

## **DRAFT**

# **Governance, Strategic Leadership and management of Commissioners and Staff**

The Chief Commissioner, other Commissioners the Executive Director and the staff of the Commission need to work together as a team to deliver the strategic direction and general nature of activities set by the Board of the Commission and documented in the annual Business Plan and the associated Statement of Intent.

## **Commissioners**

Commissioners have three distinct roles

*Governance:* Commissioners are members of the Board of the Commission. Acting together as a Board and, for the avoidance of doubt, not as representatives of their designations or teams, Commissioners determine the strategic direction and the general nature of the activities undertaken in the performance of the Commission's functions in all areas of the Commission's work, including where Commissioners have designated statutory functions – they collectively provide leadership and direction to the Commission.

*Strategic leaders:* Commissioners are also the strategic leaders of the Commission's work. The subject areas for each Commissioner may be identified by statutory responsibility or made by allocations of spheres of responsibility by the Chief Commissioner (in consultation with the Minister). Commissioners acting as strategic leaders are required to “act jointly” with the Chief Commissioner and recognise the overall responsibility and accountability of the Chief Commissioner for actions taken in the performance of the Commission's functions. They lead discussions in the Commission in their designated subject areas, providing high level input and oversight of the Commission's work in specific subject areas.

Commissioners also engage in the wider community, outside the organisation, to develop their understanding of relevant human rights issues and to exert their influence to improve human rights outcomes.

*Participation in day-to-day activities:* Commissioners may engage in most of the day-to-day activities of the Commission if, and only if, the participation and the extent of participation is determined by the Chief Commissioner, (in consultation with the Minister). Where Commissioners are engaging in day-to-day activities they are required to tread carefully to ensure they do not intrude on the role of the Executive Director and her or his staff.

Commissioners with statutory designations have some additional functions associated with that role. For the Race Relations and Equal Employment Opportunities Commissioners these functions include:

leading discussions of the Commission and providing advice and leadership in their respective areas;

acting jointly with the Chief Commissioner ensuring that the activities undertaken in the performance of the Commission's functions in their respective areas are consistent with the strategic direction and other determinations of the Commission;

and, for the Race Relations Commissioner only, supervising and liaising with the Executive Director (acting jointly with the Chief Commissioner) on the activities undertaken in the performance of the Commission's functions in matters of race relations.

Commissioners may not become involved in the anti-discrimination complaints process whilst any assessment, pre-mediation, mediation, disputes resolution or litigation process is underway.

Commissioners are appointed by a recommendation of the Minister of Justice to the Governor General. Each one of them is personally responsible to the Minister of Justice for compliance with their collective duties as a Board, their individual duties as members of the Board, and any Ministerial directions.

The performance of the Board as a Board will also be monitored by the Board under a process to be established and led by the Chief Commissioner in his role as Chair of the Board. The Board also monitors the performance of the Chief Commissioner.

Once appointed, and any allocations of spheres of responsibility by the Chief Commissioner (in consultation with the Minister) are made, determinations by the Chief Commissioner (in consultation with the Minister) and work plans are set, the performance of each of the Commissioners in all of their roles, including as Board Members is monitored and managed by the Chief Commissioner. The Chief Commissioner's role in other Commissioner's Board performance is, again, in accordance with the State Services Commission Guidance.<sup>1</sup>

## **Chief Commissioner**

The Chief Commissioner leads the Human Rights Commission.

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<sup>1</sup> See Resource for Preparation of Governance Manuals - Guidance for Statutory Crown Entities: Crown Agents, Autonomous Crown Entities, Independent Crown Entities (October 2009) at Chapter 5 available at [www.ssc.govt.nz/governance](http://www.ssc.govt.nz/governance).

The Chief Commissioner appoints the Executive Director in consultation with Commissioners and the State Services Commissioner with regard to the terms and conditions of the appointment.

The Director of the Office of Human Rights Proceedings reports to the Chief Commissioner for the good and effective functioning of the office

The Chief Commissioner chairs the Board of the Commission.

The Chief Commissioner is accountable to the Board for ensuring activities undertaken in the performance of the Commission's functions are not inconsistent with the determinations of the Commission with regard to the strategic direction and the general nature of activities.

