

Pūrongo ā Tau

Annual Report

1 July 2020 – 30 June 2021



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, 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

The Commissioners are:

Amokura Kawharu – Tumu Whakarae | President

Helen McQueen – Tumu Whakarae Tuarua | Deputy President

Geof Shirtcliffe – Kaikōmihana | Commissioner

The Hon Justice Christian Whata – Kaikōmihana | Commissioner

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

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Tumu Whakarae | President
Amokura Kawharu
Kaikōmihana | Commissioners
Helen McQueen
Geof Shirtcliffe
The Hon Christian Whata

20 December 2021

Hon Kris Faafoi
Minister Responsible for the Law Commission
Parliament Buildings
WELLINGTON

Tēnā koe Minister

I am pleased to present to you the Annual Report of Te Aka Matua o te Ture | Law Commission for the year ended 30 June 2021.

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

Nāku noa, nā

A handwritten signature in blue ink, reading 'Amokura Kawharu'.

Amokura Kawharu

Tumu Whakarae | President

Introduction from the President

Tēnā tātou katoa. Kei te harikoa mātou ki te whakatakoto atu i tēnei pūrongo ā tau mō 2020-2021.

Te Aka Matua o te Ture | Law Commission is an independent Crown entity. Our function is to keep the law under review and to make recommendations for its reform and development. We are guided by our vision: better law for Aotearoa New Zealand through independent review. Independent review helps to sustain confidence that our laws support a modern democracy, an efficient economy and a just society. Good law benefits current and future generations and upholds the mana of all people in Aotearoa New Zealand.

Our annual report describes our activities and achievements over the past year and our progress against our strategic objectives – of strengthening our relationships with our stakeholders, contributing to a wider and enduring understanding and recognition of te ao Māori and te Tiriti o Waitangi | Treaty of Waitangi, and maintaining an honest, strong and positive workplace culture. The report details our performance against our accountability frameworks as set out in our Statement of Intent for 2020-2024 and Statement of Performance Expectations for the year under review, 2020-2021.

LAW REFORM ACTIVITIES

Current projects summary

The Commission started the year with three active references, the reviews of Class Actions and Litigation Funding, Succession law and the Criminal Investigations (Bodily Samples) Act 1995 concerning the use of DNA in criminal proceedings. During the year, the Commission also commenced Te Kōpū Whāngai, its review of surrogacy and Ngā Huarahi Whakatau, its review of adult decision-making capacity. The Commission produced a final report in relation to the DNA project and issues papers for the reviews of Class Actions and Litigation Funding and Succession law. In addition to these projects, the Commission has engaged Professor Janet McLean QC to write a Study Paper concerning Aotearoa New Zealand's legal and institutional framework for pandemics and other threats.

Implementation of earlier work and other law reform activities

During the year, the Incorporated Societies Bill was introduced into Parliament to implement earlier law reform recommendations by the Commission. Other law reform initiatives underway within government that draw upon the Commission's earlier work include, for example, the insurance contract law review by the Ministry of Business, Innovation & Employment. The Commission contributes to the revision of legislation through the certifier role of the President of the Commission under the Legislation Act 2019 although there was no revision work undertaken during 2020-2021.

Systematic review of the law and development of the Commission's work programme

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 officials in the Ministry of Justice and other government Departments and Ministries, members of the Judiciary, the Office of Parliamentary Counsel, 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 surrogacy with the Law Commission of England and Wales and the Scottish Law Commission. The Commission publishes a newsletter *Te Aka Korero*, in which it shares its achievements and news, together with other matters of interest to the law reform community.

These relationships support the Commission's focus on keeping the law of Aotearoa New Zealand under review in a systematic way. We maintain a record of possible future law reform projects based on our own assessments of contemporary reform issues, and by receiving and evaluating law reform suggestions from the legal profession and other stakeholders including members of the public.

This process also assists the Minister's consultation with Cabinet about references for possible inclusion in the Commission's work programme. As noted, the Commission commenced work on two references during the year, Te Kōpū Whāngai, its review of surrogacy and Ngā Huarahi Whakatau, its review of adult decision-making capacity. Following discussions with the Minister and Ministry of Justice officials, two new projects were referred to the Commission for 2021-2022: a review of the role of tikanga and te ao Māori concepts in state law and a review of the legislative settings for preventive detention.

TE AO MĀORI

The Commission continues to make strong progress in developing its institutional approach to the consideration of tikanga Māori and te Tiriti o Waitangi | the Treaty of Waitangi across all its projects. The Commission is supported in this aspect of its work by its regular meetings with its Māori Liaison Committee. We thank the Chair of the Committee, the Hon Justice Joe Williams KNZM, and the other Committee members, for their advice and commitment to assisting the Commission's work.

The Commission also continues to build and maintain its relationships with Te Hunga Rōia Māori o Aotearoa | the New Zealand Māori Law Society and with the Aotearoa New Zealand Centre for Indigenous Peoples and the Law at Auckland Law School. Te Hunga Rōia Māori o Aotearoa and the Commission entered into a Memorandum of Understanding in July 2020. The MoU sets out a framework for closer cooperation to facilitate Te Hunga Rōia Māori o Aotearoa contributions to Commission projects. For example, the Commission agrees to provide regular updates with respect to its current and planned work programme, and Te Hunga Rōia Māori o Aotearoa agrees to encourage its members to make submissions.

In October 2020, the Board approved the Commission's te reo Māori policy and plan to align the Commission's te reo initiatives with Maihi Karauna, the Crown's Strategy for Māori Language Revitalisation 2019-2023. The plan will enhance the Commission's effectiveness in meeting its statutory duty and strategic priority to take te ao Māori into account in its work and was

developed collaboratively between staff and Commissioners. The Commission continues to support staff to learn te reo Māori by providing weekly classes for tēina and tuākana, and now also provides additional resources for self-directed learning. Under the plan, the Commission commits to offer project names in te reo to the editor of He Papakupu Reo Ture, to contribute to the development and wider use of legal terms in te reo.

In December 2020, Commission personnel were hosted for an annual retreat at Waiwhetu Marae in Lower Hutt. The occasion was an opportunity to whakawhanaunga with mana whenua. We were also privileged to hear from Sir Hirini Mead, the Hon Justice Joe Williams KNZM and Tai Ahu on tikanga and its relationship with state law, and from Len Cook on demographic analyses of the connection between Māori and the justice system.

During the year, the Commission launched Whāngaihia te Aka, a tailored seminar and study programme to build cultural capability among personnel.

FINANCIAL SITUATION

In 2020-2021 the Commission received core funding of \$3.993 million. The Commission also received a \$300,000 one-off transfer of funds from the Ministry of Justice to support work in relation to te ao Māori. The year under review has resulted in an annual operating surplus of \$550,448 against a forecast operating deficit of \$338,681 with a residual equity of \$3.166 million. Some of the surplus is attributable to the \$300,000 one-off transfer of funds, which was unbudgeted.

Approximately 83 per cent of expenditure relates to rent and personnel. The Commission has maintained an 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. In 2019-2020, the Commission instituted a model based on maintaining three Commissioners for the near term (the minimum number of Commissioners required under the Law Commission Act 1985). Within this model, the Commission has extended the role of Principal Legal and Policy Adviser by offering greater responsibility for the day to day running of a project. A fourth Commissioner was appointed in October 2021 for a one-year term to lead the project on tikanga. The Commission would strongly prefer to return to having four Commissioners at all times.

Within the constraints of the existing financial operating environment the Commission will continue to endeavour to deliver a timely and effective law reform work programme. 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 acknowledge Donna Buckingham's service as a Law Commissioner between 2016 and 2021, and her contributions to the Commission's work during that period – notably, her work in reviewing how DNA is used in criminal investigations and her work, with the Ministry of Justice, on search and surveillance law.

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.

REASONS FOR LAW REFORM

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 relevant Minister on how the law can be improved and provide implementation and other advice on law reform issues.

WHERE DO OUR PROJECTS COME FROM?

Every year, the Commission proposes a work programme to the Minister responsible for the Commission for discussion. The agreed programme will normally include references from government, taking into account the Cabinet Circular¹ 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 also itself initiate law reform proposals and receive and consider proposals from any person.

RECOMMENDATIONS FOR LAW REFORM

The Commission's vision is to promote better law for Aotearoa New Zealand through independent review. We pursue our vision by making law reform recommendations that are

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

based on in-depth research and public consultation. Our recommendations aim to improve the quality, relevance and effectiveness of the laws that we review.

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 society.

When we complete a project, we publish a report for the Minister with independent and practicable law reform recommendations. The extent to which the Commission's recommendations are acted upon is then a matter for Parliament.

ADVICE ON IMPLEMENTATION OF LAW REFORM

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

GOVERNMENT PRIORITIES AND EXPECTATIONS ARE EMBEDDED IN OUR WORK

In May 2019, the Government presented its wellbeing budget, putting the wellbeing of current and future generations of all people in Aotearoa New Zealand at the heart of what it does. Through the 2019 Enduring Letter of Expectations, the Government signalled its expectation that Crown entities work towards achieving a unified valued-based government and its expectation that Crown entities take a leadership role in relation to the Treaty relationship. In his March 2021 letter to the Commission, the Minister of Justice noted that the justice sector plays a crucial role in ensuring the protection of individual rights, maintaining trust and supporting democracy.

