides the related service are measured 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 sick leave.

A liability and an expense are recognised for bonuses where there is a contractual obligation or where there is past practice that has created a constructive obligation and a reliable estimate of the obligation can be made.

*Presentation of employee entitlements*

Sick leave and annual leave are classified as a current liability.



## Breakdown of employee entitlements

	2018 Actual	2017 Actual
	\$	\$
<b>Current portion</b>		
Annual leave	146,421	78,134
Sick leave	15,000	15,000
Salary accrual	30,435	22,233
<b>Total employee entitlements</b>	<b>191,856</b>	<b>115,357</b>

## NOTE 12 PROVISIONS

### Accounting policy

#### *General*

A provision is recognised for future expenditure of 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 or service potential will be required to settle the obligation; and
- a reliable estimate can be made of the amount of the obligation.

#### *Leasehold Fit-out Contribution*

Tirohanga Holdings Limited contributed \$183,582 towards the fit-out for the premises during the 2018 financial year. The leasehold fit-out was capitalised and will be depreciated on a straight- line basis over nine years as detailed in the Accounting policies. A liability was recognised for the \$183,582 contribution payment received from Tirohanga Holdings Limited which will be released over the term of the lease, being nine years.



**Breakdown of provisions and further information**

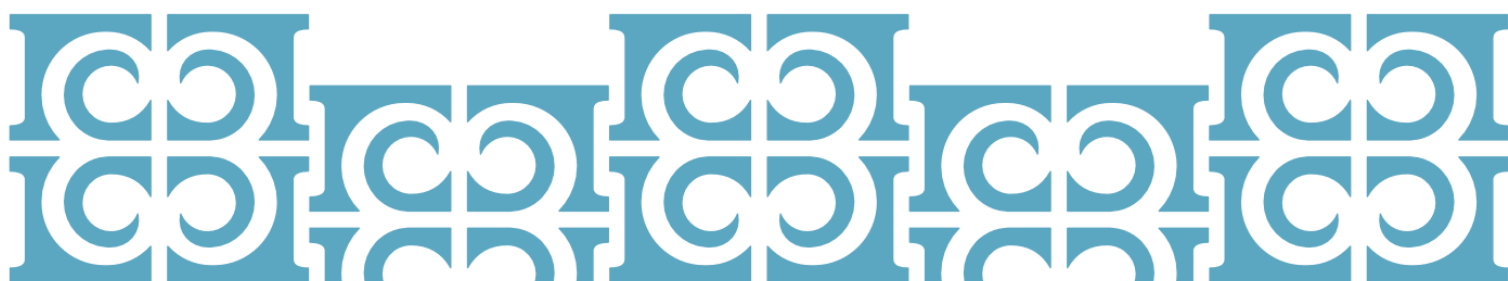
	2018 Actual	2017 Actual
	\$	\$
<b>Current portion:</b>		
Provision for Onerous Lease	-	94,594
Lease Incentive Provision	20,398	-
<b>Total current portion</b>	<b>20,398</b>	<b>94,594</b>
<b>Non-current portion</b>		
Non-current Lease Incentive Provision	159,784	-
<b>Total non-current portion</b>	<b>159,784</b>	<b>-</b>
<b>Total provisions</b>	<b>180,182</b>	<b>94,594</b>

**NOTE 13 CONTINGENCIES****Contingent liabilities**

The Law Commission has no contingent liabilities (2017: \$ nil).

**Contingent assets**

The Law Commission has no contingent assets (2017: \$ nil).



## NOTE 14 EQUITY

### Accounting Policy

Equity is measured as the difference between total assets and total liabilities. Equity is disaggregated and classified into the following components:

- accumulated surplus/(deficit)

### Breakdown of equity and further information

	2018 Actual	2017 Actual
	\$	\$
<b>Accumulated Surplus/(Deficit)</b>		
Balance at 1 July	2,099,695	1,921,564
Surplus/(deficit)	(147,862)	178,131
<b>Total equity at 30 June</b>	<b>1,951,833</b>	<b>2,099,695</b>

### Capital management

The Law Commission's capital is its equity, which comprises accumulated funds. Equity is represented by net assets.

The Law Commission is subject to the financial management and accountability provisions of the Crown Entities Act 2004, which impose restrictions in relation to borrowings, acquisition of securities, issuing guarantees and indemnities, and the use of derivatives. The Law Commission has complied with the financial management requirements of the Crown Entities Act 2004 during the year.

The Law Commission manages its equity as a by-product of prudently managing revenues, expenses, assets, liabilities, investments, and general financial dealings to ensure that the Law Commission effectively achieves its objectives and purpose, while remaining a going concern.



## NOTE 15 RELATED PARTY TRANSACTIONS

The Law Commission is controlled by the Crown.

