

# Ko tō tātou kāinga tēnei

*Report of the Royal Commission of Inquiry  
into the terrorist attack on Christchurch  
masjidain on 15 March 2019*

Volume 4:  
Parts 9–10



ROYAL COMMISSION OF INQUIRY  
INTO THE TERRORIST ATTACK  
ON CHRISTCHURCH MOSQUES  
ON 15 MARCH 2019

TE KŌMIHANA UIUI A TE WHAKAÈKE  
KAIWHAKATUMA I NGĀ WHARE  
KŌRANA O ŌTAUTAHI I TE  
15 O POUTŪ-TE-RANGI 2019

26 November 2020

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# Social cohesion and embracing diversity

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# Chapter 1: Introduction

## 1.1 Overview

- 1 Earlier in our report we explained how over the last 30 years the diversity of the New Zealand’s population has increased significantly in terms of ethnicity, culture, gender identities, religion, values, languages spoken, ages, sexual orientation and whānau structure (see *Part 2: Context*). New Zealand has been described as a “superdiverse” country. Superdiversity means “a substantial increase in the diversity of ethnic, minority and immigrant groups in a city or country”.<sup>1</sup> One indicator of superdiversity is that a quarter of New Zealand’s population was born overseas.
- 2 New Zealand is generally regarded as a country with a high level of social cohesion, but underlying vulnerabilities and issues remain that are yet to be fully addressed.<sup>2</sup> Sir Peter Gluckman, Director of New Zealand think tank Koi Tū: The Centre for Informed Future, told us that “social cohesion is a critical asset for New Zealand and all New Zealand peoples”, suggesting it was something to value, grow and protect and, critically, invest in.
- 3 Our Terms of Reference directed us to make recommendations about how Public sector systems or operational practices should be improved to ensure the prevention of terrorist attacks in the future.
- 4 In later chapters of this Part we discuss:
  - a) leadership and oversight in building social cohesion (chapter 2);
  - b) leadership of embracing New Zealand’s increasing diversity (chapter 3);
  - c) hate speech and hate crime (chapter 4); and
  - d) responses to questions asked by the community (chapter 5).
- 5 In this Part we discuss government social cohesion initiatives and how Public sector agencies have recognised, adapted to and embraced New Zealand’s changing demographics. These issues were not part of our original work plan. As our inquiry progressed and they were raised with us repeatedly by affected whānau, survivors and witnesses, communities and experts, it became clear that these issues have a role to play in Reduction, Readiness and Recovery activities in the counter-terrorism effort and in building the resilience of communities. Our inquiry into the government’s social cohesion initiatives and adaptation to New Zealand’s increasing diversity was not as extensive as that conducted into the counter-terrorism effort (see *Part 8: Assessing the counter-terrorism effort*). However, it was sufficient to give us an understanding of the issues.

<sup>1</sup> Paul Spoonley *Superdiversity, Social Cohesion, and Economic Benefits* (IZA World of Labour, May 2014) at page 1.

<sup>2</sup> Paul Spoonley, Peter Gluckman, Anne Bardsley, Tracey McIntosh, Rangimarie Hunia, Sarb Johal and Richie Poulton *He Oranga Hou: Social cohesion in a post-COVID world* (Koi Tū: The Centre for Informed Futures, The University of Auckland, May 2020) <https://informedfutures.org/wp-content/uploads/Social-Cohesion-in-a-Post-Covid-World.pdf>.

- 6 While we recognise that diversity has many facets, in this Part we focus on New Zealand’s ethnic and religious diversity because this is of most relevance to our inquiry. New Zealand’s Muslim communities are more ethnically diverse than many people appreciate (for example, affected whānau, survivors and witnesses of the terrorist attack represent around 50 different countries of origin). We do not explore other kinds of diversity in New Zealand such as gender identity, age, sexual orientation and disability.
- 7 In what follows in this chapter we provide a context for later chapters by explaining:
- a) social cohesion, social inclusion and community engagement;
  - b) opportunities and challenges associated with New Zealand’s diversity; and
  - c) New Zealand’s response to demographic change.

## 1.2 Social cohesion

- 8 There have been many definitions of social cohesion, most of which are associated with wellbeing. We use the definition developed by Professor Paul Spoonley, Robin Peace, Andrew Butcher and Damian O’Neill, which describes a socially cohesive society as one in which all individuals and groups have a sense of:
- a) *belonging* – a sense of being part of the community, trust in others and respect for law and human rights;
  - b) *inclusion* – equity of opportunities and outcomes in work, income, education, health and housing;
  - c) *participation* – involvement in social and community activities and in political and civic life;
  - d) *recognition* – valuing diversity and respecting differences; and
  - e) *legitimacy* – confidence in public institutions.<sup>3</sup>
- 9 For Māori, social cohesion means a collective sense of identity and belonging (as Māori), which is respected by broader society as a whole. Sir Mason Durie’s work emphasises the importance of the ability to live as Māori and Māori determining the many facets of what being Māori means.<sup>4</sup>

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<sup>3</sup> Paul Spoonley, Robin Peace, Andrew Butcher and Damian O’Neill “Social Cohesion: A Policy and Indicator Framework for Assessing Immigrant and Host Outcomes” (April 2005) 24 *Social Policy Journal of New Zealand* at pages 98–99.

<sup>4</sup> Mason Durie “Measuring Māori Wellbeing” (2006) *New Zealand Treasury Guest Lecture Series* <https://www.treasury.govt.nz/sites/default/files/2007-09/tgls-durie.pdf>.

- 10 In New Zealand, social cohesion must be founded on upholding Te Tiriti o Waitangi. It is not about making all New Zealanders the same. It is an inclusive concept that values communities and individuals coming together, where:
- a) they respect each other and the differences they bring; and
  - b) they develop some shared values, norms and experiences.
- 11 Social cohesion exists where people feel part of society, family and personal relationships are strong, differences among people are respected and people feel safe and supported by others. Social cohesion is an ideal rather than a goal to be achieved and must continually be nurtured and grown.
- 12 Social cohesion has broad benefits for society and is an important contributor to long-term prosperity. One commentator suggests that because cohesive societies are politically stable, they can focus on economic growth and business development.<sup>5</sup> Other commentators indicate that a cohesive society:
- a) is mutually supportive of its members, enabling them to pursue common goals by democratic means; and
  - b) develops ways of coping with stresses and divisions in an open democratic manner (for example, disparities of wealth or ethnic or cultural diversity).<sup>6</sup>
- 13 Social cohesion can contribute to preventing or countering extremism. This is because cohesive and resilient communities are better placed to resist and counter the risk of radicalisation and mobilisation to violent extremism and terrorism. Tolerant, and ideally inclusive, societies are more able to address and prevent the polarisation and disenfranchisement that can contribute to a rise in extremism. However, social cohesion should be pursued separately from New Zealand’s counter-terrorism efforts as it is important in itself and has wider social, economic and cultural objectives. As well, undertaking social cohesion activities as a tool to counter extremism may have the effect of stigmatising and alienating some members of communities, thereby undermining the aims of social cohesion work.

<sup>5</sup> Jo Ritzen and Michael Woolcock “Social Cohesion, Public Policy, and Economic Growth: Implications for Countries in Transition” (Paris, 26-28 June 2000) *Annual Bank Conference on Development Economics*.

<sup>6</sup> Ministry of Social Development *Social Inclusion in New Zealand – Rapid Evidence Review* (May 2020) <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/research/social-inclusion-in-new-zealand-a-rapid-evidence-review/index.html>.

### 1.3 Social inclusion

- 14 Social inclusion is the process of improving how individuals and groups participate in and contribute to society on their own terms.
- 15 For New Zealand it is important to acknowledge that Te Tiriti o Waitangi and the evolving Māori-Crown relationship must underpin any social inclusion processes. That is, any such processes must be based on New Zealand’s bicultural foundations while welcoming and supporting our increasingly vibrant and diverse population as an ongoing strength.

### 1.4 Community engagement

- 16 Community is a word used to convey notions of social relationships, cultural values and belonging or having something in common. We use the term community in this report broadly to include groups of people that may come together, for example, in terms of locality, religion, ethnicity, occupation, special interest or online.
- 17 Community engagement is the process of working with a community or communities to address issues affecting their wellbeing. The process of community engagement is focused on building enduring, trusted relationships. According to the International Association for Public Participation, “community engagement ... is now accepted as a standard component of any significant project as much as traditional disciplines as planning, development and implementation”.<sup>7</sup>
- 18 Public sector agencies in New Zealand use feedback received through community engagement to inform policy development, service design and decision-making. We use the term community engagement, rather than “public consultation”. We are aware that many laws provide for public consultation as determined by the particular legislative regime and case law. For example, the Public Service Act 2020 imposes an obligation on a chief executive to undertake public consultation on a long-term insights briefing (information and analysis on medium and long-term trends, risks and opportunities that may affect New Zealand society) and take any feedback received into account when finalising the briefing.<sup>8</sup> Consultation is only one form of community engagement, see below.
- 19 In 2013, New Zealand signed up to the Open Government Partnership. That Partnership is about strengthening democracy in New Zealand by ensuring that citizens can contribute and influence what government does and how it does it. As part of that Partnership, New Zealand committed to “develop a deeper and more consistent understanding within the New Zealand public sector of what good engagement with the public means”.<sup>9</sup>

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<sup>7</sup> International Association for Public Participation Australasia *Quality assurance standard for community and stakeholder engagement* (2015) [https://iap2.org.au/wp-content/uploads/2019/07/IAP2\\_Quality\\_Assurance\\_Standard\\_2015.pdf](https://iap2.org.au/wp-content/uploads/2019/07/IAP2_Quality_Assurance_Standard_2015.pdf).

<sup>8</sup> Public Service Act 2020, Schedule 6, clause 9.

<sup>9</sup> Open Government Partnership *New Zealand National Action Plan 2018-2020* (2018).



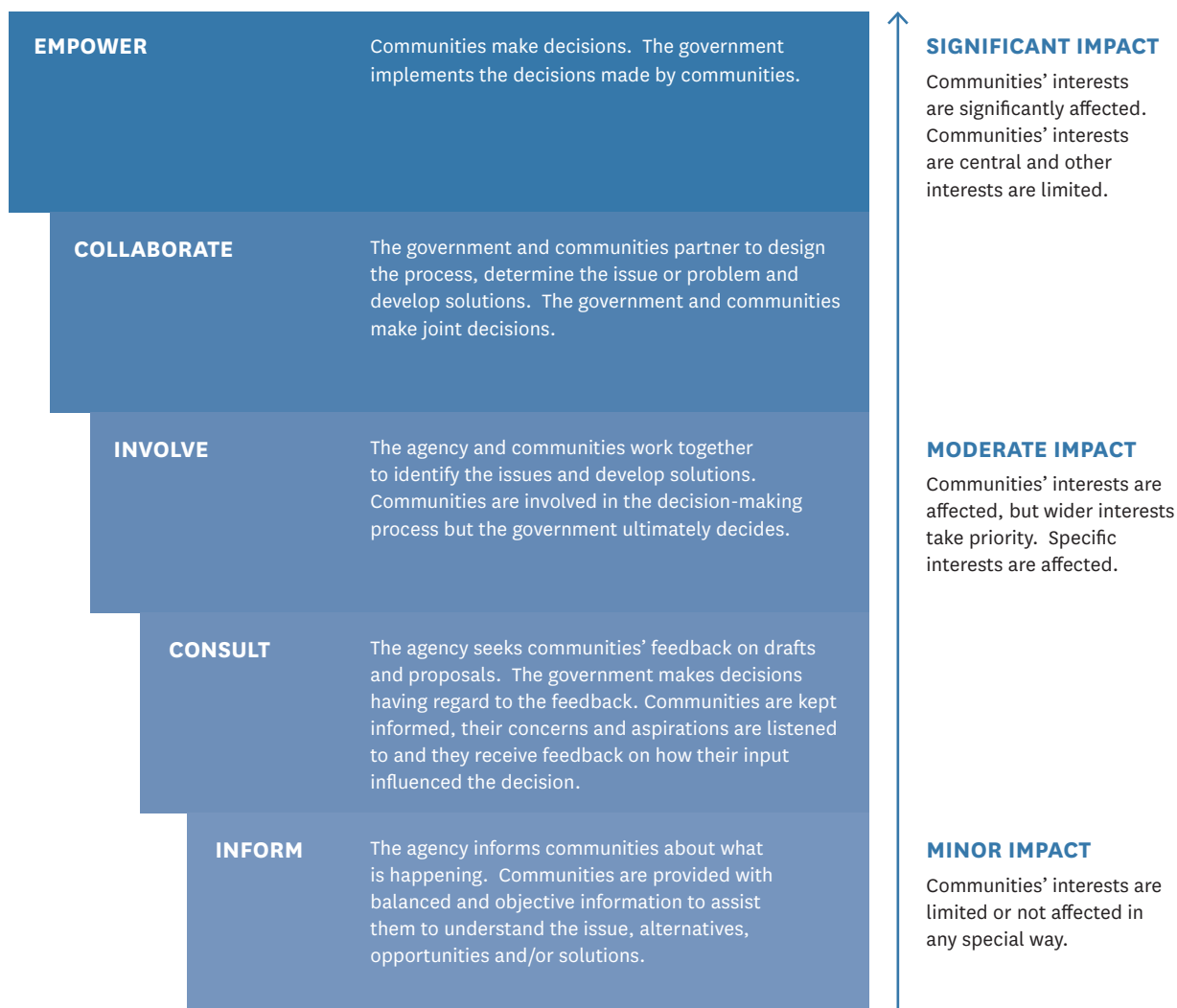
- 20 The International Association for Public Participation sets out good practice for engagement. It includes a set of core values, suggesting that public participation should:
- a) be based on the belief that those who are affected by a decision have a right to be involved in the decision-making process;
  - b) include the promise that the public's contribution will influence the decision;
  - c) promote sustainable decisions by recognising and communicating the needs and interests of all participants, including decision-makers;
  - d) seek out and facilitate the involvement of those potentially affected by, or interested in, a decision;
  - e) seek input from participants in designing how they participate;
  - f) provide participants with the information they need to participate in a meaningful way; and
  - g) communicate to participants how their input affected the decision.<sup>10</sup>
- 21 The purpose of these core values is to “help make better decisions which reflect the interests and concerns of potentially affected people and entities”. We set out the different types of engagement below, drawing on the *IAP2 Public Participation Spectrum*<sup>11</sup> but with some additional information and adaptation to make them more relevant to New Zealand:

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<sup>10</sup> International Association for Public Participation *IAP2 Core Values for Public Participation* (2020).

<sup>11</sup> International Association for Public Participation *IAP2 Public Participation Spectrum* (2020).

**Figure 48: Levels of community engagement**



22 The International Association for Public Participation also sets out a quality assurance process<sup>12</sup> for community and stakeholder engagement that involves a number of steps outlined in the figure below.

<sup>12</sup> International Association for Public Participation, footnote 7 above at pages 16–25.

Table 14: Quality assurance process for community and stakeholder engagement

Step	Actions
<b>Problem definition</b>	Clearly defining the purpose of the engagement and why the planned engagement is occurring. This requires clear objectives and rationale for the engagement, identifying the issues to be addressed, the communities affected, the ideal outcome the decision-makers have identified and who decides when a resolution has been achieved.
<b>Agreement of purpose or context and identification of negotiables and non-negotiables</b>	Clearly articulating the context and objectives of engagement, where there are opportunities for community influence and input and the non-negotiable elements of decision-making.
<b>Level of participation</b>	Determining the level of influence will be apparent based on the goals of engagement. Various degrees of participation are appropriate and legitimate depending on the context and purpose of the decisions being made.
<b>Stakeholder identification and relationship development</b>	Identifying those who are directly involved or affected, are likely to be affected or impact the project outcome and those who need a voice. Once identified, it is necessary to understand the interests, values and needs of each stakeholder group, including expectations and potential points of conflict. This step will inform the communication and engagement techniques appropriate to the project.
<b>Project requirements</b>	Considering the specific requirements of the project that will influence the methodology used in engagement. Requirements include timeliness, statutory and policy requirements, reporting and resource constraints.
<b>Development and approval of engagement plan</b>	Clearly setting out the way stakeholder groups will be involved in influencing the project. The engagement plan will set out matters such as the purpose and objective of engagement, engagement activities, resources required, a risk management plan, roles and responsibilities of the project team, reporting mechanisms and evaluation points.
<b>Execution of engagement plan</b>	Engagement should be undertaken as set out in the engagement plan.
<b>Feedback</b>	Providing information to stakeholders about how engagement outcomes will inform decision-making. Feedback needs to be collated and made available to all stakeholders involved in the engagement.
<b>Evaluation and review</b>	Reviewing engagement to determine whether it has met the identified requirements, achieved the objectives and whether further engagement is required.
<b>Monitoring</b>	Ongoing monitoring and review at regular intervals is necessary to ensure engagement is effective and should be used to influence continuous improvement of engagement practices.
<b>Documentation of evidence</b>	Documentation relating to the steps set out above is important for auditing, to ensure engagement processes can be assessed for quality assurance.

## 1.5 Opportunities and challenges associated with New Zealand's diversity

- 23 New Zealand's population is growing more diverse and is projected to become even more so in the next 20 years (see *Part 2: Context*). New Zealand's increasing diversity brings both opportunities and challenges for communities. Professor Paul Spoonley says that a substantial increase in the scale and scope of ethnic groups in a region can provide certain economic benefits, such as:
- a) higher productivity and innovation for regions and cities with large immigrant populations;
  - b) an environment for the cross-fertilisation of ideas that contributes to creativity and innovation;
  - c) investments and increased local aggregate demand created by diversity encouraging product and process innovation; and
  - d) reflecting and contributing to new global connections and a local or international cosmopolitanism.
- 24 However, there are challenges:
- a) Superdiversity challenges the assumptions and practices of a shared civic culture and citizenship, and raises concerns about social cohesion.
  - b) Anxieties about the growing diversity of labour markets and communities have been associated with discrimination and anti-immigrant politics.
- 25 Professor Paul Spoonley suggests that public policy is critical in addressing these points in order to realise the benefits of diverse populations through “support for intercultural dialogue, adopting anti-discrimination laws, improving credentials recognition, promoting language training and job search techniques and ameliorating disadvantage that impedes social mobility”.<sup>13</sup>
- 26 Similarly, the Superdiversity Centre for Law, Policy and Business published a report in 2015 on the impact of increased diversity on business, the government and New Zealand noting that:
- a) the government needs to move faster on diversity – government is responding more slowly to New Zealand's superdiversity than business;
  - b) even when superdiversity is considered, it is sometimes an afterthought, tacked on to mainstream policies and campaigns with minimal budgets attached;
  - c) many of the challenges posed by ethnic diversity are not new, such as discrimination against ethnic minorities;

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<sup>13</sup> Paul Spoonley, footnote 1 above.

- d) the transition to superdiversity represents a much larger and permanent change in New Zealand’s demographic make-up compared to those of most Western countries; and
- e) the challenges faced by migrants when interacting with Public sector agencies and the law are unique, and laws and policies need to take that into account.<sup>14</sup>

27 Public sector agencies, local government, civil society and community groups all play a role in finding ways to bring people together to build trust and confidence between communities and institutions.<sup>15</sup>

## 1.6 New Zealand’s response to demographic change

28 There are different views on how well New Zealand is responding to its demographic change. Stats NZ’s *Wellbeing statistics: 2018* showed that nearly 90 percent of those New Zealanders who responded to the *General Social Survey* felt comfortable or very comfortable about a new neighbour who was a different ethnicity or religion to themselves.<sup>16</sup>

29 On the other hand, there is evidence that some communities in New Zealand experience attitudes or harmful behaviours that make them feel less included or valued.

30 In 2012 the Human Rights Commission revealed that structural and institutional racism and discrimination existed in New Zealand across health, education, employment, income and justice outcomes, and in the Public service. Common elements found across these outcomes were:

- a) entrenched ethnic inequalities (for example, in health and educational outcomes);
- b) the cumulative effect of discrimination, as discrimination at one stage or one system can flow on to other stages and systems (for example, barriers in early childhood education contribute to poor educational outcomes at higher levels);
- c) biased practice by practitioners, including doctors, teachers, New Zealand Police, judges and Public sector employees;
- d) an assumption that everyone has equal access to services, which ignores the barriers that some members of society experience; and
- e) insufficient or poor quality data collection on ethnicity.<sup>17</sup>

<sup>14</sup> Mai Chen *Superdiversity Stocktake: Implications for Business, Government and New Zealand* (Superdiversity Centre for Law, Policy and Business, Auckland, 2015)

<sup>15</sup> Michele Grossman, Mario Peucker, Debra Smith and Hass Dellal Ao *Stocktake Research Project: A systemic literature and selected program review on social cohesion, community resilience and violent extremism 2011-2015* (Victoria University and Australian Multicultural Foundation, 2016); Shandon Harris-Hogan, Kate Barrelle and Andrew Zammi “What is countering violent extremism? Exploring CVE policy and practice in Australia” (2016) 8(1) *Behavioral Sciences of Terrorism and Political Aggression* at page 6; Peter Romaniuk *Does CVE Work? Lessons Learned From the Global Effort to Counter Violent Extremism* (Global Center on Cooperative Security, 2015); Canada Centre for Community Engagement and Prevention of Violence *National Strategy on Countering Radicalisation to Violence* (2018).

<sup>16</sup> Stats NZ *Wellbeing statistics: 2018* (2018) <https://www.stats.govt.nz/information-releases/wellbeing-statistics-2018>.

<sup>17</sup> New Zealand Human Rights Commission *A fair go for all? Rite tahi tātou katoa? Addressing Structural Discrimination in Public Services* (2012).



31 There is clear evidence that many communities, including ethnic and religious communities, are socially excluded in New Zealand. A 2020 report by the Ministry of Social Development confirmed that:

*... there is consistent evidence of:*

- persistent and marked disparities in New Zealanders' attitudes towards selected social groups. Data captured annually through the New Zealand Attitudes and Values survey, for example, shows that New Zealanders overall consistently rate European New Zealanders more favourably than a range of other social groups*
- Data from Stats NZ's 2016 General Social Survey shows that approximately 17 per cent of all New Zealanders report having experienced discrimination in the last 12 months. Compared to this overall rate, the rates are markedly higher for younger people (e.g. 24% of 15–24 year olds), women (19.3%), the unemployed (27.3%), people who do not own their own home (21.8%), single parents (26.9%), recent migrants (25.8%), non-Europeans (e.g. 22.7% of Māori and 24.3% of Asians) and people with a disability (21.9%).*
- On balance, the evidence points to a very mixed picture about the extent of social inclusion within New Zealand. Although a majority of New Zealanders claim to be accepting of diversity, there are still substantial numbers of New Zealanders who are left behind and marginalised because of discrimination and prejudice. Some commentators also note not only a lack of awareness but also a reluctance to acknowledge the extent of the problem.<sup>18</sup>*

32 Attitudes or harmful behaviours that reduce social cohesion and inclusion have particular impact for Muslim communities. The 11 September 2001 terrorist attacks in the United States of America by Islamist extremists have given Muslim communities unwelcome visibility in many Western democracies. Muslim communities have become subjected to both the attention of intelligence and security and law enforcement agencies and negative comments and harassment from members of the wider community.

33 For Muslim communities in New Zealand, this has led to a perception that they are persistently placed in a one-dimensional frame by both wider society and the Public sector agencies that are responsible for the support and protection of all New Zealanders. That frame has been referred to as “securitisation” by those who made submissions to us. Securitisation means that, as a group, Muslim individuals and communities are primarily seen as a potential threat to New Zealand’s national security.

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<sup>18</sup> Ministry of Social Development, footnote 6 above at page 18.

- 34 A study in the United Kingdom about the portrayal of Muslim communities in the media and the impact of that coverage observed that:

*The evidence shows an overwhelmingly negative picture, where threat, otherness, fear and danger posed or caused by Muslims and Islam underpins a considerable majority of the media's coverage. Given that 64% of the British public claimed that what they know about Muslims and Islam is acquired through the media, then it could be that such a stream of negativity ... has the potential to then ensure stigmatisation, marginalisation and intolerance.<sup>19</sup>*

- 35 The role of the media in perpetuating stereotypes has been recognised at the international level:

*The media often perpetuates ... stereotypes by disseminating or providing a platform for racists and xenophobic speech. The Special Rapporteur would also like to highlight that media bias is a particularly problematic phenomenon in a counterterrorism context. The disproportionate coverage of certain types of terrorism, the use of certain terminology or images and the overall framing of news stories about terrorism distorts public perception. A recent study examined the domestic media coverage of terrorist attacks that occurred in one North American country during the period 2011–2015. The study found that attacks by Muslim perpetrators, particularly foreign-born Muslims, received 4.5 times more coverage than other attacks. Only a small proportion of attacks were perpetrated by Muslims (12.4 per cent) or foreign-born Muslims (5 per cent). Yet, these attacks received 44 per cent and 32 per cent of the news coverage, respectively. Research also found that an attack is more likely to be considered an act of terrorism when carried out by a Muslim. By contrast, threats posed by right-wing violence are often underestimated and not considered to be terrorism.<sup>20</sup>*

<sup>19</sup> Dr Chris Allen Written evidence to the All Party Parliamentary Group on Islamophobia post-Woolwich 2013 (15 July 2013), cited in Elizabeth Arif-Fear *Muslims in the Media: Are we bridging or building divides?* (20 May 2019) <https://faithbeliefforum.org/muslims-in-the-media-are-we-bridging-or-building-divides/>.

<sup>20</sup> United Nations Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2017) A/72/287 <https://digitallibrary.un.org/record/1304009?ln=en>.

36 A 2020 *Comparative study of attitudes to religious groups in New Zealand* found that:

*One plausible explanation for the patterns revealed in our results is media effect: prejudice arises from the perceived threat of Muslim radicals. Indeed, Shaver et al. (2017) found that greater media exposure predicted greater anti-Muslim prejudice.*

...

*The importance of the media's role in strengthening or weakening prejudice is likely exacerbated by a general lack of knowledge and education on different religions, and a lack of contact between most New Zealanders and diverse religious groups: Muslims comprise only 1.3% of the population and Buddhists 1.1% ([Stats NZ] 2019). This means that for many New Zealanders the media provides their only exposure to religious diversity.<sup>21</sup>*

37 The study also found:

*... substantially greater perceived threat and negativity towards Muslims compared with other groups. In particular, older people, New Zealand Europeans, men, and those with more right-wing attitudes report greater threat and negativity towards Muslims. In line with previous studies, higher religious identification and higher education predict greater acceptance. Taken collectively, these results reveal that the Muslim Acceptance Gap in this country is substantial, and greater challenges for acceptance are evident among lower-educated, right-wing, older, secular, and male populations. The magnitude of this gap reveals a substantial challenge to the future of New Zealand where religious and secular people can live without evoking prejudice.*

38 Another 2020 article *Prejudice toward Muslims in New Zealand: Insights from the New Zealand Attitudes and Values Study* by Chris G Sibley and others noted that New Zealanders have felt “less warmth” towards Muslim communities than other groups in New Zealand every year since the *New Zealand Attitudes and Values survey* started in 2012.<sup>22</sup>

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<sup>21</sup> Lara M Greaves, Aarif Rasheed, Stephanie D’Souza, Nichola Shackleton, Luke D Oldfield, Chris G Sibley, Barry Milne and Joseph Bulbulia “Comparative study of attitudes to religious groups in New Zealand reveals Muslim-specific prejudice” (2020) 15(2) *Kōtuitui: New Zealand Journal of Social Sciences Online*.

<sup>22</sup> Chris G Sibley, M Usman Afzali, Nicole Satherley, Anastasia Ejova, Samantha Stronge, Kumar Yogeewaran, Michael Grimshaw, Diala Hawi, Zahra Mirnajafi, Fiona Kate Barlow, Petar Milojev, Lara M Greaves, Sarah Kapeli, Elena Zubielevitch, Logan Hamley, Maria C Basabas, Marvin H Wu, Chloe Howard, Carol HJ Lee, Yanshu Huang, Christopher Lockhart, Joaquín Bahamondes, Sam Manuela, Taciano L Milfont, Ryan Perry, Nikhil K Sengupta, Nickola C Overall, John H Shaver, Geoffrey Troughton, Danny Osborne and Joseph Bulbulia *Prejudice toward Muslims in New Zealand: Insights from the New Zealand Attitudes and Values Study* (July 2020).

## 1.7 Concluding comments

- 39 It is not possible or desirable to expect everyone in society to think and behave in the same way. That sort of uniformity is not what we mean when we talk about social cohesion. Nor do we mean that marginalised communities should conform to majority cultural values and practices – in other words, to assimilate. Instead we see social cohesion as enabling everyone to belong, participate and have confidence in public institutions. This requires recognition and respect of diversity and valuing differences leading to equitable opportunities and outcomes in work, income, education, health, housing etc. Inclusion is a measure of how a society enables that diversity to thrive.
- 40 In the Public sector, we observe that social cohesion has (incorrectly) come to be perceived as implying social uniformity achieved through assimilation. For this reason Public sector agency documents have recently used the narrower term social inclusion rather than the broader term social cohesion.
- 41 In chapter 2 we look at leadership and oversight of social cohesion at the political and Public sector agency level. In chapter 3 we focus on Public sector efforts to embrace New Zealand’s increasing diversity, which we see as an important component of enhancing social cohesion. This is primarily through workforce capacity and capability and how the Public sector is structured to respond to New Zealand’s diverse populations. In chapter 4 we address hate speech and hate crime, which are the unacceptable consequences of non-inclusive and non-cohesive aspects of our society and unwillingness by some to embrace diversity.
- 42 A series of themes have emerged as a result of our inquiries, which we explore through the rest of this Part:
- a) There has been limited political leadership and public discussion of social cohesion, inclusion and embracing diversity.
  - b) There has been no overarching strategy and little strategic analysis.
  - c) Public sector leadership and coordination have been diffuse.
  - d) Community engagement processes have been limited and poor.
  - e) Public sector support for community capacity development has been ad hoc.
  - f) Data collection and analysis and monitoring and evaluation are underdeveloped.
  - g) Public sector workforce capacity and capability to embrace diversity are far from complete.

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## Chapter 2: Leadership and oversight in building social cohesion

### 2.1 Overview

- 1 We heard many times during our community engagement process of the importance of social cohesion. Many people told us that social cohesion was an ongoing process of developing those common values that are shared by New Zealanders, and equal opportunities. It was not about society becoming homogenous.
- 2 In this chapter we examine the government's approach to social cohesion under the following headings:
  - a) Political leadership and public discussion.
  - b) Public sector leadership, coordination and strategy.
  - c) Public sector-led community engagement.
  - d) Public sector support for community capacity development.
  - e) Community-led initiatives supporting social cohesion.
  - f) Oversight and performance monitoring.