By its very nature, independent law reform work carried out by the Commission is aligned to these expectations. We provide advice for improving the law in respect of a law reform programme which is approved by the Minister of Justice. Through our research, engagement and independent recommendations for law reform, the Commission's work contributes to ensuring our laws reflect our values and aspirations as a country, respect the rule of law and promote democratic governance. The particular contributions the Commission makes towards embedding wellbeing, te Tiriti o Waitangi | the Treaty of Waitangi and individual rights (including access to justice) within its current work programme are noted in the 2020-2024 Statement of Intent. They are also discussed in the Statement of Performance below.

OTHER FUNCTIONS – PARLIAMENTARY CERTIFIER

The Legislation Act 2019 provides a mechanism for systematically revising the presentation of Aotearoa New Zealand's 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 COMMISSIONERS

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

The Commissioners in date order of appointment, as at 30 June 2021, were:

- Helen McQueen (term of appointment has been extended for a year and now expires on 18 March 2022);
- Donna Buckingham (term of appointment expired on 15 May 2021 but was continued under the carry-over provisions of the Crown Entities Act 2004); 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 consultation, and to draft and publish reports and other papers. Many have practised as lawyers within government, in private practice or both. 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 legislation including the Official Information Act 1982, the Crown Entities Act 2004, the Public Records Act 2005 and the Public Finance Act 1989.

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.

An ad hoc panel of experts (an Expert Advisory Group) will usually be appointed to assist the Commission in its work. Sometimes an officials group, a judicial panel or other relevant consultative group 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

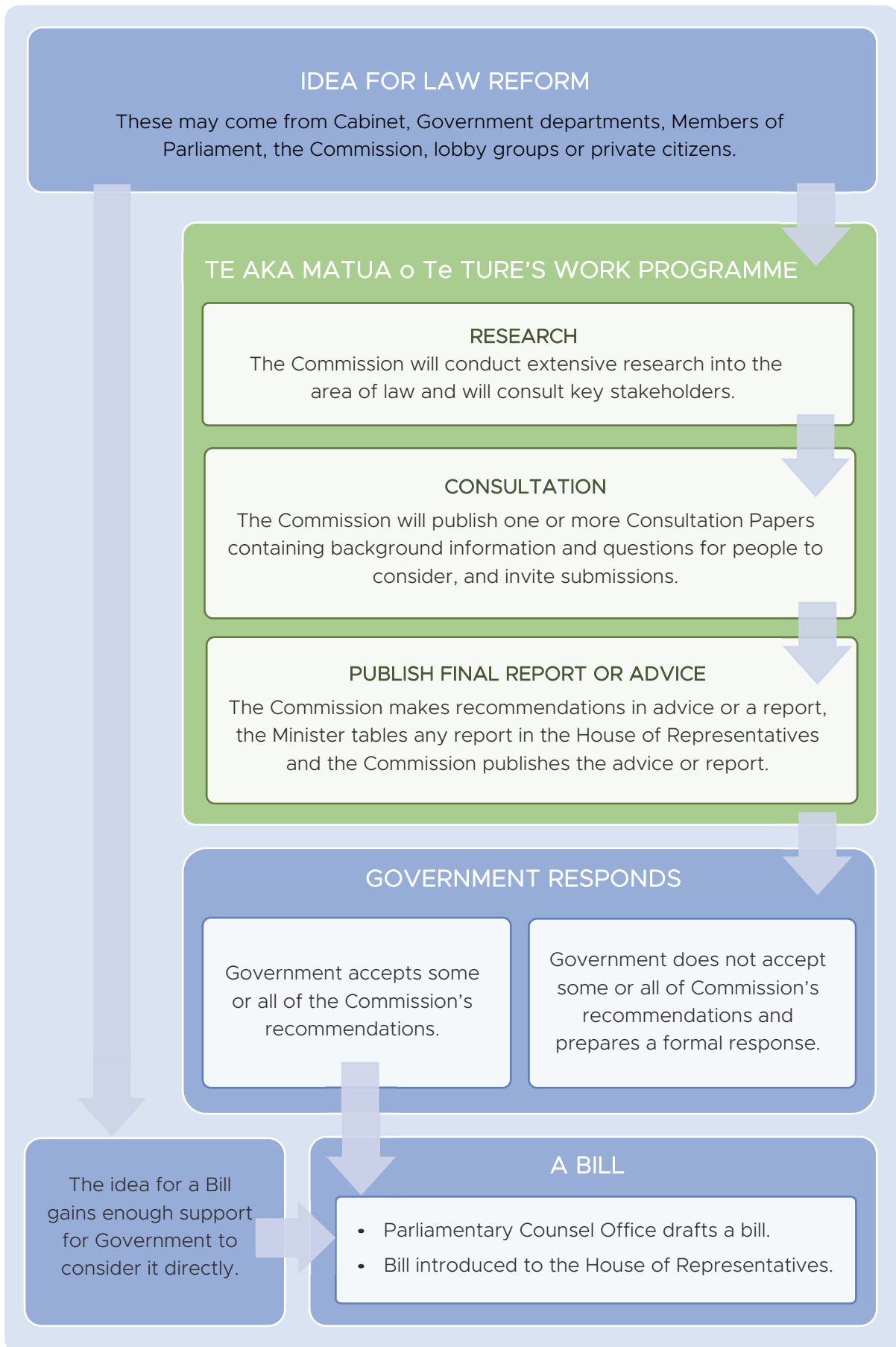
The purpose of consultation is to help us discover, know and understand people's views about and experiences of the law under review. The Commission consults with people affected by the law and takes care to include a wide range of different groups. We may create a website specifically for the project 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.

FINAL REPORT OR OTHER ADVICE

At the end of a project, we write a final report or provide advice. A final 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. During the year, the Commission reviewed the structure of Board meetings to ensure the Board maintains focus on its high-level strategic priorities, and revised its risk management framework.

OUR PEOPLE

The Commission is committed to being an equal opportunities employer, and this commitment is led by the Commissioners and the General Manager. 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, "stretch assignments" within projects, opportunities to progress, lunch-time seminars and external courses. Other initiatives are noted in the Introduction.

Our work-life balance initiatives, including our flexible work policy, 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 and support flexible work arrangements.

We have a remuneration policy that recognises performance of employees among 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 policy. In the year under review, the Commission also considered pay restraint guidance issued by the Public Services Commission in the remuneration review process.

We apply principles of pay equity to all Commission staff. As an inclusive workplace, we do not require staff to indicate their gender identity. Accordingly, we are not in a position to report on pay equity among all of them. However, it is our impression from indicators such as email signatures and voluntary disclosures that there is not a gendered pay gap in favour of people who are cis-men and nor is there a disproportionate number of them at senior levels.

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 (expiring in 2027) with two rights of renewal for further terms of three years each. 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 practice, and, as part of our office accommodation, we have ergonomic sit-stand desks for all employees. In accordance with Public Services Commission guidance, in 2021 we also provided additional paid special leave for any staff member who experienced adverse side effects of COVID-19 vaccination. 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 emergency management training) and incident/hazard management.

Our supportive culture and policies, together with the Public Services Commission's 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 continued its programme of ICT hardware upgrades, including the roll-out of Surface Pro Laptops for personnel. The upgraded hardware 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. 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 are also a participating member of the Justice Sector Steering Group, a group comprising representatives of various independent Crown entities whose monitoring agency is the Ministry of Justice, intended to foster collaboration, mutual support, networking and training opportunities amongst its members. We also participate in informal inter-agency collaboration initiatives.

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. Submissions from an individual may be redacted to preserve an individual's privacy.

During the year under review, we received 55 requests for information under the Official Information Act 1982. We responded within the statutory timeframe in relation to 98% per cent of those 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, and staff turnover. Risks are monitored and reviewed as part of each Board meeting.

OUR PROGRESS OVER THE LAST YEAR

We have made good progress in building our capabilities over 2020-2021, focussing on:

- building our cultural capability;
- embedding our vision and values across policies and practices;
- developing data collection points to enable reporting on new performance measures;
- reviewing and upgrading our ICT systems through new hardware and cloud-based services to continuously improve our business continuity resilience; and
- ongoing review of our library collection, including the review and revitalisation of our te ao Māori collection and the development of a link library of key online research resources.

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 2021.

Signed on behalf of the Board:



Amokura Kawharu

Tumu Whakarae | President

20 December 2021



Helen McQueen

Tumu Whakarae Tuarua | Deputy President

20 December 2021

Statement of Performance for the year ended 30 June 2021

OVERVIEW

Work programme summary

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 2020-21 appropriation of \$3.993 million.

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

The Commission started the year with three active references, the reviews of Class Actions and Litigation Funding, Succession Law and the Criminal Investigations (Bodily Samples) Act 1995 concerning the use of DNA in criminal proceedings. The final report in the DNA project (DNA Report) was published in October 2020. The issues paper on Class Actions and Litigation Funding and the issues paper on Succession Law were also due in 2020-21 and were published in December 2020 and April 2021 respectively. As detailed below, the qualitative and quantitative performance measures for 2020-21 apply to these three publications.

During the year, the Commission commenced Te Kōpū Whāngai, its review of surrogacy, and published terms of reference for the review in March 2021. The Commission also commenced work on Ngā Huarahi Whakatau, its review of adult decision-making capacity, undertaking preliminary research and engagement with core stakeholders, and developing terms of reference for the project.