Related party disclosures have not been made for transactions with related parties that are:

- within a normal supplier or client/recipient relationship; and
- on terms and conditions no more or less favourable than those that it is reasonable to expect the Law Commission would have adopted in dealing with the party at arm's length in the same circumstances.

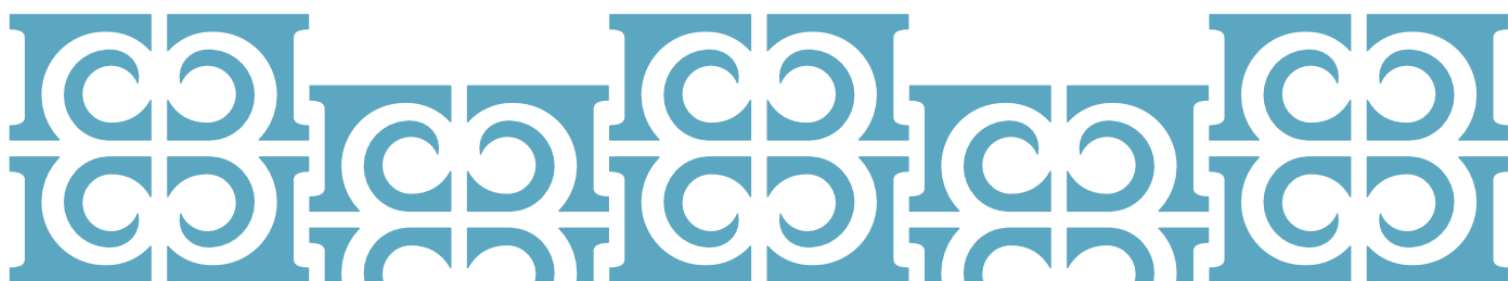
Further, transactions with other government agencies (for example, government departments and Crown entities) are not disclosed as related party transactions when they are on normal terms and conditions consistent with the normal operating arrangements between government agencies.

### Key management personnel compensation

	2018 Actual	2017 Actual
	\$	\$
<i>Board Members</i>		
Remuneration	915,180	779,636
Full Time Equivalent Members	2.69	2.29
<i>Leadership Team</i>		
Remuneration	603,480	662,818
Full Time Equivalent Members	1.77	1.95
<b>Total key management personnel compensation</b>	<b>1,518,660</b>	<b>1,442,454</b>
<b>Total full time equivalent personnel</b>	<b>4.46</b>	<b>4.24</b>

Key management personnel include the President, Commissioners and the General Manager.

For the purposes of this note 15 and in compliance with PBE IPSAS standards, the remuneration of the President who is also Board Chair and Chief Executive of the Law Commission is included along with the General Manager under the Leadership Team (not under Board Members).





Full-time equivalents are calculated on the basis of hours worked.

There were no transactions entered into during the year with key management personnel.

#### NOTE 16 FINANCIAL INSTRUMENTS

The carrying amounts of financial assets and liabilities in each of the financial instrument categories are as follows:

##### Financial liabilities measured at amortised cost

	2018 Actual	2017 Actual
	\$	\$
Payables (note 10)	254,361	103,136
<b>Total financial liabilities measured at amortised cost</b>	<b>254,361</b>	<b>103,136</b>
<b>Loans and receivables</b>		
Cash and cash equivalents (note 5)	1,929,899	58,888
Receivables (note 6)	63,417	48,641
Investments – term deposits (note 7)	-	2,265,000
<b>Total loans and receivables</b>	<b>1,993,316</b>	<b>2,372,529</b>

#### NOTE 17 EVENTS AFTER THE BALANCE DATE

There were no significant events after the balance date.



## **NOTE 18 EXPLANATION OF MAJOR VARIANCES AGAINST BUDGET**

Explanations for significant variances from the Law Commission's budgeted figures in the Statement of Performance Expectations are as follows:

### **Statement of comprehensive revenue and expenses**

#### *Personnel costs*

Personnel costs were above budget due to increased staff levels during the 2018 year.

#### *Library*

Increased library expenses reflects extra database systems utilised by the Law Commission compared to prior years.

#### *Other Operating Expenses*

Increased other operating expenses compared to budget due to a larger amount of relocation costs being deductible than initially predicted.

#### *Occupancy Costs*

Occupancy Costs are lower than budget due to the rent for the new premises being far lower than initially predicted when investigating a move in premises.

### **Statement of financial position**

#### *Cash*

Higher than budget cash position reflects significant savings made during the move in premises.

