

# **Pūrongo ā Tau**

# **Annual Report**

---

**1 July 2019 – 30 June 2020**



Te Aka Matua o te Ture | Law Commission is an independent, publicly funded, central advisory body established by statute to undertake the systematic review, reform and development of the law of Aotearoa New Zealand. Its purpose is to help achieve law that is just, principled, and accessible, and that reflects the values and aspirations of the people of Aotearoa New Zealand.

Te Aka Matua in the Commission's Māori name refers to the parent vine that Tāwhaki used to climb up to the heavens. At the foot of the ascent he and his brother, Karihi, find their grandmother, Whaitiri, who guards the vines that form the pathway into the sky. Karihi tries to climb the vines first, but makes the error of climbing up the aka taepa, or hanging vine. He is blown violently around by the winds of heaven, and falls to his death. Following Whaitiri's advice Tāwhaki climbs the aka matua, or parent vine and reaches the heavens and receives the three baskets of knowledge.

***Kia whanake ngā ture o Aotearoa mā te arotake motuhake***  
***Better law for Aotearoa New Zealand through independent review***

During the year the Commissioners were:

Amokura Kawharu – Tumu Whakarae | President (appointed 11 May 2020)

Helen McQueen – Tumu Whakarae Tuarua | Deputy President

Donna Buckingham – Kaikōmihana | Commissioner

Belinda Clark QSO – Kaikōmihana | Commissioner (resigned 10 May 2020)

The office of Te Aka Matua o te Ture | Law Commission is located at:

Level 9, Solnet House, 70 The Terrace, Wellington 6011

Postal address: PO Box 2590, Wellington 6140, New Zealand

Document Exchange Number: SP 23534

Telephone: 04 473 3453

Email: [com@lawcom.govt.nz](mailto:com@lawcom.govt.nz)

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

---

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

Te Aka Matua o te Ture | Law Commission, Wellington 2020

ISSN: 2253-2684 (Online)

Published as Parliamentary Paper E.31

This report is also available on the internet at the Commission's website: [www.lawcom.govt.nz](http://www.lawcom.govt.nz)

# Table of Contents

Introduction from the President.....	3
Who we are and what we do .....	7
How we do our work.....	10
Organisational capability.....	15
Statement of Responsibility .....	18
Statement of Performance for the year ended 30 June 2020 .....	19
Financial Statements for the year ended 30 June 2020 .....	30
Notes to the Financial Statements.....	34
Independent Auditor’s Report.....	43
Appendix A – Commissioners and staff of the Commission at 30 June 2020 .....	47
Appendix B – Tabled Law Reform Reports from January 2010–30 June 2020 .....	48



**Tumu Whakarae | President**  
Amokura Kawharu  
**Kaikōmihana | Commissioners**  
Donna Buckingham  
Helen McQueen

16 December 2020

Hon Kris Faafoi

Minister Responsible for the Law Commission  
Parliament Buildings  
WELLINGTON

Tēnā koe Minister

I have the honour to present to you the Annual Report of Te Aka Matua o te Ture | Law Commission for the year ended 30 June 2020.

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

Nāku noa, nā

A handwritten signature in blue ink that reads 'Amokura Kawharu'.

**Amokura Kawharu**

Tumu Whakarae | President

# Introduction from the President

---

I am pleased to present the 2019–2020 Annual Report of Te Aka Matua o te Ture | Law Commission.

The year under review has been one in which the Commission has consolidated its work across three large law reform projects. Project teams have settled into their work well.

There have been two developments of particular note. The first is the emergence of the Covid-19 pandemic and its unprecedented impacts on Aotearoa New Zealand. Within this new environment the Commission's internal operations were largely unaffected although, as discussed below, the work programme was unavoidably interrupted to some extent. I wish to acknowledge the efforts that Commission personnel have made to adapt and maintain productivity during what has been a challenging period for everyone.

The second development concerns changes in the Commission's leadership. In May 2020, I assumed the role of President of the Commission and became lead Commissioner for the Class Actions and Litigation Funding reference. We welcomed Kate Thomson as General Manager for the Commission in March 2020. Belinda Clark QSO, who was appointed as a Commissioner in July 2017, resigned from the Commission in May 2020. Her oversight of the briefing paper *Alternative Approaches to Abortion Law*, which was delivered to the Minister of Justice in late 2018, is a highlight of her contributions to the Commission's work programme.

## LAW REFORM ACTIVITIES

### Current projects

The Commission started the year with two active references, the reviews of Class Actions and Litigation Funding and of the Criminal Investigations (Bodily Samples) Act 1995 concerning the use of DNA in criminal proceedings. The Commission also commenced its review of Succession Law. The Commission anticipated producing an issues paper and report this year, but its plans for a Class Actions and Litigation Funding issues paper were adjusted following the changes in project leadership and its plans for a report on the use of DNA in criminal proceedings were disrupted by the impacts of Covid-19. We discuss our progress in relation to our current projects in more detail in the Statement of Performance.

### Implementation of past reports and other law reform activities

During the year, significant legislation was introduced into and progressed through Parliament to implement earlier law reform recommendations by the Commission. This includes the Contempt of Court Act 2019, Privacy Act 2020 and Abortion Legislation Act 2020. Other law reform initiatives underway within government also draw upon the Commission's earlier work. These include the earlier reviews of incorporated societies law and burial and cremation law.

As in previous years, the Commission continued to keep the law of Aotearoa New Zealand under review in a systematic way by maintaining a record of possible future law reform projects based on its own assessments of contemporary reform issues, and by receiving and evaluating law reform suggestions from the legal profession and other stakeholders. Ordinarily this would also assist the Minister's determination of future references for inclusion in the Commission's work programme. However, it was agreed that, given the Commission's current work programme and other matters under consideration, it was not necessary for the Minister to consult with Cabinet about other possible references for the 2020–2021 year.

The Commission also contributes to the revision of legislation through the certifier role of the President of the Commission under the Legislation Act 2012. The Partnership Act 2019, which received Royal Assent on 21 October 2019, was enacted following the revision Bill certification process.

## OUR PEOPLE, OUR VISION

The Commission has a highly talented and motivated team of Legal and Policy Advisers and corporate employees. At its annual retreat in November 2019, Commission personnel began the journey of articulating the Commission's vision and values. The Commission sought and received input from its Māori Liaison Committee. Committee member Te Ripowai Higgins kindly wrote the final version in te reo Māori. The Commission's vision – Kia whanake ngā ture o Aotearoa New Zealand mā te arotake motuhake | Better law for Aotearoa New Zealand through independent review – was approved by the Board in May 2020. The vision underpins the Commission's strategic objectives, workplace culture and its daily work.

The Commission is gradually building its cultural capabilities and continues to support staff to learn te reo Māori by providing weekly classes for tēina and tuākana. More generally it has also provided all staff with continuing professional development opportunities. In addition to individual opportunities for development, the Commission runs an internal seminar series with both internal and external speakers. This offers opportunities for Commission personnel to share their knowledge with others and to build relationships with external parties who present or attend the seminars. During the year and in consultation with staff, the Commission completed a review of its human resources policies and practices to ensure that it is operating in accordance with best practice. It also became a member of Diversity Works.

## COMMITMENT TO TE AO MĀORI

The Commission has continued to acknowledge its statutory obligation to take into account te ao Māori and is developing an institutional approach to the consideration of tikanga Māori and te Tiriti o Waitangi | the Treaty of Waitangi in its work. The Commission's ongoing regular meetings with its Māori Liaison Committee are extremely valuable and I acknowledge the commitment of the Chair of the Committee, Justice Sir Joe Williams, and all its members, to assisting the Commission.

In addition, the Commission has continued to build and maintain its relationships with Te Hunga Rōia Māori o Aotearoa | the Māori Law Society and with the Aotearoa New Zealand Centre for Indigenous Peoples and the Law at Auckland Law School. A highlight for the Commission was the recruitment of Māori staff, at summer clerk, law clerk and adviser levels, during the year.

## EXTERNAL RELATIONSHIPS

The Commission plays a significant role in leading law reform in Aotearoa New Zealand. It has continued to build and maintain relationships with other members of the law reform community, including its Minister, the policy group in the Ministry of Justice, policy officials in other government Departments and Ministries, all levels of the Judiciary, the Parliamentary Counsel Office, the Law Reform Committee of the New Zealand Law Society, the practising profession and its professional bodies, the law schools and interested members of the public.

The Commission has also liaised with overseas law reform bodies, for example, by discussing the review of Class Actions and Litigation Funding with the Australian Law Reform Commission (which has recently reported on those matters) and discussing family law with the Scottish Law Commission drawing on our recent review of the Property (Relationships) Act 1976.

The Commission continues to publish its newsletter *Te Aka Korero*, in which it shares its achievements and news, together with other matters of interest to the law reform community.

## FINANCIAL SITUATION

The Commission made bids for increases in its appropriations in 2016, 2017, 2018 and 2019 but it was unsuccessful each time. Its annual income figure of \$3.993 million has therefore remained unchanged in the year under review.

The Commission has endeavoured to manage its operating budget in a prudent manner. The year under review has resulted in an annual operating surplus of \$590,764 against a forecast operating deficit of \$205,000 with a residual equity of \$2.613 million. Most of the surplus is attributable to the Commission budgeting to have a fourth Commissioner (as President) for 12 months and instead having only three Commissioners holding office for the year.

Approximately 81 per cent of expenditure relates to rent and personnel. The Commission has maintained active review of its personnel requirements to ensure it remains as productive as possible within its operating budget. The Commission's permanent staff numbers remained reasonably static over the year. In recent years, the Commission has operated with four Commissioners. The Commission has instituted a new model based on maintaining the current level of three Commissioners (the minimum number of Commissioners required under the Law Commission Act 1985). Within this model, the Commission will explore extending the role of Principal Legal and Policy Adviser by offering greater responsibility for the day to day running of a project. While our Commissioner capacity is reduced, this approach provides greater certainty about the Commission's financial sustainability in the near term, may allow for additional references to be progressed at any one time, may allow for a small increase in the number of advisers to support those references, and may provide a more extended career path for some staff.

More generally, the Commission will continue to focus on ensuring that it is using its budget as effectively as possible to allow it to fulfil its law reform function.

## **NGĀ MIHI**

I thank my Commissioner colleagues and all our staff for their commitment to the work of the Commission over the past year. I also thank Deputy President Helen McQueen for her stewardship of the Commission in the period before my appointment.



# Who we are and what we do

---

Te Aka Matua o te Ture | 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.

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

## WHY MIGHT LAWS NEED TO CHANGE?

Laws may need to change for many reasons, including:

- because they are out-of-date;
- because they fail to recognise and provide for tikanga Māori;
- changing attitudes and values in society; and
- changes in science and technology.

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?

The Commission must submit a proposed work programme to the Minister responsible for the Commission at least annually. The agreed programme will normally include references from government, taking into account the Cabinet Circular<sup>1</sup> which sets out a process and the criteria for their selection. This includes assessing whether a project aligns with government priorities and whether departmental resources will be made available.

Sometimes Parliament requires the Commission to review law. For example, the Evidence Act 2006 says the Commission must conduct periodic reviews of that Act. The Minister may at any time require the Commission to review any aspect of the law as a matter of priority. The Commission can itself initiate law reform proposals and receive and consider proposals from any person. But generally the government is able to decide what its priorities are for the Commission's law reform work.