In addition to these projects, the Commission engaged Professor Janet McLean QC to write a Study Paper concerning Aotearoa New Zealand's legal and institutional framework for pandemics and other threats. Building on the Commission's Final Report on Emergencies (NZLC R22, 1991) the Study Paper will undertake a preliminary evaluation of how well Aotearoa New Zealand's laws and legal institutions anticipated the challenges presented by COVID-19 and identify any questions that ought to be considered to ensure readiness for future emergencies. Like its predecessor, it will underline the importance of standards and democratic safeguards. The paper is due to be published in 2021-22. The work by Professor McLean is being funded by remuneration savings that resulted from the passing of the Remuneration Authority (COVID-19 Measures) Amendment Act 2020.

Performance measurement

The Commission has developed new performance measures under its Statement of Intent 2020-2024. The Commission now assesses its output performance using a combination of qualitative, quantitative and impact measures.

Qualitative measures

The **qualitative measures** assess how we identify and address the substantive legal and policy issues within completed references. We use external feedback from members of our Expert Advisory Groups (EAGs). Feedback is obtained through a survey that allows EAG members to respond to the questions by selecting answers from a sliding scale and by providing comments. Members of an EAG are chosen for their independence and expertise and are appointed on a voluntary basis. In some cases, EAG members are nominated by Te Hunga Rōia Māori o Aotearoa, the New Zealand Law Society, or other professional body. Eminent academics and practitioners serve on EAGs and are named and acknowledged in our published work.

With respect to our undertaking to recognise te ao Māori, we seek independent feedback from the chair of Commission's Māori Liaison Committee (MLC), the Hon Justice Joe Williams KNZM. MLC members are drawn from the judiciary, academia, te ao Māori and the legal profession, and comprise experts in te ture Pākehā and tikanga Māori. Current members are named on our website. For the year under review, the qualitative measures apply to the DNA Report.

Quantitative measures

The **quantitative measures** concern the Commission's consultation processes and overall output. The first of these measures addresses whether the Commission received the expected number of submissions in response to each issues paper published during the year. For the year under review, this measure applies to the issues papers published in the reviews of Class Actions and Litigation Funding and Succession Law.

The second measure concerns whether the Commission was able to consult with the expected number of core stakeholders during the lifetime of a given project, in relation to projects that are completed during the year. The DNA project was completed during the year. However, because this is a new measure, the Commission did not estimate a target (at the outset of the project) for the number of consultations that would be held over the project lifetime. Subject to this issue of timing, the Commission reports below on the scope and number of consultations held.

The third and fourth quantitative measures concern the timely completion of issues papers, final reports, other papers and advice. For the year under review, these measures apply to the DNA Report and the issues papers in the reviews of Class Actions and Litigation Funding and Succession Law.

Impact measures

The **impact measures** enable the assessment of the Commission's long-term impact on the wider legal system. These measures concern the implementation rate of Commission recommendations over a rolling 10-year period, community engagements by Commissioners and staff, and references to the Commission's work by the senior courts, Parliament, academia, the media and others.

Summary of performance achievement

The following tables summarise the position as at 30 June 2021 in light of the measures and targets identified in the Commission's 2020-2021 Statement of Performance Expectations. The summary tables should be read alongside the more detailed explanation of the measures and how they have been applied, as set out in the sections that follow.

Measure	How	Planned 2020-21	Actual 2020-21
Qualitative measures²			
High quality evidence-based legal and policy analysis (measure 1)	Survey of independent experts	Agree	Achieved
Recognition of te ao Māori (measure 2)	Survey of Māori Liaison Committee and independent experts	Agree	Achieved
Clear and understandable consultation papers, reports or other advice (measure 3)	Survey of independent experts	Agree	Achieved
Independent and practicable recommendations (measure 4)	Survey of independent experts	Agree	Achieved
Quantitative measures			
The number of submissions received³ (measure 5)	The percentage of target submissions per project, average across	100%	100%

² Applied to the Te Aka Matua o te Ture | Law Commission *Te Whakamahi i te Ira Tangata i ngā Mātai Taihara* | *The Use of DNA in Criminal Investigations* (NZLC R144, 2020) (DNA Report).

³ Applied to the Te Aka Matua o te Ture | Law Commission *Ko ngā Hunga Take Whaipānga me ngā Pūtea Tautiringa* | *Class Actions and Litigation Funding* (NZLC IP 45) (Class Actions and Litigation Funding Issues Paper) and Te Aka Matua o te Ture | Law Commission *He arotake i te āheinga ki ngā rawa a te tangata ka mate ana* | *Review of Succession Law: Rights to a person's property on death* (NZLC IP46, 2021) (Succession Issues Paper).

Measure	How	Planned 2020-21	Actual 2020-21
	all papers published in the year		
The number of consultation meetings held⁴ (measure 6)	The percentage of target consultation meetings per project, average for all projects completed in the year	100%	100%
The number of consultation or other papers, reports or advice⁵ (measure 7)	The number of published consultation or other papers, reports and advice	3	3
Reports or advice produced in timeframe agreed with the Responsible Minister⁶ (measure 8)	The date the report or advice is sent to the Responsible Minister	100%	100%
Impact measures			
Long term implementation of reports or other advice (measure 9)	The percentage implementation of reports and advice over the previous 10-year period	60%	75.76%
The number of community engagements (measure 10)	The number of community engagements (such as presentations, interviews and published articles)	5	26

⁴ Applied to the Class Actions and Litigation Funding Issues Paper and Succession Issues Paper.

⁵ Applied to the DNA Report, Class Actions and Litigation Funding Issues Paper and Succession Issues Paper.

⁶ Applied to the DNA Report, Class Actions and Litigation Funding Issues Paper and Succession Issues Paper.

Measure	How	Planned 2020-21	Actual 2020-21
References to the Commission's work (measure 11a)	The number of references to the Commission's reports or advice in court decisions	60	85
(measure 11b)	The number of references to the Commission's reports or advice in Parliamentary debates and committee reports, academic publications and other media	500	464

Comment

The qualitative and quantitative measures relating to Commission publications were achieved .

One of the quantitative measures (measure 6) requires the Commission to report on the number of core stakeholders consulted during the lifetime of a project. Reporting under this measure takes place for projects which are completed during the year. The Commission completed the DNA project during the year. This is a new measure adopted for the first time in 2020-2021. Because of this, the Commission has had to consider whether the Commission consulted with the core stakeholder group for the DNA project in retrospect. In total, the Commission consulted with stakeholders on 109 separate occasions during the project. This extensive consultation included meetings with core stakeholders such as ESR and Police. On this basis the Commission is satisfied that the project team consulted adequately with the relevant core stakeholders for the project.

Analysis of the implementation rate of past Commission reports confirms that Commission recommendations are very rarely rejected, and that implementation is often a years-long process (measure 9).

The total number of community engagements (26) was much higher than anticipated (5) (measure 10). The nature of the engagements demonstrates that interest in the Commission's work, and its approach to its work, is widespread. The target number will be lifted for this measure for the next financial year.

The number of general references (excluding court decisions) during the year (464) is lower than was anticipated (500) (measure 11b). However, this is the first time the Commission has used this measure. A lower target will be applied to this measure in the next financial year.

PAPERS, REPORTS AND OTHER ADVICE

Final Report concerning the Use of DNA in Criminal Investigations | Te Whakamahi i te Ira Tangata i ngā Mātai Taihara (NZLC R144, 2020)

The goal of the DNA review was to ensure that Police has the tools to investigate crime whilst recognising and providing for human rights and tikanga Māori and safeguarding the privacy of both individuals and members of collective groupings against misuse of their genetic material. 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. Submissions in response to 48 questions the Commission had posed in the Issues Paper closed at the end of March 2019. 89 submissions were received. During the project, the project team also undertook 109 separate consultations with core stakeholders (measure 6).

The Commission developed preferred policy approaches to the fundamental problems it had identified with the legislation, taking into account submissions from organisations and experts and the views of members of the public given via a public consultation website. Those policy approaches were then discussed with both its Officials Group and its Expert Advisory Group (EAG) which included members with scientific, forensic, legal, ethical, and tikanga expertise.

The final 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 oversight system that is fit for purpose in the face of rapidly changing technology, including a framework that enables Māori to articulate their rights and interests in the DNA regime. The DNA Report was published on 24 November 2020 (measure 8).

The Commission then sought feedback on the report from EAG members via an electronic survey which asked participants to rate seven statements about the report on a 1-5 Likert scale: strongly agree (1), agree (2), neutral (3), disagree (4), strongly disagree (5). Eight of 11 EAG members responded. The target average response (for all participants and all questions) is 2 or below. This target was met: the actual average response was 1.3 (measures 1 to 4). The Commission also sought feedback from the chair of its Māori Liaison Committee regarding recognition of te ao Māori. The chair was "quite satisfied that Te Aka Matua o te Ture took very careful account of Te Ao Māori perspectives at every stage of the production of its DNA Report" (measure 2).