### 2.2 Political leadership and public discussion

- 3 In New Zealand, prime ministers and ministers rarely publicly discuss social cohesion and diversity issues. They seldom speak about the benefits of New Zealand's changing demographics including ethnic and religious diversity and the related social benefits of social cohesion. Much of the limited discussion on New Zealand's increasing ethnic diversity focuses on the economic reasons for, and consequences of, immigration and migrant labour.
- 4 Before 15 March 2019, there was no informed broader public discussion led by ministers about the benefits of the government efforts to build social cohesion or the roles that local government, civil society and community groups can have in bringing people together to build trust and confidence between communities and institutions.

### 2.3 Public sector leadership, coordination and strategy

- 5 We have examined Public sector leadership through both Public sector architecture and policies and programmes.
- 6 Central to our review of the Public sector social cohesion efforts is the Office of Ethnic Communities due to the role it played prior to 15 March 2019 in leading social cohesion initiatives, which we discuss here. The roles of other Public sector agencies in embracing diversity are discussed in chapter 3.



### Office of Ethnic Communities

- 7 The Office of Ethnic Communities is the government’s principal advisor on ethnic communities. Originally established in 1992, its name and focus have evolved but it remains a business unit within the Department of Internal Affairs.
- 8 The Department of Internal Affairs is a comparatively large organisation and responsible to several ministers including those responsible for internal affairs, government digital services, local government, community and voluntary sector, racing and ministerial services.
- 9 The Office of Ethnic Communities provides information, advice and services to ethnic communities. Its mandate includes “migrants, former refugees, long-term settlers, and those born in New Zealand who identify their ethnicity as African, Asian, Continental European, Latin American and Middle Eastern”. We were told that it has no specific role in relation to religious communities, but it does engage with the ethnic groups that make up Muslim communities. One of its stated objectives is to influence the development and implementation of government policies to better meet the needs of ethnically diverse communities and ensure equity of opportunity and outcome.
- 10 The Office also administers the Ethnic Communities Development Fund of \$520,000 per annum. The Fund was originally a programme called *Settling In* developed by the Ministry of Social Development in 2014 to assist refugees and migrant communities. Responsibility for *Settling In* was transferred to the Office of Ethnic Communities and it was re-branded as the Ethnic Communities Development Fund.
- 11 Before 15 March 2019, the Office of Ethnic Communities had 26 full-time equivalent positions spread across its three offices in Auckland, Wellington and Christchurch. The Office of Ethnic Communities had three teams:
  - a) **Community Engagement** – the team had nine full-time equivalent positions – one manager, and eight diversity and engagement advisors. Due to vacancies, it only had five diversity and engagement advisors to work across the more than 200 ethnic communities in New Zealand. These limited resources were focused on community capability development and funding small community projects and events.
  - b) **Policy** – the team had seven full-time equivalent positions. Its function was to influence the development and implementation of policy and service delivery to create better outcomes for ethnic communities and New Zealand as a whole.
  - c) **Planning, Systems and Services** – the team had nine full-time equivalent positions. It provided administrative and procedural support, managed stakeholder engagement and managed and delivered some direct services including the Nominations Service and the Ethnic Communities Development Fund.

- 12 The Director of the Office of Ethnic Communities was a third tier role reporting to the Deputy Chief Executive, Policy, Regulation and Communities.
- 13 The Office of Ethnic Communities has been repeatedly recognised as underperforming. For example, a Department of Internal Affairs review of the Office of Ethnic Communities in 2014 was critical of the limited nature of its activities, stating that it did not provide leadership on diversity issues across the Public sector, its overall strategy was poorly explained and it concentrated too much on operational matters. The review recommended that the Office of Ethnic Communities develop a clear strategy to guide its activity and support effective leadership on diversity issues across the Public sector.<sup>23</sup>
- 14 In response to the review, the Office of Ethnic Communities was restructured in late 2014 to “improve the alignment of functionality and purpose and mitigate the challenges of leading a mix of operational, service delivery and policy functions”. The Department of Internal Affairs told us that “the restructure did not achieve the desired outcomes”.
- 15 Concerns about the Office of Ethnic Communities persisted. It was restructured again in 2016 to, among other things, build its policy capability, so that it could engage strategically with other Public sector agencies and better engage with ethnic communities.<sup>24</sup>
- 16 Before 15 March 2019 successive budget bids over a number of years to build capacity and capability of the Office of Ethnic Communities were turned down by the government of the day.

### **Social cohesion strategy and policy programme**

- 17 Before 15 March 2019, no Public sector agency coordinated the overall policy approach or work programme relating to social cohesion, making it difficult to assess whether there were gaps in activities undertaken by government to build and maintain social cohesion. The Public sector’s decentralised approach to building social cohesion relies on the efforts within each agency. It was unclear which Public sector agency was responsible for the provision of coherent strategic advice on social cohesion at a whole-of-system level.
- 18 There was no overarching strategy that could be used to set the purpose and direct government policy and programme settings. Social cohesion had emerged in some Public sector agencies as a “rallying call for greater consideration to be given to [migrant] settlement outcomes and equity and, therefore social relations and trust”.<sup>25</sup>

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<sup>23</sup> Department of Internal Affairs *Office of Ethnic Affairs – Strategy Review, Report by Martin Jenkins* (2014).

<sup>24</sup> Department of Internal Affairs *Decision Document: Office of Ethnic Communities – Flourishing Ethnic Diversity, Thriving New Zealand* (2016).

<sup>25</sup> Robin Peace and Paul Spoonley “Social Cohesion and Cohesive Ties: Responses to Diversity” (2019) 45 *New Zealand Population Review* at page 110 [https://population.org.nz/app/uploads/2019/12/NZPR-Vol-45\\_Peace-and-Spoonley.pdf](https://population.org.nz/app/uploads/2019/12/NZPR-Vol-45_Peace-and-Spoonley.pdf).

- 19 Policy work was undertaken on social cohesion in New Zealand around 2005 and resulted in a Cabinet paper that has had limited influence. As Robin Peace and Paul Spoonley say:

*It failed to survive in any coherent form, and it was not something that entered political, policy or public discourse as a serious policy priority.<sup>26</sup>*

- 20 There have been further attempts to coordinate social cohesion programmes and strategies across government.
- 21 In 2015 Cabinet agreed to a social cohesion policy programme to lower the risk of violent extremism arising from “at-risk” communities. This was partly in response to a 2014 United Nations Security Council Resolution that focused on reducing recruitment to violent extremism and promoting social inclusion and cohesion.
- 22 In 2016 the Office of Ethnic Communities became the chair and leader of the newly formed cross-agency Community Strengthening Working Group. This group was intended to bring together, under the collective title *Connecting with Communities*, the community development activities of Immigration New Zealand, the Ministry of Social Development and New Zealand Police. The working group was renamed the Social Cohesion Working Group in mid-2016. A 2016 Budget bid for \$23 million over four years to support a social cohesion programme to drive research and community-led initiatives was not successful. The Social Cohesion Working Group was disbanded in 2017.
- 23 In early 2017 the Human Rights Commission, led by the then Race Relations Commissioner Dame Susan Devoy, met with the [Public] Service Commissioner Peter Hughes to raise concerns that Muslim communities had shared with the Human Rights Commission about a range of issues. These included harassment and bullying of Muslim children in school, concerns about the safety of Muslim communities in New Zealand, the negative portrayal of Muslim individuals and communities in the media, access to social workers, lack of culturally appropriate services for Muslim communities and lack of funding for Muslim projects.
- 24 In response, selected Muslim leaders from national representative groups were invited to present their concerns to senior officials at a cross-government workshop on 23 March 2017. The workshop was jointly led by the Human Rights Commission and the [Public] Service Commission. Notes were taken of the meeting by officials but not shared or confirmed with the Muslim leaders who attended.

<sup>26</sup> Robin Pearce and Paul Spoonley, footnote 25 above at page 110.

- 25 The workshop resulted in the formation of a Social Cohesion Governance Group to address Muslim communities' concerns and other issues related to social cohesion. The Social Cohesion Governance Group was made up of deputy chief executives and co-chaired by representatives from the Department of Internal Affairs (rather than the Office of Ethnic Communities) and the [Public] Service Commission. A new Social Cohesion Working Group co-chaired by representatives from the same agencies was also established to provide advice to the Governance Group. There was no opportunity for participation by communities on either the Social Cohesion Governance Group or the Working Group. Nor was there engagement with communities on the development of the terms of reference or work programme.
- 26 In June 2017 the Social Cohesion Governance Group agreed to pilot a project to engage with Muslim communities in Waikato which, if successful, could be replicated with other Muslim communities in New Zealand. This decision was made despite feedback from Muslim community leaders that the project was not needed for the Waikato region. Muslim community leaders suggested that their highest priority was the development of a national strategy but, if a pilot went ahead, it should be based in Auckland, where there was greater need.
- 27 Implementing the pilot project took longer than expected. This resulted in further frustration on the part of the Muslim communities involved, the Human Rights Commission and the Race Relations Commissioner.
- 28 By the end of October 2017 both the Social Cohesion Governance Group and the Working Group were suspended or defunct. A follow-up Department of Internal Affairs report to the [Public] Service Commissioner cited a number of reasons for lack of action including:
- a) the lack of a "high level story" that could bring together the social cohesion work of Public sector agencies;
  - b) the definition of social cohesion was too broad, meaning that many programmes could qualify, which increased the difficulty of system-wide coordination; and
  - c) social cohesion's "awkward fit" with the counter-terrorism effort. Including social cohesion initiatives as part of work to counter violent extremism and terrorism presented problems. There was a difference between activities designed specifically to counter radicalisation (such as multi-agency intervention programmes like the Young Person's Intervention Programme) and community-based activities designed to improve social cohesion (such as programmes working with refugee youth). It was felt that community-based cohesion activities should be led by Public sector agencies in the social sector outside the countering violent extremism and terrorism effort, as they have much broader aims to improve communities' wellbeing.

- 29 The social cohesion pilot in Waikato commenced in March 2018, despite not being supported by local Muslim communities or a national representative group. An Office of Ethnic Communities employee was seconded to Hamilton for six months to lead the project and to “engage Hamilton ethnic and Muslim communities to share their perspectives of ideas and challenges they face”. The results of the project would then be used to inform and influence government policy, ensure Public sector agencies’ services were fit for purpose and culturally appropriate and identify practical solutions that were adaptable to various ethnic communities. To do this the Office of Ethnic Communities employee held interviews and group meetings with members of Hamilton’s ethnic communities between March and September 2018.
- 30 The key findings from the pilot were that “local Hamilton ethnic and Muslim communities face challenges settling in New Zealand and there is a need for Public sector agencies to understand past experiences and lifestyles of migrants and refugees”. The report from the pilot made nine recommendations:
- a) Conduct and analyse a community survey to better understand the capacity development barriers, strengths and needs of ethnic communities.
  - b) Support the capacity development needs and interests of organisations representing ethnic communities.
  - c) Recognise ethnic community groups and their religious organisations as social connectors.
  - d) Support communities to determine their own solutions to community issues.
  - e) Prioritise investment in capacity development of ethnic communities.
  - f) Develop closer relationships with tangata whenua and potential employers (for example, businesses) to identify career opportunities.
  - g) Identify what skills employers are looking for and work with students to develop these skills and address any barriers to employment.
  - h) Explore developing a cultural responsiveness framework for ethnic communities.
  - i) Focus on building on community strengths rather than on addressing community deficits, for policy development purposes.<sup>27</sup>
- 31 The Department of Internal Affairs told us that it has not yet completed implementing the recommendations arising from the pilot.

<sup>27</sup> Office of Ethnic Communities *Final Report – Hamilton Social Cohesion Pilot (2018)*.



- 32 In the meantime, in May 2018 Muslim leaders had formed a Muslim Community Advisory Group to try to gain greater traction on the concerns they had raised with the Public sector the previous year. After meeting with the Department of Internal Affairs, the Ministry of Social Development and the [Public] Service Commission, the Muslim Community Advisory Group was asked to develop a business plan and budget to support their request for social worker resources to assist the community.
- 33 Initially no support was provided to the Muslim Community Advisory Group by Public sector agencies. Subsequently, the Ministry of Social Development provided assistance to draft a business plan after the Muslim Community Advisory Group raised concerns about the time pressures and demands on community leaders working in a voluntary capacity. The Ministry of Social Development provided the Muslim Community Advisory Group with a draft of the business plan in February 2019. The draft business plan was described to us as a “cut and paste” of the work communities had previously provided to Public sector agencies, which “added little substance”.
- 34 The Ministry of Social Development advised us that the business plan was not finalised prior to the 15 March 2019 terrorist attack and has not progressed further.

### **Government programmes contributing to social cohesion**

- 35 Many Public sector agencies contribute to or lead policy and service delivery programmes that seek to improve social cohesion in New Zealand’s communities. Some government programmes include the following:
- a) The *Welcoming Communities* programme led by Immigration New Zealand. This supports local government, councils and their communities to create welcoming and inclusive environments for newcomers.
  - b) The *New Zealand Migrant Settlement and Integration Strategy* also led by Immigration New Zealand. It provides an all-of-government approach to settle and integrate recent migrants.
  - c) The *Language Assistance Services Project* coordinated by the Ministry of Business, Innovation and Employment. This is an all-of-government project to improve access to telephone interpreting and translation services for people with limited or no English language proficiency.
  - d) The *International Student Wellbeing Strategy* led by the Ministry of Education. It provides a framework for Public sector agencies to coordinate efforts for international students, including funding for community organisations to support student wellbeing.
  - e) A *Youth Voice* project led by the Ministry of Youth Development. It aims to build two-way communication between young people and Public sector agencies.

- f) The *New Zealand Disability Strategy 2016–2026* and *Disability Action Plan 2019–2023* led by the Ministry of Social Development. These are steps towards meeting New Zealand’s commitment to the United Nations’ *Convention on the Rights of Persons with Disabilities*.
- g) The *National Psychological Plan* led by the Ministry of Health. The intention is to support enhanced community cohesion and social support, involving the development of activities that promote social cohesion.

## 2.4 Public sector-led community engagement

### Level of community engagement

- 36 Community engagement is important to inform Public sector policy development, service design and decision-making. Ultimately, effective community engagement can also build social cohesion and inclusion.
- 37 Transparency International New Zealand considers that Public sector agencies’ community engagement practices vary and that in some cases resulting policy or programmes did not adequately identify, understand or respond to the interests, risks and interdependencies that communities had raised. The cumulative impact of these issues is reflected in decreasing levels of confidence and trust in the ability of Public sector agencies to:
  - a) understand the needs of ethnic and religious communities and treat their members competently and fairly; and
  - b) develop responsive policies, services and programmes to enable communities to participate fully in New Zealand society.<sup>28</sup>
- 38 In 2018 the Open Government Partnership *New Zealand National Action Plan 2018–2020* suggested that Public sector agencies have more work to do to improve the way they engage with communities:

*To date the majority of consultation has been in the “inform and consult” part of the IAP2’s spectrum, involving relatively limited degrees of public participation that often occurs in the later stage of the policy development process. There are substantial opportunities to improve the degree of participation by the public, community organisations, businesses and employee groups in the development of policy and the design and delivery of government services. Improvements in public participation in recent years have been driven by agency-specific or sectoral policy agendas, demand from stakeholders and proactive action by key individuals at all levels. Across government, responsibilities related to public participation have evolved separately and are somewhat ad hoc.*

<sup>28</sup> Transparency International New Zealand *National Integrity System Assessment - 2018 update* (May 2019) <https://www.transparency.org.nz/wp-content/uploads/2019/05/National-Integrity-System-Assessment-2018-update-full-report.pdf>.

*The drive for improved public participation is part of a wider change in public management in which the traditional role of the citizen has already moved from “voter” to “customer”, and is now moving from “customer” to “co-creator”. Under this view, policy and services are designed with, rather than for, people, respecting their knowledge and beliefs, and their active role in their own lives and those of other New Zealanders.<sup>29</sup>*

- 39 A May 2020 discussion paper reinforced the point that there is a significant opportunity to be gained from collaborating with communities, noting that “agencies must seek to co-produce policies, not simply to consult in an often-tokenistic way with communities and stakeholders”.<sup>30</sup>
- 40 We heard of variable community engagement practices by Public sector agencies, which are discussed further in *Part 3: What communities told us*.

### **Community engagement strategies**

- 41 Some Public sector agencies have put in place community engagement strategies to encourage more inclusive consultation. For example, the Ministry of Health has issued *A Guide to Community Engagement with People with Disabilities*<sup>31</sup> and Te Arawhiti has issued a *Crown engagement with Māori* framework, *Guidelines for engagement with Māori*, *Crown engagement with Māori – Engagement Strategy Template* and *Crown engagement with Māori – Participant feedback form*.<sup>32</sup> Other Public sector agency community engagement strategies set out the general purpose and objectives of such engagement.
- 42 New Zealand Police have a unique role of engaging with New Zealand communities in ways that contribute to both social cohesion and the counter-terrorism effort. In examining their approach to community engagement, we focused particularly on New Zealand Police liaison officers’ roles and responsibilities, noting that this was one component of New Zealand Police’s community policing approach.

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<sup>29</sup> Open Government Partnership *New Zealand National Action Plan 2018–2020* (2018).

<sup>30</sup> Paul Spoonley, Peter Gluckman, Anne Bardsley, Tracey McIntosh, Rangimarie Hunia, Sarb Johal and Richie Poulton, footnote 2 above.

<sup>31</sup> Ministry of Health *A Guide to Community Engagement with People with Disabilities* (2017) <https://www.health.govt.nz/publication/guide-community-engagement-people-disabilities>.

<sup>32</sup> Te Arawhiti – The Office for Māori Crown Relations *Crown engagement with Māori* (undated) <http://tearawhiti.govt.nz/tools-and-resources/crown-engagement-with-maori/>; Te Arawhiti – The Office for Māori Crown Relations *Guidelines for engagement with Māori* (2018) <https://tearawhiti.govt.nz/assets/Maori-Crown-Relations-Roopu/6b46d994f8/Engagement-Guidelines-1-Oct-18.pdf>; Te Arawhiti – The Office for Māori Crown Relations *Crown engagement with Māori – Engagement Strategy Template* (undated) <https://www.tearawhiti.govt.nz/assets/Tools-and-Resources/Crown-engagement-with-Maori-Engagement-strategy-template.pdf>; Te Arawhiti – The Office for Māori Crown Relations *Crown engagement with Māori – Participant feedback form* (undated) <https://www.tearawhiti.govt.nz/assets/Tools-and-Resources/Crown-engagement-with-Maori-Participant-feedback-form-template.pdf>.

### New Zealand Police liaison officers' role in community engagement

- 43 In 2005 New Zealand Police published their strategy *Working Together with Ethnic Communities – the Future*. This was updated in 2019 and focuses on three objectives:
- a) Leading ethnic responsiveness – improving service delivery for ethnic communities.
  - b) Building capability – having the right people with the right skills to work with ethnic communities.
  - c) Working with ethnic communities – developing partnerships with ethnic communities to prevent crime and victimisation against them.<sup>33</sup>
- 44 To help achieve these goals, iwi liaison officers, Pacific liaison officers and ethnic liaison officers work with relevant communities to build and maintain effective working relationships.
- 45 The number of liaison officers within New Zealand Police is relatively small. Decisions about how New Zealand Police liaison officers are allocated are made by each District. By way of example as at 15 March 2019, of the approximately 10,000 New Zealand Police sworn officers there were 14 ethnic liaison officers including two at Police National Headquarters in advisory roles. We heard that in most Districts there was only one ethnic liaison officer for the entire District. This was the case in main centres such as Christchurch and Wellington despite the growth of the ethnic population in those cities.
- 46 Some liaison officers struggle to effectively reach all communities in their Districts. And we heard that it is not feasible for liaison officers to manage all community relationships. One liaison officer noted:

*We are such a small part of the business, yet carry so much of it ... Every member of Police should be a [liaison officer] and changing the mindset of our people is paramount to this.*

- 47 Frontline police officers generally respond to incidents, for example engaging with a member of the public or community whose house has been burgled and who wishes to make a report to New Zealand Police. In contrast, liaison officers do not generally have an incident response role. One liaison officer we heard from said that “my role is long term solution based rather than responding to incidents”. Another liaison officer told us:

*We proactively engage with ethnic communities to build the rapport and maintain the relationships with the ethnic communities. This sort of relationship can only be formed over a long period of engagement.*

<sup>33</sup> New Zealand Police *Working Together with Ethnic Communities – the future: Police Ethnic Strategy* (2019) <https://www.police.govt.nz/about-us/publication/working-together-ethnic-communities-future>.

- 48 By building relationships with communities, liaison officers can help to identify concerns communities have and address any community safety issues collectively with communities. These concerns are not always crime related and can include anything that negatively impacts people's perceptions of safety (such as disputes with neighbours) or creates conflict within or between communities. The role of a liaison officer goes beyond what would be considered standard policing. This can include:
- a) explaining the role of New Zealand Police to new refugees;
  - b) identifying issues affecting communities and creating initiatives to address these issues;
  - c) liaising with other Public sector agencies (for example the Ministry of Social Development or Kāinga Ora – Homes and Communities) when people need support from these agencies;
  - d) providing support at community events to provide both the reassurance of a New Zealand Police presence and also an opportunity for community members to approach liaison officers with questions or concerns; and
  - e) playing a mediator-like role to resolve lower level issues within communities, for example helping to resolve tensions between neighbours.
- 49 This means New Zealand Police liaison officers have a role in enabling social cohesion. The work done by liaison officers was noted favourably by those within New Zealand Police and in some communities who had engaged with them. However, we heard from some liaison officers about a number of challenges that impact on the effectiveness of their work:
- a) Their role is often not well integrated with the work of other parts of New Zealand Police and they can feel like they are working in isolation.
  - b) There was a perception that the liaison officer role is sometimes not respected or considered to be a serious role within New Zealand Police. Liaison officers felt that this was due to the lack of awareness of the role, what it involves and the value it can add. As one liaison officer said, "in general [other New Zealand Police officers] have a pretty low opinion that we just go to dinners and lunches, that we're not real cops [and] that it's easy work".
  - c) There is a lack of clarity about their role within New Zealand Police. As one liaison officer noted, "some staff are unsure as to what our roles are other than assisting with translations".
  - d) There is a need for more organisational leadership to ensure that the role of the liaison officers is understood throughout the Districts.

- 50 As discussed in *Part 8: Assessing the counter-terrorism effort*, New Zealand Police's counter-terrorism efforts are reliant on good community-Police relationships and liaison officers play a key role in this.
- 51 New Zealand Police also have community advisory boards and Māori, Pasifika and Ethnic Forums in which representatives of these communities meet with New Zealand Police management at District and national level.

## 2.5 Public sector support for community capacity development

- 52 We were told about the lack of capacity and capability in some ethnic and religious communities to participate in central and local government decision-making processes.
- 53 Community capacity development means promoting the ability of communities to develop, implement and sustain their own solutions to problems that affect them. The objective of community capacity development is empowering communities rather than achieving specific policy goals. It can contribute to improved social, economic and cultural outcomes at individual, whānau or community levels.
- 54 Central and local government support community capacity development. For example there is central government funding available for community capacity development, including the Ethnic Communities Development Fund (discussed earlier in this chapter), Community Capability and Resilience Fund, Community Leadership Fund, Safer Community Councils and Stronger Communities Action. During our engagement with communities, we heard concerns about eligibility for, and decision-making about, government funds such as these.
- 55 Two community initiatives, Peaceful Action Leadership Movement and Project Salam, are funded as part of the Ministry of Social Development's *E Tū Whānau* project. These two community initiatives bring together young people from a range of communities to develop leadership skills.

## 2.6 Community-led initiatives supporting social cohesion

- 56 Communities and community leaders play a pivotal role in building and maintaining social cohesion. This is especially true of community leaders, as they build a sense of identity and validate people's collective understanding of shared social norms and experiences.<sup>34</sup>

<sup>34</sup> S Alexander Haslam, Stephen D Reicher and Michael J Platow *The New Psychology of Leadership: Identity, Influence and Power* (Psychology Press, Sussex and New York, 2011).

- 57 A number of community-led organisations are leading discussions about social cohesion and what it means to be an inclusive society. Inclusive Aotearoa Collective (a collaboration of people across New Zealand committed to building a socially inclusive New Zealand),<sup>35</sup> Migrant Action Trust (supporting migrants and refugees as valuable stakeholders in New Zealand society)<sup>36</sup> and Southland Multicultural Council Incorporated (promoting social cohesion through alternative means and community resilience and recovery) are examples of these community-led initiatives.<sup>37</sup>

## 2.7 Oversight and performance monitoring

- 58 In December 2018, the Treasury introduced its *Living Standards Framework* to help analyse and measure how resilient New Zealand's intergenerational wellbeing is in the face of change, shocks and unexpected events. The framework is intended to “strengthen the level of rigour and transparency in advice on the expected monetary and non-monetary costs and benefits of government policy proposals”.<sup>38</sup> It is supported by the *Living Standards Framework Dashboard* measurement tool. The *Dashboard* measures a number of areas of wellbeing, including cultural identity and social connections.
- 59 A commitment by Public sector agencies to promoting these areas of wellbeing could benefit ethnic and religious communities. However, it is too soon to know the extent to which the *Living Standards Framework* is influencing the ways in which Public sector agencies design and implement their policies or interact with ethnic and religious communities.
- 60 Aside from the *Living Standards Framework*, we are not aware of other system-level monitoring of outcomes in relation to social cohesion that were in place before 15 March 2019.

## 2.8 Post-15 March 2019 developments

### Increasing the Office of Ethnic Communities resourcing

- 61 Less than one month after the terrorist attack, on 12 April 2019 the Government announced a range of urgent measures to support ethnic communities by adding a one-off increase of \$1 million into the Ethnic Communities Development Fund to “give affected communities the power to develop and lead their own projects alongside other Government initiatives”.<sup>39</sup>

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<sup>35</sup> Inclusive Aotearoa Collective website <https://www.inclusiveaotearoa.nz/>.

<sup>36</sup> Migrant Action Trust Facebook page <https://www.facebook.com/migrantactiontrust/>.

<sup>37</sup> Southland Multicultural Council Incorporated website <https://www.southlandmulticultural.co.nz/>.

<sup>38</sup> The Treasury *Our living standards framework* (2020) <https://www.treasury.govt.nz/information-and-services/nz-economy/higher-living-standards/our-living-standards-framework>.

<sup>39</sup> New Zealand Government media release *Responding to the needs of ethnic communities after terror attacks* (12 April 2019) <https://www.beehive.govt.nz/release/responding-needs-ethnic-communities-after-terror-attacks>.



- 62 The Office of Ethnic Communities also received funding (\$800,000) for additional staff to provide better culturally appropriate support to victims of the terrorist attack and their families.<sup>40</sup> At the same time the Minister for Ethnic Communities, Hon Jenny Salesa, announced a series of meetings across the country involving Imams, Muslim women and Muslim youth. The Minister said:

*It is important for me to ensure our Muslim communities are involved and engaged in shaping the response to the terror attacks and the recovery process. These conversations will be complemented by a series of interfaith dialogues that will bring together leaders from different faiths to discuss how we can work collectively to support an inclusive society.<sup>41</sup>*

- 63 The Government announced in the 2019 Wellbeing Budget that an additional \$9.4 million would be provided over four years to the Office of Ethnic Communities. This funding was approved to increase capacity and capability at the Office of Ethnic Communities to respond to the impacts of the terrorist attack and to support ethnic communities to develop and lead their own initiatives.
- 64 Following this additional funding, the Office of Ethnic Communities increased its community engagement staffing to 21 full-time equivalent positions. The staff are located in Auckland, Christchurch, Hamilton, Napier, and Wellington and will soon be located in Dunedin, New Plymouth and Whangārei.
- 65 In September 2019, the reporting line of the Director of the Office of Ethnic Communities (renamed Executive Director in January 2020) was changed from the Deputy Chief Executive, Policy, Regulation and Communities at the Department of Internal Affairs to Paul James, Chief Executive, Department of Internal Affairs. The role became a second tier position.
- 66 In December 2019, the Minister for Ethnic Communities, Hon Jenny Salesa, announced a further increase in funding for the Ethnic Communities Development Fund from \$520,000 to \$4.2 million each year to support community initiatives that help build a stronger, safer, more connected and inclusive society. The Minister said:

*With this funding boost the priorities of the fund are expanding to support groups to do more work; including and welcoming ethnic diversity; promoting ethnic diversity and understanding – including educating New Zealanders about the contribution of ethnic communities; developing participation in employment and society; and supporting our ethnic communities to thrive through the practice and celebration of culture.<sup>42</sup>*

<sup>40</sup> New Zealand Government media release, footnote 39 above.

<sup>41</sup> New Zealand Government media release, footnote 39 above.

<sup>42</sup> New Zealand Government media release *Government delivers funding boost for ethnic communities* (6 December 2019) <https://www.beehive.govt.nz/release/government-delivers-funding-boost-ethnic-communities>.

- 67 In early 2020, four regional interfaith dialogues were hosted by the Minister for Ethnic Communities, Hon Jenny Salesa, in Dunedin, Auckland, Christchurch and Wellington.
- 68 In June and July 2020, the Minister for Ethnic Communities, Hon Jenny Salesa, held thirteen meetings with approximately 250 Muslim women, youth, Imams and community leaders across the country. The purpose was to hear directly from Muslim communities about “what was critical to them, and what changes would help create a more diverse and accepting society”. The resulting report *Conversations with Aotearoa New Zealand’s Muslim Communities* presented the key themes from the hui and identified opportunities for addressing these themes through the government’s work programme.<sup>43</sup>
- 69 We did not examine the effectiveness of the engagement processes carried out following 15 March 2019.

### **Social inclusion Cabinet papers**

- 70 After the 15 March 2019 terrorist attack, calls came from communities for the government to support social cohesion and communities around New Zealand.
- 71 In September 2019 the Prime Minister, Rt Hon Jacinda Ardern, and Minister for Social Development, Hon Carmel Sepuloni, jointly presented a paper to Cabinet entitled *Improving social inclusion post the 15 March terror attacks*, which provided:
- a) An overview of a rapid evidence review about building social inclusion undertaken by officials drawing on advice from academics and stakeholders.
  - b) A stocktake of Public sector agency work programmes and strategies covering children and youth, counter-terrorism, ethnic communities, education, employment, migrant settlement and integration and refugee settlement. Across the 11 agencies that provided information, it was identified that there are more than 160 programmes, policies and interventions that contribute to improving the social inclusion of New Zealand communities. These initiatives vary in size, sector and level of impact for New Zealanders, with some of these initiatives being small trials and others large scale interventions.
- 72 Cabinet agreed to:
- a) build on existing interventions to:
    - i) reduce discrimination in New Zealand communities;
    - ii) show government and Public service leadership on social inclusion;
    - iii) support community-based activities that promote an inclusive national identity; and
    - iv) strengthen the focus on equity and social inclusion in priority work programmes.