---

<sup>1</sup> Cabinet Office Circular "Law Commission: Process for Setting the Work Programme and Government Response to Reports" (24 April 2009) CO 09/1.

## RECOMMENDATIONS FOR LAW REFORM

The Commission aims to promote better law for Aotearoa New Zealand by making recommendations to improve its quality, relevance and effectiveness.

Our recommendations are based on in-depth research and extensive consultation with the public. Anyone can make a submission on our projects.

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

When we complete a project, we provide advice or a report for the Minister. Our reports include independent practicable recommendations to make the law fairer, up to date and accessible.

The extent to which the Commission's recommendations are acted upon is a matter for the Government and 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 Aotearoa New Zealand statutes to make them more accessible and for their re-enactment as revision Bills. The President of the Commission is one of the required certifiers. The role of the certifiers is to check that the revision powers in the Legislation Act have been exercised appropriately in the preparation of a revision Bill and that the Bill does not change the effect of the law (except as authorised by the Legislation Act).

## THE GOVERNMENT'S PRIORITIES AND EXPECTATIONS EMBEDDED IN OUR WORK

In May 2019, the Government presented its wellbeing budget, putting the wellbeing of current and future generations in Aotearoa New Zealand at the heart of what it does. In addition, through the 2019 Enduring Letter of Expectations, the Government signalled its expectation that Crown entities work towards achieving a unified values-based government and its expectation that Crown entities take a leadership role in relation to the Treaty relationship.

Independent law reform carried out by the Commission is strategically aligned to these expectations. Through our research, engagement and recommendations for reform, the Commission's work makes an essential contribution to ensuring Aotearoa New Zealand continues to have appropriate laws which reflect our values and aspirations as a country, respect the rule of law and allow people to place a high value on the role of law in maintaining civic engagement and governance.

The particular contributions the Commission makes towards embedding wellbeing, te Tiriti o Waitangi | the Treaty of Waitangi and access to justice within its current work programme are noted in the 2020-2024 Statement of Intent.

## THE COMMISSIONERS

Commissioners decide on the content of reports and other papers published by the Commission. Commissioners are appointed by the Governor-General for a five-year term and are also the Commission's Board members. The President is the Commission's Chief Executive.

The Commissioners in date order of appointment, as at 30 June 2020, were:

- Helen McQueen (term of appointment expires on 8 February 2021);
- Donna Buckingham (term of appointment expires on 15 May 2021); and
- Amokura Kawharu (term of appointment expires on 11 May 2025).

## STAFF

The Commission has a small team of Legal and Policy Advisers and Law Clerks who support the Commissioners to conduct research and consultations, and to draft and publish reports and other papers. Many have practised as lawyers within government or in private practice. The Commission also has a General Manager and a small team of corporate staff who support the Commission's provision of law reform advice and its compliance with the Crown Entities Act 2004 and the Public Finance Act 1989. A list of staff as at 30 June 2020 is attached as Appendix A.

# How we do our work

---

## THE PROJECT STARTS

A Commissioner is responsible for each project. Legal and Policy Advisers are allocated to the project. One or more Law Clerks also works with the team.

## RESEARCH AND EXPERT INPUT

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

A panel of experts (an Expert Advisory Group) will usually be appointed to assist the Commission in its work. Sometimes an Officials group and/or a Judicial Panel will also be established.

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.

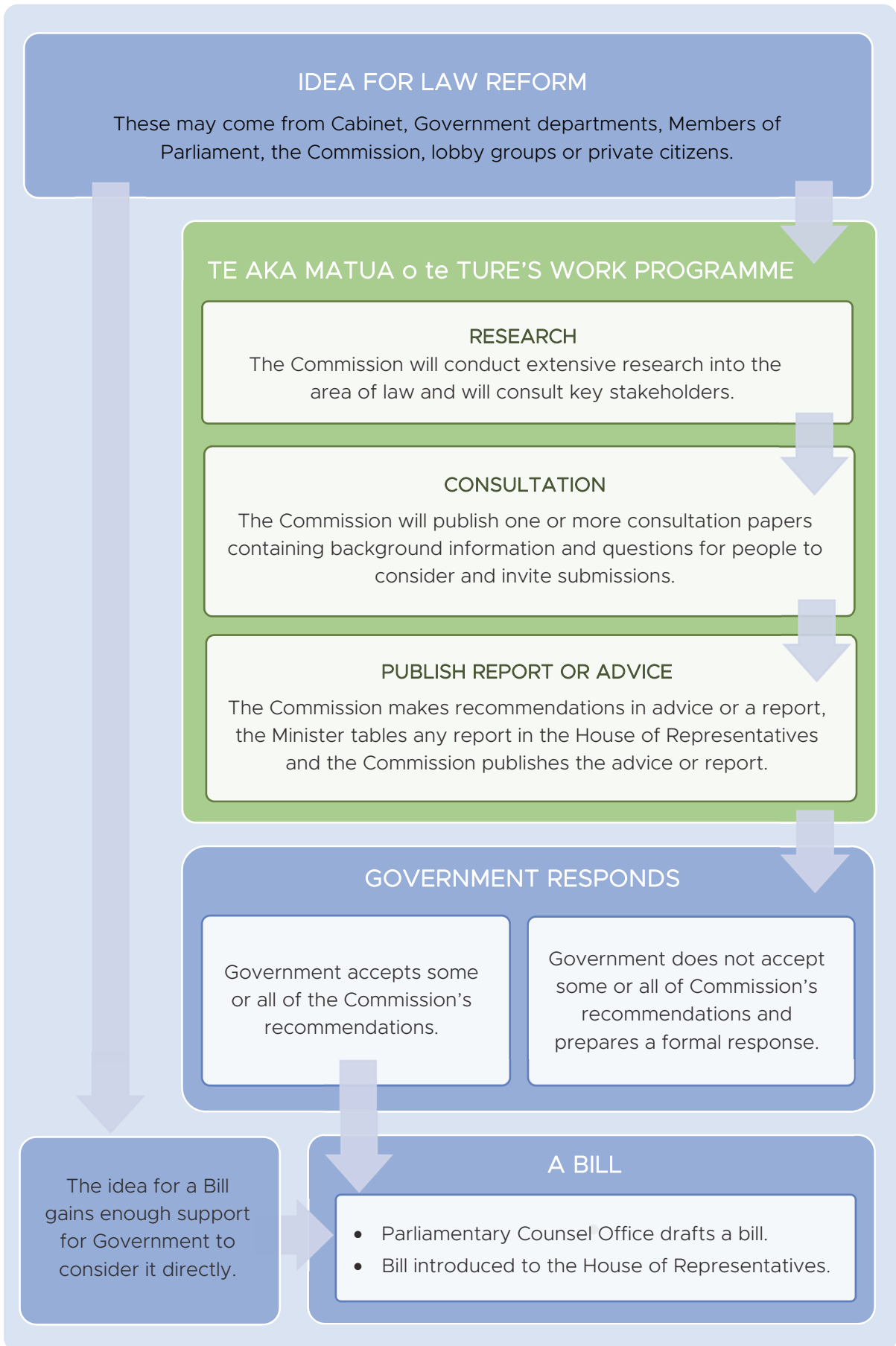
The Commission consults with people affected by the law and takes care to include a wide range of different groups. We may create a website specifically for the project to assist people to provide us with feedback on the issues. The format of consultation depends on the project.

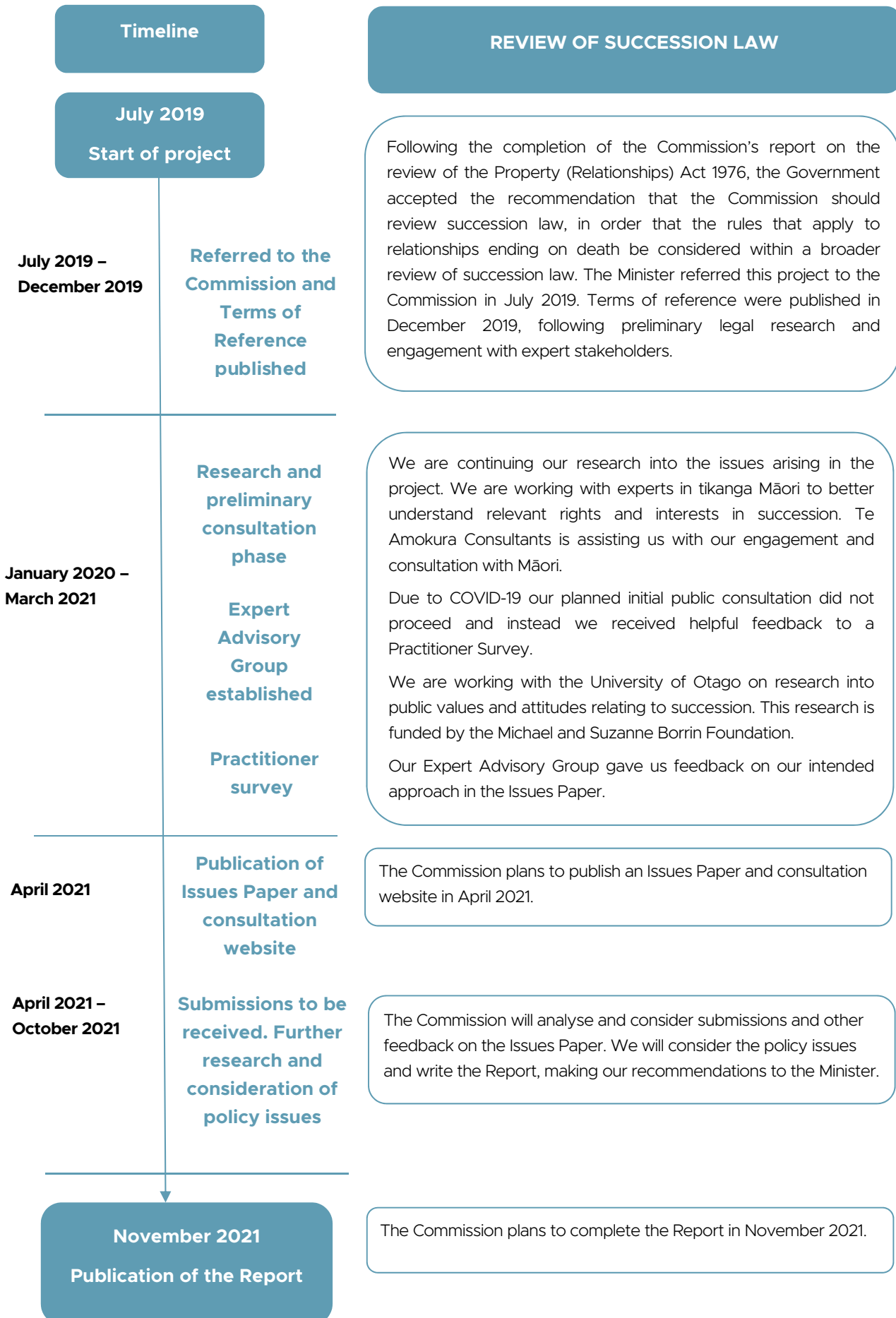
The Commission uses the submissions, consultations, the advice of the Expert Advisory Group and any Officials Group or Judicial Panel and public input, as well as its research findings and analysis, as the basis for its recommendations.