Class Actions and Litigation Funding | Ko ngā Hunga Take Whaipānga me ngā Pūtea Tautiringa Issues Paper (NZLC IP45, 2020)

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. Class actions and litigation funding may promote individual rights, a Justice sector priority, by improving the affordability and accessibility of litigation. At the same time, class actions and litigation funding have attracted some public notoriety in comparable

overseas jurisdictions, where media attention has focussed on issues such as the wider impacts of class actions on the business environment. A key issue for the review is whether, through law reform, the potential benefits of class actions and litigation funding in terms of promoting access to justice can be realised in a way that manages the risks and outweighs any disadvantages they may give rise to.

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 (measure 8). Publication of the Issues Paper followed extensive cross jurisdictional research and preliminary engagement with key stakeholders, which include regulators (Financial Markets Authority, Commerce Commission and MBIE), members of the legal profession and litigation funders based in Aotearoa New Zealand and overseas. In preparing the Issues Paper, the project team also discussed various aspects of it with the Expert Advisory Group appointed for the project, the Commission's Māori Liaison Committee, and a judicial representative.

The Commission estimated that it would receive at least 25 submissions in response to the Issues Paper, based on recent experience in the review of the Evidence Act (which was of a similar technical nature), and the size of the core group of stakeholders. 51 submissions were received (measure 5).

Succession Law Issues Paper (NZLC IP46, 2021)

In December 2019, the Commission published its Terms of Reference for the review of succession law. This project follows on from the Commission's report on the Property (Relationships) Act 1976. In that Report, the Commission recommended that a person's property rights when their spouse or partner dies should be considered as part of a separate and wider review of succession law. The Government accepted this recommendation.

In April 2020, the Commission published its Issues Paper *Review of Succession Law: Rights to a person's property on death | He arotake i te āheinga ki ngā rawa a te tangata ka mate ana* and an accompanying public consultation website (measure 8).

This followed extensive research on the issues arising in the project and consultation with our Expert Advisory Group. Succession of property is a significant issue within te ao Māori. To give this issue the attention deserved, we held a wānanga with tikanga and legal experts to discuss tikanga and the issues of likely concern to Māori. We engaged Te Amokura Consultants to assist us with our 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.

We also relied on the University of Otago's 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 the deceased's will. This work was funded by the Michael and Suzanne Borrin Foundation and provided us with valuable information to support our proposals for reform in the Issues Paper.

The Commission received 216 submissions in response to its Issues Paper and consultation website. The Commission has considered this feedback and developed its draft recommendations. We sought advice from our Expert Advisory Group on those draft recommendations. We held another wānanga with tikanga and legal experts on our proposals.

The Commission intends to finalise its recommendations and provide the Minister with the final report before the end of 2021.

The Commission estimated that it would receive at least 50 submissions in response to the Issues Paper based on the submissions received on its issues papers in the review of the Property (Relationships) Act 1976, a project with a similar social policy aspect, and an assessment of the likely impact of Covid-19 on the consultation process. 216 submissions were received (measure 5).

LONG TERM INFLUENCE

Implementation of reports and other advice over previous 10-year period

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 against the implementation rate of recommendations by law reform commissions in comparable jurisdictions.⁷

Given the significant impacts of the Commission's work in improving laws across the legal system over the long term, the Commission now reports on the implementation of its past reports over time. The relevant measure is the percentage implementation of reports and advice over the previous 10-year period. The target minimum percentage is 60% implementation. The Commission developed an assessment system of implementation categories and scores, after reviewing and taking into account international practice.

Appendix A contains information on the implementation of tabled law reform reports in the period 1 July 2009 – 30 June 2020. As noted in the table above, in the Commission's assessment, 75.76 per cent of its reports and advice have been implemented over the past 10-year period (measure 9).

Implementation of past reports during 2020-2021

Over the year under review, the Commission has seen one bill introduced into Parliament to implement a previous Commission report and two bills to implement previous Commission reports featured on the parliamentary order paper.

- *Incorporated Societies Bill 15-1* (Introduced 17 March 2021; first reading 6 April 2021). The Bill seeks to implement the Commission's report *A New Act for Incorporated Societies* (NZLC R129, 2013).
- *Births, Deaths, Marriages, and Relationships Registration Bill 296-2* (Introduced 10 August 2017; Select Committee report 10 August 2018; awaiting second reading). The Bill responds to three discrete issues raised by the Commission's report *Death, Burial and Cremation: a New Law for Contemporary New Zealand* (NZLC R134, 2015).

⁷ 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.

- *Sexual Violence Legislation Bill 185-2* (Introduced 11 November 2019; first reading 14 November 2019; Select Committee report 9 June 2020; second reading 25 February 2021, awaiting Committee stage). The Bill responds to several recommendations in the Law Commission reports *The Justice Response to Victims of Sexual Violence: Criminal Trials and Alternative Processes* (NZLC R136, 2015) and *The Second Review of the Evidence Act 2006 – Te Arotake i te Evidence Act 2006* (NZLC R142, 2019).

Other law reform initiatives drawing upon the Commission’s work in 2020-2021

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

- 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* (NZLC R46, 1998) and *Life Insurance* (NZLC R87, 2004).
- Burial and cremation law: the Ministry of Health 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* (NZLC R134, 2015).

COMMUNITY ENGAGEMENTS AND REFERENCES TO THE COMMISSION’S REPORTS OR ADVICE

In addition to the implementation of the Commission’s recommendations, the Commission’s work also impacts more widely and significantly in the legal system through its influence in professional and community consideration of the law and law reform issues. These impacts of the Commission’s law reform work help to locate the Commission’s role within a broader context. To demonstrate these impacts, the Commission now reports on the number of community engagements that arise from the Commission’s work, and on references to the Commission and its consultation papers, reports or other publications in court decisions, the media and other publications. We also provide information regarding use of our website.

Community engagements

Commissioners and staff undertook 26 public engagements during the year (measure 10). These included conference presentations, interviews, and articles published in journals. The President represented the Commission at various events including several speaking engagements.

References to the Commission’s publications in senior court judgments

The Commission’s publications are regularly referred to by the senior courts of Aotearoa New Zealand in their judgments. Since July 2012 – when the Commission began tracking references to its publications in judgments of Te Kōti Matua | High Court, Te Kōti Pira | Court of Appeal and Te Kōti Mananui | Supreme Court – 154 different reports and other publications have been cited in at least 705 judgments. Publications may, for example, be cited as support for a legal

principle,⁸ or for the Commission’s discussion of uncertainty and debate about a given legal principle,⁹ in each case illustrating the value of in-depth consideration of legal issues in our work. For the year under review and the previous 4 years, Commission reports and other publications have been cited as shown in this table (measure 11a):

Year	Supreme Court	Court of Appeal	High Court	Total
2020-2021	13	29	42	84
2019-2020	4	14	45	63
2018-2019	6	15	54	75
2017-2018	7	22	53	82
2016-2017	11	22	44	77

References to the Commission’s work in Parliamentary debates and committee reports, academic publications and other media

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.¹⁰ There were 403 identified mentions of the Commission in the media (other than texts and journals) in the year under review, including 21 in Parliament. Overall media references are shown in the graph (measure 11b):

⁸ For example, see *Sweeney v The Prison Manager, Spring Hill Corrections Facility* [2021] NZHC 181 at [76] citing *Te Aka Matua o te Ture | Law Commission Māori Custom and Values in New Zealand Law* (NZLC SP9, 2001).

⁹ For example, in *AG v Strathboss Kiwifruit Ltd* [2020] 3 NZLR 247 [102]-[109], the Court of Appeal extensively cites, discusses, and agrees with the Commission’s report *The Crown in Court* (NZLC R135, 2015) regarding Crown liability in tort. The Court notes that the report was the “product of lengthy and careful consideration” of the existing law (at [102]).

¹⁰ In June 2021 for example, it was reported that politicians and advocates in England and Wales hope to follow Aotearoa New Zealand’s lead by creating an offence for non-fatal strangulation. The Family Violence (Amendments Act 2018) was passed in Aotearoa New Zealand following recommendations contained within the report *Strangulation – the Case for a New Offence* (NZLC R138, 2016).