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<sup>43</sup> Office of Ethnic Communities *Conversations with Aotearoa New Zealand’s Muslim Communities* (2019)  
<https://www.ethniccommunities.govt.nz/resources-2/conversations-with-aotearoa-new-zealands-muslim-communities/>.

- b) explore a small number of additional interventions with a strong focus on children and young people that could have a significant impact, including:
  - i) building on existing knowledge of early childhood teachers to support young children developing capacities for self-regulation, resilience and social skills (including empathy);
  - ii) building on the Education/Justice focus area in the *Child and Youth Wellbeing Strategy* that aims to ensure children are free from racism and discrimination;
  - iii) expanding evidence-based bullying prevention and responses in schools; and
  - iv) increasing understanding of local and national history.
- 73 In June 2020, the Prime Minister, Rt Hon Jacinda Ardern, and the Minister for Social Development, Hon Carmel Sepuloni, reported back to the Cabinet Social Wellbeing Committee on work to build social inclusion.
- 74 Cabinet noted that an indicative framework had been developed to build a common understanding, language, vision and outcomes for social inclusion across government, focus and better coordinate action, prioritise collective effort and support more coordinated approaches.
- 75 The aim of the framework is to build clear expectations that Public sector agencies would use the framework to help guide all work directly related to social inclusion, including policy and service development.
- 76 The Cabinet paper also noted that:
  - a) officials will test the indicative framework with targeted stakeholder engagement to refine the draft social inclusion framework, with support from the Human Rights Commission;
  - b) work is underway to scope possible measures and indicators of social inclusion, working with the Treasury and other agencies; and
  - c) there may be opportunities to further join up government, local government, and non-government social inclusion work in the second half of 2020.
- 77 Cabinet agreed to include improving social inclusion as a goal for the government's thinking and planning for post COVID-19 Recovery. It noted that progress had been made on the design and assessment of the four additional intervention areas identified in the September 2019 Cabinet paper but the associated Budget 2020 bids had been put on hold as the government works through its post COVID-19 priorities.
- 78 Both the September 2019 and June 2020 Cabinet papers on social inclusion were prepared without any engagement with communities, civil society, local government or the private sector. Only the Human Rights Commission had some involvement.

## 2.8 Concluding comments

### A public discussion is required

- 79 Social cohesion remains an abstract term that is not well understood. As well it has become linked with ideas of assimilation. This is unfortunate. Social cohesion is an inclusive term that includes *all* of New Zealand’s communities, and is about respecting and discussing communities’ differences and developing some shared norms and experiences. We see social cohesion as enabling everyone to belong, participate and have confidence in public institutions. Public sector agencies are reluctant to talk about social cohesion as it has not been a government priority and even now government effort is focused on social inclusion, which is only one component of social cohesion.
- 80 Robin Peace and Paul Spoonley suggest that the move towards the concept of social inclusion is a “more transactional focus that foreshadowed waning political interest in the complexities of social cohesion”.<sup>44</sup> It is easier to focus on a process and concrete activities rather than on a concept that is perceived to be challenging to understand like social cohesion.
- 81 Before 15 March 2019, there was no leadership and coordination of New Zealand’s approach to building social cohesion or social inclusion at either the ministerial or Public sector agency level. Initial action was taken in September 2019 by Cabinet to identify a responsible ministerial portfolio and Public sector agency to coordinate government action on social inclusion. By June 2020 this coordination of effort was starting to bear fruit with the development of an initial social inclusion framework and recognition that it would benefit from further targeted feedback from some stakeholders. Explicit agreement that social inclusion is to be included as a goal in the government’s thinking and planning for the post COVID-19 Recovery is also positive.
- 82 The limited nature of a national dialogue about social cohesion was raised with us by communities, domestic and international experts and our Muslim Community Reference Group. A consistent view was that there is a need for a broad public discussion on what it means, the benefits, how it relates to acknowledging and upholding Te Tiriti o Waitangi and how it might be used to underpin policy development and service delivery.
- 83 It is difficult to see how such a discussion will occur if not led by ministers initially. As well, the input of communities, civil society, local government and the private sector will be vital to the success of the development of policies and programmes of work.

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<sup>44</sup> Robin Peace and Paul Spoonley, footnote 25 above at page 111.

### Data analysis and insights are required

- 84 Work is underway to explore measures and indicators of social inclusion. This work is being undertaken alongside other existing measurement frameworks, including the Living Standards Framework and others. Further data analysis and reporting are required in order to increase transparency, accountability and capability of Public sector agencies as the new social inclusion framework is refined, implemented and evaluated.
- 85 Public sector agencies must prioritise collecting relevant ethnic data on all of New Zealand's communities and monitoring the impact of policies and programmes. Transparency International New Zealand note:

*The executive's accountability for the impact of policies is not well institutionalised. Project and programme evaluation occurs in some sectors, but the public management system does not demand that major policies be independently monitored and evaluated. This exposes the government and the public to the risk that policy failures are not recognised and corrected.*<sup>45</sup>

- 86 More evaluation of the effectiveness of government policies and programmes is necessary. This will result in better informed decisions and ensure that the benefits of government policies and programmes can be shared equitably.<sup>46</sup>

### Ineffectiveness of the Office of Ethnic Communities

- 87 The effectiveness of the Office of Ethnic Communities has been significantly hampered by its limited resources and consequently its performance has been unsatisfactory. By 15 March 2019, the resources of the Office of Ethnic Communities were run-down. Its influence, visibility and standing with communities and in the Public sector were constrained. Limited sector leadership was being exercised.
- 88 Some positive developments have occurred post 15 March 2019. The Office of Ethnic Communities' status within the Department of Internal Affairs has improved, with its Executive Director now reporting directly to the chief executive. An increase in resources has provided an opportunity for the Office of Ethnic Communities to improve its capacity and ability to work across the Public sector and with communities. The additional resourcing will not remedy all deficiencies and rebuilding of capacity and capability will take time.
- 89 The strategic fit of the functions of the Office of Ethnic Communities within the Department of Internal Affairs as a business unit is awkward. Some community organisations have also asked for the Office of Ethnic Communities to be disestablished and for the functions to be exercised through a newly established Public service department, nominally referred to as the Ministry of Ethnic Communities. Our Muslim Community Reference Group preferred this approach.

<sup>45</sup> Transparency International New Zealand, footnote 28 above at page 135.

<sup>46</sup> Ronald Inglehart and Pippa Norris *Trump, Brexit, and the Rise of Populism: Economic Have-Nots and Cultural backlash* (Harvard Kennedy School Research Working Paper Series, 2016).

- 90 The Office of Ethnic Communities policy function also needs to improve. The Public sector has a duty of stewardship to look ahead and provide advice about future challenges and opportunities New Zealand faces. It is the responsibility of a chief executive to steward their agency's capability, and capacity to offer free and frank advice, which involves providing advice on emerging issues, vulnerabilities and opportunities for policy and service performance improvement.
- 91 The Office of Ethnic Communities should develop a data analytics capability – analysing data collected by the Public sector to identify the overall state of wellbeing for ethnic communities, the areas where the Public sector is performing well for ethnic communities, areas where improvements can be made and support for those improvements. Critical insights into where and how to direct Public sector efforts to increase ethnic communities' wellbeing is required.

#### **Community engagement practice needs to improve**

- 92 Community engagement is important to inform policy development and design effective and equitable policies and services. Public sector agencies engage with communities in many ways and there are helpful national and international guidelines to assist Public sector agencies to design appropriate community engagement strategies and plans.
- 93 While Public sector agencies involved in the counter-terrorism effort generally engage with individuals and communities from time to time, there appeared to be limited coherent community engagement strategies and plans in place (see *Part 8: Assessing the counter-terrorism effort*). In relation to Public sector agencies involved in social cohesion and social inclusion policies and programmes, we observed interaction at the agency level on specific policies and programmes with communities but did not examine the effectiveness of those engagements. As indicated earlier, we did however observe that communities were substantively involved in neither the design of the social cohesion programme initiated in 2017 nor the development of the September 2019 and June 2020 Cabinet papers.
- 94 There are substantial opportunities to significantly improve the depth and effectiveness of community engagement undertaken by Public sector agencies with communities, civil society, local government and the private sector in the development of policy and the design and delivery of government services. We make recommendations about social cohesion and inclusion in *Part 10: Recommendations*.

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## Chapter 3: Leadership of embracing New Zealand's increasing diversity

### 3.1 Overview

- 1 As we describe in *Part 2: Context*, New Zealand is much more diverse than many people assume. New Zealand is home to people from over 213 different ethnic groups and who speak over 150 languages (including the three official languages – English, te reo Māori and New Zealand sign language).
- 2 Subject to the continuing effects of the COVID-19 pandemic, immigration to New Zealand is projected to remain high for some years due to New Zealand's ageing population, workforce requirements and the desire to create opportunities to develop international linkages in an increasingly globalised trade environment. Similarly refugees will continue to arrive on our shores due to overseas conflicts.
- 3 In this chapter we consider how relevant Public sector agencies have responded to this, focusing on diversity and inclusion *within* the Public sector and its capability and capacity to work with communities.
- 4 We discuss these topics under the following headings.
  - a) Political sector leadership and public discussion.
  - b) Public sector leadership and coordination.
  - c) Diversity within the Public sector.
  - d) Cultural competency within the Public sector.
  - e) Role of the education system in embracing diversity.
  - f) Developments since 15 March 2019.

### 3.2 Political leadership and public discussion

- 5 Prior to 15 March 2019, the role of the minister of the state services (renamed minister for the public service in 2020) was to oversee the Public service system, ensuring that the work of the Public service aligned with overall government priorities, machinery of government matters, integrity and conduct, leadership and capability development and support for system-wide employment relations.
- 6 The minister for ethnic communities (renamed minister for diversity, inclusion and ethnic communities in 2020) was responsible for leading the government's policies on ethnic diversity by supporting ethnic communities to maximise the benefits of ethnic diversity for New Zealand. A feature of this ministerial portfolio was engaging directly and regularly with ethnic communities across New Zealand.



- 7 There has been limited public discussion on diversity and the economic and social benefits that it brings. What discussion there has been has focused on the gender pay gap, equal representation for women and diversity in senior leadership positions within the Public sector. Prior to 15 March 2019 there had been limited national dialogue on encouraging and adopting common values and inclusive social norms, including how to uphold New Zealand’s bicultural foundations while embracing New Zealand’s increasing multicultural communities as a strength. This is despite the Speech from the Throne in 2017 indicating “[t]his government aspires for this to be a country where all are accepted, no matter who they are, where they come from, how they live or what their religious beliefs are”.<sup>47</sup>
- 8 The limited nature of any national dialogue on diversity was raised with us by communities, domestic and international experts and our Muslim Community Reference Group.

### 3.3 Public sector leadership and coordination

#### Te Kawa Mataaho Public Service Commission

- 9 Te Kawa Mataaho Public Service Commission (formerly the State Services Commission) has a lead role in ensuring that Public sector agencies are building and maintaining a workforce with the capabilities to respond to an increasingly diverse New Zealand.

#### Human Rights Commission

- 10 The Human Rights Commission’s role is discussed in *Part 2: Context*. In relation to diversity it works for a free, fair, safe and just New Zealand, where diversity is valued and harmonious relations between individuals and among the diverse groups in New Zealand is encouraged. The Human Rights Commission states that:

*Harmonious race relations depend on the equal enjoyment of human rights by all, regardless of ethnic or national origins or skin colour. Harmonious race relations refer to the ways in which peoples who are ethnically diverse positively interact with one another. Such positive interaction is based on mutual respect for, and realisation of, each other’s rights, non-discrimination, and the recognition of and support for cultural diversity.*<sup>48</sup>

- 11 Since its 2012 report *A fair go for all? Rite tahi tātou katoa? Addressing Structural Discrimination in Public Services*, the Human Rights Commission has undertaken several projects to promote harmonious race relations. In 2016 it developed the first public campaign against racism – *Give Nothing to Racism: That’s Us*. It had also developed practical guidance and tools to help people to stand up to and eliminate racism.

<sup>47</sup> New Zealand Government *Speech from the Throne* (November 2017) <https://www.beehive.govt.nz/speech/speech-throne-2017>.

<sup>48</sup> Human Rights Commission website *Race Relations* <https://www.hrc.co.nz/our-work/race-relations-and-diversity/>.

- 12 Additional Human Rights Commission projects include monitoring the Convention on the Elimination of Racial Discrimination and supporting the Race Unit Speech Awards and Hui (a platform for senior high school students to express their ideas on how to improve race relations in New Zealand).<sup>49</sup>

### Public sector agencies focused on the wellbeing of diverse communities

- 13 There are several Public sector agencies that focus on enabling and supporting the wellbeing of diverse New Zealand communities:
- a) The **Ministry for Pacific Peoples** provides advice and support to the minister for Pacific peoples. It is the government's principal advisor on improving outcomes for Pacific people and communities. The Ministry is a government department, led by a chief executive. The Ministry has 49.5 full-time equivalent staff spread across its offices in Auckland, Wellington and Christchurch.
  - b) The **Ministry for Women** provides advice and support to the minister for women. It is the government's principal advisor on achieving better results for women. It also manages New Zealand's international reporting obligations on the status of women and provides women nominees for appointment to state sector boards and committees. It is a government department led by a chief executive. The Ministry has approximately 30 full-time equivalent staff. It is located in Wellington.
  - c) The **Ministry of Youth Development** provides advice and support to the minister for youth. It is the government's principal advisor on supporting and increasing the wellbeing of young people aged between 12 and 24 years old. The Ministry is a business unit within the Ministry of Social Development and it is led by a fourth tier general manager reporting to the group general manager for community partnerships and programmes who then reports to a deputy chief executive. The Ministry of Youth Development currently has 17.1 full-time equivalent staff. It is located in Wellington.
  - d) The **Office of Ethnic Communities** provides advice and support to the minister for diversity, inclusion and ethnic communities. We discuss the Office of Ethnic Communities in detail in chapter 2.
  - e) The **Office of Senior Citizens** provides advice and support to the minister for seniors. It is the government's principal advisor on the issues and concerns of older people, such as social isolation and elder abuse. The Office of Senior Citizens is a business unit within the Ministry of Social Development and is led by fourth tier director of the Office for Seniors reporting to the general manager, seniors and international policy who reports to a deputy chief executive. The Office of Senior Citizens has six full-time equivalent staff. It is located in Wellington.

<sup>49</sup> Human Rights Commission, footnote 48 above.

- f) **Te Arawhiti – Office for Māori Crown Relations** provides advice and support to the minister for Māori Crown relations: Te Arawhiti and the minister for Treaty of Waitangi negotiations. Its role and responsibilities are to develop the relationship between Māori and the Crown and to ensure that the Crown meets its Te Tiriti o Waitangi settlement commitments. Te Arawhiti is a departmental agency hosted by the Ministry of Justice and is led by a chief executive. Te Arawhiti currently has 242 full-time equivalent staff. It is located in Wellington.
- g) **Te Puni Kōkiri – Ministry of Māori Development** provides advice and support to the Minister for Māori Development. It is the government’s principal policy advisor on issues relating to Māori wellbeing and development. Te Puni Kōkiri is a government department led by a chief executive. It has 385 full-time equivalent staff, a national office and 17 regional and local offices.

14 Five of these Public sector agencies are small. They all have broad responsibilities. They partner with a wide range of organisations within the Public sector, and with communities, the private sector and civil society in order to maximise their impact and influence. They tend to focus on a small number of priorities where the biggest difference for that community can be made. It requires careful choices about how, where and when they become involved in particular issues.

### International examples

15 Many countries’ ethnic and religious demographics have changed and continue to do so. It is worth noting how some countries provide strategic and policy leadership to support their increasingly diverse populations:

- a) **Canada** – the Department of Canadian Heritage is made up of five sectors – Cultural Affairs, Sport, Community and Identity, Official Languages, and Strategic Policy, Planning and Corporate Affairs. It reports to the Minister of Canadian Heritage, the Minister of Economic Development and Official Languages, and the Minister of Diversity and Inclusion and Youth. The Department plays “a vital role in the cultural, civic and economic life of Canadians” by developing policies and programmes promoting “an environment where Canadians can experience dynamic cultural expressions, celebrate [their] history and heritage and build strong communities”.<sup>50</sup> Other population-specific agencies focus on the needs of particular groups including Crown-Indigenous Relations and Northern Affairs Canada, Indigenous Services Canada, National Seniors Council, Women and Gender Equality Canada and Youth.

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<sup>50</sup> Government of Canada *Raison d’être, mandate and role – Canadian Heritage*  
<https://www.canada.ca/en/canadian-heritage/corporate/mandate.html>.

- b) **Norway** – the Ministry of Culture is responsible for policy relating to culture, equality and discrimination, copyright, the media, sport and the voluntary sector, and reports to the Minister of Culture and Equality. Within this Ministry is the Department for Equality, Non-discrimination and International Affairs, which has sectoral and coordination responsibility for equality and non-discrimination policy and the implementation of international conventions, international cooperation in relevant fields, equality and non-discrimination legislation, cultural diversity and general international cultural matters.<sup>51</sup> The Ministry of Culture recently released *The Norwegian Government’s Action Plan against Racism and Discrimination on the Grounds of Ethnicity and Religion 2020-2023*.<sup>52</sup> The action plan includes a range of actions for the Ministry of Culture, working in conjunction with other relevant ministries, to strengthen efforts to fight against racism and discrimination.
- c) **Australia** – the Department of Home Affairs is responsible for multiculturalism policy and monitoring, with the aspiration that:

*Australia is a prosperous, safe and united country. Our inclusive national identity is built around our shared values including democracy, freedom, equal opportunity and individual responsibility.*

To support this, the Department of Home Affairs works with state governments and population-specific agencies such as Veterans’ Affairs, National Indigenous Australians Agency, Torres Strait Regional Authority and the Workplace Gender Equality Agency. In March 2017 the Department of Home Affairs published *Multicultural Australia, United, Strong, Successful – Australia’s multicultural statement*, which is “the Government’s public statement recommitting to multicultural Australia; setting both priorities and strategic directions for the coming years”.<sup>53</sup>

<sup>51</sup> Government of Norway *Department for Equality, Non-discrimination and International Affairs* <https://www.regjeringen.no/en/dep/kud/organisation/departments/departments-for-equality-non-discrimination-and-international-affairs/id2643750/>.

<sup>52</sup> Government of Norway *The Norwegian Government’s Action Plan against Racism and Discrimination on the Grounds of Ethnicity and Religion 2020-2023 (Extracted Version) (2020)* [https://www.regjeringen.no/contentassets/589aa9f4e14540b5a5a6144aaea7b518/action-plan-against-racism-and-discrimination\\_uu.pdf](https://www.regjeringen.no/contentassets/589aa9f4e14540b5a5a6144aaea7b518/action-plan-against-racism-and-discrimination_uu.pdf).

<sup>53</sup> Australian Government *Multicultural Australia, United, Strong, Successful – Australia’s multicultural statement (2017)* <https://www.homeaffairs.gov.au/mca/Statements/english-multicultural-statement.pdf>; Australian Government Department of Home Affairs website *Multicultural affairs* <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-affairs/about-multicultural-affairs/our-statement>.

### 3.4 Public sector diversity strategies

- 16 *Papa Pounamu* is the Public sector's diversity and inclusion work programme.<sup>54</sup> The programme is designed to help Public sector agency chief executives to achieve particular diversity and inclusion goals and obligations and has been in place since 2017.
- 17 Many Public sector agencies have developed organisational diversity and inclusion strategies and action plans. In the 2017–2018 year, 69 percent of the 36 Public sector agencies that completed the [Public] Service Commission's stocktake survey had a diversity and inclusion strategy or work plan.<sup>55</sup> For example the Government Communications Security Bureau and the New Zealand Security Intelligence Service launched a joint diversity and inclusion strategy in April 2018 called *Diversity is our first line of defence*.<sup>56</sup> This strategy noted that:

*Diversity is central to innovation. It brings forth new and better ways of doing things, helps us harness the benefit of technology and improve the efficiency and quality of our services. Inclusion is the key to unlocking this potential.*

*When we value workplace diversity and inclusion, we see benefits such as higher employee engagement, improved performance, greater innovation, retention of talent, improved employee wellbeing, lower levels of poor behaviour such as harassment and bullying and increased attractiveness to potential employees.*

- 18 Most strategies or plans we reviewed demonstrated an increasing awareness that diversity and inclusion strengthen both employees and the organisation and mean that the communities the Public sector agencies serve are likely to feel more valued, see themselves reflected in policies and programmes and know that their views will be heard and respected.

### 3.5 Diversity within the Public sector

- 19 Overall the New Zealand public service is diversifying. As at June 2019 the demographics of the total public service largely reflected those of the New Zealand population. However, the position is different in respect of chief executives and those in senior leadership positions (first, second and third tiers).

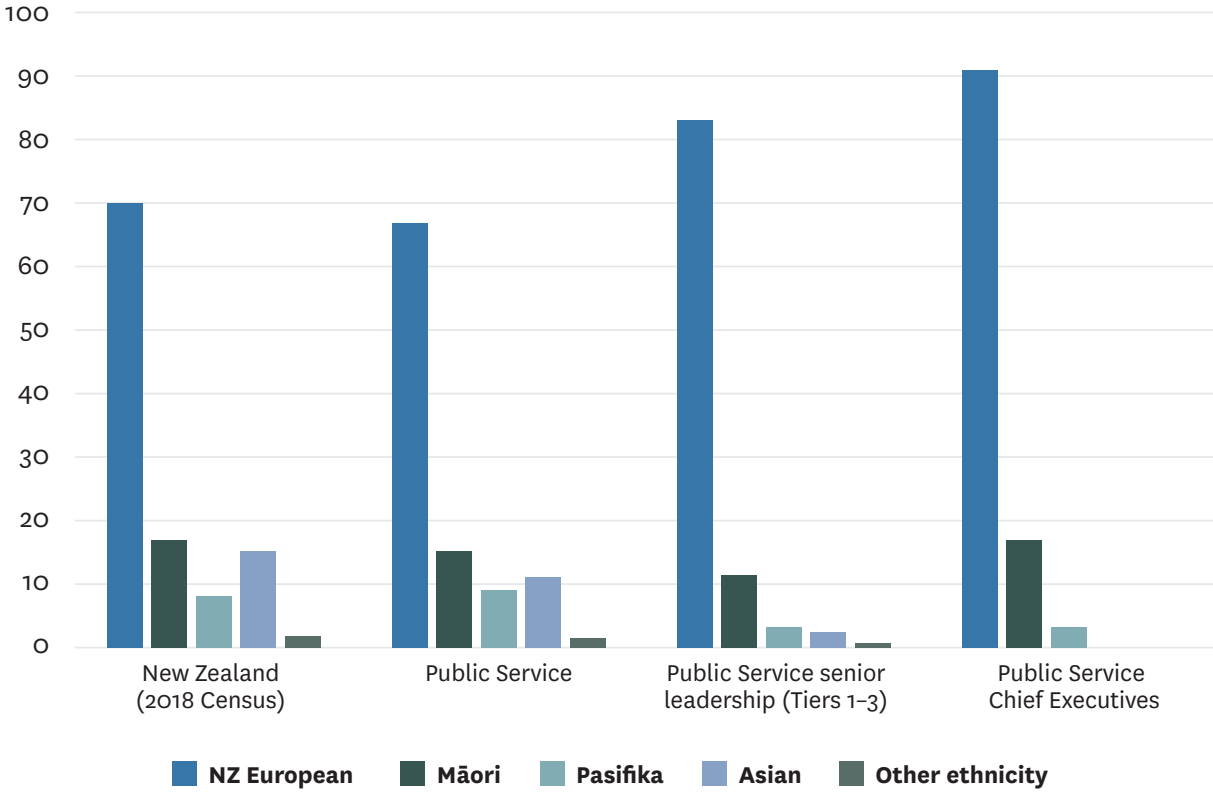
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<sup>54</sup> Te Kawa Mataaho Public Service Commission website *Papa Pounamu – Driving diversity and inclusion across the Public Service* <https://www.publicservice.govt.nz/our-work/diversity-and-inclusion/papa-pounamu-driving-diversity-and-inclusion-across-the-public-service/>.

<sup>55</sup> State Services Commission *What's happening with diversity and inclusion across the State sector (2017/18)* <https://gwn.govt.nz/assets/Resources/NZ-resources/DI-snapshot.pdf>.

<sup>56</sup> Government Communications Security Bureau and New Zealand Security Intelligence Service *Diversity is our first line of defence: Diversity and Inclusion Strategy 2017-2020* <https://www.gcsb.govt.nz/assets/GCSB-Documents/Diversity-and-Inclusion-Strategy.pdf>.

**Figure 49: Public service diversity (percentage of staff by ethnicity) as at June 2019 compared to the New Zealand population<sup>57</sup>**



<sup>57</sup> Stats NZ *Census 2018* <https://www.stats.govt.nz/2018-census/>; Te Kawa Mataaho Public Service Commission *Workforce demographic summary* (2019) <https://www.publicservice.govt.nz/our-work/workforce-data/workforce-demographic-summary/>.

**Table 15: Public service agency diversity (percentage of staff by ethnicity) (2019)<sup>58</sup>**

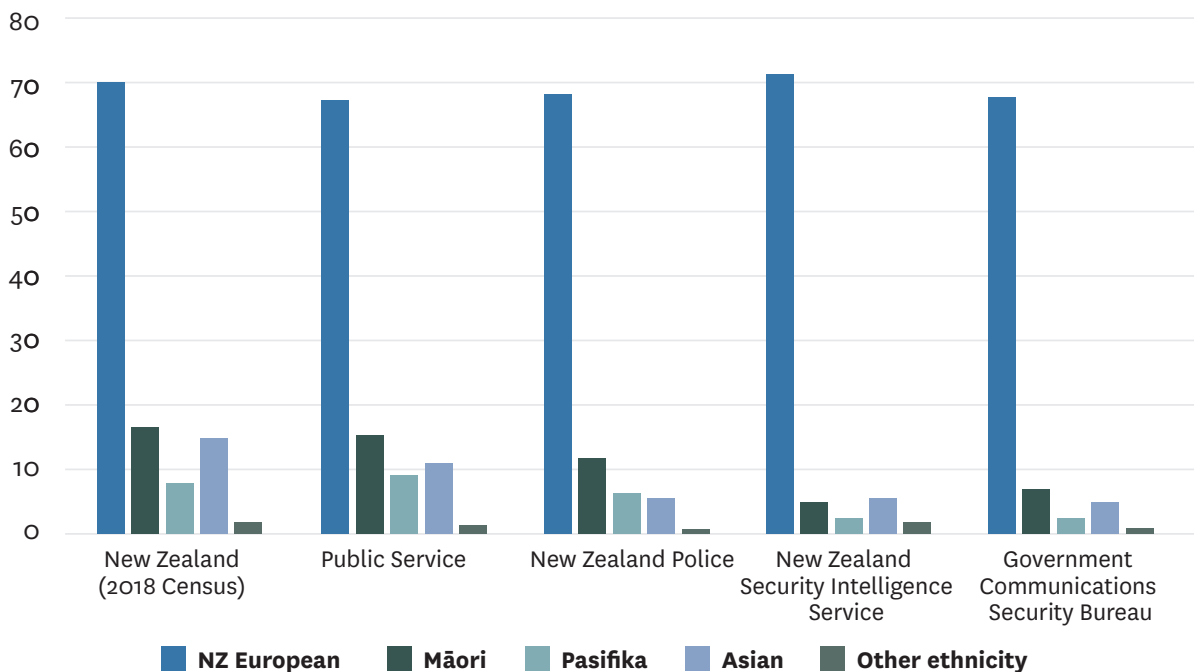
Agency	Headcount	European	Māori	Pacific	Asian	Middle Eastern, Latin American or African
Business Innovation and Employment	4229	49.8%	6.5%	7.7%	16.4%	1.5%
Conservation	2384	70.5%	13.2%	1.2%	3.2%	1.9%
Corrections	9633	71.0%	21.3%	11.8%	8.6%	2.1%
Crown Law	184	70.1%	8.2%	2.2%	7.6%	0.5%
Culture and Heritage	145	84.1%	12.4%	3.4%	6.2%	0.7%
Customs	1312	70.7%	9.9%	10.2%	15.4%	0.9%
Defence	147	64.6%	5.6%	2.8%	10.4%	3.5%
Education	3601	73.5%	12.8%	3.7%	8.3%	1.2%
Education Review Office	193	66.0%	21.5%	5.8%	4.7%	0.0%
Environment	386	72.3%	5.9%	1.4%	4.5%	0.8%
Foreign Affairs and Trade	1060	75.7%	11.5%	5.1%	8.1%	1.0%
Health	1205	83.2%	7.6%	4.6%	13.5%	0.7%
Housing and Urban Development	250	61.1%	22.2%	5.6%	11.1%	0.0%
Inland Revenue	5009	64.3%	12.3%	8.2%	16.0%	2.6%
Internal Affairs	2304	73.8%	10.8%	10.4%	11.2%	1.4%
Justice	3584	68.5%	12.9%	9.7%	12.9%	0.2%
Land Information NZ	702	69.4%	9.2%	3.2%	6.2%	1.2%
Te Puni Kōkiri	319	26.6%	74.3%	7.2%	3.4%	0.0%
Oranga Tamariki	4172	63.6%	26.5%	15.1%	8.5%	1.8%
Pacific Peoples	50	10.0%	10.0%	88.0%	4.0%	0.0%
Pike River	26	84.6%	3.8%	0.0%	0.0%	11.5%
Primary Industries	3137	70.2%	5.7%	3.1%	10.7%	1.7%
Prime Minister and Cabinet	264	90.0%	7.7%	2.7%	3.6%	0.0%
Serious Fraud Office	50	78.0%	2.0%	4.0%	10.0%	2.0%
Social Development	7041	61.1%	23.5%	16.3%	14.0%	1.3%
Social Investment Agency	34	85.2%	14.8%	3.7%	7.4%	0.0%
State Services Commission	142	88.8%	10.4%	3.7%	5.2%	0.0%
Stats NZ	1036	74.9%	4.4%	4.2%	19.6%	1.3%
Te Arawhiti	142	77.5%	18.3%	1.4%	2.8%	0.0%
Transport	163	85.9%	3.7%	0.0%	9.2%	0.6%
Treasury	531	81.5%	6.2%	1.4%	11.6%	1.5%
Women	26	61.5%	19.2%	3.8%	15.4%	0.0%
All Public Service	54304	67.3%	15.5%	9.2%	11.1%	1.5%

<sup>58</sup> Te Kawa Mataaho Public Service Commission, footnote 57 above.