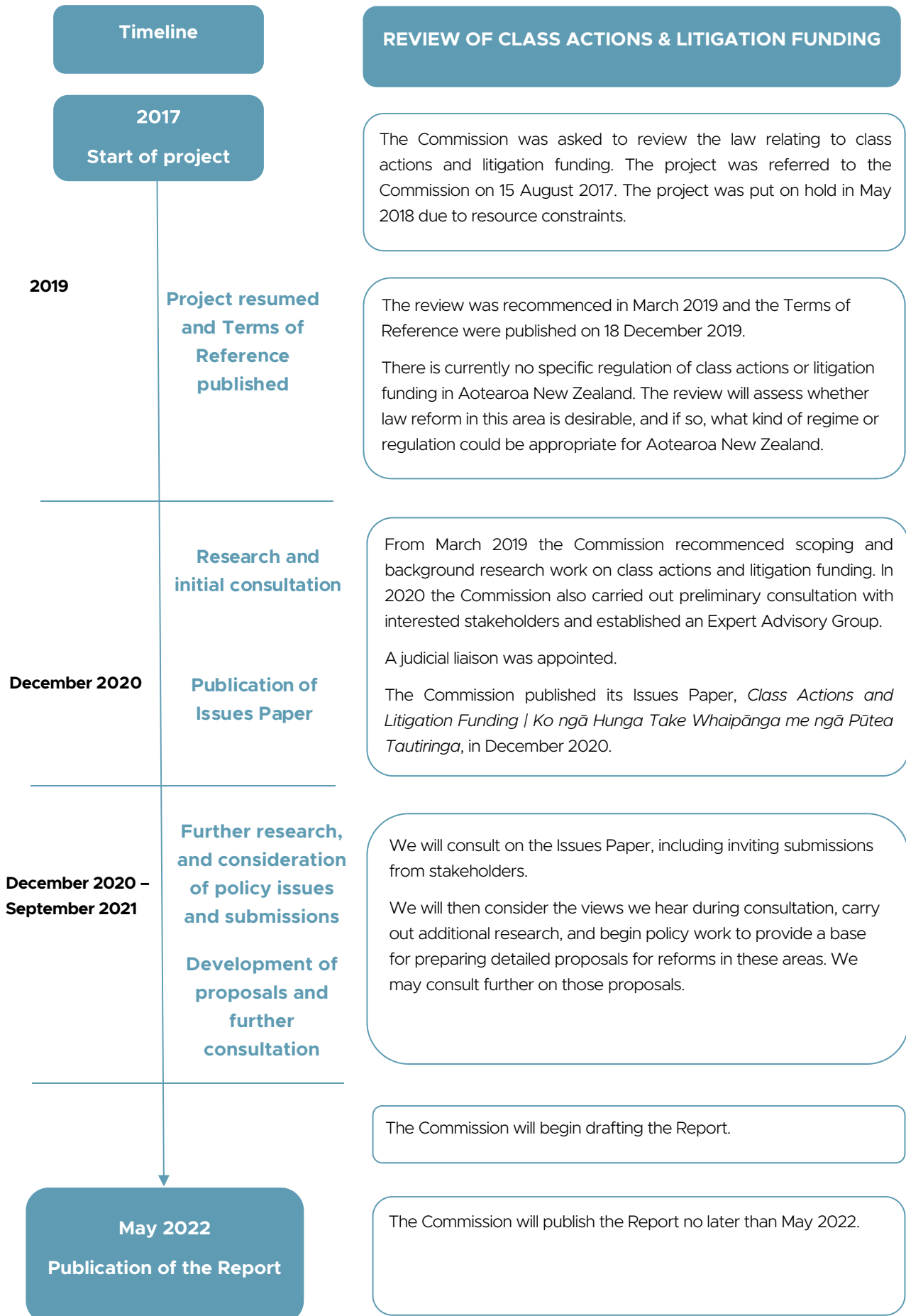
## REPORT OR OTHER ADVICE

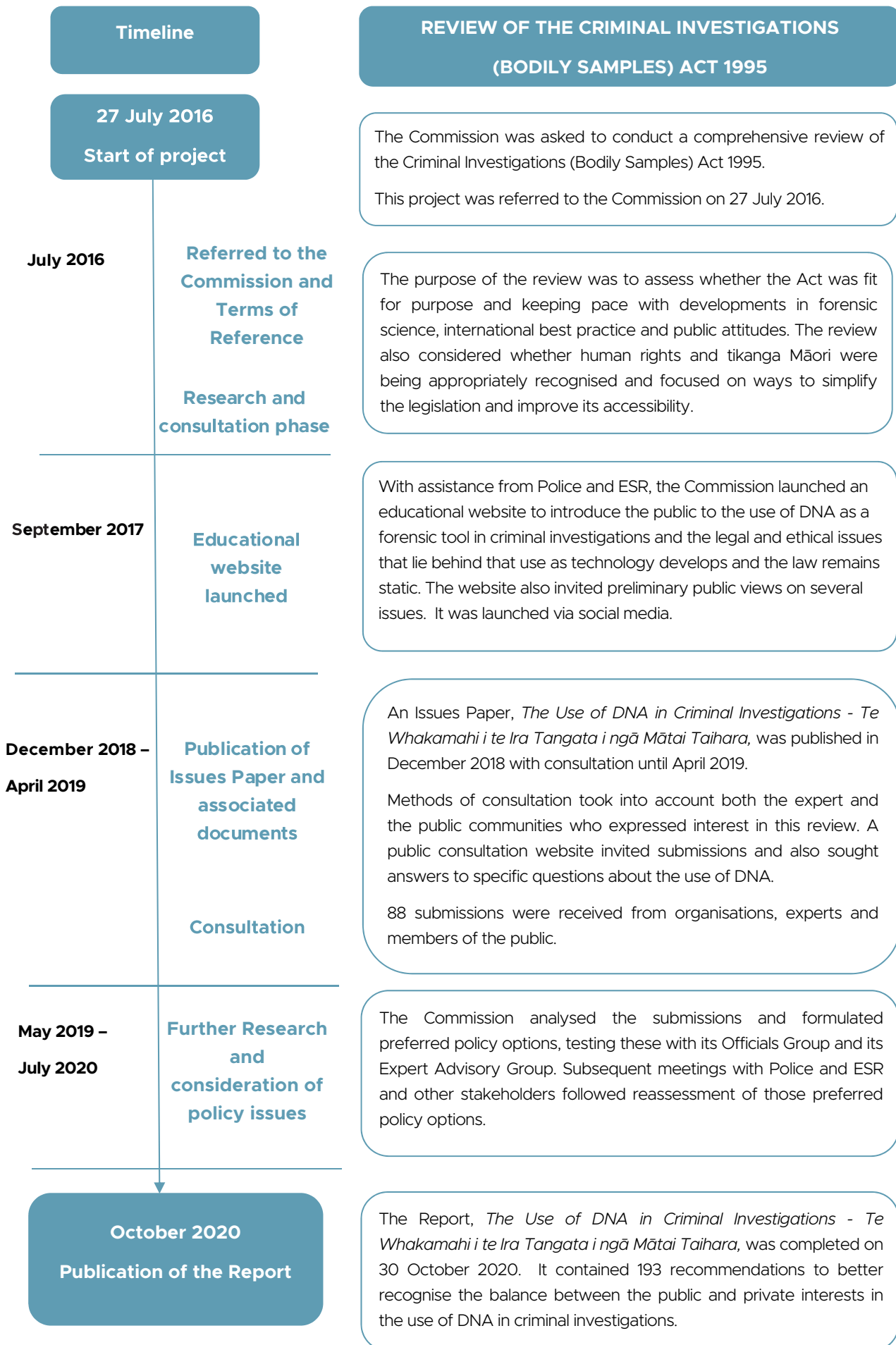
At the end of a project we write a report or provide advice. A report includes recommendations for reform agreed by the Commissioners. The report is delivered to the responsible Minister and the Minister tables the report in the Parliament. The report is then published on the Commission's website.

## THE LAW REFORM PROCESS











# Organisational capability

---

## OUR BOARD

The Board meets formally six times a year. To ensure timely and ongoing good governance, the Commissioners and the General Manager meet and address any matters arising on a weekly basis. Given the Commissioners are responsible for both day-to-day management and governance functions the transparency of these arrangements works well. The Board completes a governance self-assessment on an annual basis. The Commission has also commenced a review of the structure of Board meetings to ensure the Board maintains focus on its high-level strategic priorities and its risk management framework.

## OUR PEOPLE

Our people have the skills and expertise needed to deliver our work programme and support the corporate functions required.

## GOOD EMPLOYER

We are committed to being an equal opportunities employer and this commitment is led by the Commissioners and the General Manager.

During the year and with advice from an external human resources (HR) consultant, the Commission undertook a comprehensive review of its competency framework for staff and revised its job descriptions and standard individual employment agreements. The Commission reviewed its core HR policies addressing remuneration, flexible working arrangements, harassment and time off in lieu. The Board consulted staff on drafts of these policies, oversaw completion of the review and approved the revised policies in May 2020.

The Commission is committed to taking 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 Commission continues to explore further opportunities in its internal seminar programme and annual retreat to build capability in this area.

The 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 opportunity' and 'best person for the role' approach in our recruitment. We are committed to employee development and deliver this through in-house coaching and mentoring, opportunities to progress, lunch-time seminars and external courses.

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 that enable staff to work remotely. These facilities also enabled the Commission to continue to operate during the Covid-19 lockdown periods.

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 and in accordance with the recently revised remuneration policy. Other provisions include KiwiSaver contributions, flexible working provisions, annual leave, sick leave and bereavement leave.

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

We continue to enjoy our 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 group and, as part of our office accommodation, we have ergonomic sit-stand desks for all employees. We offer workstation assessments as required and respond appropriately to any needs that are identified. We have an active Social Club that organises social events.

All staff have free access to an in-building gym fully equipped with an extensive range of modern cardio and weight equipment, and a table tennis table and large boxing area.

We have health and safety tools and resources including first aid training, emergency management and incident/hazard management.

Our supportive culture and policies, together with the Public Services Standards of Integrity and Conduct, detail our expected behaviours. The 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**

We have continued to review our systems, 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.

During the year, the Commission began to replace some ICT hardware, including through an initial roll-out of Surface Pro Laptops for Legal and Policy Advisers, which will enhance the Commission's business continuity resilience and help to protect the Commission's internal operations against risks from any future disruptions.

The Commission's library 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. The strategy is regularly reviewed to maintain best practice in view of evolving collection practices.

## **COLLABORATION**

As a Crown-funded entity we continue to look for new and better ways of working together with other agencies. We participate in the All-of-Government procurement where appropriate for us. We are a participating member of Independent Crown Entities (ICE) Forum, a group representing chief executives and chairs of independent Crown entities aimed at promoting collaboration across the ICE sector. We also participate in informal inter-agency collaboration initiatives.

During the year under review, the New Zealand Law Society requested urgent assistance from the Commission with respect to Covid-19 related amendments to the Property (Relationships) Act 1976 to allow for remote signing of 'Part 6' agreements during the Level 4 lockdown. The Commission prepared material and provided advice including through commentary on drafts. We offered to assist the Ministry of Justice with its work responding to Covid-19 matters. Although appreciated, the offer was not taken up.

## OPENNESS AND TRANSPARENCY

The Commission aims to publish submissions made in relation to our projects on our website so that they are readily available for anyone to access. We comply with the Official Information Act 1982 and have updated policies to reflect the Privacy Act 2020 requirements. Submissions from an individual may be redacted to preserve the individual's privacy.