#### *Property Plant and Equipment.*

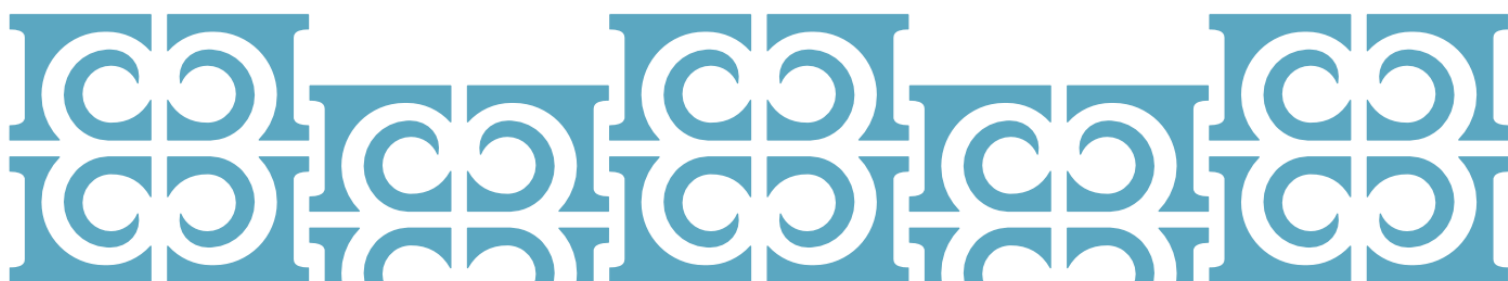
Below budget position reflects significant savings made during the move in premises.

#### *Payables*

Payables is higher than budget position as a number of fitout invoices relating to the move in premises were outstanding at balance date.

### **Statement of cash flows**

Better cash flow from operating activity position than expected due to one off extra funding received from the Crown and significant savings made during the move in premises.



# Independent Auditor's Report

AUDIT NEW ZEALAND  
Mana Arotake Aotearoa

## Independent Auditor's Report

### To the readers of the Law Commission's financial statements and performance information for the year ended 30 June 2018

The Auditor-General is the auditor of the Law Commission (the Commission). The Auditor-General has appointed me, Andrew Clark, using the staff and resources of Audit New Zealand, to carry out the audit of the financial statements and the performance information, of the Commission on his behalf.

#### Opinion

We have audited:

- the financial statements of the Commission on pages 39 to 64, that comprise the statement of financial position as at 30 June 2018, the statement of comprehensive revenue and expense, statement of changes in equity and statement of cash flows for the year ended on that date and the notes to the financial statements including a summary of significant accounting policies and other explanatory information; and
- the performance information of the Commission on pages 13 to 28 and 33 to 38.

In our opinion:

- the financial statements of the Commission on pages 39 to 64:
  - present fairly, in all material respects:
    - its financial position as at 30 June 2018; and
    - its financial performance and cash flows for the year then ended; and
  - comply with generally accepted accounting practice in New Zealand in accordance with Public Benefit Entity Standards Reduced Disclosure Regime and
- the performance information on pages 13 to 28 and 33 to 38:
  - presents fairly, in all material respects, the Commission's performance for the



year ended 30 June 2018, including:

- for each class of reportable outputs:
  - its standards of delivery performance achieved as compared with forecasts included in the statement of performance expectations for the financial year; and
  - its actual revenue and output expenses as compared with the forecasts included in the statement of performance expectations for the financial year; and
- complies with generally accepted accounting practice in New Zealand.

Our audit was completed on 26 October 2018. This is the date at which our opinion is expressed. The basis for our opinion is explained below. In addition, we outline the responsibilities of the Board and our responsibilities relating to the financial statements and the performance information, we comment on other information, and we explain our independence.

### **Basis for our opinion**

We carried out our audit in accordance with the Auditor-General's Auditing Standards, which incorporate the Professional and Ethical Standards and the International Standards on Auditing (New Zealand) issued by the New Zealand Auditing and Assurance Standards Board. Our responsibilities under those standards are further described in the Responsibilities of the auditor section of our report.

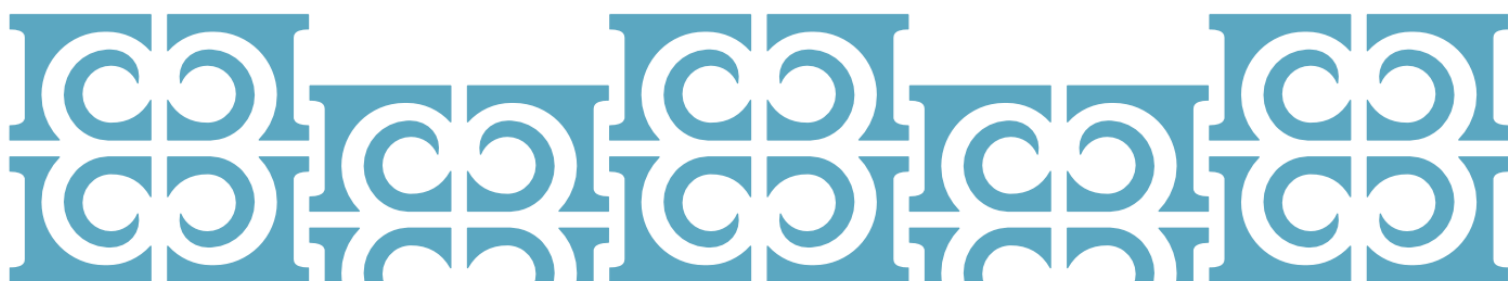
We have fulfilled our responsibilities in accordance with the Auditor-General's Auditing Standards. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Responsibilities of the Board for the financial statements and the performance information**