- 20 We also reviewed the diversity of the Government Communications Security Bureau, New Zealand Police and the New Zealand Security Intelligence Service as they are not included in the information above. They confirmed to us that they recognised the importance of diversity in their work and they have strategies to reduce barriers in their recruitment practices.

**Figure 50: Diversity of intelligence and security agencies and New Zealand Police (percentage of staff by ethnicity) compared to the New Zealand population<sup>59</sup>**



- 21 Recruiting people from an ethnic background is not enough if the views and experiences they can contribute to Public sector work are not genuinely valued. For example, we heard from some New Zealand Police staff that recruiting ethnic people into New Zealand Police can seem as though it is “just to fill the numbers or to show the people, but it’s not from the heart”.

<sup>59</sup> Stats NZ, footnote 57 above; Te Kawa Mataaho Public Service Commission, footnote 57 above; New Zealand Police *Annual Report 2018/19* (2019) <https://www.police.govt.nz/sites/default/files/publications/annual-report-2018-2019.pdf>; New Zealand Security Intelligence Service *Annual Report 2018/19* (2019) <https://www.nzsis.govt.nz/assets/media/NZSIS-Annual-Report-2019.pdf>; Government Communications Security Bureau *Annual Report 2018/19* (2019) <https://www.gcsb.govt.nz/assets/GCSB-Annual-Reports/GCSB-Annual-Report-2019.pdf>.

### 3.5 Cultural competency within the Public sector

- 22 A diverse and culturally competent workforce would mean that Public sector agencies would more likely have the skills and knowledge to engage meaningfully with communities and be able to design policies and deliver services to equitably meet the needs of all New Zealanders. We were told that Public sector agencies are expected to authorise time for individuals and teams to fully engage in cultural competency learning by increasing awareness, building knowledge, acquiring skills, learning behaviours and developing attitudes that value diversity and inclusion.
- 23 There are initiatives underway in Public sector agencies to improve cultural competency. In 2017–2018, 58 percent of relevant Public sector agencies had a programme to build the cultural competency of their employees.<sup>60</sup> For example, the Office of Ethnic Communities offers an *Intercultural Capability* online training course to support the promotion of the benefits of ethnic diversity.<sup>61</sup> This introductory course is aimed at increasing people’s cultural understanding to better interact or communicate with people from different backgrounds. The course is made up of four modules and focuses on understanding what culture is and how it impacts on communication and behaviour.
- 24 In 2016 and 2017 staff from the Government Communications Security Bureau and the New Zealand Security Intelligence Service attended a two-day external training course called *Introduction to Islam and the Muslim World*. The course covered basic terminology, major religious holidays and the roles of Sheikhs/Imams and women in Islam. It also outlined the denominations of Islam and the differences in beliefs and practices. Since 2018, Government Communications Security Bureau staff have also had the option of attending a half-day workshop called *Islam and the Muslim World*.
- 25 New Zealand Police told us they understand that working with ethnic and religious communities requires staff to have a high level of cultural competency and that they are committed to improving staff cultural competency. Some, but limited, time is devoted to building these competencies during new recruit training at the New Zealand Police College. There was no further cultural competency training offered for staff.

### 3.7 Role of the education system in embracing diversity

- 26 New Zealand’s education system provides a foundation set of skills for young people to understand and appreciate ethnic and religious diversity.

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<sup>60</sup> State Services Commission, *footnote 55 above*.

<sup>61</sup> Office of Ethnic Communities *Intercultural Capability E-learning*  
<https://www.ethniccommunities.govt.nz/resources-2/intercultural-capability/>.

- 27 The social sciences curriculum is the primary method for teaching students about different cultures, values and diversity. This curriculum covers a wide range of subjects. The learning objectives for National Certificate of Educational Achievement (NCEA) Level 3 Social Sciences are to understand how:
- a) cultural practices vary but reflect similar purposes;
  - b) early Polynesian and British migrations to New Zealand have continuing significance for tangata whenua and communities;
  - c) groups make and implement rules and laws;
  - d) people make decisions about access to and use of resources;
  - e) people remember and record the past in different ways;
  - f) people view and use places differently; and
  - g) the movement of people affects cultural diversity and interaction in New Zealand.<sup>62</sup>
- 28 We have not assessed the extent to which the social sciences curriculum reinforces the value and implications of diversity in New Zealand.
- 29 The education system includes:
- a) religious studies – learning about the role religion has played in politics, culture, art, history or literature; and
  - b) religious instruction – classes run by voluntary groups having an implicit or explicit endorsement of a particular religion and/or encouraging students to engage with and make decisions about accepting it on a personal level.
- 30 There are also National Certificate of Educational Achievement (NCEA) Levels 1, 2 and 3 achievement standards on religious studies.<sup>63</sup> This is quite separate from religious instruction. The rationale for these standards is that:

*... they have been developed for a diverse Aotearoa New Zealand and need to be able to be used by all schools and all students – by those with a specific religious affiliation as well as by those who have none but wish to acquire knowledge and understanding of religions.*<sup>64</sup>

<sup>62</sup> Ministry of Education website *New Zealand Curriculum Online: Social Sciences* <https://nzcurriculum.tki.org.nz/The-New-Zealand-Curriculum/Social-sciences/Achievement-objectives#collapsible3>.

<sup>63</sup> Te Kete Ipurangi website *Resources for Internally Assessed Achievement Standards: Religious studies* <https://ncea.tki.org.nz/Resources-for-Internally-Assessed-Achievement-Standards/Social-sciences/Religious-studies>.

<sup>64</sup> Te Kete Ipurangi website, footnote 63 above.

- 31 We did not review the quality of religious studies in New Zealand schools or the numbers of students who study these subjects. We do note that these studies have the potential to increase the cultural competency of New Zealand school students. If this potential is realised, students will carry these competencies into adulthood.
- 32 Religious instruction in primary and intermediate schools has at times been contentious. Primary and intermediate schools are able to offer one hour of religious instruction per week for a maximum of 20 hours per year.<sup>65</sup> A student enrolled at a school that is government owned or funded (a state school) can only take part in religious instruction if the student's parent has approved this in writing to the school principal. Religious instruction exceeding one hour per week may be made available if a majority of parents wish for this to happen and certain other conditions are met.<sup>66</sup>

### 3.8 Developments since 15 March 2019

- 33 Since the 15 March 2019 terrorist attack, there have been a number of developments reflecting greater priority being given to embracing and supporting New Zealand's increasing diversity.

#### Increased focus on diversity and inclusion matters

- 34 In August 2020 the Public Service Act 2020 came into force. The purposes of the Act, amongst other things, are:

#### 3 Purposes of this Act

The purposes of this Act are—

- (a) to continue the public service and modernise its operation, while recognising and enhancing the non-legislative conventions that it operates under:
- (b) to set out the shared purpose, principles, and values of the public service and the people working in it:
- (c) to establish organisational forms and ways of working, including across public services, to achieve better outcomes for the public.<sup>67</sup>

...

- 35 In relation to workforce diversity, the Public Service Act requires Public service chief executives to be guided by the principle that Public service employees should reflect the make-up of society and to ensure that employment policies and practices foster a workplace that is inclusive of all groups.<sup>68</sup>

<sup>65</sup> Education and Training Act 2020, section 57.

<sup>66</sup> Education and Training Act 2020, section 56.

<sup>67</sup> Public Service Act 2020, section 3.

<sup>68</sup> Public Service Act 2020, section 75.

- 36 The Public Service Act sets out mechanisms for the Public Service Commissioner to:
- a) brief the minister for the public service on the state of the public service once every three years including, amongst other things, an assessment of whether and the extent to which public service agencies are achieving workforce diversity and inclusiveness (which the minister must present to the House of Representatives);<sup>69</sup> and
  - b) draft advice and guidance on government workforce policy and, after consulting the affected agencies and other parties that the Commissioner thinks fit, submit it to the minister for consideration.<sup>70</sup>
- 37 *Papa Pounamu*, the chief executive forum for discussing diversity and inclusion matters, is now led by Naomi Ferguson, Chief Executive of Inland Revenue and Peter Mersi, Chief Executive of the Ministry of Transport. These two chief executives are responsible for leading diversity and inclusion work across the Public service. They support chief executives to meet the obligations and expectations set out in the Public Service Act. The overall aim of the work programme is to consistently grow diversity and inclusion capability. Public sector chief executives have agreed to make the five 2020–2021 *Papa Pounamu* work programme priorities mandatory within their Public sector agencies. The five priorities are:
1. *Cultural competence: Reflecting the significance of the Crown-Māori relationship and building Public sector cultural competence and confidence, across the broadest range of cultures is integral to ensuring inclusion.*
  2. *Bias: Addressing bias is a critical factor in ensuring everyone in the Public service has fair opportunity in recruitment, career progression and development opportunities.*
  3. *Leadership: How chief executives lead across the Public Service matters. Diversity and inclusion capability across the system depends on strong, inclusive leadership.*
  4. *Build relationships: Inclusion and belonging is dependent upon having a diverse range of supportive relationships in Public sector agency workplaces. Chief executives intentionally draw upon those relationships to create positive change.*
  5. *Employee-led networks: Having a space and mandate to connect with others with shared lived experiences supports people to bring their whole selves to work. Employee-led networks provide richness to workplaces and contribute valuable subject matter expertise.<sup>71</sup>*

<sup>69</sup> Public Service Act, Schedule 3, clause 16 (4)(a)(v).

<sup>70</sup> Public Service Act, section 96.

<sup>71</sup> Te Kawa Mataaho Public Service Commission website, footnote 54 above.

38 Chief executives have also outlined what the successful implementation of these priorities will look like:

*Our high-level success indicators will help us determine how we're going:*

1. *Discrimination is eliminated: all aspects of public service practices are free from bias and discrimination*
2. *The Public Service is fully accessible and everyone can participate: the Public Service provides a welcoming environment for everyone*
3. *We understand the make-up of our workforce and society: we collect consistent, good quality data*
4. *We report on diversity and inclusion progress and revise our plans as needed: we are transparent about progress and whether our actions are generating the desired outcomes.*<sup>72</sup>

39 These pledges are additional to existing diversity and inclusion commitments that many Public sector agencies have.

40 In October 2020, *Mana Āki*, a cultural competence training course was launched by the Ministry of Business, Innovation and Employment.<sup>73</sup> *Mana Āki* consists of eight online modules and four team discussions. It takes approximately eight weeks to complete.

### **Treasury guidance**

41 In August 2020, the Treasury issued guidance<sup>74</sup> requiring Public sector agencies to include in their annual reports specific evidence or examples of action within their agency in line with the five *Papa Pounamu* priority areas outlined above.

### **Human Rights Commission**

42 In July 2020 the Human Rights Commission launched two anti-racism campaigns, *Give No Voice to Racism* and *Racism is No Joke*, the latter an attempt to counter the rise in racism against some communities following the spread of COVID-19.

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<sup>72</sup> Te Kawa Mataaho Public Service Commission website, footnote 54 above.

<sup>73</sup> Te Kawa Mataaho Public Service Commission website *Cultural Competence* <https://www.publicservice.govt.nz/our-work/diversity-and-inclusion/papa-pounamu-driving-diversity-and-inclusion-across-the-public-service/cultural-competence/>.

<sup>74</sup> The Treasury *Year End Reporting: Departmental Annual Reports and End-of-Year Performance Information on Appropriations* (2020).

### 3.9 Concluding comments

- 43 Public discussion on diversity – what it is, its benefits and what it means for multiculturalism and Te Tiriti o Waitangi – is largely absent.
- 44 The Public sector workforce is diversifying, and this must continue to be a priority for all Public sector agencies (especially for those Public sector agencies involved in the counter-terrorism effort, where workforce diversity figures are low and need to be addressed more actively). An aspect of this will be supporting workforce diversity at the first, second and third tiers.
- 45 *Papa Pounamu* is a worthwhile venture that must continue to promote and require diversity of the Public sector’s workforce.
- 46 The Public Service Act includes some new mechanisms that will assist with transparency of Public sector actions in relation to their diversity and inclusion workforce strategy and plans. Given the issues in recruiting and retaining a diverse workforce in the Public sector agencies involved in the counter-terrorism effort, annual reports (rather than three-yearly as envisaged by the Act), providing an overview of progress on the *Papa Pounamu* commitments would be beneficial. They should include the identification of areas where those Public sector agencies are performing well, areas where improvements can be made and critical insights across all agencies about where to direct their efforts. Annual reporting on all Public sector agencies’ progress would be valuable too.
- 47 Ensuring that the Public sector workforce is culturally competent must remain a priority. All Public sector agencies require a much better understanding of the nature and extent of New Zealand’s diverse population so they can develop effective and equitable policies and programmes. While work is underway, more could be done to boost these efforts.
- 48 New Zealand’s education system provides an opportunity to empower young people by providing them with tools to understand and embrace diversity. School programmes that offer these opportunities should remain a priority for New Zealand’s education system to ensure future generations are equipped to participate fully and flourish in New Zealand’s future.
- 49 Since the 15 March 2019 terrorist attack, there have been a number of further developments reflecting greater priority being given to embracing and supporting New Zealand’s increasing diversity. How impactful these initiatives might be is yet to be seen. We make recommendations about embracing diversity in *Part 10: Recommendations*.



## Chapter 4: Hate crime and hate speech

### 4.1 Overview

- 1 In this chapter we look at New Zealand’s laws addressing hate crime and hate speech and how New Zealand Police deal with reports of hate-motivated offending. We consider that aspects of New Zealand’s legal framework and New Zealand Police practice need to be improved. Our guiding principles are the protection of all sections of the New Zealand community and the promotion of social cohesion consistently with the values of a free and democratic society.
- 2 Developing appropriate legal responses to hate-motivated offending involves reasonably difficult legal issues. These include the impact of the New Zealand Bill of Rights Act 1990 on statutory interpretation, New Zealand’s international obligations, certain practicalities associated with how criminal trials are conducted and technical questions of legal drafting. These and other issues are discussed in our companion paper *Hate speech and hate crime related legislation*. In this chapter we identify what we consider to be the key issues on which we base our recommendations (see *Part 10: Recommendations*).
- 3 In everyday language, a hate crime means an offence that is motivated by the offender’s hostility to the victim as a member of a group that has a common characteristic, such as race, religion or sexual orientation. An example is an assault against a person wearing religious attire that was motivated by the offender’s hostility towards that particular religion. In legal language, hate crime has practically the same meaning except that the law creating a hate crime will define the relevant characteristics covered by the offence (these are usually called “protected characteristics”).<sup>75</sup> Since the conduct amounting to hate crime (for example an assault) is already illegal, it is easy to treat a hate motivation either as a factor that can be taken into account for sentencing purposes (which is New Zealand’s current approach) or as an element of a separately created hate-motivated offence.
- 4 Hate speech is a less precise term. In this report we will generally use the expression hate speech to mean speech that expresses hostility towards, or contempt for, people who share a characteristic. Legislation that creates hate speech liability (which can be civil or criminal) specifies what types of speech are captured and characteristics that are protected. In this chapter we are mainly concerned with the circumstances in which hate speech can, and should, be criminalised.
- 5 Unlike a hate crime, conduct criminalised by a hate speech offence – in this case, what has been said – is not independently illegal. The difference between legally criminalised hate speech and the vigorous exercise of the right to express opinions is not easy to capture in legislative language. As well, the more far reaching a law creating hate speech offences, the greater the potential for inconsistency with the right to freedom of expression under section 14 of the New Zealand Bill of Rights Act. Under section 5 of the New Zealand Bill of Rights Act, the right to freedom of expression may be:

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<sup>75</sup> See United Kingdom Law Commission *Hate Crime: Background to our Review* (March 2019) at page 5.

... subject to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

- 6 There is considerable scope for argument and controversy as to what are “reasonable limits” to the right to freedom of expression.
- 7 Similar considerations apply, although not quite so intensely, to imposing civil liability for hate speech.
- 8 A decision to create hate speech offences has to balance a number of overlapping and conflicting considerations, including:
  - a) the promotion of social cohesion;
  - b) the desirability of limiting speech that encourages hostility that may result in harms such as discrimination and abuse, fears of physical harm and actual violence;
  - c) the importance of freedom of expression; and
  - d) ensuring that the law can practically be enforced.
- 9 Language that detracts from social cohesion (such as jokes at the expense of marginalised communities), which was once not subject to much, if any, social sanction, is increasingly unacceptable in a democratic society. But it is highly debateable whether language that has a negative impact on social cohesion should, for this reason alone, be subject to criminal, as well as social, sanctions.
- 10 In New Zealand, there are five statutes that impose liability or provide remedies for hate speech. They are:
  - a) the Human Rights Act 1993;
  - b) the Summary Offences Act 1981;
  - c) the Harmful Digital Communications Act 2015;
  - d) the Broadcasting Act 1984; and
  - e) the Films, Videos, and Publications Classification Act 1993.
- 11 We discuss all of them later in this chapter.
- 12 Although hate crime and hate speech are, at least for legal purposes, different concepts, they are linked by underlying commonalities and, in terms of their consequences, sit on the same spectrum of behaviours (see *Part 2: Context*).

13 Research shows that there is a link between hate speech and hate crime.<sup>76</sup> A recent study investigated whether there is a link between hate speech online and hate crime offline.<sup>77</sup> Researchers collected Twitter and Police-recorded hate crime data over an eight-month period in London and built a series of statistical models to identify whether there is a significant association.<sup>78</sup> The results of the study indicated “a consistent positive association between Twitter hate speech targeting race and religion and offline racially and religiously aggravated offences in London”.<sup>79</sup> What this demonstrates is that “online hate victimisation is part of a wider process of harm that can begin on social media and then migrate to the physical world”.<sup>80</sup> The study notes that if “we are to explain hate crime as a process and not a discrete act, with victimisation ranging from hate speech through to violent victimisation, social media must form part of that understanding”.<sup>81</sup> There is value therefore in seeking to reduce hate speech online and offline, not only to prevent the direct harm it causes but also to limit escalation of hate speech to hate crime.

14 It is also plausible to see a link between hate crime and terrorism. Another recent study concluded:

*Through the use of multiple data sources, this study uncovers the positive associations between hate crime and terrorism. In the context of intergroup conflict, there appears to be a continuum between the bias-motivated actions of non-extremists to the hate crimes and terrorist acts committed by far-rightists, with the presence of one type of activity seeing an escalation in the next type. As a result, it appears that hate crime and terrorism may be more akin to close cousins than distant relatives.*<sup>82</sup>

15 The rest of this chapter will cover:

- a) hate crime;
- b) sections 61 and 131 of the Human Rights Act;
- c) other laws addressing hate speech; and
- d) reporting and recording of hate-motivated offending.

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<sup>76</sup> InternetNZ *Online Hate and Offline Harm* (8 May 2019); Matthew L Williams and others “Hate in the Machine: Anti-Black and Anti-Muslim Social Media Posts as Predictors of Offline Racially and Religiously Aggravated Crime” (2020) 60(1) *British Journal of Criminology*.

<sup>77</sup> Matthew L Williams and others, footnote 76 above.

<sup>78</sup> Matthew L Williams and others, footnote 76 above at page 94.

<sup>79</sup> Matthew L Williams and others, footnote 76 above at page 111.

<sup>80</sup> Matthew L Williams and others, footnote 76 above at page 114.

<sup>81</sup> Matthew L Williams and others, footnote 76 above at page 112.

<sup>82</sup> Colleen E Mills, Joshua D Freilich and Steven M Chermak “Extreme Hatred: Revisiting the Hate Crime and Terrorism Relationship to Determine Whether They Are ‘Close Cousins’ or ‘Distant Relatives’” (2017) 63(10) *Crime & Delinquency*.

## 4.2 Hate crime

### The current law

- 16 Leaving aside for the moment the offence created by section 131 of the Human Rights Act (which we discuss later in this chapter), there are no specific hate crime offences in New Zealand. This means that there are no offences in which a hate motivation is an element of the offence.
- 17 A hate motivation for an offence is, however, an aggravating factor under the Sentencing Act 2002 and can be taken into account by the judge who sentences the offender. Under section 9(1)(h), protected characteristics include any:

... enduring ... characteristic such as race, colour, nationality, religion, gender identity, sexual orientation, age, or disability ... .

- 18 The acts of criminal harassment that were reported to us by Muslim communities predominantly involved assaults, offensive and threatening behaviour and intimidation. Assault can be prosecuted under either the Crimes Act or the Summary Offences Act. Offensive and threatening behaviour and intimidation can be prosecuted under the Summary Offences Act. A hate motivation for such harassment can be considered during sentencing as an aggravating factor (providing that the offender is prosecuted and convicted).
- 19 The Summary Offences Act has limitations. Apart from assaults, it applies only to conduct that occurs in a public place. As well, penalties for offences under the Summary Offences Act are low (for example, the maximum penalty for a conviction of offensive behaviour or language is a fine of \$1000). Where the maximum penalty is a fine, taking a hate motivation into account during sentencing would not have much practical effect.
- 20 A hate motivation for offences is not recorded in charges and convictions, even if it is taken into account during sentencing. This means that recorded convictions do not capture the full blameworthiness (culpability) of the offenders. This limits the signalling effect of prosecution and conviction and means possible needs for rehabilitative interventions are not highlighted.
- 21 The creation of hate crime offences would provide a signal that hate-motivated offences are taken seriously and, for this reason, would be likely to result in increased reporting to New Zealand Police of such offences.

## A model for change

- 22 New Zealand’s approach to hate crime – that a hate motivation can be taken into account at sentencing – is not unusual. Some overseas jurisdictions including Canada and some Australian states deal with hate-motivated offending in this way.<sup>83</sup>
- 23 In England and Wales a different approach is taken. There, the significance of a hate motivation is also recognised by making that motivation an element of some offences. Where a hate motivation is an element of the offence, the maximum penalties are higher than for the underlying offence itself.
- 24 For example, under the Crime and Disorder Act 1998 (United Kingdom), the hate motivation element of the offences results in much higher penalties than for the underlying offences. The higher penalties reflect the culpability of hate-motivated offending. The hate-motivated element of offences ensures that the criminal records of offenders (which will record that element) reflect the seriousness of their offending. This is likely to have at least some deterrent effect and, perhaps more significantly, an effect on societal norms.<sup>84</sup>
- 25 This model could be substantially replicated in New Zealand by creating new hate-motivated offences in the Summary Offences Act and the Crimes Act, being:
- a) hate-motivated offences for offensive behaviour and language, assault, wilful damage and intimidation that correspond with existing offences in the Summary Offences Act; and
  - b) hate-motivated offences for assault, arson and intentional damage that correspond with existing offences in the Crimes Act.

## 4.3 Sections 61 and 131 of the Human Rights Act

### The relevant international instruments

- 26 Article 4(a) of the *International Convention on the Elimination of All Forms of Racial Discrimination* requires states to:

*[D]eclare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origins.*<sup>85</sup>

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<sup>83</sup> See the Canadian Criminal Code RSC 1985 c C-46, section 718.2; Crimes (Sentencing Procedure) Act 1999 (New South Wales), section 21A(2)(h); Sentencing Act 1995 (Northern Territory), section 6A(e); and Sentencing Act 1991 (Victoria), section 5(2)(daaa).

<sup>84</sup> As noted by John Ip “Debating New Zealand’s Hate Crime Legislation: Theory and Practice” (2005) 21 NZULR 575 at page 595 in the context of section 9(1)(h) of the Sentencing Act.

<sup>85</sup> United Nations *International Convention on the Elimination of All Forms of Racial Discrimination* 660 UNTS 195 (opened for signature 21 December 1965, entered into force 4 January 1969) .

- 27 The introduction to article 4 provides further explanation as to its purpose:

*States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights ... .*

- 28 Article 4 of the *International Convention on the Elimination of All Forms of Racial Discrimination* was implemented in New Zealand by the Race Relations Act 1971, section 25 of which introduced an offence of inciting racial hatred (corresponding to what is now section 131 of the Human Rights Act). And civil liability (broadly along the lines of what is now section 61 of the Human Rights Act) was introduced in section 9A of the Human Rights Commission Act 1977. Section 9A was repealed in 1989 but was in substance re-enacted as section 61 of the Human Rights Act.

- 29 Article 20 of the *International Covenant on Civil and Political Rights* provides:<sup>86</sup>

#### Article 20

1. *Any propaganda for war shall be prohibited by law.*
2. *Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.*

- 30 New Zealand has entered a reservation to article 20:

*The Government of New Zealand, having legislated in the areas of the advocacy of national and racial hatred and the exciting of hostility or ill will against any group of persons, and having regard to the right of freedom of speech, reserves the right not to introduce further legislation with regard to article 20.*

<sup>86</sup> United Nations *International Covenant on Civil and Political Rights* 999 UNTS 171 (opened for signature 16 December 1966, entered into force 23 March 1976).

## The current law

- 31 Section 61(1) creates a civil liability for speech that is “likely to excite” hostility (or other consequences):

### 61 Racial disharmony

- (1) It shall be unlawful for any person—
- (a) to publish or distribute written matter which is threatening, abusive, or insulting, or to broadcast by means of radio or television or other electronic communication words which are threatening, abusive, or insulting; or
  - (b) to use in any public place as defined in section 2(1) of the Summary Offences Act 1981, or within the hearing of persons in any such public place, or at any meeting to which the public are invited or have access, words which are threatening, abusive, or insulting; or
  - (c) to use in any place words which are threatening, abusive, or insulting if the person using the words knew or ought to have known that the words were reasonably likely to be published in a newspaper, magazine, or periodical or broadcast by means of radio or television,—

being matter or words likely to excite hostility against or bring into contempt any group of persons in or who may be coming to New Zealand on the ground of the colour, race, or ethnic or national origins of that group of persons.

- 32 Section 131(1) creates a criminal offence for speech that is used with “intent to excite” hostility (or other consequences). A prosecution for this offence can be brought only with the consent of the Attorney-General.<sup>87</sup>

### 131 Inciting racial disharmony

- (1) Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$7,000 who, with intent to excite hostility or ill-will against, or bring into contempt or ridicule, any group of persons in New Zealand on the ground of the colour, race, or ethnic or national origins of that group of persons,—
- (a) publishes or distributes written matter which is threatening, abusive, or insulting, or broadcasts by means of radio or television words which are threatening, abusive, or insulting; or

<sup>87</sup> Human Rights Act 1993, section 132.



(b) uses in any public place (as defined in section 2(1) of the Summary Offences Act 1981), or within the hearing of persons in any such public place, or at any meeting to which the public are invited or have access, words which are threatening, abusive, or insulting,—

being matter or words likely to excite hostility or ill-will against, or bring into contempt or ridicule, any such group of persons in New Zealand on the ground of the colour, race, or ethnic or national origins of that group of persons.

- 33 The primary (although not the only) difference between the sections is that liability under section 131 depends on an “**intent** to excite” hostility whereas liability under section 61 can be established where the speech used is “**likely** to excite” such hostility.
- 34 Section 131 of the Human Rights Act may have some value as a statement of what is and is not acceptable behaviour in New Zealand, but it is not practicable to enforce. The position is similar under section 61. There has only been one prosecution under section 131 and two claims under section 61. These are discussed in detail in our companion paper *Hate speech and hate crime related legislation*. Only one warrants particular mention in this chapter – the 2018 decision of the High Court in the *Wall* case.<sup>88</sup>
- 35 The *Wall* case concerned newspaper cartoons relating to an announcement that government would fund the expansion of a free breakfast in schools programme. The central characters in the cartoons were Māori or Pasifika people, depicted as negligent parents preoccupied with alcohol, cigarettes and gambling at the expense of their children’s welfare. It was accepted by both parties in the *Wall* case that the cartoons were insulting. The issue, therefore, was whether the cartoons were likely to bring Māori or Pasifika people into contempt (or excite hostility against them). The High Court found that they were not, and dismissed the case.
- 36 In the *Wall* case, the complainant argued that, under section 61 of the Human Rights Act, it is unlawful to use language about a protected group that is “insulting” and is intended, and likely, to result in the protected group being brought into contempt or ridicule. This is a low threshold for civil liability and can be expected to result in considerable push-back on freedom of expression grounds.
- 37 In the *Wall* case, the High Court found that the language in section 61 (“hostility against or bring into contempt”) should be applied “only to relatively egregious examples of expression which inspire enmity, extreme ill-will or are likely to result in the group being despised”.

<sup>88</sup> *Wall v Fairfax New Zealand Ltd* [2018] NZHC 104, [2018] 2 NZLR 47.

- 38 The *Wall* case involved civil liability under section 61 but the same language appears in section 131. The requirement for the Attorney-General's consent to bring a prosecution under section 131 of the Act should filter out prosecutions that have no merit. However, consent requirements of this kind are not a justification for overly broad offences – that is, offences that are defined in a way that captures conduct not worthy of criminal prosecution.
- 39 Where prosecutions are brought, judges seeking to allow for freedom of expression will not find much assistance in the language of section 131. This results in the apparently low liability threshold being significantly increased by judicial interpretation but in ways that create considerable uncertainty. “Relatively egregious” (the standard adopted in the *Wall* case) is not a satisfactory test for the imposition of criminal liability.

#### **Sharpening the focus of the statutory language**

- 40 In the words “intent to excite hostility or ill-will”, the verb “excite” is used in a slightly unusual sense and suggests causation. This means that an “intent to excite” cannot be established without showing an intention to either cause “hostility or ill-will” that did not previously exist, or enhance or increase pre-existing “hostility or ill-will”. It logically follows that preaching hatred to the already converted would not breach section 131. This point too is discussed in the *Wall* case.
- 41 Section 131 of the Human Rights Act would be improved if the word “excite” were removed and replaced with a term like “stir up”, which is used in corresponding legislation in the United Kingdom. The “preaching hatred to the converted” issue could be resolved by adding the verbs “maintain” and “normalise”.
- 42 As the *Wall* case illustrates, the words “excite hostility against or bring into contempt” set a liability threshold that is lower than the courts are prepared to accept for the purposes of civil liability under section 61 of the Human Rights Act. This is also the case with the corresponding language in section 131, “excite hostility or ill-will against, or bring into contempt or ridicule”. A modified section 131 would be far more straight-forward to apply if “hostility”, “ill-will”, “contempt” and “ridicule” were replaced by a term like “hatred” as it implies extreme dislike or disgust, including an emotional aversion. If the offence was reframed in this way, it would not be subject to restrictive and imprecise interpretations by the courts (such as “relatively egregious”) and could be more easily relied on in appropriate cases.
- 43 This reframing would focus the offence on stirring up or provoking hatred of a group of persons defined by their protected characteristic.
- 44 Associated with the point just made, we consider that explicit and implicit calls for, or normalising of, violence should be expressly addressed in the offence. Such calls for, and normalising of, violence are towards the most damaging end of the continuum of harmful behaviour (see Part 2, chapter 5). At this end of the continuum, freedom of expression arguments are at their weakest and criminal sanctions are most obviously warranted.