During the year under review we received 35 requests for information under the Official Information Act 1982. We responded within the statutory timeframe in relation to 34 of 35 (97%) of requests.

## MANAGING RISK

The Board and General Manager are responsible for ensuring that key business, legal compliance and operational risks are identified and appropriate mitigating controls and procedures are in place for effectively managing these risks. The Commission operates a risk assessment framework. Risk is assessed by considering the likelihood of an event occurring and the consequences of that event, should it occur. Key risk areas include the financial sustainability of the Commission, succession of Commissioners, living our values and fulfilling our vision. These risks are monitored and reviewed as part of each Board meeting.

## OUR PROGRESS OVER THE LAST YEAR

We have made strong progress in building our capabilities over 2019-2020, focusing on:

- developing our vision and values;
- developing our Statement of Intent for 2020-2024;
- completing the review of HR policies and ensuring the provision of professional development opportunities for all staff;
- upgrading our ICT systems through new hardware and cloud-based services to continuously improve our business continuity resilience;
- carefully managing our fiscal controls and implementing a new operating model based on three Commissioners for the near term;
- ongoing review of our library collection; and
- making use of the All-of-Government procurement options as needed.

# Statement of Responsibility

---

We are responsible for the preparation of Te Aka Matua o te Ture | 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 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 Commission for the year ended 30 June 2020.

Signed on behalf of the Board:



**Amokura Kawharu**

Tumu Whakarae | President

16 December 2020



**Helen McQueen**

Tumu Whakarae Tuarua | Deputy President

16 December 2020

# Statement of Performance for the year ended 30 June 2020

---

## CURRENT WORK PROGRAMME

Te Aka Matua o te Ture | 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 2019–2020 appropriation of \$3.993 million.

The Commission produces independent advice and recommendations for the reform and development of the law of Aotearoa New Zealand within the work programme received from both the Minister Responsible for the Commission and from Parliament. In producing advice and recommendations, the Commission undertakes in-depth and inter-jurisdictional research and extensive professional and public consultation.

The Commission assesses its output performance using qualitative and quantitative measures:

- The qualitative measures assess how we identify and address the substantive legal and policy issues within completed references or requests for advice and how effective our processes are relating to engagement and consultation. We use external feedback from interested parties including participants in the Expert Advisory Groups.
- The quantitative measures concern the timely completion of issues papers, reports, other papers and advice and managing the work programme within the Commission's revenue and reserves.

However, as noted in the Introduction, the year under review has been a period of consolidation. Two large law reform projects were underway and a third was begun. The size of the Commission also reduced from four Commissioners to three. Against this background, the Commission anticipated producing an issues paper and report this year. Its plans for a class actions and litigation funding issues paper were adjusted following the changes in project leadership. Its plans in relation to the report on the use of DNA in criminal investigations were disrupted by the impacts of Covid-19. For these reasons, the original publication targets set out in our 2019-2020 Statement of Performance Expectations were not achieved. The Commission nonetheless made significant progress in terms of research, consultation and other work on the projects within its current law reform programme.

The Commission provides the following information in relation to the work undertaken in each of its projects during 2019-2020. We also note the progress made in these projects to the date of this report.

## Succession Law

On 28 June 2019, the Commission submitted to the Minister its Report, *Review of the Property (Relationships) Act 1976 – Te Arotake i te Property (Relationships) Act 1976* (the PRA Report). In its response to the Report, the Government acknowledged the Commission's assessment that the Property (Relationships) Act 1976 is no longer fit for purpose for 21st century Aotearoa New Zealand, noting that relationships ending on death were not considered as a part of the review. The Government accepted the recommendation that the Commission review the law of succession, in order that the rules that apply to relationships ending on death be the subject of further consideration within a broader review of succession law. The Government intends to consider together the remaining recommendations from the PRA Report and the recommendations to come in the review of succession law.

During the year under review, the Commission undertook preliminary engagement with legal experts and with Māori, and consulted with our Māori Liaison Committee, in order to prepare Terms of Reference. These were published on 19 December 2019.

We are fortunate to be working closely with the University of Otago on public attitudes and values research relating to succession issues such as testamentary freedom and the rights of family members, especially independent adult children, to challenge a deceased's will. This work is funded by the Michael and Suzanne Borrin Foundation and will provide us with valuable information that will underpin our recommendations for reform.

Succession of property is a significant issue within te ao Māori. To give this issue the attention deserved, we have held a wānanga with Tā Hirini Mead, Te Ripowai Higgins, Judge Coxhead, Te Kani Williams, Mānia Hope and others to discuss tikanga and the issues of likely concern to Māori. We have engaged Te Amokura Consultants to assist us with our ongoing engagement and consultation with Māori on the substantive issues arising in the project. This project provides an opportunity for the Commission to continue its ongoing recognition and consideration of tikanga Māori as well as its development of productive and mutually supportive partnerships with Māori, reflecting our strategic intentions for the next four years.

Covid-19 and the related anxiety about its impact on New Zealanders meant it was inappropriate to carry out our initial public consultation plans to test whether we had identified all relevant issues. Instead we published a Practitioner Survey, seeking feedback about legal issues from lawyers who work in succession law. Written responses and online meetings have informed our understanding of the issues and reform options. We undertook extensive research on the issues arising in the project, in anticipation of consultation with our Expert Advisory Group in November 2020 and the publication of our issues paper in April 2021.

## Class Actions and Litigation Funding

The Commission is undertaking a first principles review of class actions and litigation funding, to ensure the law in these areas supports an efficient economy and a just society, and is understandable, clear and practicable. The project was referred to the Commission during 2017, but work was deferred to give priority to the briefing on alternative approaches to abortion law and the statutory review of the Evidence Act during 2018–2019. Work resumed in 2019 and Terms of Reference were settled in December 2019. The project is taking place within a wider context of access to justice initiatives across the justice sector.

During the year under review, research had progressed and informal discussions with key stakeholders had begun. The Commission has since appointed an Expert Advisory Group. Stakeholders in this project include lawyers, litigation funders, academics, regulators, Māori and the public. The project team has completed initial stakeholder consultations and met with the Expert Advisory Group and a judicial representative. The Commission published the *Class Actions and Litigation Funding | Ko ngā Hunga Take Whaipānga me ngā Pūtea Tautiringa* Issues Paper on 4 December 2020 which marked the beginning of a formal consultation period of around three months.

### **The Use of DNA in Criminal Investigations**

The goal of this review is to ensure that Police has the tools to investigate crime whilst recognising and providing for human rights, including the right to privacy, and tikanga Māori. In its Issues Paper published in late 2018, the Commission had presented its view that the Criminal Investigations (Bodily Samples) Act 1995 was no longer fit for purpose, constitutionally sound or accessible to users. Formal consultation on the Issues Paper closed at the end of March 2019. The Commission received 88 submissions.

During the year under review, the Commission developed preferred policy approaches to the fundamental problems it had identified with the legislation, taking into account submissions from organisations, experts and members of the public. Those policy approaches were then discussed with both its Officials Group and its Expert Advisory Group which included members with scientific, forensic, legal, ethical and tikanga expertise. Engagement was undertaken with residents of Korowai Manaaki, a Youth Justice residence, on the collection and retention of the DNA of young people.

After evaluation, revised policy approaches were then further tested in meetings with Police, Environmental Science and Research Limited (ESR), the Independent Police Conduct Authority and the Judges of the Youth Court. Recommendations in relation to oversight of the new proposed DNA regime were also discussed with the Commission's Māori Liaison Committee. Particular issues relating to legislative design were addressed with the Legislation Design and Advisory Committee which established a sub-committee to undertake this process.

The Commission had planned to complete the writing of the Report and have a fact check of the text undertaken by both ESR and Police by 30 June 2020. A programme of work had been agreed to achieve this. Covid-19 required the reassessment of this timeline and the setting of an adjusted completion date of 30 October 2020.

The Report, *The Use of DNA in Criminal Investigations | Te Whakamahi i te Ira Tangata i ngā Mātai Taihara* (the DNA report), was presented to the Minister on 30 October 2020. The Report's 193 recommendations included replacing the current outdated law with a new statute and an oversight system that is fit for purpose in the face of rapidly changing technology and enables Māori to articulate their rights and interests in the DNA regime. The Report was published on 24 November 2020.

### **Qualitative and quantitative measures and targets**

The following tables summarise the position as at 30 June 2020 in light of the measures and targets identified in the Commission's 2019-2020 Statement of Performance Expectations.

## OVERALL ASSESSMENT

### Impact of Covid-19

In March 2020, the World Health Organisation designated Covid-19 as a global pandemic.

Te Aka Matua o te Ture | Law Commission is a small organisation that undertakes large and wide-reaching law reform projects. Its review of the use of DNA in criminal investigations required the Commission to engage with parties who were regarded as part of the critical workforce during alert levels 2-4 of the pandemic period. This limited the Commission's ability to complete its work.

The Commissioners have assessed the impact of Covid-19 on the Statement of Performance and concluded that there has been a material impact on service performance. The output of a report has been impacted by Covid-19 as the Commission was unable to deliver the DNA Report in accordance with the initially agreed timeframe. This deferral had a direct flow on for other qualitative measures set in the 2019-2020 Statement of Performance Expectations. The measures are shown below.

	Planned 2019 - 2020	Achievement 2019 - 2020
<b>Measure<sup>3</sup></b> The Commission has agreed with the responsible Minister that the impact measure rating for the delivery of our work programme will be an independent peer review.	Qualitative assessment by impact measure rating (meets standard of reviewer(s))	<b>Not achieved</b> This measure can only be completed when a report or issues paper has been completed. As no reports or issues papers were completed in 2019-2020 this measure cannot be commented on in 2019-2020.

<sup>3</sup> These measures are included in the Statement of Performance Expectations 2019-2020.



## The Commission's outputs for 2019-2020

	Planned 2019 - 2020	Achievement 2019 - 2020
<b>Quantitative measures</b>		
<b>Measure</b> Production of reports	<b>Original target - 1 report</b> <b>Amended target – 0</b>	<b>Not achieved</b>
	<u>Comment:</u> The Commission planned to produce the DNA Report at the end of June 2020. The advent of the COVID pandemic in 2020 meant the Commission did not have access to key external information and feedback. The Minister was advised in May 2020 that delivery of the Report would need to be deferred until October 2020. The DNA Report was delivered on 30 October 2020.	
<b>Measure</b> Publishing issues papers	<b>Original target - 1 issues paper</b> <b>Amended target – 0</b>	<b>Not achieved</b>
	<u>Comment:</u> The Commission originally planned to produce an Issues Paper for its Class Actions and Litigation Funding review in the year under review. With changes in project leadership, the project was rescoped and the publications and timeframe for the project were changed, as advised to the Minister in May 2020. The Issues Paper was published on 4 December 2020.	
<b>Measure</b> Management of the work programme	<b>Target</b> Within total revenue and reserves	<b>Achieved</b>
	<u>Comments:</u> The Commission did not use any of its reserves in addition to the \$3.993 million of appropriation Non-Departmental Output Expenses: Services from the Law Commission. The changes above (impact of Covid-19 deferrals) resulted in the Commission accumulating reserves in 2019-2020. Some reserves will be expended as part of producing the DNA Report and the Issues Paper on Class Actions and Litigation Funding.  The non-appointment of a fourth Commissioner during 2019-2020 impacted positively on cash reserves. However, the non-appointment also had a direct impact upon resourcing and the Commission's ability to commence a new reference.	