The Board are responsible on behalf of the Commission for preparing financial statements and performance information that are fairly presented and comply with generally accepted accounting practice in New Zealand. The Board are responsible for such internal control as they determine is necessary to enable them to prepare financial statements and performance information that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements and the performance information, the Board are responsible on behalf of the Commission for assessing the Commission's ability to continue as a going concern. The Board are also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting, unless there is an intention to merge or to terminate the activities of the Commission, or there is no realistic alternative but to do so.

The Board's responsibilities arise from the Crown Entities Act 2004 and the Public Finance Act 1989.



## **Responsibilities of the auditor for the audit of the financial statements and the performance information**

Our objectives are to obtain reasonable assurance about whether the financial statements and the performance information, as a whole, are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion.

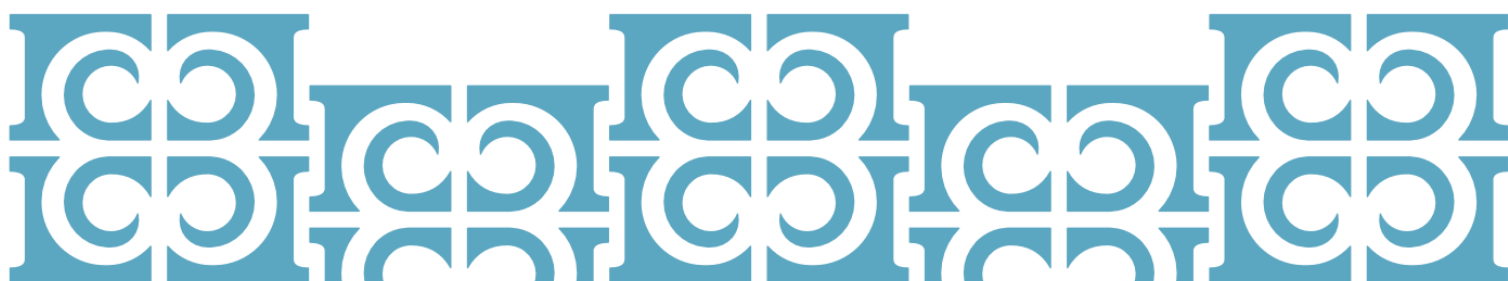
Reasonable assurance is a high level of assurance, but is not a guarantee that an audit carried out in accordance with the Auditor-General's Auditing Standards will always detect a material misstatement when it exists. Misstatements are differences or omissions of amounts or disclosures, and can arise from fraud or error. Misstatements are considered material if, individually or in the aggregate, they could reasonably be expected to influence the decisions of readers, taken on the basis of these financial statements and the performance information.

For the budget information reported in the financial statements and the performance information, our procedures were limited to checking that the information agreed to the Commission's statement of performance expectations.

We did not evaluate the security and controls over the electronic publication of the financial statements and the performance information.

As part of an audit in accordance with the Auditor-General's Auditing Standards, we exercise professional judgement and maintain professional scepticism throughout the audit. Also:

- We identify and assess the risks of material misstatement of the financial statements and the performance information, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- We obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control.
- We evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Board.
- We evaluate the appropriateness of the reported performance information within the Commission's framework for reporting its performance.
- We conclude on the appropriateness of the use of the going concern basis of accounting by the Board and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Commission's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements and the performance information or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the



date of our auditor's report. However, future events or conditions may cause the Commission to cease to continue as a going concern.

- We evaluate the overall presentation, structure and content of the financial statements and the performance information, including the disclosures, and whether the financial statements and the performance information represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with the Board regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

Our responsibilities arise from the Public Audit Act 2001.

### Other information

The Board are responsible for the other information. The other information comprises the information included on pages 3 to 12, 29 to 31, and 69 to 77, but does not include the financial statements and the performance information, and our auditor's report thereon.

Our opinion on the financial statements and the performance information does not cover the other information and we do not express any form of audit opinion or assurance conclusion thereon.