In total, the Commission has identified 52 law journal articles that cited 56 different Commission publications during the year. The Commission has also identified seven legal texts and reports published in 2020-2021 that cited our publications.¹¹

The Commission's website

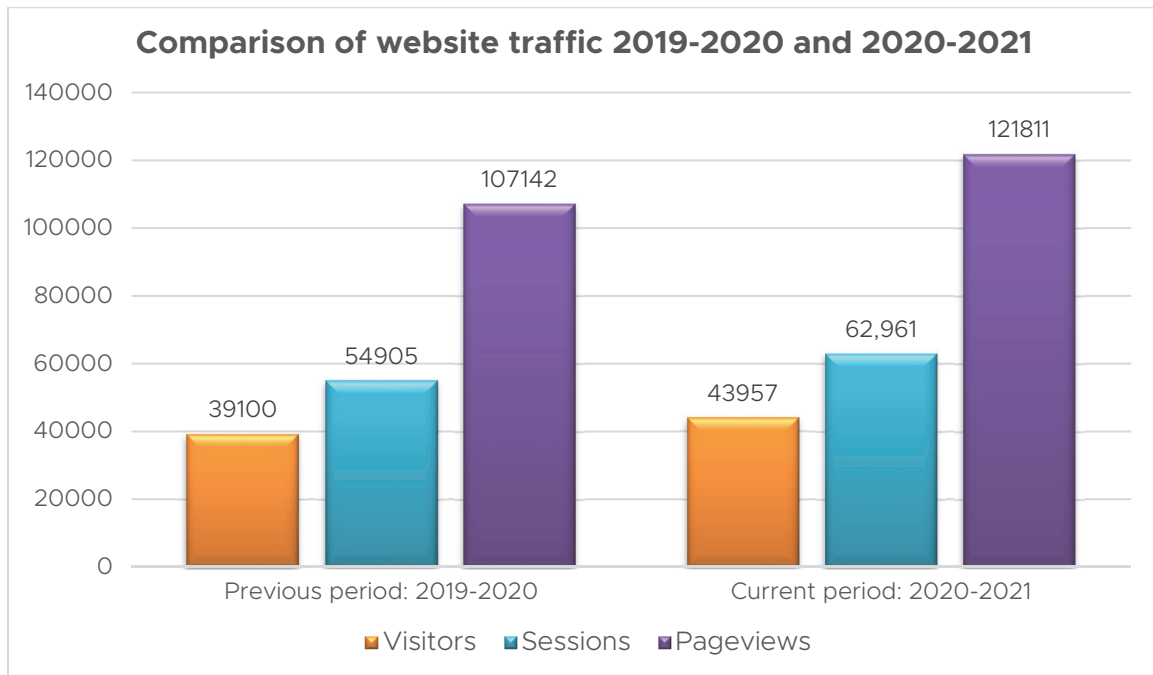
The Commission's website is a communication tool for the Commission and a law reform resource for the wider public. The richness of the Commission website is the value it creates for Aotearoa New Zealand, both in terms of providing useful and accessible content relevant to stakeholders and researchers and utilising its functionality as an online consultation tool. We provide the following information as further context for the Commission's reach into legal, policy and researcher communities and the wider public.

Key website metrics for 2020-2021:

- Visitors = 43,957
- Sessions = 62,961
- Page views = 121,811

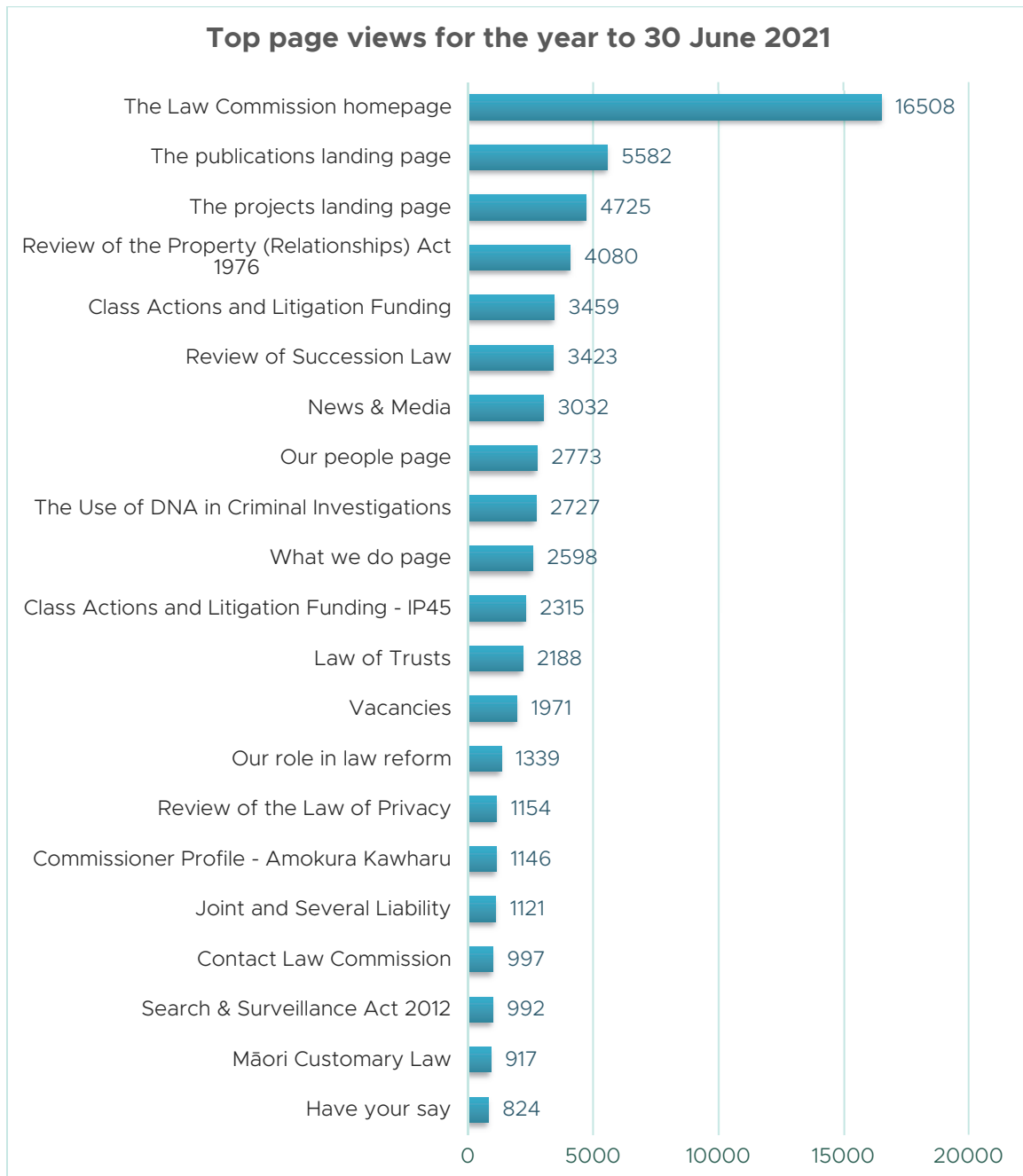
These metrics represent a 12.42 per cent increase in visitors, 14.6 per cent increase in sessions and 13.69 per cent increase in page views over 2019-2020.

¹¹ For example, in its consultation paper *Improving Access to Civil Justice* (May 2021), the Rules Committee drew upon the Commission's analysis of access to justice in the December 2020 issues paper *Class Actions and Litigation Funding* (NZLC IP45, 2020), and the 2004 report *Delivering Justice for All: A Vision for New Zealand Courts and Tribunals* (NZLC R85, 2004).



The consultation platform for the Review of Succession Law project was running from 15 April 2021 to 10 June 2021. The platform received 6,682 visitors, 6,716 sessions and 8,619 pageviews.

The website (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 in the community who wish to use the site as an engagement tool. Due to staff resourcing constraints the redevelopment has been deferred to 2021-2022.



Financial statements for the year ended 30 June 2021

STATEMENT OF COMPREHENSIVE REVENUE AND EXPENSE FOR THE YEAR ENDED 30 JUNE 2021

		2021 Actual	2021 Budget	2020 Actual
	Note	\$	\$	\$
Revenue				
Funding from the Crown	2	4,293,000	3,993,000	3,993,000
Interest revenue	2	1,874	27,000	16,329
Sale of publications	2	1,350	-	454
Other revenue	2	-	27,000	70,872
Total revenue		4,296,224	4,047,000	4,080,655
Expenditure				
Personnel costs	3	2,874,620	3,006,412	2,585,056
Direct project costs		137,372	495,000	23,341
Library		106,969	129,688	89,359
Occupancy	4	240,746	253,085	218,064
Depreciation and Amortisation	7	83,492	84,791	80,628
Audit		32,539	34,650	31,837
Other operating costs	4	270,038	382,055	461,606
Total expenditure		3,745,776	4,385,681	3,489,489
Net surplus/(deficit)		550,448	(338,681)	590,764
Total comprehensive revenue		550,448	(338,681)	590,764

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 2021

		2021 Actual	2021 Budget	2020 Actual
	Note	\$	\$	\$
Assets				
Current assets				
Cash and cash equivalents	5	3,180,961	2,358,403	2,566,332
Receivables and prepayments	6	47,014	43,299	42,634
Total current assets		3,227,975	2,401,702	2,608,966
Non-current assets				
Property, plant and equipment	7	406,865	410,409	465,198
Intangible assets	8	-	-	-
Total non-current assets		406,865	410,409	465,198
Total assets		3,634,840	2,812,111	3,074,164
Liabilities				
Current liabilities				
Payables	9	84,284	203,181	113,519
Employee entitlements	10	268,242	226,767	208,381
Provisions	11	20,398	20,398	20,398
Total current liabilities		372,924	450,346	342,298
Non-current liabilities				
Provisions	11	98,590	98,590	118,988
Total non-current liabilities		98,590	98,590	118,988
Total liabilities		471,514	548,936	461,286
Net assets		3,163,326	2,263,175	2,612,878
Equity				
Accumulated surplus/(deficit)	13	3,163,326	2,263,175	2,612,878
Total equity		3,163,326	2,263,175	2,612,878

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 2021

		2021 Actual	2021 Budget	2020 Actual
	Note	\$	\$	\$
Balance at 1 July 2020		2,612,878	2,601,855	2,022,114
Surplus/(deficit)		550,448	(338,681)	590,764
Total comprehensive revenue and expense for the year		550,448	(338,681)	590,764
Balance at 30 June 2021	13	3,163,326	2,263,175	2,612,878

The accompanying notes form part of these financial statements.

STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2021

		2021 Actual	2021 Budget	2020 Actual
	Note	\$	\$	\$
Cash flows from operating activities				
Receipts from the Crown		4,293,000	3,993,000	3,993,000
Interest received		1,874	27,267	16,328
Sale of publications and other income		1,350	27,000	91,571
Payments to employees		(2,814,759)	(3,006,412)	(2,573,377)
Payments to suppliers		(835,982)	(1,277,374)	(840,986)
Goods and services tax (net)		(5,696)	(55,932)	5,306
<i>Net cash flow from operating activities</i>		639,786	(180,586)	691,842
Cash flows from investing activities				
Placement of funds on term deposits		-	-	-
Maturity of funds on term deposits		-	-	-
Purchase of property, plant and equipment		(25,158)	(30,000)	(14,267)
Proceeds from disposal		-	-	-
Purchase (sale) of intangible assets		-	-	-
<i>Net cash flow from investing activities</i>		-	-	-
Net (decrease)/increase in cash and cash equivalents		614,629	(210,586)	677,575
Cash and cash equivalents at the beginning of the year	5	2,566,332	2,568,991	1,888,757
Cash and cash equivalents at the end of the year	5	3,180,961	2,358,403	2,566,332

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

Te Aka Matua o te Ture | 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 2021 and were approved by the Board on 20 December 2021.

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.

Statement of adoption

In line with the Financial Statements of the Government, The Law Commission has elected to adopt PBE IPSAS 39 Employee Benefits. PBE IPSAS 39 replaces PBE IPSAS 25 Employee Benefits:

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 2021.

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
- 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.

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

	2021 Actual	2020 Actual
	\$	\$
Salaries and wages	2,748,491	2,548,463
Defined contribution plan employer contributions	70,214	48,267
Increase/(decrease) in annual leave (note 10)	55,915	(11,674)
Total personnel costs	2,874,620	2,585,056

Employee remuneration

Total remuneration paid or payable	2021 Actual	2020 Actual
\$100,000 and \$109,999	1	2
\$110,000 and \$160,000	8	2
\$320,000 and \$330,000	2	2
\$450,000 and \$470,000	1	1
Total employees	12	7

During the year ended 30 June 2021 no employee received compensation and other benefits in relation to cessation of employment (2020: \$nil).

Board member remuneration

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

	2021 Actual	2020 Actual
	\$	\$
Amokura Kawharu	407,358	64,323
Helen McQueen	321,729	456,159
Donna Buckingham	310,838	325,567
Belinda Clark	-	322,752
Total Board Remuneration	1,039,925	1,168,801

No Board member received compensation and other benefits in relation to cessation (2020: \$ nil).

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

¹ 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

	2021 Actual	2020 Actual
	\$	\$
Repairs and maintenance	8,858	5,607

	2021 Actual	2020 Actual
	\$	\$
Professional services	83,968	270,390
Communications	14,198	15,758
Loss on disposal	-	-
Other expenses	171,872	169,851
Total other operating	270,038	461,606

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:

	2021 Actual	2020 Actual
	\$	\$
Not later than one year	268,088	244,776
Later than one year and not later than five years	1,072,352	979,101
Later than five years	223,407	448,756
Total non-cancellable operating lease	1,563,847	1,672,633

Occupancy costs

	2021 Actual	2020 Actual
	\$	\$
Rent	240,746	218,064
Operating lease expense – premises		
Total accommodation costs	240,746	218,064

NOTE 5 CASH AND CASH EQUIVALENTS

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.

Breakdown of cash and cash equivalents and further information

	2021 Actual	2020 Actual
	\$	\$
Cash on hand and at bank	3,180,961	2,566,332
Total cash and cash equivalents	3,180,961	2,566,332

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 2021 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 2021 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.

Breakdown of receivables and further information

	2021 Actual	2020 Actual
	\$	\$
Exchange Receivables		
Trade debtors	7,170	217
Less: provision for impairment	-	-
Accrued interest	-	-
Non-Exchange Receivables		
GST receivable	22,432	21,396

	2021 Actual	2020 Actual
	\$	\$
Prepayments	17,412	21,021
Total receivables	47,014	42,634

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	13-67%
Office equipment	5 years	20-67%

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
	\$	\$	\$	\$	\$	\$
Cost or valuation						
Balance at 30 June 2019	200,384	154,771	454,131	18,749	44,762	872,797
Additions	14,239	26	-	-	-	14,265
Adjustments/ Disposals	-	-	-	(64)	-	(64)
Balance at 30 June 2020	214,623	154,797	454,131	18,685	44,762	886,998
Additions	25,159	-	-	-	-	25,159
Adjustments/ Disposals	-	-	-	-	-	-
Balance at 30 June 2021	239,782	154,797	454,131	18,685	44,762	912,157

	Computer equipment	Furniture and fittings	Leasehold improvements	Office equipment	Library collection	Total
	\$	\$	\$	\$	\$	\$
Accumulated depreciation and impairment losses						
Balance at 30 June 2019	171,269	63,339	57,848	12,969	35,811	341,236
Depreciation expense	6,198	13,166	50,454	1,859	8,951	80,628
Adjustment/ Elimination on disposal	-	-	-	(64)	-	(64)
Balance at 30 June 2020	177,467	76,505	108,302	14,764	44,762	421,800
Depreciation expense	20,679	11,208	50,454	1,151	-	83,492
Adjustment/ Elimination on disposal	-	-	-	-	-	-
Balance at 30 June 2021	198,146	87,713	158,756	15,915	44,762	505,292
Carrying amounts						

	Computer equipment	Furniture and fittings	Leasehold Improvements	Office equipment	Library collection	Total
	\$	\$	\$	\$	\$	\$
At 1 July 2019	29,115	91,432	396,283	5,780	8,951	531,561
At 30 June 2020	37,156	78,292	345,829	3,921	0	465,198
At 30 June 2021	41,636	67,084	295,375	2,770	0	406,865

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%
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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 2019	37,038	37,038
Additions	-	-
Adjustments/Disposals	-	-
Balance at 30 June 2020	37,038	37,038
Additions	-	-
Adjustments/Disposals	-	-
Balance at 30 June 2021	37,038	37,038
Amortisation		
Balance at 30 June 2019	37,038	37,038
Amortisation expense	-	-
Adjustments/ Elimination of Disposal	-	-
Impairment losses	-	-
Balance at 30 June 2020	37,038	37,038
Amortisation expense	-	-
Adjustments/ Elimination of Disposal	-	-
Impairment losses	-	-
Balance at 30 June 2021	37,038	37,038
At 30 June 2019	-	-
At 30 June 2020	-	-
At 30 June 2021	-	-

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

	2021 Actual	2020 Actual
	\$	\$
Payables under exchange transactions		
Creditors	53,983	75,277
Accrued expenses	30,301	38,242
Total payables	84,284	113,519

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.

The Law Commission has elected to adopt IPSAS 39 Employee Benefits. The Law Commission has evaluated the employee benefits that are due to be settled beyond 12 months after the end of the year in which the employee provides the related service. These have been calculated on an actuarial basis, taking into account the discount rate and salary inflation. On conducting a review of employee entitlements at year end, no provision for non-current leave has been recognised as balances were deemed to be not materially relevant.

Breakdown of employee entitlements

	2021 Actual	2020 Actual
	\$	\$
Current portion		

	2021 Actual	2020 Actual
	\$	\$
Annual leave	200,775	144,860
Sick leave	15,000	15,000
Salary accrual	52,467	48,521
Total employee entitlements	268,242	208,381

The level of annual leave accrual has increased for the year ended 30 June 2021. This was due to travel restrictions imposed by COVID-19 causing staff to cancel annual leave or choose to not take leave.

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

	2021 Actual	2020 Actual
	\$	\$
Current portion:		
Lease Incentive Provision	20,398	20,398
Total current portion	20,398	20,398
Non-current portion		
Non-current Lease Incentive Provision	98,590	118,988

	2021 Actual	2020 Actual
	\$	\$
Total non-current portion	98,950	118,988
Total provisions	118,988	139,386

NOTE 12 CONTINGENCIES

Contingent liabilities

The Law Commission has no contingent liabilities (2020: \$ nil).

Contingent assets

The Law Commission has no contingent assets (2020: \$ 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

	2021 Actual	2020 Actual
	\$	\$
Balance at 1 July	2,612,878	2,022,114
Surplus/(deficit)	550,448	590,764
Total equity at 30 June	3,163,326	2,612,878

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

For reporting purposes, the Law Commission is considered to be 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

	2021 Actual	2020 Actual
	\$	\$
<i>Total Key Management Personnel</i>		
Remuneration	1,199,302	1,371,371
Total Full Time Equivalent	3.84	3.55

For the purposes of note 14, and in compliance with PBE IPSAS 20 Key management personnel include the President, two Commissioners and the General Manager. The total paid to the President and Commissioners is also noted at Note 3 (because these people also constitute the Board).

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

	2021 Actual	2020 Actual
	\$	\$
Payables (note 9)	84,284	113,521
Total financial liabilities measured at amortised cost	84,284	113,521
Loans and receivables		
Cash and cash equivalents (note 5)	3,180,961	2,566,332
Receivables (note 6)	47,014	42,634
Total loans and receivables	3,312,259	2,722,487

NOTE 16 EVENTS AFTER THE BALANCE DATE**COVID-19**

On August 17th 2021 the New Zealand government reintroduced significant restrictions on the movement and interaction of people within New Zealand.