	Planned 2019- 2020	Achievement 2019- 2020
<b>Qualitative measures</b>		
<b>Measures</b> <ul style="list-style-type: none"> <li>- High quality evidence-based analysis</li> <li>- Engagement and consultation</li> <li>- Clear and understandable reports</li> <li>- Independent and practicable recommendations</li> </ul>	Qualitative assessments of published outputs based on third party feedback, Law Commission self-assessment and independent peer review.	<b>Not achieved</b> This measure can only be completed when a report or issues paper has been completed. As no reports or issues papers were completed this measure cannot be commented on in 2019-2020.
<b>Timeliness measures</b>		
All reports produced in timeframe agreed with the responsible Minister	Date the report is sent to the responsible Minister	<b>Not achieved</b> Due to the change in the date on which the DNA Report would be delivered, this measure was not achieved.

## OUR LONG-TERM CONTRIBUTIONS TO LAW REFORM

Implementation of the Commission's recommendations, in whole or part, is a matter for the Government and Parliament, and may be influenced by a range of factors including other government priorities. For this reason, the timeframes of legislative implementation of the Commission's recommendations vary from project to project. Despite that variability, a 2016 study demonstrated that the implementation rate since 2006 compares very favourably with that of law reform commissions in comparable jurisdictions.<sup>4</sup>

Given the significant impacts of the Commission's work in improving laws across the legal system over the long term, under its Statement of Intent for 2020 - 2024 the Commission will report on the implementation of its past reports over time. We also provide relevant implementation information for the current year under review.

**Appendix B** contains information on the implementation of tabled Reports from January 2010 – 30 June 2020.

<sup>4</sup> Grant Hammond "The Utilisation of Law Commission Reports" (2016) 24 Waikato L Rev 97 at 99; and Grant Hammond "The Legislative Implementation of Law Reform Proposals" in Matthew Dyson, James Lee and Shona Wilson Stark (eds) *Fifty Years of the Law Commissions* (Hart Publishing, 2016) 175 at 177-178.

## Implementation of past reports or advice during 2019-2020

Over the year under review, the Commission has seen significant legislation introduced into and progressed through Parliament to implement previous Commission Reports or advice.

### IN SUMMARY

The Privacy Act 2020 received Royal Assent in June 2020. The Act implements the Commission's recommendations in our report *Review of the Privacy Act 1993: Review of the Law of Privacy Stage 4*, which was tabled in Parliament in June 2011.

The Abortion Legislation Act 2020 received Royal Assent on 23 March 2020. The Act was based on a modified version of one of the Commission's options for reform presented in its 2018 Ministerial briefing paper *Alternative Approaches to Abortion Law*.

The Legislation Act 2019 received Royal Assent on 28 October 2019. The Act draws upon the Commission's work, including the 2008 report *Presentation of New Zealand Statute Law*. The Act implements publication and other reforms relating to the production of high-quality legislation that is easy to find, use and understand. The Act also updates and re-enacts the Interpretation Act 1999.

The Contempt of Court Act 2019, which received Royal Assent on 26 August 2019, implements the recommendations of the Commission's 2017 report *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 Ai Hou*.

The Trusts Act 2019 received Royal Assent on 30 July 2019. The Commission's 2013 report *Review of the Law of Trusts: A Trusts Act for New Zealand* underpins the new Act.

The Sexual Violence Legislation Bill 185-2 was introduced into the House in November 2019. The Bill responds to some of the recommendations in two reports by the Commission, *The Justice Response to Victims of Sexual Violence: Criminal Trials and Alternative Processes* (2015) and *The Second Review of the Evidence Act 2006 – Te Arotake i te Evidence Act 2006* (2019). The Bill awaits its second reading.

The Births, Deaths, Marriages and Relationships Registration Bill 296-2 was introduced into the House in August 2017. Aspects of the Bill respond to three discrete issues raised by the Commission in its 2015 report *Burials and Cremations*. The Bill awaits its second reading.

## Other law reform initiatives drawing upon the Commission's work in 2019-2020

Other law reform initiatives underway within government also draw upon the Commission's earlier work. These include:

- Incorporated societies law: the Ministry of Business Innovation and Employment (MBIE) is reviewing the Incorporated Societies Act 1908 to implement the Commission's 2013 report *A New Act for Incorporated Societies*. A draft bill is awaiting consideration by Cabinet.

- Insurance contract law: an MBIE review is underway and aims to address some of the issues raised by the Commission's reports *Some Insurance Law Problems* (1998) and *Life Insurance* (2004).
- Burial and cremation law: the Ministry of Health (MoH) and Department of Internal Affairs are working to improve the death certification processes used by health professionals and funeral directors, following the Commission's report *Death, Burial and Cremation: a New Law for Contemporary New Zealand*. MoH released a consultation document in November 2019 presenting options for modernising legislation relating to death, burial, cremation and funerals in Aotearoa New Zealand.

## WIDER IMPACTS: REFERENCES TO THE COMMISSION AND ITS WORK

In addition to the implementation of recommendations, the Commission's work also impacts more widely on the legal system through its influence in professional and community consideration of the law. These impacts help to locate the Commission's role within a broader context.<sup>5</sup> Under its Statement of Intent for 2020-2024 the Commission will report on the number of references to consultation papers, reports or other papers in court decisions, the media and other publications, and on the professional and community engagements that arise from the Commission's work. We also provide relevant information for the current year under review below.

### References to the Commission's publications in senior court judgments

The Commission's publications are regularly referred to by the senior courts in their judgments. Since July 2012 – when the Commission began tracking references to its publications in judgments of the High Court, Court of Appeal and Supreme Court – 149 different reports and other publications have been cited in at least 607 judgments. For the year under review, Commission reports and other publications have been cited as shown in this table:

Year	Supreme Court	Court of Appeal	High Court	Total
2019-2020	4	14	45	63
2018-2019	6	15	54	75
2017-2018	7	22	53	82
2016-2017	11	22	44	77

An example is the discussion of the Commission's 2015 report *The Crown in Court: A review of the Crown Proceedings Act and national security information in proceedings* in the Court of

<sup>5</sup> This broader perspective of the role and impacts of law reform work has been described in terms of a 'pebble in a pond'. According to Professor Croucher, former President of the Australian Law Reform Commission, "there are ripples that run over the surface of a pond – the extending, echoing impact, long after the pebble has disappeared beneath the surface of the water": see Rosalind Croucher "Re-imagining Law Reform – Michael Kirby's vision, Human Rights and the Australian Law Reform Commission in the 21st Century" (2015) 17 S Cross U L Rev 31 at 34.

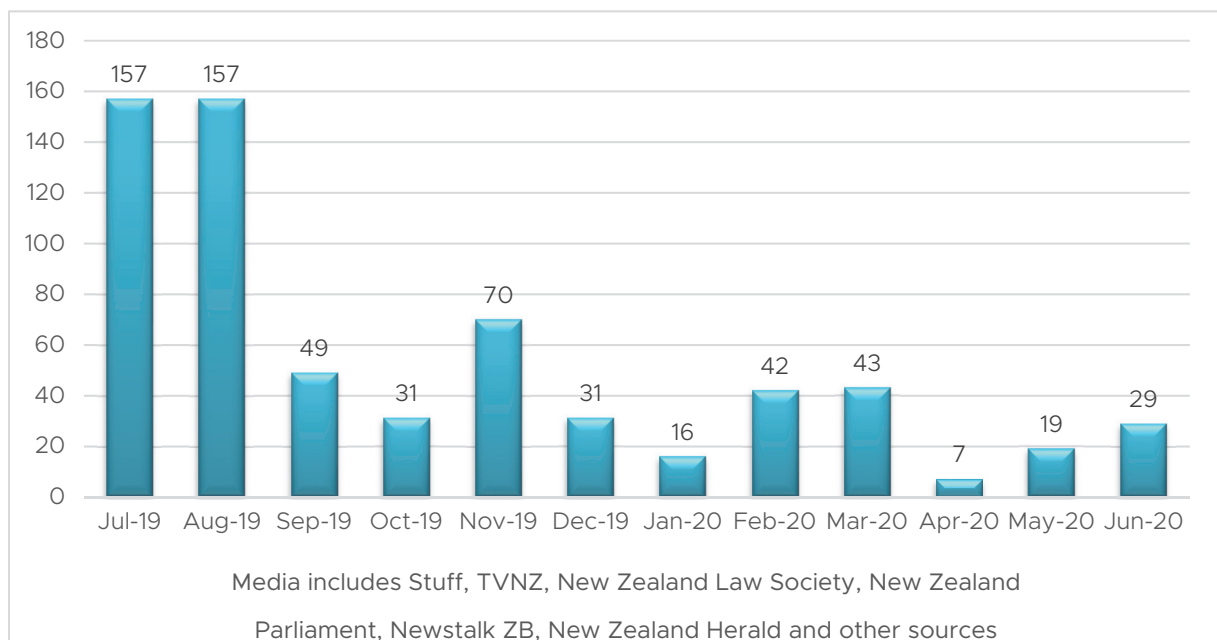
Appeal's April 2020 judgment in *Attorney General v Strathboss Kiwifruit Ltd*. The Court observed that:<sup>6</sup>

...in December 2015 the Commission issued the report *The Crown in Court*. This was the product of a lengthy and careful consideration of the Crown Proceedings Act. The report recommends a new Crown Proceedings Bill which would enable the Crown to be sued directly in tort as opposed to vicariously.

The case is an illustration of a Commission Report influencing the development of the law even though the recommendations contained within it have not yet been implemented through legislation.

### References to the Commission's work in the media and other publications

The Commission and its publications are also regularly mentioned in the media, enhancing public debate on matters of significance and extending the reach and impact of the Commission's work. This is the case even when the Commission report may have been written some time ago. There were 651 identified mentions of the Commission in the media (other than texts and journals) in the year under review. Overall media references are shown in the following graph.



Our recent review of the Property (Relationships) Act 1976 and the June 2019 report *Review of the Property (Relationships) Act 1976 – Te Arotake i te Property (Relationships) Act 1976* received particular attention during 2019-2020. The project was referred to in the media at least 29 times.

The report was also the subject of several editorials during the year in *The Capital Letter* (42 TCL 28, 30 July 2019, 43 TCL 12, 7 April 2020 and 43 TCL 21, 10 June 2020), and has been cited

<sup>6</sup> *Attorney General v Strathboss Kiwifruit Ltd* [2020] NZCA 98 at [102].

extensively in academic and practitioner journals. In a New Zealand Law Journal article for example, Sarah Kelly and Henry Brandts-Giesen commented that:<sup>7</sup>

... the Report is recommended reading for lawyers practising in this area because of the comprehensive way in which it discusses the relevant issues, makes comparisons with other jurisdictions, and applies the law to present circumstances. In the writers' view the Report will inform and influence the judiciary in those areas where they are required to take a discretionary approach to the 1976 Act. The writers therefore recommend that lawyers advise their clients and draft documents in a way which is broadly consistent with the principles that the Law Commission considers should be incorporated into the New Act.