In connection with our audit of the financial statements and the performance information, our responsibility is to read the other information. In doing so, we consider whether the other information is materially inconsistent with the financial statements and the performance information or our knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on our work, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

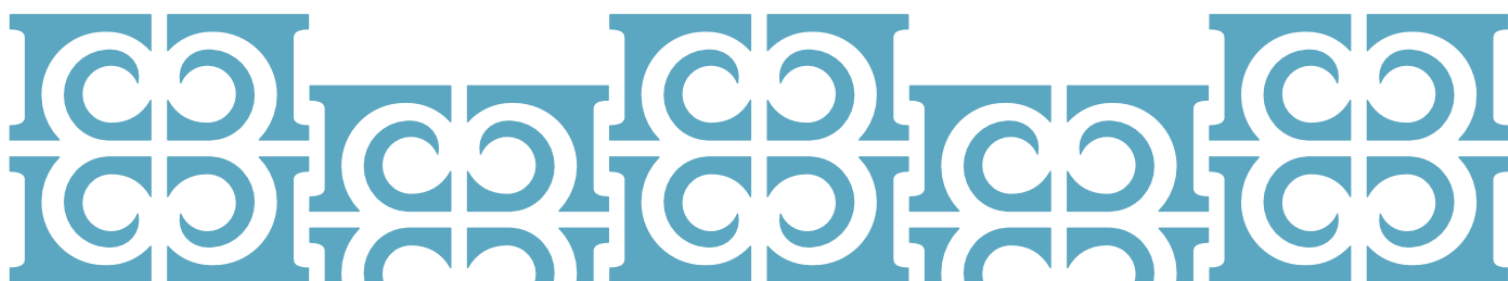
### Independence

We are independent of the Commission in accordance with the independence requirements of the Auditor-General's Auditing Standards, which incorporate the independence requirements of Professional and Ethical Standard 1 (Revised): Code of Ethics for Assurance Practitioners issued by the New Zealand Auditing and Assurance Standards Board.

Other than in our capacity as auditor, we have no relationship with, or interests, in the Commission.



Andrew Clark  
Audit New Zealand  
On behalf of the Auditor-General  
Wellington, New Zealand



# Appendix A –

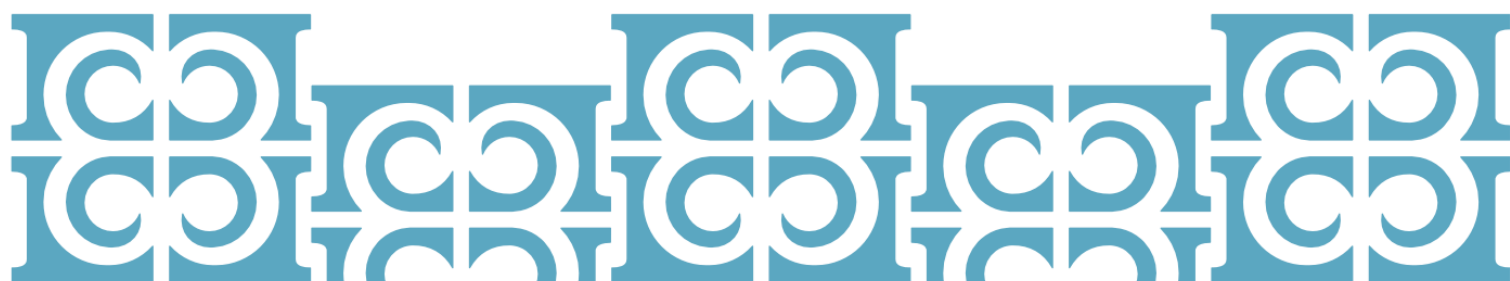
## Tabled Law Reform Reports

### 1 January 2010 – 30 June 2018

Report Name	Report reference	Current Status
Invasion of Privacy: Penalties and Remedies: Review of the Law of Privacy: Stage 3	NZLC R113 (2010)	Cabinet has approved a consultation process on a review of the Privacy Act 1993 in advance of introducing a Bill to Parliament.
Alcohol in our Lives: Curbing the Harm	NZLC R114 (2010)	Alcohol reforms passed into law in 2012.
A New Support Scheme for Veterans: A report on the review of the War Pensions Act 1954	NZLC R115 (2010)	The Veterans' Support Bill was enacted July 2014.
A New Land Transfer Act <i>In conjunction with Land Information New Zealand</i>	NZLC R116 (2010)	Cabinet has accepted the Law Commission's recommendations. The Land Transfer Bill completed the Committee of the Whole House process in June 2017 and received Royal Assent on 10 July 2017.
Compulsory Treatment for Substance Dependence: A Review of the Alcoholism and Drug Addiction Act 1966	NZLC R118 (2010)	The Substance Addiction (Compulsory Assessment and Treatment) Bill was enacted in February 2017