- 45 In a prosecution under section 131, the prosecution is currently required to prove:
- a) a publication that is “threatening, abusive, or insulting”;
  - b) an intent to “excite hostility or ill-will against, or bring into contempt or ridicule” people sharing a protected characteristic; and
  - c) that the publication was “likely to excite hostility or ill-will against, or bring into contempt or ridicule” people sharing that protected characteristic.
- 46 In a situation where the first two elements can be made out (a threatening, abusive or insulting publication and an intent to “excite hostility”), we see the third element as having little or no bearing on whether the conduct is sufficiently culpable to justify in a charge. It is thus unnecessary.

### Protected characteristics

- 47 The protected characteristics provided for in sections 61 and 131 of the Human Rights Act do not include religious belief. As we discuss in our companion paper *Hate speech and hate crime related legislation*, the general drift of court decisions and academic commentary is that Jews and Sikhs can be regarded as ethnic groups (and thus protected by section 131) but that this is not the case with followers of Islam or Christianity. Without seeking to challenge the reasoning of the particular court decisions, we consider that the resulting distinctions are not logical.
- 48 We consider that religious belief should be included in the characteristics protected under section 131, given that:
- a) under section 9(1)(h) of the Sentencing Act, “religion” is a protected characteristic;
  - b) in other jurisdictions, similar legislative provisions have been amended to include religion as a protected characteristic;<sup>89</sup>
  - c) it would bring New Zealand into compliance with article 20(2) of the *International Covenant on Civil and Political Rights*, which we have set out earlier in this chapter;
  - d) it is not logical that affiliation with Judaism and Sikhism are protected characteristics but affiliation with other religions such as Islam or Christianity are not;
  - e) the very clear overlap between Islamophobia and racism (in that many victims of Islamophobic harassment are people of colour); and
  - f) most significantly, the current realities of Islamophobia and the association between hate speech and terrorism.

<sup>89</sup> See, for example, New South Wales (Crimes Act 1900 (New South Wales), section 93Z); Victoria (Racial and Religious Tolerance Act 2001 (Victoria), sections 7–8 and 24–5; Queensland (Anti-Discrimination Act 1991 (Queensland) sections 124A and 131A; Northern Ireland (Public Order (Northern Ireland) Act 1987, section 8); and Ireland (Prohibition of Incitement to Racial Hatred Act 1989, section 1). In England and Wales there is an offence of stirring up racial hatred under section 29B of the Public Order Act (United Kingdom) but, the way in which it is defined renders resort to the offence largely impracticable, see above.

- 49 That said, we acknowledge that there are distinct freedom of expression issues if sharing a particular religious belief system is treated as a protected characteristic. There is a strong tradition in New Zealand (as in many other countries) that religious belief systems are open to debate and that this can be vigorous. Strongly expressed challenges to a religious belief system may also amount to criticism of those who adhere to it. It is not easy to determine where to draw the line.
- 50 Concerns along these lines are reflected in section 29J of the Public Order Act 1986 (United Kingdom), which was enacted when “stirring up” religious hatred was introduced as an offence in England and Wales. This section provides:

Nothing in this Part shall be read or given effect in a way which prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents, or of any other belief system or the beliefs or practices of its adherents, or proselytising or urging adherents of a different religion or belief system to cease practising their religion or belief system.

- 51 This section has made prosecution for the offence for stirring up religious hatred practically impossible.<sup>90</sup> For this reason we do not support the introduction of an equivalent provision to New Zealand law. We consider that concerns about freedom of expression are met with a high threshold for liability, requiring the prosecution to establish an intention to stir up, maintain or normalise hatred towards members of the protected group and specifically criminalising explicit and implicit calls for violence against such a group.

### **Types of publication covered**

- 52 Section 131 of the Human Rights Act applies only to the publication of “written matter” or words that are broadcast “by means of radio or television” or used in or near a public place or public meeting. So, unlike section 61 of the Human Rights Act, it does not apply to “electronic communications”. This is a significant gap in the scope of the offence that should be remedied. Indeed, we see no good reason why there should be restrictions based on how hate speech is communicated.

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<sup>90</sup> Section 29J, along with the offence of stirring up religious hatred being confined to language that is “threatening” rather than “threatening, abusive or insulting” (as is the case with section 131 of the Human Rights Act and its English equivalent in respect of racial hatred), has resulted in the offence of stirring up religious hatred becoming practically a dead letter.

### The location of section 131 and the current maximum penalty

- 53 The low maximum penalty (three months' imprisonment) for breaching section 131 of the Human Rights Act serves to diminish the signalling and standard-setting benefits of prosecution and conviction. In contrast, offences in the United Kingdom that are similar to section 131 carry a maximum term of imprisonment of seven years.<sup>91</sup> And in Canada, a person convicted of the offence similar to section 131 can receive a prison sentence of two years.<sup>92</sup>
- 54 We note that if the penalty is as high as (or more than) two years' imprisonment, this would result in those charged with such offences being entitled to choose trial by jury. The current case law results in liability depending on subjective conclusions on the part of the court based on the "relatively egregious" standard. This involves an impressionistic assessment, which is never an ideal basis for imposing criminal law sanctions (because people should be able to know in advance with reasonable certainty whether something they intend to do is, or is not, against the law). As well, because this standard is not well suited to being applied by juries, an increase in penalty resulting in a right to choose trial by jury makes a reframing of the offence all the more desirable.
- 55 Including the offence in the Crimes Act rather than the Human Rights Act would enhance the signalling and standard-setting effects of an increased penalty, as the Crimes Act lists offences most commonly considered as serious crimes by New Zealanders.

### What a new offence might look like

- 56 A new provision inserted in the Crimes Act 1961, and worded broadly as follows would cover the points we have made:

#### **Inciting racial or religious disharmony**

Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding three years who:

- (a) with intent to stir up, maintain or normalise hatred against any group of persons in New Zealand on the ground of the colour, race, or ethnic or national origins or religion of that group of persons; and
- (b) says or otherwise publishes or communicates any words or material that explicitly or implicitly calls for violence against or is otherwise, threatening, abusive, or insulting to such group of persons.

<sup>91</sup> See sections 18–23 and sections 29B–29G of the Public Order Act 1986 (United Kingdom).

<sup>92</sup> See section 319.1 of the Canadian Criminal Code RSC 1985 c C-46.

## 4.4 Other laws addressing hate speech

- 57 As we have set out above, in addition to the Human Rights Act, there are four other New Zealand laws that address hate speech. They cover a wide range of conduct.

### Summary Offences Act 1981

- 58 The Summary Offences Act creates offences involving offensive, threatening and insulting language and these apply, although are not limited to, situations where an offender threatens, insults or intimidates another person because of their race, colour, ethnicity or religion.
- 59 In recent years, flagrant hate-motivated speech has been prosecuted under the Summary Offences Act. Examples of such prosecutions are discussed in our companion paper *Hate speech and hate crime related legislation*.
- 60 The Summary Offences Act applies only to conduct in a public place. It cannot, therefore, be used against hate speech online, even where a post is clearly directed at another individual or group and is visible to other people online.

### Harmful Digital Communications Act 2015

- 61 The Harmful Digital Communications Act makes it an offence to post a digital communication with the intention to cause harm to a victim.<sup>93</sup> The penalty for the offence is imprisonment for up to two years or a maximum fine of \$50,000. Harm is defined as serious emotional distress.<sup>94</sup> For these purposes, the victim is an individual “who is the target of the posted digital communication”.<sup>95</sup>
- 62 The offence applies not only to one-to-one communications, but more broadly to online digital publishing.<sup>96</sup> That said, the requirement for a victim – which in turn requires the identification of a target – means the offence does not apply to communications that denigrate groups rather than particular individuals.
- 63 The Harmful Digital Communications Act requires “communications principles”<sup>97</sup> to be taken into account by those persons and agencies (including the courts) performing functions and exercising powers under the Act.<sup>98</sup> Principle 10 states:

A digital communication should not denigrate an individual by reason of his or her colour, race, ethnic or national origins, religion, gender, sexual orientation, or disability.<sup>99</sup>

<sup>93</sup> Harmful Digital Communications Act 2015, section 22.

<sup>94</sup> Harmful Digital Communications Act 2015, section 4.

<sup>95</sup> Harmful Digital Communications Act 2015, section 22(4).

<sup>96</sup> Harmful Digital Communications Act 2015, section 4; *R v Partha Iyer* [2016] NZDC 23957; Law Commission *Harmful Digital Communications: The adequacy of the current sanctions and remedies* (NZLC MB3, 2012) at page 7.

<sup>97</sup> These communication principles are set out in the Harmful Digital Communications Act 2015, section 6(1).

<sup>98</sup> Harmful Digital Communications Act 2015, section 6(2).

<sup>99</sup> Harmful Digital Communications Act 2015, section 6(1).

### Broadcasting Act 1984

- 64 Section 4 of the Broadcasting Act requires broadcasters to maintain programme standards. Under the Act, four broadcasting codes of practice have been issued.<sup>100</sup> Each of these codes of practice sets out, or incorporates, a standard entitled “Discrimination and Denigration”. The standard requires broadcasters to protect sections of the community from verbal and other attacks and to foster a community commitment to equality. The standard applies to recognised sections of the community, which include sections identified by reference to religious belief and race.

### Films, Videos, and Publications Classification Act 1993

- 65 The Films, Videos, and Publications Classification Act censors forms of expression that are “objectionable”. It is an offence, punishable by a maximum fine of \$2,000, to be in possession of an objectionable publication and it is an offence, punishable by imprisonment of up to 10 years, to be in possession of a publication that the person knows (or has reasonable cause to believe) is objectionable. New Zealand Police have relied on this offence to prosecute people who, in other jurisdictions, might have been prosecuted for precursor terrorism offences of the kind discussed in Part 8, chapter 13.
- 66 Under section 3 of the Films, Videos, and Publications Classification Act, the primary test for whether a publication is objectionable is whether it:

... deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that the availability of the publication is likely to be injurious to the public good.

- 67 Publications that promote terrorism can, in some circumstances, be “objectionable”. The individual’s video of his terrorist attack and his manifesto were both deemed to be objectionable, and there have been subsequent prosecutions of people in New Zealand who have shared the video or excerpts from it.<sup>101</sup> That said, the way in which the definition deals with publications that promote terrorism is complex. As well, material that promotes terrorism was not, before 15 March 2019, a primary focus of those administering the Films, Videos, and Publications Classification Act.<sup>102</sup>

<sup>100</sup>The codes of practice are for radio, free-to-air television, paid television and election programmes in an election period.

<sup>101</sup> Office of Film and Literature Classification *Christchurch shooting video officially objectionable* (20 March 2019); Decision of Film and Literature Board of Review *In the matter of an application under section 47(2)(e) by the Kiwi Party (Incorporated) for a review of the publication titled: The Great Replacement* (12 August 2019).

<sup>102</sup>This reflects evidence we received from the Department of Internal Affairs – whose Censorship Team in the Digital Safety Group is responsible for enforcing the provisions of the Films, Videos, and Publications Classification Act – that, before 15 March 2019, the overwhelming focus of their work was on child sexual exploitation.



- 68 As we have mentioned, section 131 of the Human Rights Act represents an attempt to comply with article 4(a) of the *International Convention on the Elimination of All Forms of Racial Discrimination*. If the focus of the section 131 offence is sharpened, it will not address all of the ideas and themes in article 4(a). For example, a stirring up racial hatred offence does not cover all incitement to racial discrimination.
- 69 The reality is that it would not be easy to create offences that both give full effect to the article 4 obligation and are consistent with the right to freedom of expression. Expanding the definition of “objectionable” to encompass propaganda of the kind envisaged by article 4 would be an alternative method of complying with article 4. This could be achieved by adding “racial superiority, racial hatred and racial discrimination” to “sex, horror, crime, cruelty, or violence” in section 3 of the Films, Videos, and Publications Classification Act. Such a change would invite freedom of expression arguments. However, the additional requirement under section 3 that the “publication is likely to be injurious to the public good” and other safeguards in the definition (discussed in our companion paper *Hate speech and hate crime related legislation*) would provide a reasonable basis for response to such arguments.

#### 4.5 Reporting and recording of hate-motivated offending

- 70 A recurring theme in our discussions with communities, including Muslim communities, was the lack of data about hate-motivated offences and harmful harassment.
- 71 For some types of crime – and we think that this is the case with hate-motivated offending involving criminal harassment – the best assessments of the incidence of offending come from victimisation surveys. This is because, for such offending, many, perhaps most, victims do not make complaints. That means there is much offending that is not captured in recorded crime figures.
- 72 In the 2019 *New Zealand Crime and Victims Survey*, respondents were asked if they thought that incidents they had experienced were motivated by discrimination – that is, motivated by the offender’s attitude towards the victim’s race, sex, gender identity, sexual orientation, age, religion or disability. The survey found that:
- a) a quarter (25 percent) of all incidents and about one third (32 percent) of all personal offences were seen by the victim as motivated by discriminatory attitudes;
  - b) sexual assault (82 percent), threats and damages (34 percent) and physical offences (assault and robbery) (34 percent) were the most common offence types to be considered by the victim as having been driven by discrimination; and
  - c) almost a quarter (23 percent) of victims of Asian ethnicity felt that the incidents that happened to them were driven by discrimination towards their race, ethnicity or nationality, compared to 7 percent of victims overall.<sup>103</sup>

<sup>103</sup> Ministry of Justice *The New Zealand Crime and Victims Survey: Key Findings, Cycle 2, October 2019-September 2019* (2020) <https://www.justice.govt.nz/assets/Documents/Publications/NZCVS-Y2-A5-KeyFindings-v2.0-.pdf>. Personal offences include theft and property damage, robbery and assault, fraud and deception, cybercrime, sexual assault and harassment and threatening behaviour.

- 73 Accurate recording of complaints of hate-motivated offences would provide some, but only limited, assistance in assessing the actual level of offending, as many such offences are not reported. It is nonetheless desirable. Unless hate motivations are recorded, they are unlikely to be brought to the attention of the sentencing judge to take into account during sentencing. Accurate recording enables linkages to be made between different events involving the same offender, the same victim or both. And recording, alongside data on how complaints are resolved, would provide a starting point for assessing the policing response. In turn, this would provide a basis for New Zealand Police to provide assurance to targeted communities that their complaints are being taken seriously.
- 74 Most Muslim individuals we spoke to who had been subjected to harmful harassment told us that they had not reported the incidents to New Zealand Police. Such incidents are very unpleasant but may be brief and may not necessarily reach a threshold where reporting the incident is a priority for the victim. In addition, reporting may be inhibited by difficulties in identifying the offender. This will be the case where the offender is not known to the victim and there is no straight-forward way of identifying them. Importantly, many of those we spoke to believed there was little point in reporting harassment to New Zealand Police. This was because they had experiences where such reporting had not produced tangible outcomes or knew of others who had reported harassment to New Zealand Police without result.
- 75 More systematic and complete recording of hate motivations for offending would likely enhance community trust in New Zealand Police and, in this way, increase reporting rates.
- 76 There have been calls for better records to be kept of hate-motivated offending complaints and official acknowledgements that such records are desirable. We note that recently the Foundation Against Islamophobia and Racism has established an online mechanism for recording hate-motivated offending in New Zealand based on the United Kingdom's Tell MAMA (Measuring Anti-Muslim Attacks) model.<sup>104</sup>
- 77 In recent years, New Zealand Police have made progress in this area. In October 2018, a supplementary hate crime flag was introduced into their Communications and Resource Deployment dispatch system, which is used to record incidents and manage initial response and resource deployment. Incident records are copied to the National Intelligence Application.
- 78 Additionally, frontline officers were instructed to record hate crime when recording incidents in the National Intelligence Application. And since August 2019, there has been a hate crime contributing flag in the National Intelligence Application. But reporting of hate motivations remains incomplete and somewhat inconsistent. In part at least, this is a result of limited training.

<sup>104</sup> Foundation against Islamophobia and Racism website <http://islamophobia.co.nz/>; TellMAMA Measuring Anti-Muslim Attacks website <https://tellmamauk.org/>.

- 79 The creation of hate crime offences would facilitate the recording of complaints of hate-motivated offending. But the absence of such offences does not make the recording of such data impossible. It is possible for New Zealand Police to refine their recording systems to capture hate motivations more accurately and in readily searchable form. The effectiveness of such systems would be enhanced by training that assists New Zealand Police officers in:
- a) identifying bias indicators so that they can identify potential hate crimes when they perceive that an offence is hate-motivated;
  - b) exploring perceptions of victims and witnesses so that they are in a position to record offences that are perceived by the victim (or any witnesses) to be hate-motivated; and
  - c) recording such hate motivations in a way that facilitates the later use of section 9(1)(h) of the Sentencing Act.
- 80 These are issues that are recognised by New Zealand Police and work on them is continuing.

#### 4.6 Concluding comments

- 81 We were told that New Zealand has become tolerant of harmful discriminatory expression in which ethnic and religious communities, including Muslim communities, are regularly subject to hate speech and hate crime online and offline.
- 82 In December 2019, the Human Rights Commission published a report *Kōrero Whakamauāhara: Hate Speech* that provided an overview of the legal framework on hate speech.<sup>105</sup> The report includes definitions of hate speech and considers different legal approaches in New Zealand and around the world. It is intended as a resource to help New Zealanders have an informed, inclusive and respectful discussion about the complex and contentious issue of hate speech, as well as provide an accessible introduction to the subject in national and international law.
- 83 There has been a tendency to see hate crime and hate speech as different phenomena and the recording of hate-motivated offending as a separate issue that can be left to be dealt with by New Zealand Police practice. As we have explained, we see them as related, sitting on a spectrum of harmful behaviours and as warranting systematic review and reform.

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<sup>105</sup> Human Rights Commission *Kōrero Whakamauāhara: Hate Speech – An overview of the current legal framework* (December 2019) [https://www.hrc.co.nz/files/2915/7653/6167/Korero\\_Whakamauahara-\\_Hate\\_Speech\\_FINAL\\_13.12.2019.pdf](https://www.hrc.co.nz/files/2915/7653/6167/Korero_Whakamauahara-_Hate_Speech_FINAL_13.12.2019.pdf).

- 84 In this chapter we have explored the legal framework that protects freedom of expression and the circumstances in which that freedom may be restricted in order to prevent violence, abuse or discrimination. It explores the boundaries between freedom of expression, unlawful discrimination and harassment and hate speech.
- 85 We have explained why we consider that the current laws in relation to hate crime and hate speech neither appropriately capture the culpability of hate-motivated offending, nor provide a workable mechanism to deal with hate speech. We have also explained why current New Zealand Police practice in relation to recording hate-motivated offending requires further improvement. We make recommendations in *Part 10: Recommendations* that aim to effect change to our laws and practice.

## Chapter 5: Questions asked by the community

### **Do staff in Public sector agencies that have been inquired into by the Royal Commission receive unconscious bias training?**

Decisions to provide unconscious bias training are made at an individual Public sector agency level. We have been advised that a number of Public sector agencies do include some unconscious bias training for staff including the Department of Internal Affairs, the Department of the Prime Minister and Cabinet, the Government Communications Security Bureau, Immigration New Zealand, New Zealand Customs Service, New Zealand Police, the New Zealand Security Intelligence Service and Te Kawa Mataaho Public Service Commission.

### **Do staff in Public sector agencies that have been inquired into by the Royal Commission receive cultural competency training?**

Decisions to provide cultural competency training are made at an individual Public sector agency level. We have been advised that a number of Public sector agencies provide some cultural competency training for staff including the Department of Internal Affairs, the Department of the Prime Minister and Cabinet, the Government Communications Security Bureau, Immigration New Zealand, New Zealand Customs Service, New Zealand Police, the New Zealand Security Intelligence Service and Te Kawa Mataaho Public Service Commission.

For example, Immigration New Zealand has developed an Intercultural Awareness Module, which has been available to staff since August 2012. Intercultural capability is also promoted on the Immigration New Zealand internal website with staff being encouraged to complete four online training modules.

### **What was the protocol for reporting on meetings between the Department of the Prime Minister and Cabinet and non-governmental organisations?**

The Department of the Prime Minister and Cabinet told us that staff are responsible for complying with all aspects of the Public Records Act 2005, including the requirement to create records as outlined at section 17 of that Act. The extent of notes and minutes will vary based on the formality and subject matter discussed at any individual meeting, but it is not its standard practice to provide copies of meeting notes to non-governmental organisations for comment.

Community engagement guidelines, consistent with the International Association for Public Participation's quality assurance standard process for community and stakeholder engagement<sup>106</sup> suggest that, besides a summary of what was said, best practice is to let participants know:

- how the information derived from the consultation was used;
- the extent to which their views influenced the final decision; and
- how any unresolved issues will be addressed.

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<sup>106</sup>International Association for Public Participation Australasia, footnote 7 above.

### **What action was undertaken by the Department of the Prime Minister and Cabinet regarding social cohesion before 23 March 2017?**

The Department of the Prime Minister and Cabinet provided support to the Department of Internal Affairs' budget bid in 2016 *Programme to Strengthen Social Cohesion*, which sought funding of \$23.6 million over four years. The budget bid was unsuccessful. See Part 9, chapter 2 for more information on what happened after the 23 March 2017 meeting.

### **What, if any, expertise are staff employed by Public sector agencies to work on social cohesion required to have? Does the government require them to train in this area?**

Staff recruitment decisions are made at an individual Public sector agency level. The agencies we investigated, including the Department of Internal Affairs, the Department of the Prime Minister and Cabinet, the Government Communications Security Bureau, the New Zealand Security Intelligence Service and Te Kawa Mataaho Public Service Commission, generally told us that there were no particular expertise requirements for social cohesion roles – rather, they employed people with a wide range of relevant skills and experience.

### **What, if any, processes are in place to manage conflicts of interest when someone from a diverse community works for the government in a role that is dedicated to working with or supporting that same community?**

Policies and practices for managing conflicts of interest are developed at an individual Public sector agency level. Te Kawa Mataaho Public Service Commission has published *Understanding the code of conduct – Guidance for State servants* (2010), which states that:

*Ensuring our actions are not affected by personal interests or relationships is essential if we are to be worthy of public trust. It is equally important that we do not act in a way that improperly benefits our family or friends or groups in which we have a personal interest.*

*We must avoid circumstances where our personal interests or relationships conflict with the interests of our organisation. We must also avoid situations where there could be an appearance of such conflict. Our actions need to be fair and unbiased and should always be able to bear close public scrutiny. An important part of strengthening trustworthiness is our commitment to transparency. Openness allows organisations to ensure that conflicts are avoided or managed. By being open with our organisation and disclosing non-work commitments, we enhance our trustworthiness.*

### **What oversight is in place for the Department of Internal Affairs' social cohesion programme?**

The Department of Internal Affairs told us that it is not leading a social cohesion work programme at this time. It supports two main workstreams that are related to social inclusion:

- Engagement by the Office of Ethnic Communities with the cross-government social inclusion programme led by the Ministry of Social Development, which reports to Cabinet on progress (see Part 9, chapter 2).
- The Christchurch Call to Counter Violent Extremism Online project, which is sponsored by the Deputy Chief Executive (Policy, Regulation and Communities) and a senior officials' group that reports to a ministerial group.

### **Why did the Department of Internal Affairs decide to proceed with focusing on Hamilton from July 2017 when some Muslim communities had specifically requested a national strategy?**

The Department of Internal Affairs told us that it decided to proceed initially with focusing on Hamilton to inform and influence government policy, ensure Public sector agencies' services were fit for purpose and culturally appropriate and identify practical solutions that were adaptable to various ethnic communities. This would then enable the approach to be refined and adjustments made in response to community feedback on appropriateness and effectiveness.

### **What consideration was given to creating programmes that would be run by Muslim individuals for their own community?**

The Department of Internal Affairs told us that it (including the Office of Ethnic Communities) applies a community-led development approach. This approach consists of honouring Te Tiriti o Waitangi obligations and applying the following key principles for community development:

- Shared local visions or goals drive action and change.
- Use existing strengths and assets.
- Many people and groups working together.
- Building diverse and collaborative local leadership.
- Adaptable planning and action informed by outcomes.

The Office of Ethnic Communities specifically uses the Ethnic Communities Development Fund to fund community members and organisations to advance their own programmes and initiatives (see Part 9, chapter 2).

We did not evaluate the effectiveness of the funding decisions or monitoring of the implementation and results of the approved projects.



**What decisions and steps did the Department of Internal Affairs take after the final report on the Hamilton Social Cohesion Pilot was submitted in October 2018?**

We have not seen evidence of any further steps taken by the Department of Internal Affairs after the final report on the Hamilton Social Cohesion pilot was submitted (see Part 9, chapter 2).

**Who in the Department of Internal Affairs attended any countering violent extremism conferences or summits in the last five years and which ones were they?**

The Department of Internal Affairs told us that no staff have attended any specific conferences or summits on countering violent extremism. However three staff from the policy group and digital safety team did attend a digital engagement conference in Australia in 2019.

**Where did the money for the Department of Internal Affairs post-15 March 2019 come from – specifically funding for an additional 24 staff for the Office of Ethnic Communities and an additional \$1 million for the Ethnic Communities Development Fund? Was that money available in 2018 to be used to support Muslim projects?**

This new money was agreed by Cabinet and sourced from relevant funding provided by an Appropriation Act. This money can only be used for the purpose agreed by the Government, and none of it was available in 2018.

## Glossary

Term	Definition
<b>central agencies</b>	The Department of the Prime Minister and Cabinet, Te Kawa Mataaho Public Service Commission (formerly the State Services Commission) and the Treasury.
<b>civil liability</b>	Legal responsibility for breaching an obligation recognised by law.
<b>civil society</b>	The space for collective action on shared interests, purposes and values. It is the third sector of society, along with government and business. It comprises civil society organisations and non-governmental organisations.
<b>community engagement</b>	The process of working with communities to address issues affecting their wellbeing.
<b>criminal liability</b>	Legal responsibility for committing an offence prohibited by law.
<b>cultural competency</b>	The ability to understand, communicate with and effectively interact with people across cultures, by a person aware of their own worldview and recognising and valuing cultural and social norms and differences. Culture can include ethnicity, nationality, age, gender identity, sexual orientation, disability, religious or faith affiliation.
<b>diversity</b>	Differences in individuals' and groups' traits and characteristics, such as ethnicity, gender identity, sexual orientation, age and disability.
<b>full-time equivalent</b>	A method of calculating staffing based on hours worked. One full-time equivalent corresponds to 40 hours of work per week.
<b>iwi</b>	Te reo Māori (Māori language) term that refers to a tribe – a large group of Māori people bound together by descent from a common ancestor and associated with a distinct territory.
<b>Public sector agency</b>	In general, an organisation that works for the government of New Zealand.  In this report, “Public sector agencies” means the 217 organisations listed in the appendix.
<b>securitisation</b>	When a group of people or communities are seen primarily as a potential security threat.

Term	Definition
<b>social cohesion</b>	A socially cohesive society is one in which all individuals and groups have a sense of belonging, social inclusion, participation, recognition and legitimacy.
<b>social inclusion</b>	The process of improving how individuals and groups participate in and contribute to society on their own terms.
<b>structural discrimination</b>	Where an entire network of rules and practices disadvantages less empowered groups while serving at the same time to advantage the dominant group.
<b>tangata whenua</b>	Te reo Māori (Māori language) term for Māori, which means “people of the land”.



# Recommendations

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# Chapter 1: Introduction

## 1.1 Topics

- 1 Our Terms of Reference directed us to make recommendations on what improvements should be made to the way Public sector agencies gather, share and analyse information, how Public sector agencies or operational practices could be improved to prevent future terrorist attacks and any other matters to provide a complete report.
- 2 This Part sets out our recommendations in four key areas:
  - a) Improving New Zealand’s counter-terrorism effort (chapter 2).
  - b) Improving New Zealand’s firearms licensing system (chapter 3).
  - c) Supporting the ongoing recovery needs of affected whānau, survivors and witnesses of the 15 March 2019 terrorist attack (chapter 4).
  - d) Improving New Zealand’s response to our increasingly diverse population (chapter 5).
- 3 We deal with implementation of the recommendations in chapter 6.
- 4 Our recommendations are mutually reinforcing – they provide benefits that support one another. They have been designed to achieve system and social change, with many of the recommendations underpinned by the principle of continuous improvement. The recommendations should be read in the context of the whole report. We see them as a package and not suitable for piecemeal implementation.

## 1.2 Themes

- 5 In the chapters that follow we explore four themes.
- 6 The threat of terrorism is continuing to evolve. We need to understand the threat and be ready to mitigate the risks. **Strong government leadership and direction are required** to provide effective oversight and accountability of the counter-terrorism effort. It is also necessary to ensure the counter-terrorism effort is well-resourced, that roles and responsibilities are well understood across Reduction, Readiness, Response and Recovery at the national, regional and local levels and resources are appropriately focused to support a safe New Zealand.
- 7 New Zealand’s population is becoming increasingly ethnically and religiously diverse (see Part 2, chapter 2). Strong government leadership and direction are required to position New Zealand (and in particular the Public sector) to respond and adapt to our increasingly diverse population. Leadership is necessary to effect the social shift that over time will help to achieve a safe and inclusive New Zealand.



- 8 Implementation of our recommendations will also require strong government leadership.
- 9 **Engaged and accountable government decision-making** will improve the quality of decisions and enable Public sector policies, programmes and services to be designed and delivered for the requirements of New Zealand's increasingly diverse society. This will require a change in the way the Public sector (and in particular the agencies involved in the counter-terrorism effort) engages with communities. The Public sector mindset must shift to value communities' input into decisions, transparency and engaging in a robust debate.
- 10 Having a common understanding of roles and responsibilities is critical to achieving change and maintaining the benefits of that change. **Everyone in society has a role in making New Zealand safe and inclusive.** But it is apparent that there is no common understanding of what those roles are, how they relate to each other and what they should be seeking to achieve. Clarity of roles and responsibilities is particularly critical as New Zealand's demographics will continue to change over the next 20 years. The New Zealand government should make sure every New Zealander can feel welcome, contribute and belong. To do this, the Public sector needs to work with all communities to understand the complex dynamics at play and ensure that its policies, practices and services respond to those dynamics and embrace the value of diversity.
- 11 Diversity can contribute a range of social and economic benefits. Diversity enriches us all. It brings new ideas, extends our skills, attracts businesses and creates new jobs. Diversity also brings challenges. Not everyone responds well to diversity (see Part 9, chapter 2). We heard experiences of racism, hate, prejudice, fear and discrimination and that some communities do not always feel protected or understood by Public sector agencies (*Part 3: What communities told us*).
- 12 The government needs to take the lead on two fronts to ensure that everyone is aware of their role in making New Zealand safe and inclusive. First, the government (and agencies involved in the counter-terrorism effort) will have to ensure that New Zealand's counter-terrorism effort is valued by the people it seeks to protect. It will take time to enhance public trust and confidence in New Zealand's counter-terrorism effort, so work to do so should begin urgently.