In total, the Commission has identified 65 law journal articles that cited 68 different Commission publications during the year. The Commission has also identified four legal texts and one report published in 2019-2020 that cited our publications. The report *Expert Evidence About Memory in New Zealand Sexual Violence Trials and Appellate Courts 2001 to 2020* quotes from and discusses the Commission's past work on evidence seven times.<sup>8</sup>

## Engagements

The Commission's work will often generate opportunities for public and professional engagements. During the year under review for example, Commission personnel delivered a lecture on the key recommendations in the *Review of the Property (Relationships) Act 1976 – Te Arotake i te Property (Relationships) Act 1976* at the Victoria University of Wellington Law School. In August 2019 a presentation on the use of DNA in criminal investigations and its effect on identity as taonga was delivered at the Identity Conference.

The Commission has continued to work with the University of Otago on its research into relationship property matters. This work is funded by the Michael and Suzanne Borrin Foundation. Phase 2 of the research aims to understand how separated couples in Aotearoa New Zealand make decisions about their post-separation relationship property division.

## The Commission's website

The Commission's website is a communication tool for the Commission and a law reform resource for the wider public. The richness of the Commission website is the value it creates for Aotearoa New Zealand, both in terms of providing useful and accessible content relevant to stakeholders and researchers and utilising its functionality as an online consultation tool.

Key website metrics for 2019-2020:

- Visitors = 39,214
- Page views = 107,605

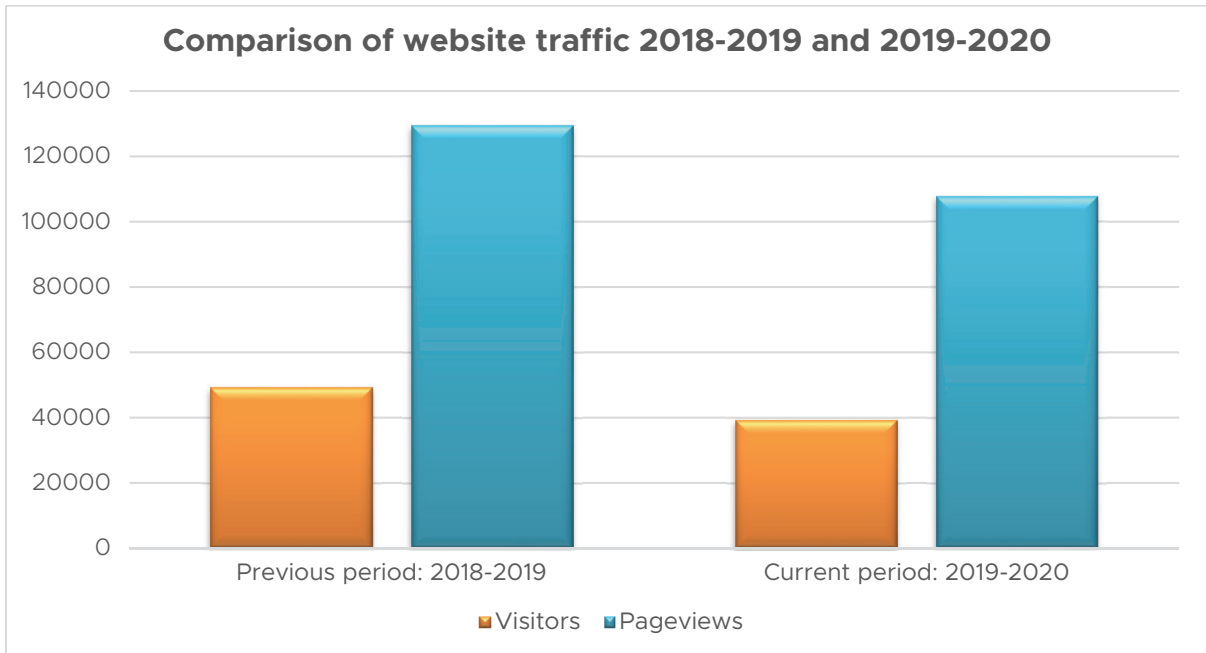
These metrics represent a 20.23% decrease in visitors and 16.79% decrease in page views compared to the 2018-2019 reporting period. The decrease is largely due to the technical nature of the Commission's current work programme, which may result in current projects

---

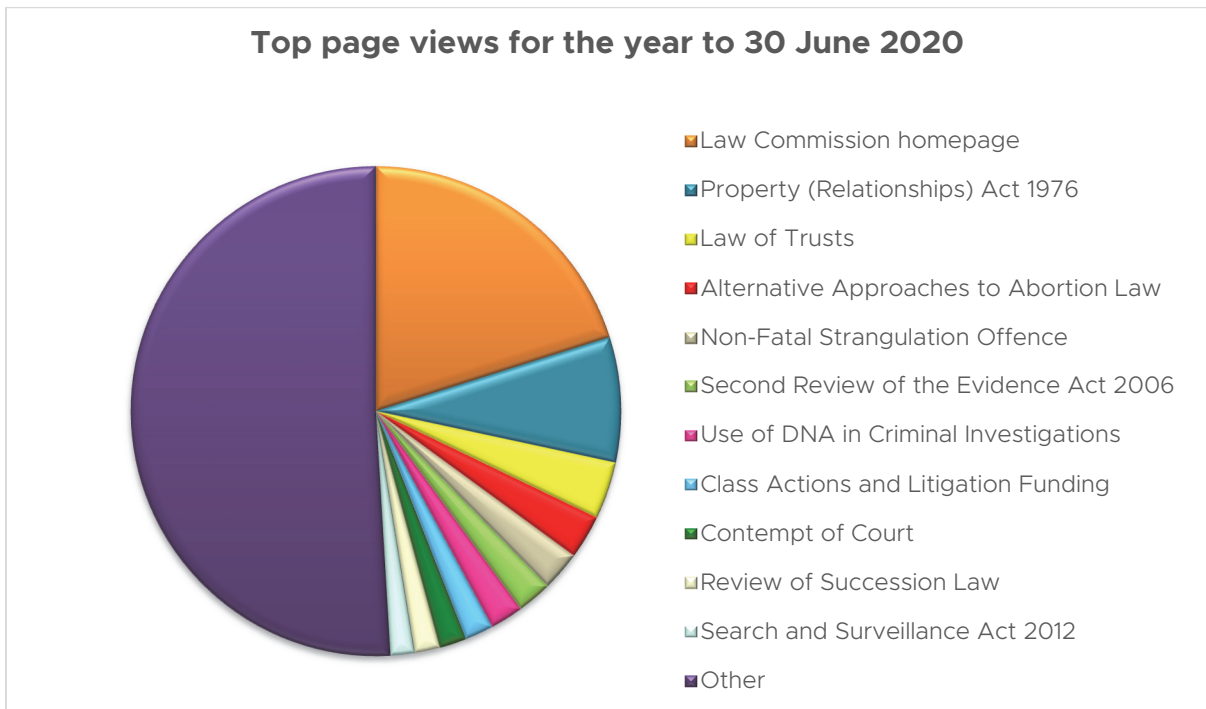
<sup>7</sup> Sarah Kelly and Henry Brandts-Giesen "Reviewing the Property (Relationships) Act 1976" [2020] NZLJ 170 [at 176]. During the year under review, the report was cited in two textbooks and in another four articles in academic law journals. Two additional articles discussing the review were written by Commission staff.]

<sup>8</sup> Suzanne Blackwell, Fred Seymour and Sarah Mendeo *Expert Evidence About Memory in New Zealand Sexual Violence Trials and Appellate Courts 2001 to 2020*, New Zealand Law Foundation (June 2020).

having a lower profile overall with the general public. That said, given the Commission released five publications in the previous year and did not publish in the year under review, website traffic remains high.



The website ([www.lawcom.govt.nz](http://www.lawcom.govt.nz)) is the Commission’s primary communication tool. In March 2020 a project to redesign and modernise the website was commenced. The new site in development will improve access for those who wish to use the site as a knowledge repository and those who wish to use it as an engagement tool. Due to staff resourcing constraints the redevelopment will be completed in 2020-2021.



# Financial Statements for the year ended 30 June 2020

## STATEMENT OF COMPREHENSIVE REVENUE AND EXPENSE FOR THE YEAR ENDED 30 JUNE 2020

		2020 Actual	2020 Budget	2019 Actual
	Note	\$	\$	\$
<b>Revenue</b>				
Funding from the Crown	2	3,993,000	3,993,000	3,993,000
Interest revenue	2	16,329	54,000	42,911
Sale of publications	2	454	-	1,176
Other revenue	2	70,872	-	55,668
<b>Total revenue</b>		<b>4,080,655</b>	<b>4,047,000</b>	<b>4,092,755</b>
<b>Expenditure</b>				
Personnel costs	3	2,585,056	3,313,161	3,119,312
Direct project costs		23,341	212,651	112,823
Library		89,359	111,509	80,810
Occupancy	4	218,064	256,008	252,165
Depreciation and Amortisation	7	80,628	87,679	82,905
Audit		31,837	33,000	31,290
Other operating costs	4	461,606	237,992	343,170
<b>Total expenditure</b>		<b>3,489,891</b>	<b>4,252,000</b>	<b>4,022,475</b>
<b>Net surplus/(deficit)</b>		<b>590,764</b>	<b>(205,000)</b>	<b>70,280</b>
<b>Total comprehensive revenue</b>		<b>590,764</b>	<b>(205,000)</b>	<b>70,280</b>

The accompanying notes form part of these financial statements. Explanations of major variances against budget are detailed in note 17.



## STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2020

		2020 Actual	2020 Budget	2019 Actual
	Note	\$	\$	\$
<b>Assets</b>				
<b>Current assets</b>				
Cash and cash equivalents	5	2,566,332	1,460,000	1,888,757
Receivables and prepayments	6	42,634	80,000	43,466
<b>Total current assets</b>		<b>2,608,966</b>	<b>1,540,000</b>	<b>1,932,223</b>
<b>Non-current assets</b>				
Property, plant and equipment	7	465,198	500,000	531,561
Intangible assets	8	-	-	-
<b>Total non-current assets</b>		<b>465,198</b>	<b>500,000</b>	<b>531,561</b>
<b>Total assets</b>		<b>3,074,164</b>	<b>2,040,000</b>	<b>2,463,784</b>
<b>Liabilities</b>				
<b>Current liabilities</b>				
Payables	9	113,519	140,000	85,184
Employee entitlements	10	208,381	200,000	196,702
Provisions	11	20,398	-	20,398
<b>Total current liabilities</b>		<b>342,298</b>	<b>340,000</b>	<b>302,284</b>
<b>Non-current liabilities</b>				
Provisions	11	118,988	100,000	139,386
<b>Total non-current liabilities</b>		<b>118,988</b>	<b>-</b>	<b>139,386</b>
<b>Total liabilities</b>		<b>461,286</b>	<b>440,000</b>	<b>441,670</b>
<b>Net assets</b>		<b>2,612,878</b>	<b>1,600,000</b>	<b>2,022,114</b>
<b>Equity</b>				
Accumulated surplus/(deficit)	13	2,612,878	1,600,000	2,022,114
<b>Total equity</b>		<b>2,612,878</b>	<b>1,600,000</b>	<b>2,022,114</b>

The accompanying notes form part of these financial statements. Explanations of major variances against budget are detailed in note 17.