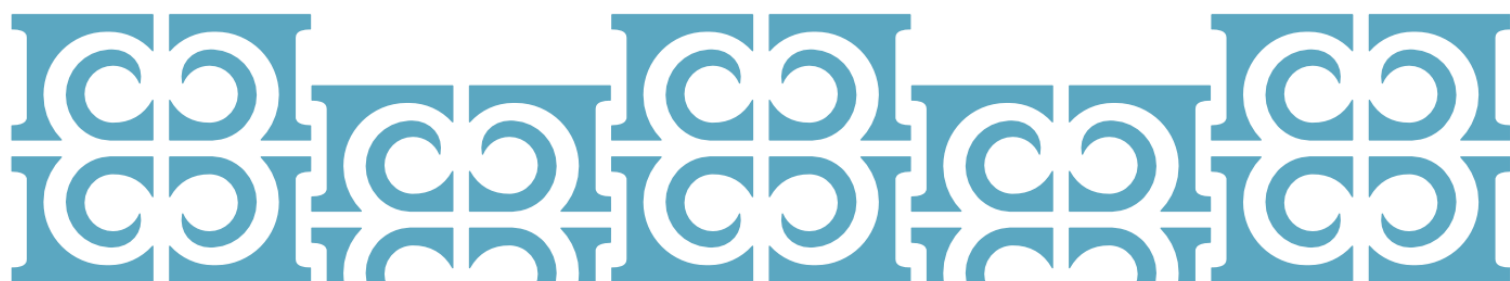


Report Name	Report reference	Current Status
A Review of the Civil List Act 1979: Members of Parliament and Ministers	NZLC R119 (2010)	Members of Parliament (Remuneration and Services) Bill received Royal Assent November 2013.
Mental Impairment Decision Making and the Insanity Defence	NZLC R120 (2010)	Law Commission recommendations accepted in principle in 2011 but implementation requires work to be undertaken by Ministry of Health officials on proposed legislation.
Compensating Crime Victims	NZLC R121 (2010)	Government decisions on victims' compensation made before the report was published. Government response rejected further recommendations.
Controlling and Regulating Drugs – A Review of the Misuse of Drugs	NZLC R122 (2011)	Psychoactive Substances Act 2013 given assent July 2013, five year Drug Court pilot implemented, recommendations relating to criminal justice aspects not accepted.
Review of the Privacy Act 1993: Review of the Law of Privacy Stage 4	NZLC R123 (2011) (See also NZLC SP19, R101 and R113)	Cabinet has approved a consultation process on a review of the Privacy Act 1993 in advance of introducing a Bill to Parliament.





Report Name	Report reference	Current Status
Consumers and Repossession: A Review of the Credit (Repossession) Act 1997	NZLC R124 (2012)	A raft of consumer credit reforms passed into law in June 2014, previously contained in the Credit Contracts and Financial Services Reform Bill. This included a number of substantial changes to consumer credit repossession laws, reflecting recommendations made by the Law Commission.
The Public's Right to Know: Review of the Official Information Legislation	NZLC R125 (2012)	A number of recommendations have been accepted and are awaiting legislative vehicles. Some recommendations in Final Report, regarding extending OIA to Parliamentary Service and redrafting OIA were not accepted.
Review of the Judicature Act 1908: Towards a new Courts Act	NZLC R126 (2012)	The Commission's recommendations led to enactment of the Senior Courts Act 2016, District Court Act 2016, and Judicial Review Procedure Act 2016.
The 2013 Review of the Evidence Act 2006	NZLC R127 (2013)	The Evidence Amendment Bill was introduced into Parliament in May 2015. The Bill follows the Law Commission's 2013 Report and received Royal Assent in September 2016.
The News Media Meets 'New Media': Rights, responsibilities and regulation in the digital age	NZLC R128 (2013)	The Ministerial Briefing <i>Harmful Digital Communications: The Adequacy of the Current Sanctions and Remedies</i> (August 2012) resulted in introduction of the Harmful Digital Communications Bill, which received Royal Assent in July 2015.
A New Act for Incorporated Societies	NZLC R129 (2013)	The Government has drafted a Bill and consulted on it, but it has not yet been introduced.