- 13 Second, it must understand what New Zealand’s changing demographics mean for New Zealand as a society and promote consistent messages about the benefits of diversity and an inclusive society. Social cohesion is important in itself and has wider benefits and should be pursued on its own terms (*Part 9: Social cohesion and embracing diversity*). This is why we have made separate recommendations with respect to the counter-terrorism effort and social cohesion and embracing diversity. However, the benefits of some of our recommendations will be realised with respect to both areas. Over time, government leadership on the benefits of diversity should bring about changes in New Zealand and reduce the incidence of hate-based crime.
- 14 Underpinning all of this, **New Zealand needs fit for purpose laws and policies.** Keeping pace with New Zealand’s evolving context will not be sufficient. Laws and policies need to be practical for the future as New Zealand continues to change. They also need to be relevant and effective as the threats New Zealand faces continue to evolve. This extends to ensuring the Intelligence and Security 2017 and Terrorism Suppression Act 2002 are both fit for purpose, providing for hate crime offences, creating a workable approach to hate speech and encouraging the better recording of reports of hate crime. Also important is the need for New Zealand Police to improve their administration of the firearms licensing system.

## Chapter 2: Recommendations to improve New Zealand’s counter-terrorism effort

### 2.1 Overview

- 1 This chapter makes a number of recommendations to improve New Zealand’s counter-terrorism effort and prevent terrorist attacks in the future. They focus on two broad priorities for action:
  - a) Ensuring that there is better leadership of, and support for, intelligence and security in New Zealand.
  - b) Increasing awareness and providing opportunities for meaningful engagement of all New Zealanders in relation to extremism and preventing, detecting and responding to current and emerging threats of violent extremism and terrorism.

### 2.2 Strong government leadership and direction are required

#### Clarifying leadership and creating a new agency for intelligence and security

- 2 The counter-terrorism effort must be cohesive, collaborative and trusted.<sup>1</sup> It also needs to be integrated, agile, effective and accountable, with directive leadership and accountability.
- 3 We have concluded that the counter-terrorism effort had been slow to understand the threat of extreme right-wing domestic terrorism (Part 8, chapter 15). We have identified a number of areas where the counter-terrorism effort needs improving. Responding to the question “Could such a terrorist attack be prevented in the future?” we consider that the counter-terrorism effort should be better designed to provide assurances that New Zealand is as safe as it can be. Improved strategic leadership and greater accountability are required.
- 4 Our Recommendations 1, 2 and 3 should enable:
  - a) well-informed ministers (with thorough understanding of the immediate, medium-term and longer-term terrorism risks and threats);
  - b) capability to develop effective and comprehensive strategic policy advice on extremism and terrorism, together with integrated advice based on both intelligence assessments and risk management frameworks;
  - c) a governance body to set system performance standards and accepted best practice in the New Zealand context, against which to monitor performance and measure effectiveness and compliance with human rights obligations (Recommendation 3);
  - d) effective leadership of the security and intelligence side of the national security system with clear accountabilities and responsibilities (Recommendation 2);

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<sup>1</sup> In accordance with Outcome 3 of the Department of the Prime Minister and Cabinet *Strategic Intentions 2020/21 to 2023/24* (2020) <https://dpmc.govt.nz/publications/dpmc-strategic-intentions-2020-2024>.

- e) transparent purpose and direction setting, set out in a counter-terrorism strategy, with well-defined accountability for the development, implementation and monitoring of that strategy (Recommendation 4);
  - f) regular reviews of the authorising environment, including the legislative framework for countering terrorism and violent extremism; and
  - g) enhanced social licence as a result of the consequences just outlined along with high levels of engagement with communities, civil society, local government and the private sector.
- 5 The current cross-agency governance and leadership arrangements are not working (Part 8, chapter 3). There is no minister responsible and accountable for the counter-terrorism effort. We recommend there should be.
  - 6 To support the minister we recommend the establishment of a new national intelligence and security agency with its roles and functions set out in new legislation. This will deliver a more systematic approach to addressing extremism and preventing, detecting and responding to current and emerging threats of violent extremism and terrorism, especially if it is tasked with developing effective and comprehensive strategic policy advice. The chief executive of the new agency will be the national adviser on intelligence and security, with the agency having the advantage of focusing solely on the threats and intelligence issues currently addressed by the Security and Intelligence Board. This is a shift from what the Department of the Prime Minister and Cabinet currently does, operating across the spectrum of national security and all-of-government issues (Part 8, chapter 3). Such a change would provide for the Department of the Prime Minister and Cabinet to focus on providing second opinion advice through its Policy Advisory Group, with the chief executive remaining the chair of the Officials' Committee for Domestic and External Security Coordination.
  - 7 The new well-resourced national intelligence and security agency will:
    - a) be the sector lead for intelligence and security;
    - b) develop a public-facing strategy that addresses extremism and preventing, detecting and responding to current and emerging threats of violent extremism and terrorism (Recommendation 4) and require other Public sector chief executives to align their planning and resources to it;
    - c) be the steward of relevant national security legislation (including the Intelligence and Security Act 2017 and Terrorism Suppression Act 2002) and be responsible for relevant intelligence and security strategic and responsive policy advice. In doing so, it will assume functions currently undertaken by the Ministry of Justice and the Department of the Prime Minister and Cabinet.

- d) assume responsibility for the independent intelligence assessment functions currently performed by the Combined Threat Assessment Group and the National Assessments Bureau. This will be underpinned by high quality horizon scanning and deep assessment expertise;
- e) be responsible for the design of the performance management framework and monitoring progress against it;
- f) lead engagement with communities, civil society, local government and the private sector on strategic intelligence and security issues; and
- g) ensure the counter-terrorism effort conforms to New Zealand's domestic and international human rights obligations.

Other functions are discussed in Recommendations 8, 9, 14 and 16.

- 8 New legislation will be required to implement these recommendations including clarifying roles and responsibilities and reconciling how the new agency will work with the intelligence and security and law enforcement agencies.
- 9 Currently the Security and Intelligence Board is essentially a voluntary collaboration mechanism for intelligence and security matters, including the counter-terrorism effort (Part 8, chapter 3). This is not working effectively.
- 10 We recommend the government investigate using the provisions in the Public Service Act 2020 to establish an interdepartmental executive board to replace the Security and Intelligence Board. Section 25 of the Public Service Act sets out the purposes of interdepartmental executive boards:
  - (a) to align and co-ordinate strategic policy, planning, and budgeting activities for 2 or more departments with responsibilities in a subject matter area:
  - (b) to support those departments to undertake priority work in the subject matter area:
  - (c) to support cross-department initiatives in the subject matter area.
- 11 Putting in place an interdepartmental executive board would be best worked through by Te Kawa Mataaho Public Service Commission in conjunction with the relevant Public service agencies. We do not therefore offer a prescriptive recommendation.

- 12 We acknowledge that while our focus has been on the counter-terrorism effort our Recommendations 1–3 relate to all intelligence and security matters currently addressed by the Security and Intelligence Board. It is impractical to carve out counter-terrorism responsibilities. We have not identified any detriments if the minister, new agency and potential new governance body were to be given responsibility for all intelligence and security matters currently within the mandate of the Security and Intelligence Board.
- 13 The new agency will need to work with the National Emergency Management Agency and local government. It would be inefficient for the new agency to establish structures at the local and regional level that duplicate existing emergency management structures.
- 14 In relation to Recommendations 1–3, we examined several options. We considered simply changing the Security and Intelligence Board into an interdepartmental executive board, leaving other aspects of the system unchanged. We decided that this option would not address our assessment that an agency solely focussed on strategic intelligence and security issues is required. We also considered establishing an entirely new “uber” agency that would incorporate both strategic and all operational functions currently performed by the Department of the Prime Minister and Cabinet, the Government Communications Security Bureau, and the New Zealand Security Intelligence Service, and some functions of New Zealand Police. But the significant disruption this would cause would outweigh the potential benefits. Implementation of our Recommendations 1–3 should achieve the necessary outcomes and accountability, without requiring such a complex and lengthy machinery of government change.
- 15 Another option we considered was whether the Government Communications Security Bureau and the New Zealand Security Intelligence Service should be amalgamated. We expect this will be considered as part of the forthcoming review of the Intelligence and Security Act.

## We recommend that the Government:

1. **Ensure** a minister is given responsibility and accountability to lead and coordinate the counter-terrorism effort.
2. **Establish** a new national intelligence and security agency that is well-resourced and legislatively mandated to be responsible for strategic intelligence and security leadership functions including:
  - a) a chief executive who is designated as the intelligence and security adviser to the prime minister and to Cabinet and chairing the Security and Intelligence Board or the potential new governance body (Recommendation 3);
  - b) operating as the sector lead and coordinator for strategic intelligence and security issues;
  - c) developing a counter-terrorism strategy that includes countering violent extremism (Recommendation 4);
  - d) providing strategic policy advice to the responsible minister(s) on intelligence and security issues;
  - e) intelligence assessment and horizon scanning supported by deep expertise;
  - f) leading the engagement with communities, civil society, local government and the private sector on strategic intelligence and security issues;
  - g) ensuring the counter-terrorism effort conforms to New Zealand's domestic and international human rights obligations;
  - h) leveraging the emergency management structures at the local and regional levels;
  - i) system performance monitoring and reporting; and
  - j) accountability to the minister for the performance of the counter-terrorism effort (Recommendation 1).
3. **Investigate** alternative mechanisms to the voluntary nature of the Security and Intelligence Board including the establishment of an Interdepartmental Executive Board as provided for by the Public Service Act 2020 to, amongst other things:
  - a) align and coordinate the work, planning and budgets across relevant Public sector agencies addressing all intelligence and security issues;
  - b) report to the Cabinet External Relations and Security Committee, including on current and emerging risks and threats, on a quarterly basis.

- c) in relation to the counter-terrorism effort:
  - i) recommend to Cabinet the strategy for addressing extremism and preventing, detecting and responding to current and emerging threats of violent extremism and terrorism developed by the national intelligence and security agency (Recommendation 4); and
  - ii) ensure the activities to implement the strategy for addressing extremism and preventing, detecting and responding to current and emerging threats of violent extremism and terrorism are identified, coordinated and monitored.

### **An integrated preventing and countering extremism, violent extremism and terrorism strategy**

- 16 In early 2020, the Department of the Prime Minister and Cabinet released a *Countering terrorism and violent extremism national strategy overview* (Part 8, chapter 3).<sup>2</sup> It is not the strategy we envisage. Although it discusses the importance of connecting with communities to reduce and mitigate the risks of terrorism and violent extremism, it was produced without any substantive involvement by communities, civil society, local government and the private sector.
- 17 There needs to be a more effective system-wide, public-facing strategy to address extremism and prevent, detect and respond to current and emerging threats of extremism, violent extremism and terrorism. The strategy should be developed in collaboration with communities, civil society, local government, the private sector and the Advisory Group on Counter-terrorism (Recommendation 7).
- 18 We can do much to reduce New Zealand's risk through both a risk management approach that builds on the Māori-Crown relationship and social cohesion activities.
- 19 This strategy will need to:
- a) set out and explain objectives and priorities and the contributions that communities, civil society, local government and private sector can make to national security;
  - b) be supported by an action plan that aligns the efforts of all those involved; and
  - c) be reviewed within three years of its publication in collaboration with communities, civil society, local government, the private sector and the Advisory Group on Counter-terrorism (Recommendation 7).

<sup>2</sup> Department of the Prime Minister and Cabinet *Countering terrorism and violent extremism national strategy overview* (undated) <https://dpmc.govt.nz/sites/default/files/2020-02/2019-20%20CT%20Strategy-all-final.pdf>.



- 20 Each Public sector agency will require its own action plan. Each action plan will focus on how that agency will contribute to the outcomes of the national strategy. Performance measures will be included. The new national intelligence and security agency (Recommendation 2) will lead the coordination of these individual action plans to ensure they are cohesive and that there are no gaps in Public sector agency efforts. The new agency will monitor Public sector agency performance and report on it to the responsible minister.
- 21 Through our inquiry we have recognised the importance of the role of communities, civil society, local government and the private sector in the counter-terrorism effort (Part 8, chapter 15). It is critical that New Zealand's communities, civil society, local government, the private sector and the Advisory Group on Counter-terrorism are engaged in a collaborative manner in developing the overarching strategy for New Zealand. There should be clarity as to their ongoing contributions to improve public understanding and knowledge and foster cooperation and trust.

#### We recommend that the Government:

- 4. Develop and implement** a public-facing strategy that addresses extremism and preventing, detecting and responding to current and emerging threats of violent extremism and terrorism that:
- a) is led by the new national intelligence and security agency (Recommendation 2);
  - b) is developed in collaboration with communities, civil society, local government and the private sector;
  - c) sets the purpose and the direction of the strategy, with goals, milestones and performance measures;
  - d) sets priorities for the counter-terrorism effort across Reduction, Readiness, Response and Recovery;
  - e) defines roles and responsibilities for Public sector agencies, communities, civil society, local government and the private sector to implement the strategy across Reduction, Readiness, Response and Recovery;
  - f) has oversight from the responsible minister (Recommendation 1); and
  - g) is reviewed within three years of publication in collaboration with Public sector agencies, communities, civil society, local government, the private sector and the Advisory Group on Counter-terrorism (Recommendation 7).

## 2.3 Engaged and accountable government decision-making

### Strengthened Parliamentary oversight of agencies

- 22 Improved oversight of the counter-terrorism effort will lead to better performance outcomes. Those who provide that oversight by monitoring and scrutinising the Public sector agencies involved in the counter-terrorism effort need access to relevant information.
- 23 We recommend the Auditor-General's functions be expanded to undertake performance audits across the intelligence and security agencies (Recommendation 5).
- 24 More debate on, and cross-party support for, national security issues, including the counter-terrorism effort, will help give these issues the attention they require. Strengthening the role of the Parliamentary Intelligence and Security Committee will provide a forum for that debate. Importantly, the Intelligence and Security Committee is currently unable to inquire into the activity of an intelligence and security agency or into any matter that is operationally sensitive. That means that its role is far more limited than that of its counterpart parliamentary committee in the United Kingdom. The equivalent United Kingdom parliamentary committee has access to highly classified information and has produced a number of reports that address the operational activities of intelligence and security agencies in the United Kingdom.
- 25 The Parliamentary Intelligence and Security Committee should receive public submissions on the annual statement on extremism and preventing, detecting and responding to current and emerging threats of violent extremism and terrorism (Recommendation 17), adding to the public debate of counter-terrorism issues alongside Recommendations 4, 15 and 16.

#### We recommend that the Government:

5. **Amend** the Public Finance Act 1989 to require the intelligence and security agencies to provide performance information that can be the subject of performance audit by the Auditor-General.
6. **Strengthen** the role of the Parliamentary Intelligence and Security Committee so that it can provide better and informed cross-parliamentary oversight of the national security system (including the counter-terrorism effort) and priority setting, and members can access sensitive information as necessary for such oversight.

### **A new role for communities, civil society, local government and the private sector**

- 26 All New Zealand sectors and communities are affected by the threat of terrorism. We have concluded communities, civil society, local government and the private sector should be involved in an advisory forum with its functions set out in legislation. The legislation would provide that the advice from an Advisory Group on Counter-terrorism must be taken into account by the chief executive and the Security and Intelligence Board or its replacement (Recommendation 3). The focus of the Advisory Group on Counter-terrorism would be to:
- a) test ideas and provide advice to the new national intelligence and security agency and Public sector agencies involved in the wider counter-terrorism effort on approaches to stop people engaging in extremism, violent extremism and terrorism;
  - b) provide advice on the threatscape and National Intelligence and Security Priorities; and
  - c) provide advice on engaging with communities, civil society, local government and the private sector.
- 27 We recommend the chief executive of the national security and intelligence agency ensure an Advisory Group on Counter-terrorism includes representative membership from communities, civil society, local government and the private sector. The make-up of the Advisory Group on Counter-terrorism should include a gender balance, ethnic and religious diversity, a range of ages (youth, adults and elders) and geographical spread. What constitutes “representative” will evolve as society, and the nature of threats, changes over time. The chief executive should consider whether there is a necessity for members of the Advisory Group on Counter-terrorism to be security cleared to an appropriate level. The Advisory Group on Counter-terrorism should regularly connect with other advisory groups that are set up by Public sector agencies involved in the counter-terrorism effort.
- 28 We considered recommending that the Advisory Group on Counter-terrorism provide an annual report to Parliament. However, we decided this would place an unnecessary administrative burden on the group. Instead we recommend that the annual statement to Parliament on extremism and preventing, detecting and responding to current and emerging threats of extremism, violent extremism and terrorism priorities (Recommendation 17) should include a summary of the advice that has been provided by the Advisory Group on Counter-terrorism to the new national intelligence and security agency and other relevant Public sector agencies and the actions that have been taken in response to that advice.

## We recommend that the Government:

7. **Direct** the chief executive of the new national intelligence and security agency (Recommendation 2) to establish an Advisory Group on Counter-terrorism:
  - a) responsible for providing advice to the national intelligence and security agency and the Security and Intelligence Board or its replacement (Recommendations 2 and 3); and
  - b) with functions to be established in legislation as soon as practicable, but without delaying its establishment.
8. **Direct** the chief executive of the new national intelligence and security agency (Recommendation 2) to include in advice on the National Security and Intelligence Priorities and in the annual threatscape report (Recommendation 17), a summary of the advice provided in the preceding year by Advisory Group on Counter-terrorism (Recommendation 7) and the actions that have been taken in response to that advice.

### Public sector agencies can and should share information more widely

- 29 Information sharing between Public sector agencies is critical to the effectiveness of the counter-terrorism effort (Part 8, chapter 9). A shift in Public sector agencies' approach to highly classified information, in particular ensuring that information is classified correctly and seeing the "need to know" principle as enabling rather than restricting, will allow more information to be shared easily between Public sector agencies. We are not the first to form this view. In a 2018 *Review of the New Zealand Security Classification System*, the Inspector-General of Intelligence and Security made a number of recommendations to improve the classification system. These recommendations have not been implemented, but remain relevant today.
- 30 The new national intelligence and security agency (Recommendation 2) will take a lead role in overseeing information sharing in a whole-of-system way to address the issues set out above. In the interim, the Department of the Prime Minister and Cabinet should (within the next six months) oversee the implementation of some of the recommendations of the Inspector-General of Intelligence and Security's *A Review of the New Zealand Security Classification System* in 2018. These relate to the following aspects of security classification:
  - a) expanding the classification system principles to provide that no information may remain classified indefinitely and that where there is doubt as to the classification level, information is classified at the lower level;
  - b) revising and strengthening Public sector agency guidance and developing training;

- c) adopting a topic-based approach to systematic declassification of historic records; and
- d) developing indicators of function and performance of the classification system.

- 31 Public sector agencies have not been fully using legislation to share information as systematically and widely as they might. This is particularly the case for the intelligence and security agencies, with only some direct access agreements having been entered into under the Intelligence and Security Act (Part 8, chapter 9). Public sector agencies holding information should prioritise entering into such agreements to ensure a well-functioning intelligence and security system.
- 32 Public sector agencies involved in the counter-terrorism effort should consider whether they need more staff who have security clearance to access highly classified information. Agencies should ensure that their security cleared staff are able to easily access facilities and information management and technology systems to be able to review relevant highly classified information as required. This, however, should not be undertaken in place of shifting the Public sector mindset to see the “need to know” principle as enabling. Rather, it should be undertaken in conjunction with that shift in mindset to ensure that information is able to be shared and accessed more effectively. Special attention should also be given to the “need to know” principle as it applies to local government including the emergency management structures at the local and regional level.

### We recommend that the Government:

- 9. Direct** the new national intelligence and security agency (Recommendation 2), and in the interim the Department of the Prime Minister and Cabinet, to improve intelligence and security information sharing practices, including:
- a) driving a change in approach to the “need to know” principle across relevant Public sector agencies, with special attention given to local government including the emergency management structures at the local and regional level, ensure it enables rather than just restricts information sharing; and

- b) overseeing the implementation, within six months, of recommendations in the *2018 Review of the New Zealand Security Classification System*;
  - i) expanding the classification system principles to provide that no information may remain classified indefinitely and that, where there is doubt as to the classification level, information is classified at the lower level;
  - ii) revising and strengthening Public sector agency guidance and developing training;
  - iii) adopting a topic-based approach to systematic declassification of historic records; and
  - iv) developing indicators of function and performance of the classification system.

**10. Amend** the Intelligence and Security Act 2017 with respect to direct access agreements, to require the new national intelligence and security agency, and in the interim the Department of the Prime Minister and Cabinet, to regularly report to the responsible minister for the counter-terrorism effort on their establishment and implementation.

**11. Direct** chief executives of Public sector agencies involved in the counter-terrorism effort to consider whether an appropriate number of their employees have security clearances and ensure that those staff have appropriate access to facilities and information management and technology systems to be able to review relevant material as required.

### **Making it easy for people to provide information, and to identify those who may need help**

33 A key reason for holding regular public conversations about extremism and preventing, detecting and responding to current and emerging threats of terrorism and violent extremism (Recommendation 15) is to ensure that everyone understands their role in the counter-terrorism effort. This includes knowing what to look out for and how to contribute, including reporting concerning behaviours or incidents. Success will require public knowledge of current risks and threats, and a simple pathway to allow people to report concerning behaviours or incidents to a single point within the Public sector that is promoted and visible. From there, the information would be passed on to the relevant agency (or agencies) whether it is a Public sector agency or non-government agency for assistance. Examples of such behaviours could be:

- a) showing signs of stress and discussing participation in, or admiration for, extremist groups; or
- b) undertaking surveillance or taking pictures of places of worship, airports, community halls, shared community spaces, or transport hubs; or

c) asking unusually detailed questions about operations or design of buildings or systems; or

d) making jokes about committing crimes or harmful acts.

- 34 The purposes of reporting may include seeking support for the person or persons who may be vulnerable to radicalisation.
- 35 This reporting system should be implemented in the next 12 months. We would expect that the government would publish annual reports on the extent of public reporting, and how the reported information was used.
- 36 People will be confident about reporting potentially harmful behaviours if they know what to look for. We consider that New Zealanders could benefit from having access to reporting guidelines similar to those produced in the United States of America (see Part 7, chapter 2). Of course they would need to be designed to resonate with New Zealanders, and with New Zealand values and cultural norms.
- 37 Success will also require a public conversation about the value of diversity in society (Recommendation 36 and 37). These conversations will reduce the likelihood that the biases that are sometimes held by people distort their perspectives of suspicious activity.

#### We recommend that the Government:

- 12. Develop** and promote an accessible reporting system that enables members of the public to easily and safely report concerning behaviours or incidents to a single contact point within government.
- 13. Develop** and publish indicators and risk factors that illustrate for the public specific behaviours that may demonstrate a person's potential for engaging in violent extremism and terrorism and update them regularly as the threatscape evolves.

## Better evidence-based solutions to prevent and counter extremism, violent extremism and terrorism

- 38 New Zealand needs to develop its own evidence-based solutions to prevent and counter extremism, violent extremism and terrorism, built on lessons from global experience. We conclude that it would be beneficial to foster a capability in New Zealand to conduct research and collaboration into these matters in New Zealand. If this happens, we would expect that over time, these researchers would establish a network that could collaborate with overseas counterparts. The Canadian Network for Research on Terrorism, Security and Society<sup>3</sup> is an example of an established organisation that provides research grants on issues related to counter-terrorism. The funding for this Network has diverse sources, including the Canadian government.
- 39 We considered recommending the establishment of a new government research institute to undertake New Zealand-specific research and collaboration. However, we decided that this would be both expensive and perhaps ineffective. Such an agency would take time to establish and build capacity. It is likely to be more effective to draw on existing researchers who may have an interest in counter-terrorism issues. Consequently, we recommend that the government establish a mechanism to provide contestable research grants to New Zealand academics and researchers. We recommend that the new national intelligence and security agency (Recommendation 2) should be the fund holder for the contestable research grants, with research priorities decided by a panel comprising officials from that new agency and the Advisory Group on Counter-terrorism (Recommendation 7), with the Advisory Group representatives holding a majority membership of that selection panel.

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<sup>3</sup> The Canadian Network for Research on Terrorism, Security and Society was founded in 2012. It supports research, and the dissemination of research, related to the threat of terrorism, security responses to terrorism, and the impact of both terrorism and securitisation on Canadian society. The organisation has three primary objectives: (1) to foster communication and collaboration between academic researchers in multiple disciplines on these topics; (2) to facilitate the interaction and collaboration of researchers and policy officials; and (3) to help cultivate a new and larger generation of scholars interested in these fields of study.



## We recommend that the Government:

- 14. Establish** a programme to fund independent New Zealand-specific research on the causes of, and measures to prevent, violent extremism and terrorism with the following provisions:
- a) the national intelligence and security agency (Recommendation 2) should be provided with a multi-year appropriation for research funding;
  - b) research priorities and grant recipients should be selected by a panel comprising officials from the new national intelligence and security agency (Recommendation 2) and representatives from the Advisory Group on Counter-terrorism (Recommendation 7), with Advisory Group representatives forming the majority of the selection panel; and
  - c) grant recipients should be encouraged to publish and present the results of their research at the annual hui on issues related to extremism and preventing, detecting and responding to current and emerging threats of violent extremism and terrorism (Recommendation 16).

## 2.4 We all have a role in making New Zealand safe and inclusive

- 40 There is insufficient public discussion of and awareness about New Zealand's National Security and Intelligence Priorities. There is also limited discussion about extremism and preventing, detecting and responding to current and emerging threats of violent extremism and terrorism in New Zealand. New Zealanders have important roles and contributions to make but this is neither clear nor publicly discussed.
- 41 Public conversations about New Zealand's National Security and Intelligence Priorities and countering extremism and terrorism will not only increase awareness and knowledge about the threats and risks facing New Zealand, but will also enhance some of our other recommendations (including development of a national counter-terrorism strategy, Recommendation 4).
- 42 We see the first of these conversations (Recommendation 15) initiating what will become a cycle of information sharing, public engagement and scrutiny. It will enhance transparency. This initial public conversation (Recommendation 15) should commence in 2021 to inform the subsequent annual hui (Recommendation 16), the annual threatscape report and the National Security and Intelligence Priorities discussion (Recommendation 17).
- 43 The conversations will address the balance to be struck between the privacy of individuals and the safety of individuals and communities. It should increase the social licence of Public sector agencies to address extremism. The conversations will also reinforce how diversity and inclusiveness contribute to social cohesion and wellbeing.

## We recommend that the Government:

- 15. Create** opportunities to improve public understanding of extremism and preventing, detecting and responding to current and emerging threats of violent extremism and terrorism in New Zealand, led initially by the Minister for National Security and Intelligence, and including ongoing public discussions on:
  - a) the nature of New Zealand's counter-terrorism effort, including current risks and threats and how Public sector agencies protect New Zealanders from the threat and risk of terrorism;
  - b) who is involved in the counter-terrorism effort and their roles, recognising that communities, civil society, local government and the private sector are all part of the counter-terrorism effort, including, but not limited, to being important sources of information;
  - c) the need to strike the balance between the privacy of individuals and the safety of individuals and communities and to understand the social licence for Public sector agencies to engage in counter-terrorism and countering violent extremism activities;
  - d) supporting the public to understand how to respond when they recognise the concerning behaviours and incidents that may demonstrate a person's potential for engaging in violent extremism and terrorism; and
  - e) how social cohesion, social inclusion and diversity contribute to an effective society.
- 16. Direct** the chief executive of the new national intelligence and security agency (Recommendation 2) to host an annual hui, to bring together relevant central and local government agencies, communities, civil society, the private sector and researchers (Recommendation 14) to create opportunities to build relationships and share understanding of countering violent extremism and terrorism.
- 17. Require** in legislation:
  - a) the Minister for National Security and Intelligence to publish during every parliamentary cycle the National Security and Intelligence Priorities and refer them to the Parliamentary Intelligence and Security Committee for consideration;
  - b) the responsible minister (Recommendation 1) to publish an annual threatscape report; and
  - c) the Parliamentary Intelligence and Security Committee to receive and consider submissions on the National Security and Intelligence Priorities and the annual threatscape report.

## 2.5 Fit for purpose laws and policies

- 44 The Terrorism Suppression Act has never been subject to a comprehensive review of whether it is fit for purpose. A regular review of the Act, say every five years, should be provided for in the legislation. This will de-politicise any such review and enable any changes to the threatscape to be carefully considered regularly.
- 45 What has also been missing to date is an holistic assessment of the nature of the risk associated with the pre-criminal space in which potential terrorists operate. New Zealand does not have precursor terrorism offences, which means that it is not an offence to be planning or preparing a terrorist attack (Part 8, chapter 13). An informed debate is necessary about whether the Terrorism Suppression Act strikes the appropriate balance between:
- a) providing the counter-terrorism agencies with the means to disrupt planning and preparation for terrorist attacks; and
  - b) the risk of over-criminalisation.
- 46 To enable such a debate, the Terrorism Suppression Act should be reviewed as soon as possible to ensure it is fit for purpose, with a particular focus on the lack of precursor terrorism offences.
- 47 There are a number of issues with the Intelligence and Security Act, some of which limit the activities of the intelligence and security agencies. These should be prioritised in the scheduled legislative review. There should be a particular focus on whether any associated limits on the intelligence and security agencies are justified in light of their objective to contribute to the protection of New Zealand's national security.
- 48 For the most part, the issues we have identified with the Intelligence and Security Act (Part 8, chapter 14) can be resolved during the scheduled legislative review. The exception is section 19 of the Intelligence and Security Act, which we consider requires urgent legislative attention for reasons explained in chapter 14 of Part 8.
- 49 We also recommend that other legislation relating to counter-terrorism be reviewed and updated. For example, relevant legislation should be reviewed and amended to enable New Zealand to accede to and implement the Budapest Convention on Cybercrime.

**We recommend that the Government:**

- 18. Review** all legislation related to the counter-terrorism effort (including the Terrorism Suppression Act 2002 and the Intelligence and Security Act 2017) to ensure it is current and enables Public sector agencies to operate effectively, prioritising consideration of the creation of precursor terrorism offences in the Terrorism Suppression Act, the urgent review of the effect of section 19 of the Intelligence and Security Act on target discovery and acceding to and implementing the Budapest Convention.