**STATEMENT OF CHANGES IN EQUITY FOR THE YEAR ENDED 30 JUNE 2020**

		2020 Actual	2020 Budget	2019 Actual
	Note	\$	\$	\$
<b>Balance at 1 July 2019</b>		2,022,114	1,805,000	1,951,834
Surplus/(deficit)		590,764	(205,000)	70,280
Total comprehensive revenue and expense for the year		590,764	(205,000)	70,280
<b>Balance at 30 June 2020</b>	13	<b>2,612,878</b>	<b>1,600,000</b>	<b>2,022,114</b>

The accompanying notes form part of these financial statements.

**STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2020**

		2020 Actual	2020 Budget	2019 Actual
	Note	\$	\$	\$
<b>Cash flows from operating activities</b>				
Receipts from the Crown		3,993,000	3,993,000	3,993,000
Interest received		16,328	54,000	38,158
Sale of publications and other income		91,571	221,000	48,523
Payments to employees		(2,573,377)	(3,200,000)	(3,114,466)
Payments to suppliers		(840,986)	(1,112,565)	(962,642)
Goods and services tax (net)		5,306	(16,435)	(14,165)
<b>Net cash flow from operating activities</b>		<b>691,842</b>	<b>(61,000)</b>	<b>(11,592)</b>
<b>Cash flows from investing activities</b>				
Placement of funds on term deposits		(-)	(-)	(-)
Maturity of funds on term deposits		-	-	-
Lease Incentive received		-	-	-
Purchase of property, plant and equipment		(14,267)	(15,000)	(29,551)
Proceeds from disposal		-	-	-
Purchase (sale) of intangible assets		-	-	-
<b>Net cash flow from investing activities</b>		<b>-</b>	<b>-</b>	<b>(29,551)</b>
Net (decrease)/increase in cash and cash equivalents		677,575	(76,000)	(41,143)
<b>Cash and cash equivalents at the beginning of the year</b>	5	<b>1,888,757</b>	<b>1,536,000</b>	<b>1,929,899</b>
<b>Cash and cash equivalents at the end of the year</b>	5	<b>2,566,332</b>	<b>1,460,000</b>	<b>1,888,757</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 17.

# 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 Entities 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 2020 and were approved by the Board on 16 December 2020.

### COVID-19

On 11 March 2020 the World Health Organisation (WHO) declared the outbreak of coronavirus (COVID-19) a pandemic. The New Zealand Government has taken steps to slow the spread of COVID-19 which has included significant restrictions on the movement and interaction of people within New Zealand.

We have considered the impact of Covid-19 on estimates and judgements and concluded that no material impact has occurred to date.

### Basis of preparation

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

### 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 2020.

### 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 7; and
- Onerous Lease – refer to Note 7.
- Provisions- refer to Note 11.

## 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

Secondment receipts are recognised as revenue when the invoice is issued to a customer.

#### 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

	2020 Actual	2019 Actual
	\$	\$
Salaries and wages	2,548,463	3,040,694
Defined contribution plan employer contributions	48,267	64,983
Increase/(decrease) in employee entitlements (note 10)	(11,674)	13,635
<b>Total personnel costs</b>	<b>2,585,056</b>	<b>3,119,312</b>

### Employee remuneration

Total remuneration paid or payable	2020 Actual	2019 Actual
\$100,000 and \$109,999	2	-
\$110,000 and \$119,999		2
\$120,000 and \$130,000	2	2
\$320,000 and \$330,000	2	3
\$450,000 and \$460,000	1	
<b>Total employees</b>	<b>7</b>	<b>7</b>

During the year ended 30 June 2020 no employee received compensation and other benefits in relation to cessation of employment (2019: \$2,385).

### Board member remuneration

The total value of remuneration paid or payable to each Board member during the year was:<sup>1</sup>

	2020 Actual	2019 Actual
	\$	\$
Amokura Kawharu	64,323	-
Douglas White	-	431,230
Helen McQueen	456,159	316,257
Donna Buckingham	325,567	321,170
Belinda Clark	322,752	321,161
<b>Total Board Remuneration</b>	<b>1,168,801</b>	<b>1,389,818</b>

No Board member received compensation and other benefits in relation to cessation (2019: \$ nil).

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

<sup>1</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**

	2020 Actual	2019 Actual
	\$	\$
Repairs and maintenance	5,607	2,883
Professional services	270,390	167,074
Communications	15,758	23,118
Loss on disposal	-	-
Other expenses	169,851	150,095
<b>Total other operating</b>	<b>461,606</b>	<b>343,170</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:

	2020 Actual	2019 Actual
	\$	\$
Not later than one year	244,776	244,776
Later than one year and not later than five years	979,101	979,101
Later than five years	448,756	693,532
<b>Total non-cancellable operating lease</b>	<b>1,672,633</b>	<b>1,917,409</b>

**Occupancy costs**

	2020 Actual	2019 Actual
	\$	\$
Rent	218,064	235,378
Operating lease expense – premises		16,787

	2020 Actual	2019 Actual
	\$	\$
<b>Total accommodation costs</b>	<b>218,064</b>	<b>252,165</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**

	2020 Actual	2019 Actual
	\$	\$
Cash on hand and at bank	2,566,332	1,888,757
<b>Total cash and cash equivalents</b>	<b>2,566,332</b>	<b>1,888,757</b>

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

Cash and cash equivalents include cash on hand, deposits held on call with banks, and other short-term highly liquid investments with maturities of three months or less. While cash and cash equivalents at 30 June 2020 are subject to the expected credit loss requirements of PBE IFRS 9, no loss allowance has been recognised because there is minimal risk of credit losses.

**NOTE 6 RECEIVABLES AND PREPAYMENTS****Accounting policy**

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

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.

The carrying value of receivables approximates their fair value. Receivables and prepayments at 30 June 2020 are subject to the expected credit loss requirements of PBE IFRS 9. On conducting a review of account receivable at year end, no provision for doubtful debts has been recognised pending a review of the debtors by management.

**Breakdown of receivables and further information**

	2020 Actual	2019 Actual
	\$	\$
<b>Exchange Receivables</b>		
Trade debtors	217	35,890
Less: provision for impairment	-	(12,384)
Accrued interest	-	-
<b>Non-Exchange Receivables</b>		
GST receivable	21,396	19,960
Prepayments	21,021	-
<b>Total receivables</b>	<b>42,634</b>	<b>43,466</b>

**NOTE 7 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. The 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>						
<b>Balance at 30 June 2018</b>	<b>197,357</b>	<b>154,328</b>	<b>432,203</b>	<b>15,358</b>	<b>44,762</b>	<b>844,008</b>
Additions	3,504	443	21,928	3,675	-	29,550
Adjustments/ Disposals	(477)	-	-	(284)	-	(761)
<b>Balance at 30 June 2019</b>	<b>200,384</b>	<b>154,771</b>	<b>454,131</b>	<b>18,749</b>	<b>44,762</b>	<b>872,797</b>
Additions	14,239	26	-	-	-	14,265
Adjustments/ Disposals	-	-	-	(64)	-	(64)
<b>Balance at 30 June 2020</b>	<b>214,623</b>	<b>154,797</b>	<b>454,131</b>	<b>18,685</b>	<b>44,762</b>	<b>886,998</b>

	Computer equipment	Furniture and fittings	Leasehold improvements	Office equipment	Library collection	Total
	\$	\$	\$	\$	\$	\$
<b>Accumulated depreciation and impairment losses</b>						
<b>Balance at 30 June 2018</b>	<b>165,425</b>	<b>47,826</b>	8,003	<b>10,980</b>	<b>26,858</b>	<b>259,092</b>
Depreciation expense	6,321	15,513	49,845	2,273	8,953	82,905
Adjustment/ Elimination on disposal	(477)	-	-	(284)	-	(761)
<b>Balance at 30 June 2019</b>	<b>171,269</b>	<b>63,339</b>	<b>57,848</b>	<b>12,969</b>	<b>35,811</b>	<b>341,236</b>



	Computer equipment	Furniture and fittings	Leasehold Improvements	Office equipment	Library collection	Total
	\$	\$	\$	\$	\$	\$
Depreciation expense	6,198	13,166	50,454	1,859	8,951	80,628
Adjustment/ Elimination on disposal	-	-	-	(64)	-	(64)
<b>Balance at 30 June 2020</b>	<b>177,467</b>	<b>76,505</b>	<b>108,302</b>	<b>14,764</b>	<b>44,762</b>	<b>421,800</b>
<b>Carrying amounts</b>						
At 1 July 2018	31,932	106,527	424,200	4,378	17,905	<b>584,916</b>
At 30 June 2019	29,115	91,432	396,283	5,780	8,951	<b>531,561</b>
At 30 June 2020	<b>37,156</b>	<b>78,292</b>	<b>345,829</b>	<b>3,921</b>	<b>0</b>	<b>465,198</b>

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 8 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%
-------------------	---------	--------

### Impairment of intangible assets

Refer to the policy for impairment of property, plant, and equipment in Note 7. 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
	\$	\$
Balance at 30 June 2018	<b>72,879</b>	<b>72,879</b>
Additions	-	-
Adjustments/Disposals	(35,841)	(35,841)
Balance at 30 June 2019	<b>37,038</b>	<b>37,038</b>
Additions	-	-
Adjustments/Disposals	-	-
Balance at 30 June 2020	37,038	37,038
Amortisation		
Balance at 30 June 2018	<b>72,879</b>	<b>72,879</b>
Amortisation expense	-	-
Adjustments/ Elimination of Disposal	<b>(35,841)</b>	<b>(35,841)</b>
Impairment losses	-	-

	Acquired software	Total
	\$	\$
Balance at 30 June 2019	37,038	37,038
Amortisation expense	-	-
Adjustments/ Elimination of Disposal	(35,841)	(35,841)
Impairment losses	-	-
Balance at 30 June 2020	37,038	37,038
At 30 June 2018	-	-
At 30 June 2019	-	-
At 30 June 2020	-	-

#### 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 9 PAYABLES

##### Accounting policy

Short-term payables are recorded at the amount payable.

##### Breakdown of payables

	2020 Actual	2019 Actual
	\$	\$
<b>Payables under exchange transactions</b>		
Creditors	75,277	47,489
Accrued expenses	38,242	37,695
<b>Total payables</b>	<b>113,519</b>	<b>85,184</b>

#### NOTE 10 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

	2020 Actual	2019 Actual
	\$	\$
<b>Current portion</b>		
Annual leave	144,860	160,056
Sick leave	15,000	15,000
Salary accrual	48,521	21,646
<b>Total employee entitlements</b>	<b>208,381</b>	<b>196,702</b>

#### NOTE 11 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

	2020 Actual	2019 Actual
	\$	\$
<b>Current portion:</b>		
Lease Incentive Provision	20,398	20,398
<b>Total current portion</b>	<b>20,398</b>	<b>20,398</b>

	2020 Actual	2019 Actual
	\$	\$
<b>Non-current portion</b>		
Non-current Lease Incentive Provision	118,988	139,386
<b>Total non-current portion</b>	<b>118,988</b>	<b>139,386</b>
<b>Total provisions</b>	<b>139,386</b>	<b>159,784</b>

#### NOTE 12 CONTINGENCIES

##### Contingent liabilities

The Law Commission has no contingent liabilities (2019: \$ nil).

##### Contingent assets

The Law Commission has no contingent assets (2019: \$ nil).

#### NOTE 13 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

	2020 Actual	2019 Actual
	\$	\$
Balance at 1 July	2,022,114	1,951,834
Surplus/(deficit)	590,764	70,280
<b>Total equity at 30 June</b>	<b>2,612,878</b>	<b>2,022,114</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 14 RELATED PARTY TRANSACTIONS

The Law Commission is controlled by the Crown.