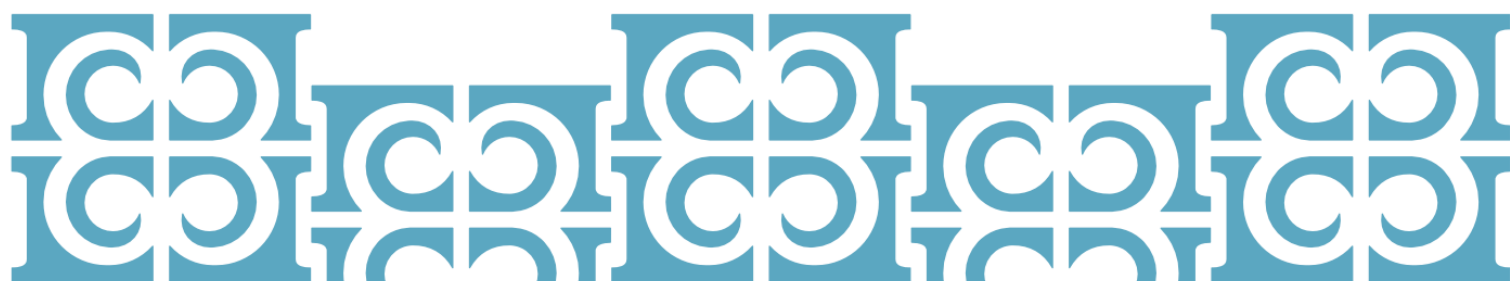
Report Name	Report reference	Current Status
Review of the Law of Trusts: A Trusts Act for New Zealand	NZLC R130 (2013)	On 1 August 2017 the Justice Minister introduced the Trusts Bill to Parliament. The proposed reforms are largely based on the recommendations for modernising and clarifying trust law made by the Law Commission in 2013. The Bill had its first reading on 5 December 2017 and has been referred to the Justice Committee.
Suicide Reporting	NZLC R131 (2014)	The Coroners Amendment Bill received Royal Assent 21 June 2016.
Liability of Multiple Defendants	NZLC R132 (2014)	The Government accepted the Law Commission's principal recommendation, that the rule of joint and several liability remain applicable where two or more defendants are liable to a plaintiff for the same, indivisible damage. The Government has requested that the Ministries of Justice and Business, Innovation and Employment consider and carry out further work on the Law Commission's other recommendations.
Pecuniary Penalties: Guidance for Legislative Design	NZLC R133 (2014)	The Government substantially accepted the recommendations.



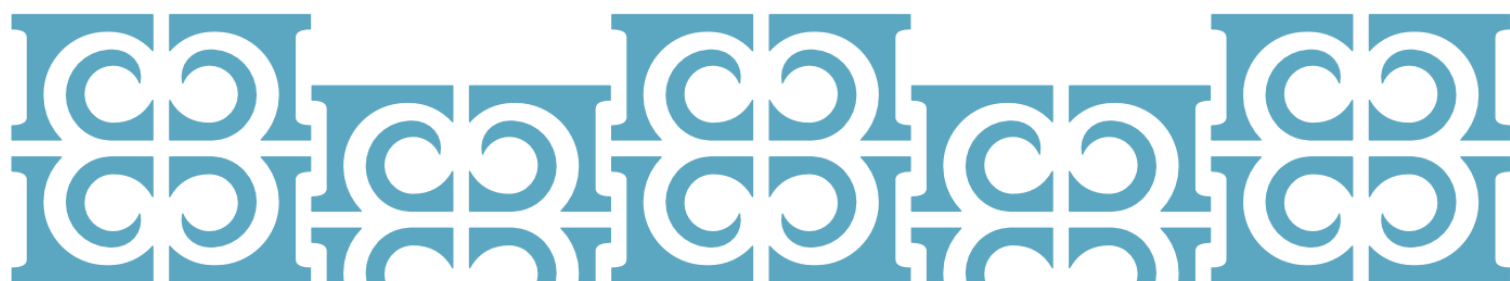
Report Name	Report reference	Current Status
Death, Burial and Cremation: A new law for contemporary New Zealand	NZLC R134 (2015)	<p>The Government supported introducing a new statute governing death, burial and cremation in principle. More policy work is required before the Government can reach a position. Officials from the Ministry of Justice have been requested to undertake further work on this area and report back.</p> <p>In August 2017 the Māori Affairs Select Committee tabled the report of its inquiry into whānau access to and management of tūpāpaku (bodies of the deceased). It recommended, amongst other things, that the Government consider implementing the Law Commission's recommendations on death, burial and cremation as set out in this report.</p> <p>In mid-February 2018 the Government accepted the recommendation of the Select Committee relating to implementing the Law Commission report, noting that work is on-going to implement the Law Commission's recommendations.</p>
The Crown in Court: A review of the Crown Proceedings Act and national security information in proceedings	NZLC R135 (2015)	<p>The Government considers that a new Crown Proceedings Act is not warranted at this time.</p> <p>The Government will consider which aspects of Part A of the Law Commission's report (which deals with Crown Proceedings) could be implemented alongside the modernisation of the Act.</p>