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## Chapter 3: Recommendations to improve New Zealand's firearms licensing system

- 1 Our Terms of Reference restricted us from inquiring into or making recommendations on amendments to firearms legislation. In addition, amendments to the Arms Act 1983 were passed in 2019 and 2020. The scope for recommendations in relation to firearms is, therefore, more limited than would otherwise be the case. It is nonetheless critical that policies remain fit for purpose.
- 2 The firearms licensing system needs to be exacting to ensure that the risk of inappropriate people having firearms is mitigated. There are a number of issues with New Zealand's firearms licensing system, not all of which have been addressed by the recent legislative amendments (Part 5, chapter 4).
- 3 To address these issues we recommend changes that will result in a more efficient and effective, risk-based firearms licensing system, including:
  - a) the consistent application of the fit and proper person test across police Districts;
  - b) more highly skilled and better trained licensing staff who can exercise evaluative judgements about risks and how to deal with them, supported by better policies and operational guidance; and
  - c) improved risk-based management of applicants who have recently arrived in New Zealand, including by requiring applicants who have lived outside of New Zealand for substantial periods of time in the ten years preceding the application to produce police or criminal history checks from countries in which they have previously resided.

## We recommend that the Government:

- 19. Direct** New Zealand Police (or other relevant entity) to make policies and operational standards and guidance for the firearms licensing system clear and consistent with legislation.
- 20. Direct** New Zealand Police (or other relevant entity) to introduce an electronic system for processing firearms licence applications.
- 21. Direct** New Zealand Police (or other relevant entity) to ensure firearms licensing staff have regular training and undertake periodic reviews of the quality of their work.
- 22. Direct** New Zealand Police (or other relevant entity) to introduce performance indicators that focus on the effective implementation of the firearms licensing system. Key indicators should include:
  - a) regular performance monitoring of firearms licensing staff to ensure national standards are met; and
  - b) public confidence in the firearms licensing system is increased (as measured by New Zealand Police citizens' satisfaction survey reports or similar mechanism).
- 23. Direct** New Zealand Police (or other relevant entity) to require two new processes in the case of applicants who have lived outside of New Zealand for substantial periods of time in the ten years preceding the application:
  - a) applicants should be required to produce police or criminal history checks from countries in which they have previously resided; and
  - b) Firearms Vetting Officers should interview family members or other close connections in other countries using technology if the applicant does not have near relatives or close associates living in New Zealand.
- 24. Introduce** mandatory reporting of firearms injuries to New Zealand Police by health professionals.

# Chapter 4: Recommendations to support the ongoing recovery needs of affected whānau, survivors and witnesses

## 4.1 Ongoing support for affected whānau, survivors and witnesses required

- 1 We heard from affected whānau, survivors and witnesses of the 15 March 2019 terrorist attack that, in addition to the grief and suffering they are dealing with, they also face the complexities of navigating the Public sector systems of support (Part 3, chapter 3). We heard that there is a lack of coordination between Public sector agencies.
- 2 Some affected whānau, survivors and witnesses will need ongoing wellbeing support for years to come. We understand some support for some affected whānau, survivors and witnesses has been either not offered or scaled back. The government must not shy away from delivering support on an ongoing basis in an effective, efficient and culturally appropriate manner.
- 3 To reduce the burden arising from the lack of coordination in Public sector support (Part 3, chapter 3), each affected whānau, survivor and/or witness should be assigned a continuing single point of contact or navigator. While some navigator services were provided in the initial period following the terrorist attack, support has since significantly diminished. Services are provided in a light-touch way with less face-to-face engagement.
- 4 We see a long-term role for navigators to work with affected whānau, survivors and witnesses to coordinate Public sector support and help to reduce the complexities of dealing with multiple agencies. This should also include consideration of establishing a Collective Impact Network and Board or other appropriate mechanism that enables Public sector agencies, non-government organisations and affected whānau, survivors and witnesses to agree a specific work programme to provide ongoing wrap-around services to affected whānau, survivors and witnesses.<sup>4</sup> Deciding the optimal organisational form would be best worked through by Te Kawa Mataaho Public Service Commission in conjunction with relevant Public sector agencies.

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<sup>4</sup> A Collective Impact Network and Collective Impact Board are solutions provided in a system design toolkit for Public sector agencies addressing cross-agency problems, where a third layer approach is required in which agencies are working together at the frontline or community level. See Te Kawa Mataaho Public Service Commission *System design toolkit for organising around shared problems* (2018) <https://www.publicservice.govt.nz/assets/Legacy/resources/sdt-cover.pdf>

## We recommend that the Government:

- 25. Direct** the Ministry of Social Development to work with relevant Public sector agencies including the Accident Compensation Corporation, Immigration New Zealand, the Ministry of Justice, New Zealand Police and non-government organisations to facilitate coordinated access to ongoing recovery support for affected whānau, survivors and witnesses of the 15 March 2019 terrorist attack, including assigning each whānau, survivor or witness a continuing single point of contact who will navigate all required Public sector support on their behalf.
- 26. Investigate** establishing a Collective Impact Network and Board or other relevant mechanism that enables Public sector agencies, non-government organisations and affected whānau, survivors and witnesses to agree a specific work programme to provide ongoing wrap-around services to affected whānau, survivors and witnesses.

- 5 We were asked to consider combining any further legal processes that affected whānau, survivors and witnesses may wish to go through into a single restorative process to support affected whānau, survivors and witnesses in their recovery (Part 3, chapter 3). For example, this could include a restorative justice process with those affected whānau, survivors and witnesses who wish to engage with the individual, noting that such a restorative justice process would require the individual being willing to take part.
- 6 There may be further legal and other processes that affected whānau, survivors and witnesses wish to engage in too. We consider it critical that affected whānau, survivors and witnesses are engaged with in an empowering way – that is, they are given the opportunity to collaborate in the design and delivery of such processes. This may require special legislation. This will help minimise the trauma that may come with participating in further processes in which they need to share their stories and evidence, while supporting their recovery and ensure a fair and just outcome.

## We recommend that the Government:

- 27. Direct** the Department of the Prime Minister and Cabinet in collaboration with relevant Public sector agencies discuss with affected whānau, survivors and witnesses of the 15 March 2019 terrorist attack what, if any, restorative justice processes might be desired and how such processes might be designed and resourced.



## **4.2 Other matters relating to affected whānau, survivors and witnesses**

- 7 A few submissions asked us to consider recommending compensation or other reparations for affected whānau, survivors and witnesses. We did not consider that the question of financial support, compensation or ex gratia payments fitted easily within our Terms of Reference. We leave them for direct discussion between those affected whānau, survivors and witnesses and the government in light of the conclusions reached in this report.

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## Chapter 5: Recommendations to improve social cohesion and New Zealand’s response to our increasingly diverse population

### 5.1 Overview

- 1 Societies that are polarised around political, social, cultural, environmental, economic, ethnic or religious differences provide conditions in which radicalising ideologies develop and flourish. Social cohesion is desirable for many reasons, one of which is that it is critical to preventing the development of harmful radicalising ideologies and downstream violent extremism. We have given much thought to this. Improvements in the approach of Public sector agencies towards promoting social cohesion will make a significant contribution to the prevention of extremism and thus violent extremism.
- 2 In a COVID-19 Recovery environment there will be increased stress and an economic downturn, potentially increased inequalities and heightened vulnerabilities. Our recommendations are designed to assist with building a New Zealand where all people feel recognised, respected and accepted, free from prejudice and discrimination and have the resources, skills and knowledge to meaningfully participate in decision-making processes.
- 3 New Zealand has seen considerable social change in recent decades. Successive governments have recognised Te Tiriti o Waitangi as a founding document of New Zealand’s constitutional arrangements. The Waitangi Tribunal established in 1975 provides an avenue for historical and contemporary claims under Te Tiriti o Waitangi to be considered. Specific laws include recognition of the principles of Te Tiriti o Waitangi. Case law has also provided recognition of Te Tiriti o Waitangi in decision-making processes. Te Arawhiti, a departmental agency of the Ministry of Justice, was established to ensure that the Crown meets its Te Tiriti o Waitangi settlement commitments. The Public Service Act recognises the role of the Public sector to support the Crown in its relationships with Māori under Te Tiriti o Waitangi. The next step will be to see government action that focuses on upholding Te Tiriti o Waitangi.
- 4 Government leadership is now also required to drive a social shift to see New Zealand society embrace the opportunities that social cohesion and New Zealand’s changing demographics bring.

### 5.2 Strong government leadership and direction are required

- 5 Coherent leadership at both ministerial and departmental levels is required. It was not clear before 15 March 2019 which minister or Public sector agency provided oversight. In September 2019 Cabinet identified that the minister for social development and the Ministry of Social Development were best placed to coordinate and lead government action on social inclusion.

- 6 In November 2020 a new ministerial portfolio (outside Cabinet) was created for diversity, inclusion and ethnic communities. However, we see the issues of social cohesion, social inclusion and diversity as involving all New Zealanders not just its ethnic communities. Strong policy support will be required to deliver on these initiatives. As outlined we do not see the Office of Ethnic Communities, as presently organised and funded, having the capability required to support a policy work programme relating to social cohesion and inclusion.
- 7 While there is much government activity, there is a need for a purposeful and overarching strategy that can define what government is trying to achieve, identify what actions are being undertaken and areas for improvement. A draft framework has been developed to bring a common understanding, vision and outcomes for social inclusion across government. A monitoring and evaluation regime is being scoped. Public discussion about the draft framework with a targeted group of stakeholders is planned.
- 8 Missing from these positive developments are the voices of communities, civil society, local government and the private sector. We recommend a national dialogue on *social cohesion*, including social inclusion, to inform the development of a framework and monitoring and evaluation regime. We expect the government to collaborate with communities, civil society, local government and the private sector in developing its overarching framework and monitoring and evaluation regime and to have an ongoing role in this area of work.

#### **We recommend that the Government:**

- 28. Announce** that the Minister for Social Development and Employment and the Ministry of Social Development have responsibility and accountability for coordinating a whole-of-government approach to building social cohesion, including social inclusion.
- 29. Direct** the Ministry of Social Development to discuss and collaborate with communities, civil society, local government and the private sector on the development of the social cohesion strategic framework and a monitoring and evaluation regime.

- 9 The Office of Ethnic Communities is the government's principal advisor on ethnic communities in New Zealand. In that role, it must look forward and provide advice about future challenges and opportunities New Zealand faces. We would expect to see a high performing Office of Ethnic Communities excelling in not only providing support and services to ethnic communities, but also acting as an influencer within the Public sector by demonstrating an ability to help shape well-informed policies that recognise the needs of ethnic communities.

- 10 The Office of Ethnic Communities has been unable to effectively fulfil these functions, and has been repeatedly recognised as underperforming. Despite being restructured in 2014, and again in 2016, its effectiveness has been significantly hampered by its limited resources. Its influence, visibility and standing in the Public sector were limited. The current organisational form is impacting on its effectiveness and should be changed.
- 11 We considered recommending that the Office of Ethnic Communities be replaced by a new Public service department. The government may wish to consider this option, along with other machinery of government options as provided for in the Public Service Act 2020. Deciding the optimal organisational form would be best worked through by Te Kawa Mataaho Public Service Commission in conjunction with relevant Public sector agencies. We do not therefore offer a prescriptive recommendation. We focus our recommendations on the capability required for an agency focused on ethnic communities and multiculturalism to be effective rather than its form.
- 12 The responsible Public sector agency needs to be able to achieve excellence in:
  - a) promoting the wellbeing of ethnic communities by providing advice to the Public sector and the government about challenges and priorities, including strategic advice that relates to medium to long term trends in factors that affect wellbeing in ethnic communities;
  - b) collating and using data to analyse, monitor and evaluate where Public sector efforts could increase the wellbeing of ethnic communities, what those efforts should look like, and how they should be prioritised; and
  - c) leading the development and dissemination of an evaluation framework that incorporates performance indicators to monitor and evaluate the impact and effectiveness of government policies and programmes on the wellbeing of ethnic communities.

## We recommend that the Government:

**30. Investigate** the machinery of government options for an agency focused on ethnic communities and multiculturalism and establish a fit for purpose organisational design that will encompass the current functions expected of the Office of Ethnic Communities and enable the new responsible Public sector agency to focus on and perform the following functions:

- a) advise the government and Public sector agencies about priorities and challenges that affect ethnic communities' wellbeing;
- b) collate and use data to analyse, monitor and evaluate Public sector efforts to improve the wellbeing of ethnic communities, what those efforts should be and how they should be prioritised; and
- c) develop an evaluation framework that incorporates performance indicators that examine the impact and effectiveness of government policies and programmes on the wellbeing of ethnic communities.

## 5.3 Engaged and accountable government decision-making

### Data analysis, monitoring and evaluation

- 13 To build social inclusion in a rapidly diversifying society, Public sector agencies need to be able to collect the right data on New Zealand's population to enable analysis of the implications of New Zealand's rapidly changing ethnic and religious demographics and the development of appropriate policy responses.
- 14 Such data is also required to explain the benefits and impacts of these demographic changes on society. It will provide an evidence base to understand the important linkages between social cohesion, social inclusion and diversity on the one hand, and wellbeing and economic and business prosperity on the other. These linkages must inform policy decisions across the Public sector. They are complex and critical to New Zealand's future success as a nation. This criticality is partly a result of our small population, and geographic isolation. Diversity can bring the people-to-people connections within and outside New Zealand that drive innovation, trade and investment.
- 15 The collection and analysis of data will require people with the skills, influence and resources to shape social and economic policy across the Public sector so that it promotes policies that advance social cohesion in a rapidly diversifying society.

- 16 Cabinet has agreed that social inclusion will be included as a goal in the government’s planning for the post COVID-19 Recovery and a social inclusion framework is being developed. Work is also underway on exploring measures and indicators of social inclusion. This work is being undertaken alongside other existing measurement frameworks, including the Living Standards Framework. It is important that this work encompasses social cohesion indicators, is prioritised and gains and maintains momentum.
- 17 More evaluation of the effectiveness of government policies and programmes is necessary. New Zealand academic research points out that the lack of evaluation inhibits the adaptation of national policies as society changes. It also lays government open to the “unthinking perpetuation of policies, pushing problems on to future generations”.<sup>5</sup> The problem was highlighted in a report by the then Prime Minister’s Chief Science Advisor, who concluded that “the quality of assessment and evaluation of policy implementation is quite variable. The required scrutiny can be devalued by agencies that assume their primary mandate is to implement political decisions. As a result, funding for evaluation is frequently trimmed or diverted.”<sup>6</sup> This systemic deficiency has been periodically recognised, but various attempts to improve the situation have come to little. The resistance to independent evaluation seems entrenched in the incentives of the public management system.
- 18 Independent evaluation will mean better informed decisions and ensure that the benefits of government policies and programmes can be shared equitably.<sup>7</sup> In particular, Public sector agencies must also ensure that the implementation of policies and delivery of services impacting ethnic communities are monitored and evaluated. Evaluation is critical to understand the impacts of policies over the medium and long term and to improve public services.

### We recommend that the Government:

- 31. Prioritise** the development of appropriate measures and indicators (such as the Living Standards Framework) of social cohesion, including social inclusion.
- 32. Require** Public sector agencies to prioritise the collection of data on ethnic and religious demographics to support analysis and advice on the implications of New Zealand’s rapidly changing society, inform better policy making and enhance policy evaluation.

<sup>5</sup> Transparency International New Zealand *New Zealand National Integrity System Assessment - 2018 update* (May 2019) at page 166 <https://www.transparency.org.nz/wp-content/uploads/2019/05/National-Integrity-System-Assessment-2018-update-full-report.pdf>

<sup>6</sup> Office of the Prime Minister’s Science Advisory Committee *The role of evidence in policy formation and implementation* (September 2013) <https://www.pmcsa.org.nz/wp-content/uploads/The-role-of-evidence-in-policy-formation-and-implementation-report.pdf>.

<sup>7</sup> RF Inglehart and P Norris *Trump, Brexit, and the Rise of Populism: Economic Have-Nots and Cultural backlash* (2016).

## Workforce diversity and cultural competency

- 19 Overall the New Zealand Public service is diversifying and this must continue to be a priority for all Public sector agencies. As at June 2019 the demographics of the total Public service largely reflected those of the New Zealand population. However, the position is different in respect of Public sector chief executives and those in senior leadership positions (first, second and third tiers) and Public sector agencies involved in the counter-terrorism effort, where workforce diversity figures are low. This should be a continuing focus for the Public Service Commissioner and the chief executives of the Public sector agencies involved in the counter-terrorism effort. The Advisory Group on Counter-terrorism would be well placed to provide advice and assistance to the chief executives.
- 20 The new Public Service Act provides mechanisms that will focus attention on the Public sector's workforce capacity and capability. The Act outlines the principle that the group comprising all Public service employees should reflect the make-up of society and requires the Public Service Commissioner to work with Public sector chief executives to develop a highly capable workforce that reflects the diversity of the society it serves. It also requires the Public Service Commissioner to provide a briefing to the minister for the public service on workforce issues every three years. These briefings must be tabled in the House of Representatives. The Public Service Act also enables the Public Service Commissioner to develop advice and guidance on workforce matters that can target relevant Public sector agencies.
- 21 *Papa Pounamu* (outlined in Part 9, chapter 3) is a worthwhile venture that must continue to drive improving the Public sector's workforce diversity. There are now mandatory requirements for Public sector agencies to plan and report on diversity including the five *Papa Pounamu* workforce diversity priority commitments. This will provide transparency regarding the actions the Public sector leadership is taking and help identify areas for improvement. This is a major shift and will support the Public sector workforce to have the competencies to engage with communities. While work is underway, more could be done to boost these efforts.
- 22 Current requirements focus on the individual agencies with a three-yearly report provided by the Public Service Commissioner to the minister. What is missing is an overarching publicly available annual report that provides a comprehensive view of progress by Public sector agencies involved in the counter-terrorism effort on the *Papa Pounamu* commitments. Independent annual reports that provide a comprehensive view on all Public sector agencies' progress would be valuable too.

## We recommend that the Government:

- 33. Direct** the chief executives of the Public sector agencies involved in the counter-terrorism effort to continue focusing efforts on significantly increasing workforce diversity, including in leadership roles, and in consultation with the Advisory Group on Counter-terrorism (Recommendation 7).
- 34. Encourage** the Public Service Commissioner to publish an annual report that:
- provides a comprehensive view of progress by the Public sector on the *Papa Pounamu* commitments including the identification of areas where those Public sector agencies are performing well, areas where improvements can be made and critical insights across all agencies about where to direct their efforts; and
  - prioritises reporting on progress made by the Public sector agencies involved in the counter-terrorism effort.
- 35. Encourage** the Public Service Commissioner to continue focusing efforts on significantly increasing workforce diversity and attracting diverse talent for Public service leadership roles at the first, second and third-tiers.

## Diversity and education

- 23 New Zealand's education system provides an opportunity to empower children and young people by providing them with skills to understand diversity, consider more inclusive approaches and self-regulate. Education can also provide young people with the skills to participate in society more effectively which contributes to social cohesion. This should remain a priority for New Zealand's early childhood and education system.
- 24 For younger members of society, schooling is an important way to increase knowledge and understanding of New Zealand's history, culture, diversity and future opportunities. We know that our young people take new knowledge and information back into their whānau and communities and have conversations with them – as has been seen in community conversations on the use of plastics and climate change. For young and older members of whānau and communities, those previously challenging conversations are becoming more familiar.
- 25 As New Zealand looks ahead there is an opportunity to build and enhance our social infrastructure and resilience in the same way that physical infrastructure is being invested in. There is a strong case for increased focus on teaching the benefits of diversity and social inclusion.



### We recommend that the Government:

**36. Invest** in opportunities for young New Zealanders to learn about their role, rights and responsibilities and on the value of ethnic and religious diversity, inclusivity, conflict resolution, civic literacy and self-regulation.

## 5.4 We all have a role in making New Zealand safe and inclusive

### Conversations about ethnic and religious diversity

- 26 Public conversations about embracing diversity and encouraging social cohesion should be led by political leaders and the government. There should be transparent conversations where information is available to everyone. These conversations need to include all communities – across the length and breadth of the country, both rural and urban. Enduring change will take time and investment, so these conversations will need to be ongoing.

### We recommend that the Government:

- 37. Create opportunities** for regular public conversations led by the responsible Minister – the Minister for Social Development and Employment – for all New Zealanders to share knowledge and improve their understanding of:
- a) social cohesion, including social inclusion, and the collective effort required to achieve these; and
  - b) the value that ethnic and religious diversity can contribute to a well-functioning society.

### Improved community engagement across the Public sector

- 27 Building social cohesion and social inclusion requires ongoing collaboration. Public sector agencies developing social cohesion and social inclusion policies and programmes should collaborate with communities in developing these policies and programmes. Communities play a pivotal role in building and maintaining social cohesion. This is especially true of community leaders, as they build a sense of identity and validate people's collective understanding of shared social norms and experiences. We recommend greater focus on empowering communities to participate in central and local government decision-making processes.

- 28 Public sector agencies need to increase their engagement capability and ensure that all communities have opportunities to contribute to the development of services, policies and practices that affect them. There needs to be a shift from simply communicating with communities to genuinely engaging in an open, inclusive and transparent way. The default Public sector agencies' practice for community engagement needs to shift away from the inform and consult end of the International Association for Public Participation *IAP2 Public Participation Spectrum*, to more of a focus on involved, collaborative and empowering engagement. This is consistent with the commitments New Zealand has made to have “a government that is open, inclusive and responsive and citizens who willingly get involved in issues that are important to them”.<sup>8</sup>
- 29 This will require greater upfront time and resources from Public sector agencies but will lead to sustainable solutions that better meet the needs of and serve communities. These approaches to engagement will also help to build communities' trust and confidence in Public sector agencies, as their success relies on relationships being built and maintained, rather than one-off, transactional engagement.
- 30 It is important that Public sector agencies are able to communicate why the level of engagement they are undertaking is appropriate in the circumstances. This will improve the quality of community engagement and policy decisions to be taken, help communities to understand the degree of influence they have in a decision-making process and provide the transparency needed to build trust and confidence.

### We recommend that the Government:

- 38. Require** all Public sector community engagement to be in accordance with New Zealand's Open Government Partnership commitments and in particular:
- a) require agencies to be clear about the degree of influence that community engagement has on associated decision-making by indicating to communities where the engagement sits on the International Association for Public Participation *IAP2 Public Participation Spectrum*; and
  - b) encourage agencies to undertake more “involve” and “collaborate” levels of engagement in accordance with the International Association for Public Participation *IAP2 Public Participation Spectrum*.

<sup>8</sup> Open Government Partnership New Zealand *National Action Plan 2018-2020* (2018).

## 5.5 Fit for purpose laws and policies

- 31 An inclusive society must act against behaviours that are harmful and divisive. This requires unacceptable behaviour to be called out and, in certain circumstances, criminalised.
- 32 New Zealand’s legal system does not adequately deal with hate crime and hate speech. The current laws do not appropriately recognise the culpability of hate-motivated offending, nor do they provide a workable mechanism to deal with hate speech. Change is required to both the law and New Zealand Police practice (Part 9, chapter 4).
- 33 The Crime and Disorder Act 1998 (United Kingdom) provides a useful example of legislation that sees hate-motivated offences result in much higher penalties than for the underlying offences and ensures the appropriate recording of these offences.
- 34 This could be achieved in New Zealand by amending sections 4 (offensive behaviour or language), 9 and 10 (assault), 11 (wilful damage) and 21 (intimidation) of the Summary Offences Act 1981 and sections 188–194, 196–197 and 202C (assaults), 267 (arson) and 269 (intentional damage) of the Crimes Act 1961 to reflect the additional culpability of hate-motivated offending.

### We recommend that the Government:

#### 39. Amend legislation to create hate-motivated offences in:

- a) the Summary Offences Act 1981 that correspond with the existing offences of offensive behaviour or language, assault, wilful damage and intimidation; and
- b) the Crimes Act 1961 that correspond with the existing offences of assaults, arson and intentional damage.

- 35 Section 131 of the Human Rights Act 1993, which criminalises certain types of hate speech, is not fit for purpose. The section as written unacceptably impinges on the right of freedom of expression. The words “excite hostility against or bring into contempt” set a low liability threshold. Accordingly it has invited rewriting by the courts, but in a way that has resulted in considerable uncertainty. More generally it does not provide a credible foundation for prosecution.
- 36 We propose a reframed offence that more accurately targets behaviour warranting criminal prosecution and that encompasses hate speech directed at religious affiliation.

- 37 This offence should be included in the Crimes Act, rather than the Human Rights Act, to reflect the seriousness of the offences and increase the resulting penalty. It should be reframed to focus on stirring up or provoking hatred against a group of persons defined by protected characteristics, which should include religious affiliation.
- 38 Sharpening the focus of the section 131 offence would mean that the offence would not discharge New Zealand’s obligations under article 4 of the *International Convention on the Elimination of All Forms of Racial Discrimination*. Substantial compliance could be achieved if the definition of “objectionable” in section 3 of the Films, Videos, and Publications Classification Act 1993 was amended to include racial superiority, racial hatred and racial discrimination.

#### We recommend that the Government:

- 40. Repeal** section 131 of the Human Rights Act 1993 and insert a provision in the Crimes Act 1961 for an offence of inciting racial or religious disharmony, based on an intent to stir up, maintain or normalise hatred, through threatening, abusive or insulting communications with protected characteristics that include religious affiliation.
- 41. Amend** the definition of “objectionable” in section 3 of the Films, Videos, and Publications Classification Act 1993 to include racial superiority, racial hatred and racial discrimination.

- 39 In our discussions with communities we heard many stories of the lack of data about hate-motivated offences and harmful behaviour.
- 40 Over the last two years, New Zealand Police have made progress in improving their records in relation to hate-motivated offending and work on this is continuing. There are, however, still some shortcomings that could be addressed by further improvements to recording systems and additional training.

**We recommend that the Government:**

**42. Direct** New Zealand Police to revise the ways in which they record complaints of criminal conduct to capture systematically hate-motivations for offending and train frontline staff in:

- a) identifying bias indicators so that they can identify potential hate crimes when they perceive that an offence is hate-motivated;
- b) exploring perceptions of victims and witnesses so that they are in a position to record where an offence is perceived to be hate-motivated; and
- c) recording such hate-motivations in a way which facilitates the later use of section 9(1)(h) of the Sentencing Act 2002.

# Chapter 6: Recommendations for implementation

## 6.1 Overview

- 1 This chapter makes a number of recommendations for implementation.

## 6.2 Timing of implementation

- 2 Some recommendations should be able to be implemented relatively quickly, such as assigning ministerial responsibility (Recommendations 1 and 43), establishing funding (Recommendation 14) and the formation of forums that enable community voices to influence decision-making (Recommendations 7 and 44). Implementation of other recommendations may take more time, to enable public conversations to take place (Recommendations 15 and 37), establishing a new agency (Recommendation 2) and reviewing legislation (Recommendations 18, 39, 40 and 41).
- 3 Some outcomes may only become evident over a period of years – in particular, trust and confidence in Public sector agencies involved in the counter-terrorism effort will not increase overnight.

## 6.3 Strong government leadership and direction are required

- 4 The recommendations we make cover a number of Public sector agencies and ministerial portfolios. As we have explained we see our recommendations as a package. As such they would be best implemented under the leadership of one minister who would coordinate with all ministers responsible for the implementation of the recommendations. The same minister would be responsible for communicating the government's implementation plan and providing regular progress reports to New Zealanders. Advice provided by Public sector agencies on the government's implementation plan should be proactively released.

### We recommend that the Government:

- 43. Ensure** a minister is given responsibility and accountability to lead and coordinate the response to and implementation of our recommendations and announce the appointment.

## 6.4 We all have a role in making New Zealand safe and inclusive

- 5 To assist social change, rebuild trust and confidence in Public sector agencies and particularly those involved in the counter-terrorism effort and enhance social licence of the counter-terrorism effort, communities, civil society, local government and the private sector should be involved in the design of the government's implementation plan. The members of our Muslim Community Reference Group could assist although wider community involvement will also be required.

- 6 We cannot see how trust can be rebuilt within ethnic and religious communities without their active participation in the design and implementation of the solutions we have proposed. We have engaged with affected whānau, survivors and witnesses and Muslim communities and their views have informed our recommendations. Engagement of the kind we have participated in and which we envisage for the future goes beyond current Public sector practice of inform or consult. It requires involvement, collaboration and empowerment of New Zealanders as we described in chapter 5. It will also mean a substantial commitment of time and resources and perhaps a mindset change. But it will have the advantage that the outcome will have the support of those whose trust is critical to securing a safer and more inclusive New Zealand.
- 7 We recommend the establishment of an oversight group that includes representatives of communities, civil society, local government, the private sector, affected whānau, survivors and witnesses and our Muslim Community Reference Group. The make-up of the oversight group would include a gender balance, ethnic and religious diversity, a range of ages (youth, adults and elders) and geographical spread.
- 8 It will be responsible for providing advice to the responsible minister (Recommendation 43) on the design of the government's implementation plan and its roll-out. Their advice, and that of Public sector agencies, is to be made publicly available to enhance transparency.

#### **We recommend that the Government:**

#### **44. Establish** an Implementation Oversight Advisory Group that:

- a) includes representatives of communities, civil society, local government, the private sector, affected whānau, survivors and witnesses and our Muslim Community Reference Group;
- b) provides advice to the responsible ministers (Recommendations 1 and 43) on the design of the government's implementation plan and its roll-out; and
- c) publishes its advice to enhance transparency.

# Glossary

Term	Definition
<b>authorising environment</b>	The environment that provides authority for a Public sector agency to operate effectively. Formal sources of authority include legislation, Cabinet decisions and budget approvals. Informal sources of authority include ministers, central agencies, other Public sector agencies, stakeholders, communities, civil society and the private sector.
<b>civil society</b>	The space for collective action on shared interests, purposes and values. It is the third sector of society, along with government and business. It comprises civil society organisations and non-governmental organisations.
<b>community engagement</b>	The process of working with communities to address issues affecting their wellbeing.
<b>counter-terrorism agencies</b>	New Zealand Police and the New Zealand Security Intelligence Service.
<b>counter-terrorism effort</b>	Counter-terrorism activities undertaken by relevant Public sector agencies to detect terrorists and disrupt their organisation, planning, preparation and attacks.
<b>cultural competency</b>	The ability to understand, communicate with and effectively interact with people across cultures, by a person aware of their own worldview and recognising and valuing cultural and social norms and differences. Culture can include ethnicity, nationality, age, gender identity, sexual orientation, disability, religious or faith affiliation.
<b>diversity</b>	Differences in individuals' and groups' traits and characteristics, such as ethnicity, gender identity, sexual orientation, age and disability.
<b>hui</b>	Te reo Māori (Māori language) term for a meeting or gathering.
<b>Public sector agency</b>	In general, a Public sector agency is an organisation that works for the government of New Zealand.  In this report, "Public sector agencies" means the 217 organisations listed in the appendix.