Related party disclosures have not been made for transactions 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

	2020 Actual	2019 Actual
	\$	\$
<i>Board Members</i>		
Remuneration	951,533	958,588
Full Time Equivalent Members	2.28	2.98
<i>Leadership Team</i>		
Remuneration	419,838	615,641
Full Time Equivalent Members	1.27	1.66
<b>Total key management personnel compensation</b>	<b>1,371,371</b>	<b>1,574,229</b>
<b>Total full-time equivalent personnel</b>	<b>3.55</b>	<b>4.64</b>

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

For the purposes of this, note 14, 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 15 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

	2020 Actual	2019 Actual
	\$	\$
Payables (note 9)	113,521	80,489
<b>Total financial liabilities measured at amortised cost</b>	<b>113,521</b>	<b>80,489</b>
<b>Loans and receivables</b>		
Cash and cash equivalents (note 5)	2,566,332	1,888,757
Receivables (note 6)	42,634	43,466
<b>Total loans and receivables</b>	<b>2,722,487</b>	<b>2,012,712</b>

#### NOTE 16 EVENTS AFTER THE BALANCE DATE

There were no significant events after the balance date.

#### NOTE 17 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 below budget. The Law Commission saw a drop in FTE personnel numbers during the year, while the budget forecasted an increase.

##### Library

Increased library expenses reflect an increase in database systems utilised by the Law Commission compared to prior years.

##### Other Operating Expenses

Increased other operating expenses compared to budget due to increased use of external professional and consulting services. This was largely due to the interim general manager services provided by Deloitte.

#### Statement of financial position

##### Cash

Higher than budget cash position reflects the net surplus the Law Commission made, as opposed to the budgeted loss.

#### Statement of cash flows

Better cash flow from operating activity position than expected due to decreased personnel costs, leading to a net surplus for the year.

# Independent Auditor's Report

---

AUDIT NEW ZEALAND

Mana Arotake Aotearoa

## Independent Auditor's Report

### To the readers of Law Commission's financial statements and performance information for the year ended 30 June 2020

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 pages 30 to 42, that comprise the statement of financial position as at 30 June 2020, 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 12 to 14, and 19 to 29.

In our opinion:

- the financial statements of the Commission on pages 30 to 42:
  - present fairly, in all material respects:
    - its financial position as at 30 June 2020; 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 the Public Benefit Entity Reporting Standards Reduced Disclosure Regime; and
- the performance information on pages 12 to 14, and 19 to 29:
  - presents fairly, in all material respects, the Commission performance for the year ended 30 June 2020, 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
    - what has been achieved with the appropriation; and

- the actual expenses or capital expenditure incurred compared with the appropriated or forecast expenses or capital expenditure.
- Complies with generally accepted accounting practice in New Zealand.

Our audit was completed on 16 December 2020. This is the date at which our opinion is expressed.

The basis for our opinion is explained below, and we draw attention to the impact of Covid-19 on the Commission. 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.

### **Emphasis of matter – Impact of Covid-19**

Without modifying our opinion, we draw attention to the disclosures about the impact of the Covid-19 pandemic on the Commission as set out in note 1 to the financial statements on page 34 and page 22 of the performance information.

### **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 is 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 is 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 is responsible on behalf of the Commission for assessing the Commission's ability to continue as a going concern. The Board is 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 is responsible for the other information. The other information comprises the information included on pages 2 to 52, 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: International 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 – Commissioners and staff of the Commission at 30 June 2020

Amokura Kawharu ( <i>until May 2025</i> )	Tumu Whakarae   President
Helen McQueen ( <i>until February 2021</i> )	Tumu Whakarae Tuarua   Deputy President
Donna Buckingham ( <i>until May 2021</i> )	Kaikōmihana   Commissioner
Kate Thomson	Pou Whakahaere Matua   General Manager
Judy McLuskie	Kaiāwhina Mātāmua   Executive Assistant
Nichola Lambie	Kaitohutohu Taumata   Principal Legal and Policy Adviser
John-Luke Day	Kaitohutohu Matua   Senior Legal and Policy Advisers
Catherine Helm	
Kate McKenzie-Bridle	
Susan Paul	
Jenny Ryan	
Clair Trainor	
Tāneora Fraser	Kaitohutohu   Legal and Policy Advisers
Nick Gillard	
Sam Mellor	
Jesse Watts	
Duc Nguyen	Kaitohutohu Hangarau   ICT Services Adviser
Louise Norton	Kaitohutohu Pārongo   Information Adviser
Sam Coad	Kaimahi Ture   Law Clerks
Danielle Karl	
Jessica Sutton	
Tom White	
Toni Wharehoka	

# Appendix B – Tabled Law

## Reform Reports from

### January 2010–30 June 2020

Report Name	Report reference	Current Status
Invasion of Privacy: Penalties and Remedies: Review of the Law of Privacy: Stage 3	NZLC R113 (2010)	Cabinet 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)	Some alcohol reforms passed into law in the Sale and Supply of Alcohol Act 2012.
A New Support Scheme for Veterans: A report on the review of the War Pensions Act 1954	NZLC R115 (2010)	The Veterans' Support Act 2014 received Royal Assent on 7 August 2014 and all parts were in force by 7 December 2015.
A New Land Transfer Act <i>In conjunction with Land Information New Zealand</i>	NZLC R116 (2010)	The Commission's recommendations were accepted. The Land Transfer Act 2017 received Royal Assent on 10 July 2017 all parts were in force by December 2018.
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) Act 2017 received Royal Assent on 21 February 2017 and came into force on 21 February 2018.
A Review of the Civil List Act 1979: Members of Parliament and Ministers	NZLC R119 (2010)	Members of Parliament (Remuneration and Services) Act 2013 received Royal Assent on 18 November 2013 and came fully into force on 14 July 2014.
Mental Impairment Decision Making and the Insanity Defence	NZLC R120 (2010)	The Commission's recommendations were accepted in principle in 2011 but implementation requires further work to be undertaken.

Report Name	Report reference	Current Status
Compensating Crime Victims	NZLC R121 (2010)	The Government made decisions on victims' compensation before publication of the Report. The Government rejected further recommendations.
Controlling and Regulating Drugs – A Review of the Misuse of Drugs	NZLC R122 (2011)	Psychoactive Substances Act 2013 came into force on 18 July 2013. After a five-year Drug Court pilot, three Alcohol and Other Drug Treatment Courts have been made permanent. Recommendations relating to criminal justice aspects were 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)	The Privacy Act 2020 received Royal Assent on 30 June 2020 and will come into force on 1 December 2020.
Consumers and Repossession: A Review of the Credit (Repossession) Act 1997	NZLC R124 (2012)	The Commission's recommendations were reflected in the Credit Contracts and Consumer Finance Amendment Act 2014, which included substantial changes to consumer credit repossession laws.
The Public's Right to Know: Review of the Official Information Legislation	NZLC R125 (2012)	Several recommendations were accepted but are still awaiting legislative vehicles.  In mid-2020, the Minister of Justice signalled a commitment to rewrite the Official Information Act.
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 Government accepted all the Report's recommendations, with modifications to two. The Evidence Amendment Act 2016, which came into force on 8 January 2017, implemented these.

Report Name	Report reference	Current Status
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 Act 2015.
A New Act for Incorporated Societies	NZLC R129 (2013)	The Ministry of Business, Innovation and Employment has drafted and consulted on a Bill. The Bill has not yet been signed off by Cabinet for introduction.
Review of the Law of Trusts: A Trusts Act for New Zealand	NZLC R130 (2013)	The Trusts Act 2019 will come into force on 21 January 2021. The reforms are largely based on the recommendations in this Report.
Suicide Reporting	NZLC R131 (2014)	The Coroners Amendment Act 2016 came into force on 22 July 2016.
Liability of Multiple Defendants	NZLC R132 (2014)	The Government accepted the 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 Ministry of Justice and the Ministry of Business, Innovation and Employment consider and carry out further work on the Commission's other recommendations.
Pecuniary Penalties: Guidance for Legislative Design	NZLC R133 (2014)	The Government substantially accepted the recommendations.  The Ministry of Justice is undertaking further work with Parliamentary Counsel Office to develop revised guidance on pecuniary penalties.
Death, Burial and Cremation: A new law for contemporary New Zealand	NZLC R134 (2015)	The Government supported in principle introducing a new statute governing death, burial and cremation. The Ministry of Justice is undertaking policy work on the recommendations around burial decisions. The Ministry of Health is leading other work.  Three recommendations are part of the Births, Deaths, Marriages, and Relationships Registration Bill (2017).

Report Name	Report reference	Current Status
		<p>The August 2017 report of the Māori Affairs Select Committee into whānau access to and management of tūpāpaku (bodies of the deceased) recommended that the Government consider implementing the Commission's recommendations on death, burial and cremation.</p> <p>In mid-February 2018 the Government accepted the recommendation of the Select Committee relating to implementing the Commission report, noting that work is ongoing to implement the 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 Commission's report (which deals with Crown Proceedings) could be implemented alongside the modernisation of the Act. The Ministry's work on Part B (which deals with national security information in proceedings) is presently on hold.</p>
The Justice Response to Victims of Sexual Violence: Criminal Trials and Alternative Processes	NZLC R136 (2015)	<p>The Government accepted the Commission's position that reform would improve the justice response for victims of sexual violence.</p> <p>The Government directed the Ministry of Justice to further analyse the Commission's recommendations.</p> <p>Many of the Report's recommendations are now being progressed through the Sexual Violence Bill 185 (2019).</p>
Modernising New Zealand's Extradition and Mutual Assistance Laws	NZLC R137 (2016)	<p>The Government accepted the Commission's main recommendations.</p> <p>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.</p>

Report Name	Report reference	Current Status
Strangulation: The case for a new offence	NZLC R138 (2016)	The Family Violence Legislation Act 2018 received Royal Assent on 12 November 2018 and came into force on 1 July 2019.
Understanding Family Violence: Reforming the Criminal Law relating to Homicide	NZLC R139 (2016)	This Report was tabled in Parliament on 12 May 2016. No formal Government Response has been made, and the Report's recommendations have not yet been implemented.
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 Contempt of Court Bill received the Royal Assent on 26 August 2019 and will come into force on 26 August 2020.
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 Commission Reports.
The Second Review of the Evidence Act 2006 – Te Arotake Tuarua i te Evidence Act 2006	NZLC R142 (2019)	In its response of 2 September 2019, the Government agreed with the Commission's conclusion that the Act is generally working well, but that some improvements are necessary and desirable. The Government has agreed to progress or accepts most of the Commission's recommendations. Six of the recommendations are being progressed as part of the Sexual Violence Legislation Bill 185 (2019). The Ministry of Justice is undertaking further policy work on the remainder.
Review of the Property (Relationships) Act 1976 – Te Arotake i te Property (Relationships) Act 1976 (NZLC R143, 2019)	NZLC R143 (2019)	In its response of 23 July 2019, the Government accepted the Commission's recommendation that the rules applying to relationships ending on death be examined separately and referred this to the Commission as part of a review of succession law.  The Government intends to consider the remaining recommendations concurrently with the recommendations of the succession review when this is complete in late 2021.

---

The office of Te Aka Matua o te Ture | Law Commission is located at:  
Level 9, Solnet House, 70 The Terrace, Wellington

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