Report Name	Report reference	Current Status
The Justice Response to Victims of Sexual Violence: Criminal Trials and Alternative Processes	NZLC R136 (2015)	<p>The Government accepted the Law Commission's position that reform would improve the justice response for victims of sexual violence.</p> <p>The Government has directed the Ministry of Justice to further analyse the Law Commission's recommendations. Once completed, the Government will form a final view on the Law Commission's recommendations.</p> <p>On 8 March 2018 Jan Logie, the Under-Secretary to the Minister of Justice (Domestic and Sexual Violence Issues), issued a media statement noting: "There is some promising work underway, including Sexual Violence Courts being run by the Chief District Court Judge in the Auckland and Whāngarei Courts. The Solicitor-General is developing prosecution guidelines so prosecutors are aware of best practice. The Ministry of Justice is developing awareness training for court staff so they can better meet the needs of sexual violence victims when they are at court. Work is also underway to develop an online guide for victims and their supporters so they have information about what to expect in the criminal justice system. In the next few months I anticipate engaging with sexual violence services and the legal profession as I develop proposals for reform in response to the 2015 Law Commission report on the Justice Response to Victims of Sexual Violence. I am confident that we can make progress on these important issues and look forward to working with relevant agencies to do so."</p>



Report Name	Report reference	Current Status
Modernising New Zealand's Extradition and Mutual Assistance Laws	NZLC R137 (2016)	The Government accepted the Commission's main recommendations. However, given the complexity of the matters addressed by the proposed legislation and the potential costs involved, the Government directed the Ministry of Justice to undertake further analysis of the Commission's more detailed recommendations.
Strangulation: The case for a new offence	NZLC R138 (2016)	The Family and Whānau Violence Legislation Bill is before Parliament and received its first reading on 11 April 2017.
Understanding Family Violence: Reforming the Criminal Law	NZLC R139 (2016)	This Report was tabled in Parliament on 12 May 2016.
Reforming the Law of Contempt of Court: A Modern Statute - Ko te Whakahou i te Ture mō Te Whawhati Tikanga ki te Kōti: He Ture Ao Hou	NZLC R140 (2017)	The Administration of Justice (Reform of Contempt) Bill has been referred to the Justice Select Committee.
Review of the Search and Surveillance Act 2012 - Ko te Arotake i te Search and Surveillance Act 2012	NZLC R141 (2017)	Awaiting Government response.  Note: As this was a joint report with the Ministry of Justice the process for responding may differ from other Law Commission Reports.



Report Name	Report reference	Current Status
Relationships and Families in Contemporary New Zealand: He Hononga Tangata, He Hononga Whānau Aotearoa O Nāianeī	NZLC SP22 (2017)	The Law Commission released the Study Paper on 16 October 2017.
Dividing relationship property – time for change? Te mātatoha rawa tokorau– Kua eke te wā?	NZLC IP41 (2017)	The Law Commission released the Issues Paper on 16 October 2017.
Issues Paper He Puka Kaupapa Second Review of the Evidence Act 2006	NZLC IP42 (2018)	The Law Commission released the Issues Paper on 28 March 2018.



## Appendix B – Advice on the Implementation of Law Reform

Implementation Advice relating to a Law	Description of Law Commission's involvement
Review of the Law of Trusts: <i>A Trusts Act for New Zealand</i> (NZLC R130, 2013)	The Law Commission has assisted the Ministry of Justice in relation to the Exposure draft of the Trusts Bill.
Death, Burial and Cremation: <i>A New Law for Contemporary New Zealand</i> (NZLC R134, 2015)	The Law Commission has assisted the Ministry of Health and the Department of Internal Affairs by providing project and background information relating to the regulation of burial and cremation work steam.
The Crown in Court: <i>A review of the Crown Proceedings Act and national security information in proceedings</i> (NZLC R135, 2015)	The Law Commission has provided ongoing assistance to the Ministry of Justice with the draft Government response in relation to national security information in proceedings.
Understanding Family Violence: <i>Reforming the Criminal Law relating to Homicide</i> (NZLC R139, 2016)	The Law Commission has provided ongoing assistance to the Ministry of Justice with the draft Government response.
Reforming the Law of Contempt of Court: <i>A Modern Statute - Ko te Whakahou i te Ture mō Te Whawhati Tikanga ki te Kōti: He Ture Ao Hou</i> (NZLC R140, 2017)	The Law Commission has provided ongoing assistance to the Ministry of Justice with the draft Government response.



The office of the Law Commission is located at:  
Level 9, Solnet House, 70 The Terrace, Wellington 6011  
The postal address is:  
PO Box 2590, Wellington, 6140 DX SP23534  
Telephone: (04) 473 3453  
Email: [com@lawcom.govt.nz](mailto:com@lawcom.govt.nz)

Information about the Law Commission and its work is available from the Law Commission's website at [www.lawcom.govt.nz](http://www.lawcom.govt.nz).