<b>Term</b>	<b>Definition</b>
<b>Public sector agencies involved in the counter-terrorism effort</b>	The Department of the Prime Minister and Cabinet, the Government Communications Security Bureau, Immigration New Zealand, New Zealand Customs Service, New Zealand Police and the New Zealand Security Intelligence Service.
<b>Recovery</b>	One of the 4Rs. Recovery activities are focused on bringing about the immediate, medium-term and long-term recovery of individuals and communities after a national security event.
<b>social cohesion</b>	A socially cohesive society is one in which all individuals and groups have a sense of belonging, social inclusion, participation, recognition and legitimacy.
<b>social inclusion</b>	The process of improving how individuals and groups participate in and contribute to society on their own terms.
<b>Te Tiriti o Waitangi</b>	Te reo Māori (Māori language) name for the Treaty of Waitangi – New Zealand’s founding document signed by Māori and the British Crown in 1840.
<b>threat</b>	A source of potential damage or danger.
<b>threatscape</b>	The threat environment.
<b>wider counter-terrorism effort</b>	Public sector agencies that contribute to or support the counter-terrorism effort, including: <ul style="list-style-type: none"> <li>• the agencies involved in the counter-terrorism effort (the Department of the Prime Minister and Cabinet, the Government Communications Security Bureau, Immigration New Zealand, New Zealand Customs Service, New Zealand Police and the New Zealand Security Intelligence Service); and</li> <li>• agencies who can play a role in supporting counter-terrorism activities where it overlaps with their functions, including Public sector agencies (such as the Department of Internal Affairs, the Ministry of Education and the Ministry of Foreign Affairs and Trade).</li> </ul>





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## End note

- 1 This report provides an independent account of what happened in the lead up to the 15 March 2019 terrorist attack, what, if anything, could have been done to stop it and what must now be done to better protect New Zealanders.
- 2 From the terrible events of the 15 March 2019 terrorist attack comes the responsibility to reflect and learn.
- 3 The first duty of government remains the security of its people. However, national security is not the remit of the intelligence and security and law enforcement agencies alone. Many Public sector agencies also have a role to play. But importantly so too do communities, civil society, local government and the private sector. New Zealanders can play a vital role in countering terrorism and extremism. To play that role, New Zealanders must be informed about the issues and what they can do to help.
- 4 With this in mind, we have included in our report a vast amount of material previously classified as Top Secret or Secret. We have done so to bring into the light how New Zealand's counter-terrorism effort actually works. This will enable future debate to be well informed. We see such informed debate as fundamental to the social licence and thus the effectiveness of the counter-terrorism effort.
- 5 We recognise that we have finalised our analysis and report in the shadow of COVID-19. The pandemic has impacted all communities and has been a stark reminder of the need for community resilience and social infrastructure. It has also been a bright illustration of what can be achieved when society acts collectively in the broader public interest.
- 6 Fundamental to New Zealand's future wellbeing and security is social cohesion. While social cohesion in New Zealand is much higher than many other countries, there are fault lines. Maintaining and enhancing social cohesion is a vital task for government. We are confident that the will is there. We have provided mechanisms in our recommendations for that will to be realised.
- 7 These changes will not be easy, but we have laid down the wero and we urge the Government to take up the challenge and act.



# Glossary

Term	Definition
<b>4chan</b>	An image-based message board on the internet where anyone can post comments and share images anonymously.
<b>4Rs</b>	New Zealand’s integrated approach to national security includes four areas of activity known as the 4Rs – Reduction, Readiness, Response and Recovery.
<b>8chan</b>	A website composed of user-created message boards similar in structure to 4chan.
<b>agencies involved in the counter-terrorism effort</b>	The Department of the Prime Minister and Cabinet, the Government Communications Security Bureau, Immigration New Zealand, New Zealand Customs Service, New Zealand Police and the New Zealand Security Intelligence Service.
<b>Al Qaeda</b>	An Islamist extremist terrorist organisation, which was responsible for the 11 September 2001 terrorist attacks on the United States of America.
<b>assessment agencies</b>	The Combined Threat Assessment Group (hosted by the New Zealand Security Intelligence Service) and the National Assessments Bureau (in the Department of the Prime Minister and Cabinet).
<b>authorising environment</b>	The environment that provides authority for a Public sector agency to operate effectively. Formal sources of authority include legislation, Cabinet decisions and budget approvals. Informal sources of authority include ministers, central agencies, other Public sector agencies, stakeholders, communities, civil society and the private sector.
<b>Barry Harry Tarry</b>	Social media username used by the individual. It is a variation that corresponds to the individual’s initials.
<b>capability and capacity</b>	Capacity describes whether there is enough of something (for example, staff) to achieve a certain outcome. Capability describes the ability to achieve a certain outcome, for example, whether people have the right knowledge, skills and technical tools.

<b>Term</b>	<b>Definition</b>
<b>CCTV</b>	Closed-circuit television, also known as video surveillance, is the use of video cameras to transmit a signal to a specific place, on a limited set of monitors.
<b>central agencies</b>	The Department of the Prime Minister and Cabinet, Te Kawa Mataaho Public Service Commission (formerly the State Services Commission) and the Treasury.
<b>CET</b>	Central European Time.
<b>civil liability</b>	Legal responsibility for breaching an obligation recognised by law.
<b>civil society</b>	The space for collective action on shared interests, purposes and values. It is the third sector of society, along with government and business. It comprises civil society organisations and non-governmental organisations.
<b>classical model of investigation</b>	A model of counter-terrorism investigation that begins with lead information that is then investigated.
<b>Combined Counter-Terrorism Investigations and Leads Meeting (Joint Leads Meeting)</b>	A fortnightly meeting hosted by the New Zealand Security Intelligence Service and attended by the Department of Corrections, Immigration New Zealand, New Zealand Customs Service, New Zealand Police and (since September 2019) the Government Communications Security Bureau. Agencies bring leads they have and the other agencies can look across their own data holdings to provide further intelligence on the lead.
<b>communications intelligence (COMINT)</b>	Information derived from communications. The primary component of signals intelligence (SIGINT).
<b>community engagement</b>	The process of working with communities to address issues affecting their wellbeing.
<b>constitutional monarchy</b>	A system of government where there is a Sovereign (that is, monarch) who does not rule, but instead carries out constitutional, ceremonial and representational duties. The monarch, Queen Elizabeth II, is New Zealand's head of state, while the prime minister is the head of government.

<b>Term</b>	<b>Definition</b>
<b>control orders</b>	Court-imposed civil orders that place conditions or restrictions – such as curfews and electronic monitoring – on individuals who are seen to be at high risk of engaging in terrorism.
<b>counter-terrorism agencies</b>	New Zealand Police and the New Zealand Security Intelligence Service.
<b>counter-terrorism effort</b>	Counter-terrorism activities undertaken by relevant Public sector agencies to detect terrorists and disrupt their organisation, planning, preparation and attacks.
<b>counter-terrorism strategy</b>	A framework used to guide the activities of the Public sector agencies involved in the wider counter-terrorism effort.
<b>criminal liability</b>	Legal responsibility for committing an offence prohibited by law.
<b>the Crown</b>	The meaning of the Crown varies according to the context in which it is used. Generally, it describes executive government conducted by ministers and the relevant Public service agencies. It does not normally include organisations that have their own corporate identities, such as state-owned enterprises.
<b>cryptocurrency</b>	Digital or virtual currency based on a vast network of computers, which allows it to exist outside the control of governments and central banking authorities.
<b>cultural competency</b>	The ability to understand, communicate with and effectively interact with people across cultures, by a person aware of their own worldview and recognising and valuing cultural and social norms and differences. Culture can include ethnicity, nationality, age, gender identity, sexual orientation, disability, religious or faith affiliation.
<b>Dā'ish</b>	The Arabic acronym for the Islamic State of Iraq and the Levant (ISIL), also known as the Islamic State of Iraq and Syria (ISIS). An Islamist extremist terrorist organisation.
<b>dark web</b>	Part of the internet that is not visible to search engines and requires the use of specialist anonymising software to access.



<b>Term</b>	<b>Definition</b>
<b>data aggregation</b>	Combining data from various sources and presenting it in a summarised format.
<b>deconfliction</b>	A process that enables agencies to be aware of each other's activities where they are investigating the same subject of interest.
<b>digital native</b>	A person who has grown up in the digital age.
<b>Digital Subscriber Line (DSL)</b>	An internet connection that transmits digital data using telephone lines.
<b>directive leadership</b>	Involves a leader setting clear directions, objectives and expectations.
<b>Director-General of the Government Communications Security Bureau</b>	The chief executive of the Government Communications Security Bureau. This is a statutory title defined in the Intelligence and Security Act 2017.
<b>Director-General of Security</b>	The chief executive of the New Zealand Security Intelligence Service. This is a statutory title defined in the Intelligence and Security Act 2017.
<b>diversity</b>	Differences in individuals' and groups' traits and characteristics, such as ethnicity, gender identity, sexual orientation, age and disability.
<b>domestic terrorism</b>	Terrorism or terrorist activity that occurs in New Zealand. We note that this may differ from definitions used by others, including New Zealand's counter-terrorism agencies.
<b>EFTPOS</b>	Acronym for electronic funds transfer at point of sale. An electronic payment system.
<b>endocrinology</b>	A branch of medicine that deals with the diagnosis and treatment of hormone problems, such as diabetes. An endocrinologist is a doctor who specialises in the diagnosis and treatment of hormone problems.
<b>endorsement</b>	Additional firearms licence privileges to possess and use certain types of firearms.

<b>Term</b>	<b>Definition</b>
<b>far right</b>	<p>A range of views and ideologies that are underpinned by a strong form of nationalism that holds that Western civilisation and its values are under threat from non-native people (particularly immigrants) and ideas (such as multiculturalism). Both the radical right and the extreme right-wing fit under the broad umbrella of the far right.</p> <p>We do not use a hyphen for far right even when it is being used as an adjective.</p>
<b>firearms licensing process</b>	How a firearms licence application is processed by New Zealand Police.
<b>firearms licensing system</b>	The system of firearms licensing including policies and administration, and the regulation of semi-automatic firearms.
<b>fit and proper person</b>	A person of good character, who can be trusted to use firearms responsibly.
<b>Five Eyes</b>	The intelligence sharing partnership between Australia, Canada, New Zealand, the United Kingdom and the United States of America.
<b>full take collection</b>	A phrase used by the Government Communications Security Bureau meaning collection and storage of all communications data collected from a communications link, before irrelevant or unwanted information has been filtered out.
<b>full-time equivalent</b>	A method of calculating staffing based on hours worked. One full-time equivalent corresponds to 40 hours of work per week.
<b>groupthink</b>	The practice of thinking or making decisions as a group driven by the urge to conform and valuing harmony over critical thinking or evaluation.
<b>GST</b>	Goods and Services Tax.
<b>hijab</b>	A head covering worn in public by some Muslim women.
<b>hostile reconnaissance</b>	Gathering information about the security levels and layout of a building and/or the usual activities of people in the building. An activity sometimes carried out by a person planning a terrorist attack.

<b>Term</b>	<b>Definition</b>
<b>hui</b>	Te reo Māori (Māori language) term for a meeting or gathering.
<b>human intelligence (HUMINT)</b>	Information derived from covert human sources, private individuals who volunteer information, face to face meetings with individuals, community engagement and communications.
<b>hussainiya</b>	An Arabic term for a congregation hall for Shia (a denomination of Islam) commemoration ceremonies.
<b>incendiary device</b>	A device designed to cause fires.
<b>intelligence and security agencies</b>	The Government Communications Security Bureau and the New Zealand Security Intelligence Service. This is a statutory term under the Intelligence and Security Act 2017.
<b>international terrorism</b>	Terrorism or terrorist activity that occurs outside New Zealand. We note that this may differ from definitions used by others, including New Zealand’s counter-terrorism agencies.
<b>Internet Protocol address (IP address)</b>	A unique number linked to each device connected to a computer network that uses the Internet Protocol for communication.
<b>iwi</b>	Te reo Māori (Māori language) term that refers to a tribe – a large group of Māori people bound together by descent from a common ancestor and associated with a distinct territory.
<b>Jumu’ah</b>	Jumu’ah is the prayer that occurs at solar noon on Fridays.
<b>lone actor terrorist</b>	A single person operating alone to plan and carry out a terrorist attack.
<b>magazine</b>	A device that contains ammunition to feed into the chamber of a firearm.
<b>Māori</b>	The indigenous population of New Zealand.
<b>masajid</b>	An Arabic term for more than two masjid.
<b>masjid</b>	An Arabic term for a mosque, the Muslim place of worship. In Arabic, masjid literally translates to “place of prostration (in prayer)”.

<b>Term</b>	<b>Definition</b>
<b>masjidain</b>	An Arabic term for two masjid.
<b>Masjid an-Nur</b>	An Arabic term for the an-Nur Mosque.
<b>massively multiplayer online role-playing games</b>	A combination of role-playing video games and massively multiplayer online games, in which a large number of players interact with each other in a virtual world.
<b>member of Police</b>	An employee of New Zealand Police, including a person seconded to New Zealand Police.
<b>meme</b>	An image, video or piece of text, typically humorous in nature that is spread via the internet, often through social media.
<b>metadata</b>	Information about other data, such as the date the data was created, who created it, and who can access it.
<b>military style semi-automatic</b>	A semi-automatic firearm fitted with: <ul style="list-style-type: none"> <li>- a magazine capable of holding more than 15 .22 calibre rimfire cartridges or more than seven cartridges of any other kind; and/or</li> <li>- a military pattern free-standing pistol grip; and/or</li> <li>- a folding or telescopic butt; and/or</li> <li>- bayonet lugs; and/or</li> <li>- or a flash suppressor.</li> </ul>
<b>mobilisation</b>	The process by which a radicalised person moves from an extremist intent to preparatory steps to engage in terrorist activity, such as researching potential targets, training or increased use of concealment behaviour.
<b>National Intelligence Application (NIA)</b>	A database used by New Zealand Police to manage information relevant to operational policing.
<b>near-relative referee</b>	A family member of a firearms licence applicant who can attest to the applicant being a fit and proper person.

<b>Term</b>	<b>Definition</b>
<b>New Zealand Intelligence Community</b>	The Government Communications Security Bureau, the New Zealand Security Intelligence Service and the National Security Group of the Department of the Prime Minister and Cabinet (including the National Assessments Bureau).
<b>nexus</b>	A connection.
<b>Officials' Committee for Domestic and External Security Coordination (ODESC)</b>	The primary governance board overseeing New Zealand's national security and resilience. Its main role is the identification and governance of national security risk. It is chaired by the Chief Executive of the Department of the Prime Minister and Cabinet.
<b>operational security</b>	Awareness and minimisation of behaviours that might attract attention from Public sector agencies.
<b>ophthalmology</b>	A branch of medicine that deals with the diagnosis and treatment of eye diseases and vision problems, such as cataracts. An ophthalmologist is a doctor who specialises in the diagnosis and treatment (including surgery) of eye diseases and vision problems.
<b>Oslo terrorist</b>	An individual born and raised in Oslo, Norway who committed a terrorist attack in Oslo and on Utøya Island, Norway on 22 July 2011.
<b>Pasifika</b>	A collective term for people of Pacific Island descent.
<b>Performance Improvement Framework</b>	A tool, developed by the central agencies, for Public sector agencies and their chief executives to improve the performance of a Public sector agency.
<b>Performance Improvement Framework review</b>	A review of a Public sector agency completed by independent reviewers using the Performance Improvement Framework.
<b>polarisation</b>	Increasing divergence between individuals and groups holding different views.

<b>Term</b>	<b>Definition</b>
<b>Public sector agencies involved in the counter-terrorism effort</b>	The Department of the Prime Minister and Cabinet, the Government Communications Security Bureau, Immigration New Zealand, New Zealand Customs Service, New Zealand Police and the New Zealand Security Intelligence Service.
<b>Public sector agency</b>	<p>In general, an organisation that works for the government of New Zealand.</p> <p>In this report, “Public sector agencies” means the 217 organisations listed in the appendix.</p>
<b>Qur’an</b>	The central religious text of Islam.
<b>radicalisation</b>	The process through which people develop commitment to a particular extremist ideology. People can radicalise to violence when they come to see violence as a feasible tool to address their grievances.
<b>radical right</b>	Ideologies and beliefs that form part of the far right. Those on the radical right generally use democratic means to achieve their aims and do not openly endorse the use of violence as a legitimate tool to achieve their aims.
<b>Recovery</b>	One of the 4Rs. Recovery activities are focused on bringing about the immediate, medium-term and long-term recovery of individuals and communities after a national security event.
<b>Registrar</b>	A doctor working in a hospital who is training in a specialised field of medicine.
<b>right-wing extremism</b>	<p>Ideologies and beliefs that form part of the far right. Those in the extreme right-wing often believe that democracy should be replaced, and they see non-democratic means, such as violence, as legitimate tools to achieve their aims.</p> <p>We use a hyphen for right-wing even when it is not being used as an adjective.</p>
<b>risk</b>	The likelihood that a threat will occur, and the seriousness of consequences if it does. The more likely the threat, and the more severe the likely consequences, the greater the risk.

<b>Term</b>	<b>Definition</b>
<b>sanitisation</b>	Removing sensitive information (often by rewording language) from a document so that it can be more widely distributed.
<b>scabbard</b>	A sheath or holster for a knife.
<b>Secure Digital card (SD card)</b>	A digital storage card used in portable electronic devices.
<b>securitisation</b>	When a group of people or communities are seen primarily as a potential security threat.
<b>semi-automatic</b>	A firearm that is capable of, with each pull of the trigger: <ul style="list-style-type: none"> <li>- firing a cartridge and ejecting its case; and</li> <li>- chambering another cartridge.</li> </ul>
<b>sensitive information</b>	Information that, if disclosed, would be likely to cause damage to the security or defence of New Zealand, or to the New Zealand government's international relations, or prejudice the maintenance of the law or endanger the safety of a person.
<b>shuhada</b>	An Arabic term for the plural martyr. The term shuhada is used in this report to refer to people who died as martyrs as a result of the terrorist attack on 15 March 2019.
<b>signals intelligence (SIGINT)</b>	Information derived from electronic communications (signals such as phone calls and emails), the primary component of which is communications intelligence (COMINT).
<b>social cohesion</b>	A socially cohesive society is one in which all individuals and groups have a sense of belonging, social inclusion, participation, recognition and legitimacy.
<b>social inclusion</b>	The process of improving how individuals and groups participate in and contribute to society on their own terms.
<b>social licence</b>	The ability of a business, organisation or government to do its work because it has the ongoing approval or acceptance of society to do so.
<b>solar noon</b>	The time of day when the sun appears to have reached its highest point in the sky.

<b>Term</b>	<b>Definition</b>
<b>structural discrimination</b>	Where an entire network of rules and practices disadvantages less empowered groups while serving at the same time to advantage the dominant group.
<b>sworn officers</b>	New Zealand Police employees who have taken the constable's oath under the Policing Act 2008.
<b>tangata whenua</b>	Te reo Māori (Māori language) term for Māori, which means "people of the land".
<b>target hardening</b>	A term used by law enforcement, security and military personnel to refer to the strengthening of a building or installation in order to protect it in the event of an attack. This can include security measures like installing closed-circuit television (CCTV) and alarms.
<b>Tauiwi</b>	A person in New Zealand of non-Māori descent.
<b>terrorist cell</b>	A small semi-independent or entirely separate unit of a larger terrorist organisation.
<b>Te Tiriti o Waitangi</b>	Te reo Māori (Māori language) name for the Treaty of Waitangi – New Zealand's founding document signed by Māori and the British Crown in 1840.
<b>threat</b>	A source of potential damage or danger.
<b>threatscape</b>	The threat environment.
<b>Tor browser</b>	Software that allows users to surf the web anonymously by concealing the user's location as well as what they are looking at online. It can also be used to access the dark web.
<b>tradecraft</b>	Operational (often secret) practices.
<b>trolling</b>	The deliberate act of making comments, usually on internet forums, to provoke a reaction from readers.
<b>unrelated referee</b>	A person unrelated to a firearms applicant, such as a friend or an employer, who can attest to the applicant being a fit and proper person.



<b>Term</b>	<b>Definition</b>
<b>Virtual Private Network (VPN)</b>	Software that allows the user to create a secure connection to another server over the internet. Once connected, the user can browse the internet using that server. In doing so, the user is provided with an Internet Protocol (IP) address associated with the different server, which hides the user's location.
<b>Vote</b>	A grouping of Parliamentary appropriations that authorise responsible Ministers to incur expenses or capital expenditure. Each Vote is administered by one Public service department.
<b>Waitangi Tribunal</b>	A tribunal that considers contemporary and historical breaches of Te Tiriti o Waitangi.
<b>whānau</b>	Te reo Māori (Māori language) term for family.
<b>wider counter-terrorism effort</b>	Public sector agencies that contribute to or support the counter-terrorism effort, including: <ul style="list-style-type: none"> <li>– the agencies involved in the counter-terrorism effort (the Department of the Prime Minister and Cabinet, the Government Communications Security Bureau, Immigration New Zealand, New Zealand Customs Service, New Zealand Police and the New Zealand Security Intelligence Service); and</li> <li>– agencies who can play a role in supporting counter-terrorism activities where it overlaps with their functions, including Public sector agencies (such as the Department of Internal Affairs, the Ministry of Education and the Ministry of Foreign Affairs and Trade).</li> </ul>



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## Appendix: Public sector agencies

### Public service departments

1. Crown Law Office
2. Department of Conservation
3. Department of Corrections
4. Department of Internal Affairs
5. Department of the Prime Minister and Cabinet
6. Education Review Office
7. Government Communications Security Bureau
8. Inland Revenue Department
9. Land Information New Zealand
10. Ministry of Business, Innovation and Employment
11. Ministry for Culture and Heritage
12. Ministry of Defence
13. Ministry of Education
14. Ministry for the Environment
15. Ministry of Foreign Affairs and Trade
16. Ministry of Health
17. Ministry of Housing and Urban Development
18. Ministry of Justice
19. Ministry for Pacific Peoples
20. Ministry for Primary Industries
21. Ministry of Social Development
22. Ministry of Transport
23. Ministry for Women
24. New Zealand Customs Service
25. New Zealand Security Intelligence Service
26. Oranga Tamariki – Ministry for Children
27. Serious Fraud Office
28. Statistics New Zealand
29. Te Kāhui Whakamana Rua Tekau mā Iwa – Pike River Recovery Agency
30. Te Kawa Mataaho – Public Service Commission
31. Te Puni Kōkiri – Ministry of Māori Development
32. The Treasury

### Departmental agencies

33. Social Wellbeing Agency
34. Te Arawhiti – Office for Māori Crown Relations

## **Non-Public service departments**

### **In the State services**

35. New Zealand Defence Force
36. New Zealand Police
37. Parliamentary Counsel Office

### **In the wider Public sector**

38. Office of the Clerk of the House of Representatives
39. Parliamentary Service

## **Crown entities**

### **Crown agents**

40. Accident Compensation Corporation
41. Auckland District Health Board
42. Bay of Plenty District Health Board
43. Callaghan Innovation
44. Canterbury District Health Board
45. Capital & Coast District Health Board
46. Civil Aviation Authority of New Zealand
47. Counties Manukau District Health Board
48. Earthquake Commission
49. Education New Zealand
50. Energy Efficiency and Conservation Authority
51. Environmental Protection Authority
52. Fire and Emergency New Zealand
53. Hawke's Bay District Health Board
54. Health Promotion Agency
55. Health Quality and Safety Commission
56. Health Research Council of New Zealand
57. Hutt Valley District Health Board
58. Kāinga Ora – Homes and Communities
59. Lakes District Health Board
60. Maritime New Zealand
61. MidCentral District Health Board
62. Nelson Marlborough District Health Board
63. New Zealand Antarctic Institute

64. New Zealand Blood Service
65. New Zealand Qualifications Authority
66. New Zealand Tourism Board
67. New Zealand Trade and Enterprise
68. New Zealand Transport Agency
69. New Zealand Walking Access Commission
70. Northland District Health Board
71. Pharmaceutical Management Agency
72. Real Estate Authority
73. Social Workers Registration Board
74. South Canterbury District Health Board
75. Southern District Health Board
76. Sport and Recreation New Zealand
77. Tairāwhiti District Health Board
78. Taranaki District Health Board
79. Tertiary Education Commission
80. Waikato District Health Board
81. Wairarapa District Health Board
82. Waitematā District Health Board
83. West Coast District Health Board
84. Whanganui District Health Board
85. WorkSafe New Zealand

#### **Autonomous Crown entities**

86. Annuitas Management Limited
87. Arts Council of New Zealand Toi Aotearoa
88. Commission for Financial Capability
89. Heritage New Zealand Pouhere Taonga
90. International Accreditation New Zealand
91. Museum of New Zealand Te Papa Tongarewa Board
92. New Zealand Artificial Limb Service
93. New Zealand Film Commission
94. New Zealand Lotteries Commission
95. New Zealand on Air
96. New Zealand Superannuation Fund
97. New Zealand Symphony Orchestra
98. Public Trust
99. Te Māngai Pāho – Māori Broadcasting Funding Agency
100. Te Taura Whiri I Te Reo Māori – Māori Language Commission

### **Independent Crown entities**

101. Broadcasting Standards Authority
102. Children's Commissioner
103. Commerce Commission
104. Drug Free Sport New Zealand
105. Electoral Commission
106. Electricity Authority
107. External Reporting Board
108. Financial Markets Authority
109. Health and Disability Commissioner
110. Human Rights Commission
111. Independent Police Conduct Authority
112. Law Commission
113. New Zealand Productivity Commission
114. Office of Film and Literature Classification
115. Privacy Commissioner
116. Takeovers Panel
117. Transport Accident Investigation Commission

### **Crown research institutes**

118. AgResearch Limited
119. GNS Science
120. Institute of Environmental Science and Research Limited
121. Manaaki Whenua Landcare Research New Zealand Limited
122. National Institute of Water and Atmospheric Research Limited
123. New Zealand Forest Research Institute Limited
124. The New Zealand Institute for Plant and Food Research Limited

### **Other companies**

125. Crown Irrigation Investments Limited
126. New Zealand Growth Capital Partners
127. Radio New Zealand Limited
128. Television New Zealand Limited

### **Crown entity subsidiaries**

129. High Performance Sport New Zealand
130. Hobsonville Land Company
131. Telarc SAI Limited

### **Crown entity subsidiaries of the New Zealand Institute of Skills and Technology**

- 132. Ara Institute of Canterbury
- 133. Eastern Institute of Technology
- 134. Manukau Institute of Technology
- 135. Nelson Marlborough Institute of Technology
- 136. Northland Polytechnic
- 137. Open Polytechnic of New Zealand
- 138. Otago Polytechnic
- 139. Southern Institute of Technology
- 140. Tai Poutini Polytechnic
- 141. Toi Ohomai Institute of Technology
- 142. Unitec Institute of Technology
- 143. Universal College of Learning
- 144. Waikato Institute of Technology
- 145. Western Institute of Technology
- 146. Whitireia Community Polytechnic

### **Tertiary education institutions**

- 147. Auckland University of Technology
- 148. Lincoln University
- 149. Massey University
- 150. Te Wānanga o Aotearoa (Te Awamutu)
- 151. Te Wānanga o Raukawa (Otaki)
- 152. Te Whare Wānanga o Awanuiārangī (Whakatāne)
- 153. University of Auckland
- 154. University of Canterbury
- 155. University of Otago
- 156. University of Waikato
- 157. Victoria University of Wellington

## **Public Finance Act Schedule 4 organisations**

### **Fish and game councils**

- 158. Auckland/Waikato Fish and Game Council
- 159. Central South Island Fish and Game Council
- 160. Eastern region Fish and Game Council
- 161. Hawke's Bay Fish and Game Council

- 162. Nelson/Marlborough Fish and Game Council
- 163. New Zealand Fish and Game Council
- 164. New Zealand Game Animal Council
- 165. North Canterbury Fish and Game Council
- 166. Northland Fish and Game Council
- 167. Otago Fish and Game Council
- 168. Southland Fish and Game Council
- 169. Taranaki Fish and Game Council
- 170. Wellington Fish and Game Council
- 171. West Coast Fish and Game Council

#### **Trusts**

- 172. Agricultural and Marketing Research and Development Trust
- 173. Asia New Zealand Foundation
- 174. National Pacific Radio Trust
- 175. Ngāi Tahu Ancillary Claims Trust (inactive)
- 176. Pacific Co-operation Foundation
- 177. Pacific Island Business Development Trust
- 178. Te Ariki Trust

#### **Other game animal council**

- 179. New Zealand Game Bird Habitat Trust Board
- 180. New Zealand Lottery Grants Board
- 181. Te Tumu Paeroa

### **Public Finance Act Schedule 4A companies**

- 182. City Rail Link Limited
- 183. Crown Asset Management Limited
- 184. Crown Infrastructure Partners Limited
- 185. Education Payroll Limited
- 186. Ōtākaro Limited
- 187. Predator Free 2050 Limited
- 188. Research and Education Advanced Network New Zealand Limited
- 189. Southern Response Earthquake Services Limited
- 190. Tāmaki Redevelopment Company Limited
- 191. The Network for Learning Limited



## **Offices of Parliament**

- 192. Office of the Ombudsmen
- 193. The Controller and Auditor-General
- 194. The Parliamentary Commissioner for the Environment

## **State-owned enterprises**

- 195. AsureQuality Limited
- 196. Electricity Corporation of New Zealand Limited
- 197. KiwiRail Holdings Limited
- 198. Kordia Group Limited
- 199. Meteorological Service of New Zealand Limited
- 200. New Zealand Post Limited
- 201. New Zealand Railways Corporation
- 202. Orillion
- 203. Pāmu – Landcorp Farming Limited
- 204. Quotable Value Limited
- 205. Transpower New Zealand Limited

## **Mixed ownership model companies**

- 206. Genesis Energy
- 207. Mercury NZ Limited
- 208. Meridian Energy Limited

## **Other**

- 209. Inspector-General of Intelligence and Security
- 210. Māori Television
- 211. New Zealand Council for Educational Research
- 212. New Zealand Food Innovation Network
- 213. Queen Elizabeth II National Trust
- 214. Regenerate Christchurch
- 215. Remuneration Authority
- 216. Reserve Bank
- 217. Te Mātāwai