Appointment of New Commissioners

On 3 September, the Minister of Justice announced the appointment of three new Law Commissioners.

Geof Shirtcliffe was appointed for a five-year term beginning on 6 September 2021.

Justice Christian Whata was appointed for one year from 12 October 2021.

Claudia Geiringer was appointed for a five-year term, to take effect from 2 May 2022.

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**Revenue**

A one-off unbudgeted payment of \$300,000 was received from the government for the funding of future project work.

Project Costs

Reduced project costs were due to a reconfiguration of project work undertaken, including as a result of COVID-19.

Personnel

Commissioners received a one-off unbudgeted remuneration deduction for six months of the year.

Other Operating Expenses

Other operating expenses increased compared to budget due to increased use of external professional and consulting services.

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 a one-off funding injection from the government.

Independent Auditor's Report

AUDIT NEW ZEALAND
Mana Arotake Aotearoa

Independent Auditor's Report

To the readers of the Law Commission's financial statements and performance information for the year ended 30 June 2021

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, including the performance information for an appropriation, of the Commission on his behalf.

Opinion

We have audited:

- the financial statements of the Commission on pages 28 to 40, that comprise the statement of financial position as at 30 June 2021, the statement of comprehensive revenue and expenses, 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 15 to 25.

In our opinion:

- the financial statements of the Commission on pages 28 to 40:
 - present fairly, in all material respects:
 - its financial position as at 30 June 2021; and
 - its financial performance and cash flows for the year then ended; and
 - comply with generally accepted accounting practice in New Zealand in accordance with Public Benefit Entity Reporting Standards Reduced Disclosure Regime; and

- the performance information on pages 15 to 25:
 - presents fairly, in all material respects, the Commission's performance for the year ended 30 June 2021, 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 20 December 2021. This is the date at which our opinion is expressed.

The basis for our opinion is explained below. In addition, we outline the responsibilities of the Commission and our responsibilities relating to the financial statements and the performance information, we comment on other information, and we explain our independence.

Basis for our opinion

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

We have fulfilled our responsibilities in accordance with the Auditor-General's Auditing Standards.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

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

The Board 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 14 and 25, 26, 27 and 46 to 54, but does not include the audited financial statements and 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.

A handwritten signature in black ink that reads "Andrew Clark". The signature is written in a cursive, slightly slanted style.

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

Appendix A – Implementation of Law Reform Reports from 1 July 2009–30 June 2020

(as at 30 June 2021)

	Report Name	Report reference	Implementation assessment
1.	Private Schools and the Law	NZLC R108 (9/2009)	Implemented The report's recommendations are implemented in the Education Amendment Act (No 3) 2010.
2.	Suppressing Names and Evidence: Simplification of Criminal Procedure	NZLC R109 (11/2009)	Implemented The report recommends repeal of provisions from the Criminal Justice Act 1985. The Criminal Procedure (Reform and Modernisation) Bill, which reflected the Project's final proposals, was introduced into Parliament in November 2010 and passed in October 2011. In its final stages in Parliament, the Bill was separated into several separate Acts, including the Criminal Procedure Act 2011.
3.	Review of Part 8 of the Crimes Act 1961: Crimes Against the Person	NZLC R111 (12/2009)	Partial in-principle agreement and/or implementation of some recommendations The report recommends that many of the offences in Part 8 of the Crimes Act should be repealed and replaced, including sections 188, 189, 193, and 196 (which are the core assault and injury offences); sections 145, 160 and 190 (which address criminally negligent behaviour); and offences relating to child neglect and ill treatment. Some of the Commission's recommendations have been implemented in the Crimes Amendment Act (No 3) 2011. However, the majority have not been implemented.
4.	Review of the Civil List Act 1979: The Governor General	NZLC R112 (12/2009)	Implemented The report's recommendation that parts of the Civil List Act 1979 relating to the Governor-General be repealed and replaced are implemented in the Governor General Act 2010.

	Report Name	Report reference	Implementation assessment
5.	Invasion of Privacy: Penalties and Remedies: Review of the Law of Privacy: Stage 3	NZLC R113 (2/2010)	<p>Partial in-principle agreement and/or implementation of some recommendations</p> <p>Major recommendations to enact surveillance devices legislation was deferred until the end of the Commission's review and the wholesale review of the Privacy Act but were ultimately not picked up. Other aspects of the report were adopted, including through the Private Security Personnel and Private Investigators Act 2010, and Private Security Personnel and Private Investigators (Code of Conduct – Surveillance of Individuals) Regulations 2011. R22 amendment was picked up in the Harmful Digital Communications Act</p>
6.	Alcohol in our Lives: Curbing the Harm	NZLC R114 (4/2010)	<p>Implemented in part</p> <p>The Government accepted or partially accepted 126 (13 were non-legislative) of the 153 recommendations. Some significant recommendations have not been implemented or were only partly implemented.</p>
7.	A New Support Scheme for Veterans: A report on the review of the War Pensions Act 1954	NZLC R115 (6/2010)	<p>Implemented</p> <p>The major intent and most of the report's recommendations have been implemented in the Veterans Support Act 2014.</p>
8.	A New Land Transfer Act	NZLC R116 (7/2010)	<p>Implemented</p> <p>Most of the recommendations and the tenor of the regime recommended in the report were implemented in the Land Transfer Act 2017.</p>
9.	Compulsory Treatment for Substance Dependence: A Review of the Alcoholism and Drug Addiction Act 1966	NZLC R118 (10/2010)	<p>Implemented</p> <p>The majority of the report's recommendations were implemented in full, and one was accepted in part, as per the Substance Abuse (Compulsory Assessment and Treatment) Act 2017 which came into force on 21 February 2018.</p>
10.	A Review of the Civil List Act 1979: Members of	NZLC R119 (12/2010)	<p>Implemented in part</p> <p>The Members of Parliament (Remuneration and Services) Act 2013 implemented some of the report's key recommendations—to have the Remuneration Authority determine accommodation entitlements of MPs and electoral candidates and the travel</p>

	Report Name	Report reference	Implementation assessment
	Parliament and Ministers		entitlements of family members of MPs, electoral candidates and others. The Act provided for other entitlements to be dealt with by direction of the Speaker or by the Minister Responsible for Ministerial Services. The recommendations for the Remuneration Authority membership to be constituted differently when making these decisions were not accepted, nor the recommendations to amend the Official Information Act.
11.	Mental Impairment Decision Making and the Insanity Defence	NZLC R120 (12/2010)	<p>Ongoing implementation</p> <p>The Government agreed with the Commission's key recommendation that changes should not be made to the defence of insanity. The Government also agreed there are issues with Ministerial decision-making under the Criminal Procedure (Mentally Impaired Persons) Act 2003 (CP(MIP)) and the recommendation instead for an independent tribunal has merit, as do the other recommendations for reform to the CP(MIP) Act and other legislation. Some implementation work continues.</p>
12.	Compensating Crime Victims	NZLC R121 (12/2010)	<p>Overtaken by other reforms or events</p> <p>The Government did not accept the recommendations to amend the Criminal Proceeds (Recovery) Act 2009 to provide a restraining order regime nor the recommendation to reprioritise payment of reparation ahead of legal aid repayments. However, it also appears that the Government had already implemented changes that had been canvassed in the Issues paper in relation to victims' rights and the role played by victims in the criminal justice system following a report of the Justice and Electoral Committee. The report noted that, as these developments addressed many of the broader concerns about the position of victims raised by submissions on our Issues Paper, we confined the report the other issues raised by our terms of reference. The Government did not accept that further changes needed to be made in this area.</p>
13.	Controlling and Regulating Drugs – A Review of the Misuse of Drugs	NZLC R122 (5/2011)	<p>Partial in-principle agreement and/or implementation of some recommendations</p> <p>To date, two recommendations have been implemented through the Psychoactive Substances Act 2013 and development a drug court pilot.</p>
14.	Review of the Privacy Act 1993: Review of the Law of Privacy Stage 4	NZLC R123 (8/2011) (See also NZLC SP19, R101 and R113)	<p>Implemented in part</p> <p>As recommended by the Commission, a new Privacy Act was enacted in 2020. The new Act incorporates many of the Commission's recommendations. The purpose section of the Act is broadly consistent with the recommendations except that there is no express purpose to provide remedies for interference with privacy of personal information. One of the Commission's most significant recommendations, the Privacy Commission's</p>

	Report Name	Report reference	Implementation assessment
			ability to issue compliance notices is now contained in the new Act. Additionally, the Privacy Commissioner now has powers to direct an agency to provide an individual with their private information (previously this had to be negotiated or determined by the Tribunal). Other key recommendations adopted include the enhanced powers for sharing information with overseas privacy enforcement agencies, the introduction of two new offences relating to impersonation and evading requests for information by destroying documents.
15.	Consumers and Repossession: A Review of the Credit (Repossession) Act 1997	NZLC R124 (4/2012)	Implemented The overall scheme proposed by the Commission in its report regarding repossession was implemented as part of amendments to the Credit Contracts and Consumer Finance Act 2003, regulations made under the Act and in the development of the Responsible Lending Code.
16.	The Public's Right to Know: Review of the Official Information Legislation	NZLC R125 (7/2012)	Partial in-principle agreement and/or implementation of some recommendations The Government did not accept the majority of the report's recommendations and these have not been implemented. It did agree in-principle to some of the recommendations (for instance extending the Official Information Act to the administrative functions of the Court, adding withholding grounds on the basis of material prejudice to financial positions, for the Ombudsman to improve guidance and make case notes available - the latter has been implemented) and some recommendations have in practice been actioned (for instance as part of a commitment to open government, the Government is now proactively releasing information).
17.	Review of the Judicature Act 1908: Towards a new Courts Act	NZLC R126 (11/2012)	Implemented The Judicature Modernisation Bill implemented the majority of the Law Commission's recommendations. It was divided into separate legislation at the Committee of the Whole House stage and resulted in the passing of the Senior Courts Act 2016, the District Court Act 2016, a number of new pieces of legislation, including the Judicial Review Procedure Act 2016 and Interest on Money Claims Act 2016, and amendments to other legislation. These have all now come into force.
18.	The 2013 Review of the Evidence Act 2006	NZLC R127 (11/2013)	Implemented The Government accepted all the Commission'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	Implementation assessment
19.	The News Media Meets 'New Media': Rights, responsibilities and regulation in the digital age [see Appendix – <i>Harmful Digital Communication: The Adequacy of the Current Sanctions and Remedies</i> (August 2012)]	NZLC R128 (3/2013)	Implemented in part A Ministerial briefing is in an Appendix to the report. It was added to the work programme after the Issues Paper stage and was requested to be fast-tracked by the then Government. The briefing's recommendations were substantially implemented in the Harmful Digital Communications Act 2015. Four recommendations in the briefing relating to schools and the Ministry of Education taking up anti-bullying prevention are in part addressed in the cross-sector Bullying Prevention Advisory Group (BPAG) set up in 2014. The Government did not implement recommendations in the final report related to defining "news media" and establishing an independent news media standards authority.
20.	A New Act for Incorporated Societies	NZLC R129 (8/2013)	Implemented The Incorporated Societies Bill 15-1 was introduced into Parliament in March 2021. The overall scheme recommended in the report has been picked up in the Bill including nearly all of the report's recommendations.
21.	Review of the Law of Trusts: A Trusts Act for New Zealand	NZLC R130 (9/2013)	Implemented Most of the report's recommendations were enacted in the Trusts Act 2019.
22.	Suicide Reporting	NZLC R131 (4/2014)	Implemented The majority of the report's legislative reforms were implemented through changes incorporated into the Coroners Act in 2016.
23.	Liability of Multiple Defendants	NZLC R132 (6/2014)	Implemented in part The key recommendation that joint and several liability should remain applicable was accepted. As this was acceptance of the status quo it did not require any legislative implementation. In respect of the other recommendations, the Government requested MBIE and Ministry of Justice to undertake further work on assessing the other recommendations.

	Report Name	Report reference	Implementation assessment
24.	Pecuniary Penalties: Guidance for Legislative Design	NZLC R133 (10/2014)	<p>Implemented in part</p> <p>The Government's response to each of the recommendations was either to accept the recommendation or accept it in principle subject to further work by government agencies. Most recommendations did not require a legislative response.</p>
25.	Death, Burial and Cremation: A new law for contemporary New Zealand	NZLC R134 (10/2015)	<p>Partial in-principle agreement and/or some implementation of recommendations</p> <p>The Government agreed with a number of the Commission's recommendations but identified the need for further policy work on other recommendations. Three recommendations are proposed to be implemented through the Births, Deaths, Marriages, and Relationships Registration Bill. Some ongoing work is being led by the Ministry of Health.</p>
26.	The Crown in Court: A review of the Crown Proceedings Act and national security information in proceedings	NZLC R135 (12/2015)	<p>Partial in-principle agreement and/or implementation of some recommendations</p> <p>A key proposal in Part A of the report was agreed with (exclusion against bringing in rem proceedings against the Crown should be retained) but the others were rejected or were under further consideration. A Bill is being drafted in relation to Part B.</p>
27.	The Justice Response to Victims of Sexual Violence: Criminal Trials and Alternative Processes	NZLC R136 (12/2015)	<p>Ongoing implementation</p> <p>To date some operational recommendations have been accepted and implemented, such as a sexual violence pilot court being trialled, information being produced for victims to assist in navigating the court process and courts working on separate court entrances/facilities for victims.</p> <p>The recommendations for legislative amendments will be substantially implemented by the Sexual Violence Legislation Bill, which is awaiting Committee of the whole House stage. This would largely cover recommendations in Part B of the report.</p> <p>Parts C and D of the report have not been implemented: these recommended an alternative out of court process for sexual violence cases and the establishment of a sexual violence commission, respectively. The former is an ongoing work programme, but decisions to implement have not been made. The latter has received no response to date.</p>

	Report Name	Report reference	Implementation assessment
28.	Modernising New Zealand's Extradition and Mutual Assistance Laws	NZLC R137 (2/2016)	<p>Ongoing implementation</p> <p>The Government accepted the recommendations to consider enactment of the Extradition Bill and the Mutual Assistance in Criminal Matters and for the Recovery of Criminal Proceeds Bill attached to the Commission's report but required further work to be undertaken to finalise the detail of the proposed new legislation.</p>
29.	Strangulation: The case for a new offence	NZLC R138 (3/2016)	<p>Implemented</p> <p>We assess this report as implemented, as the majority of the report's key recommendations were either included in Family Violence Act 2018 that came into force from 1 December 2018 (recommendations 1-3) or were accepted as administrative practices to be adopted (recommendations 5-7). Recommendation 4—that strangulation should be considered an aggravating factor in sentencing—was recommended in the cabinet paper but was not accepted by Cabinet, which considered the new offence was sufficient when combined with the guidance in the Sentencing Act and precedent decisions.</p>
30.	Understanding Family Violence: Reforming the Criminal Law relating to Homicide	NZLC R139 (5/2016)	<p>No response</p> <p>No formal Government response has ever been made.</p>
31.	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 (6/2017)	<p>Implemented</p> <p>The Bill included with the report was not introduced by the Government, but it was drawn as a private members Bill in 2017, having been submitted by Hon Christopher Finlayson. It was subsequently adopted by the Government. Some amendments were made in the course of the legislative process but a majority of the report's recommendations were implemented in the Contempt of Court Act 2019.</p>
32.	Review of the Search and Surveillance Act 2012 - Ko te Arotake i te Search and Surveillance Act 2012	NZLC R141 (1/2018)	<p>Partial in-principle agreement and/or implementation of some recommendations [Provisional]</p> <p>No formal government response as the report was issued jointly with the Ministry of Justice.</p> <p>One recommendation has been implemented to date (recommendation 53, preservation order regime. This relates to the Cabinet decision to accede to the Budapest Convention). Further implementation work is underway within the Ministry of Justice.</p>

	Report Name	Report reference	Implementation assessment
33.	Alternative approaches to abortion law – a ministerial briefing paper	Briefing Paper to Minister (2018/19)	Implemented As this was a Ministerial briefing paper, no preferred approach or recommendations were made and no formal response was required. The briefing set out three possible options as to how New Zealand's abortion laws could be made consistent with treating abortion as a health issue. The Abortion Legislation Act 2020 implemented a modified version of Model C.
34.	The Second Review of the Evidence Act 2006 – <i>Te Arotake Tuarua i te Evidence Act 2006</i>	NZLC R142 (3/2019)	Ongoing implementation Overall, the Government accepted two-thirds of the recommendations. Some of the recommended amendments are contained in the Sexual Violence Legislation Bill, which is currently at second reading. Other recommendations will be contained in an Evidence Amendment Bill but that is on hold for now. Decisions about the other recommendations in the report are still subject to further consideration and work within the Ministry of Justice.
35.	Review of the Property (Relationships) Act 1976 – <i>Te Arotake i te Property (Relationships) Act 1976</i>	NZLC R143 (7/2019)	Partial in-principle agreement and/or implementation of some recommendations [Provisional] The Government will respond substantively when the succession review is completed. Status will need to be reassessed at that time. The recommendation to review succession law was accepted and the review is underway.

Assessment criteria and categories:

- a. **Implemented:** If the Government has adopted legislative or non-legislative measures that give effect to the majority of a report's recommendations, even if in a modified or slightly different approach (provided they are consistent with the overall scheme proposed). Score to be assigned 1.0
- b. **Implemented in part:** If the Government has implemented some key recommendations. Score to be assigned 1.0.
- c. **Ongoing implementation:** Where the Government "agrees in principle" to relevant reforms, but implementation is yet to occur. Score to be assigned 0.5.
- d. **Partial in-principle agreement and/or implementation of some recommendations:** Where the Government agrees with some recommendations or implements some recommendations but considers further policy work is required before they will commit to the majority of/or key recommended reforms. Score to be assigned 0.25
- e. **Rejected:** Where the Government has expressly rejected the report's recommendations. Score to be assigned: 0.0.
- f. **Excluded from count:** Where the Government has either not responded to the report or has decided not to progress work on recommendations (for example, because the matter has been overtaken by other reforms or events).



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