The Chief Commissioner allocates spheres of responsibilities among the Commissioners within constraints imposed by statutory responsibilities and in consultation with the Minister. The Chief Commissioner also determines if and to what extent a Commissioner will engage in activities undertaken in the day-to-day performance of the Commission's functions, also in consultation with the Minister.

These arrangements mean that the Chief Commissioner may, with some limitations, decide what Commissioners do and is responsible for evaluating their performance.

The Chief Commissioner's function of supervising and liaising with the Executive Director on matters of administration means that the Chief Commissioner has input into issues such as staff numbers, allocation of responsibilities, staff structure, staff capabilities and the like.

The Chief Commissioner provides strategic oversight of the antidiscrimination complaints process but does not become involved in specific antidiscrimination complaints handling, which is the responsibility of the Chief Mediator.

## **Executive Director**

The Executive Director leads the staff of the Human Rights Commission. Staff, alongside Commissioners as determined by the Chief Commissioner perform the day-to-day activities required to implement the functions of the Commission in accordance with the strategic direction and general nature of activities set by the Board.

Employees are responsible to the Executive Director and report to her or him. This requires that any formal instruction to staff is undertaken by the Executive Director or his or her delegated managers and not by Commissioners.

The Executive Director manages the activities undertaken by the managers and staff of the Commission and makes the necessary decisions associated with that role. The

Executive Director is responsible to the Chief Commissioner for managing the quality of work output and the performance of the managers and staff.

Commissioners, when participating in the day-to-day activities of the Commission, are operating in a role separate from their roles in governance and strategic leadership. They should be careful to work constructively with the Executive Director and her or his staff, and are required to comply with determinations of the Chief Commissioner (in consultation with the Minister) on the allocation of activities.

The Executive Director is responsible to the Chief Commissioner and not to the Board. For matters of race relations the Executive Director is jointly supervised by the Chief Commissioner and the Race Relations Commissioner. In regard to race relations this means that the Executive Director must ensure that both the Chief Commissioner and the Race Relations Commissioner are satisfied with the quality of work output relating to race relations and the performance of the managers and staff on matters of race relations, with the Chief Commissioner having ultimate responsibility and accountability.

### **Strategic Leadership Team**

The Strategic Leadership Team (SLT) will comprise the Commissioners and some of the Managers within the Commission. The SLT, chaired by the Chief Commissioner, will meet to monitor the implementation of strategy. Where possible issues identified will be resolved together in a collegial way. The SLT will also work together to identify improvement opportunities. Board members will be present so a Board meeting may be constituted if required to approve actions.

### **Strategy development, approval, execution, monitoring and reporting**

All Commissioners, working together as the Board, determine the overall strategic direction of the Commission and the general nature of activities. The Board makes these decisions using input from a wide variety of external and internal sources including managers and staff under the leadership of the Executive Director.

The Chief Commissioner is responsible for allocating spheres of responsibility to Commissioners and for deciding where and how they will work in the organisation. The Chief Commissioner will conduct analysis of human rights needs to inform his allocations of spheres of responsibilities.

Commissioners provide strategic leadership in their areas of designation and lead the development of proposed strategies.

The proposed strategies are collated and organised by the Executive Director so decisions can be made about what should be included in the annual Business Plan, for consideration by the Board. The Executive Director provides information to the Board about the available resources in a form that enables the Board to decide how to allocate resources to priorities at a macro level.

The Board of the Commission decides the allocation of resources among the proposed strategies at a macro level and approves specific strategies.

Once approved, the Business Plan and related documents describe the interventions designed to improve human rights outcomes combined with the approved allocation of resources to the intervention activities.

The Executive Director is also responsible for preparing the associated Statement of Intent on behalf of the Board. The Board is responsible for approving the Business Plan and associated Statement of Intent.

The Executive Director is responsible to the Chief Commissioner for the implementation of strategy by managers and staff, consistent with the strategic direction and general nature of activities set by the Board and reflected in the annual Business Plan.

The Chief Commissioner is responsible to the Board for over-seeing the implementation of strategy by Commissioners consistent with the decisions of the Board, whether they are working in their role as strategic leaders or on day-to-day activities.

Commissioners are responsible for providing oversight of and high-level input to the implementation of strategy in their individual areas of strategic leadership whether determined by statute or by allocation of spheres of responsibility by the Chief Commissioner (consistent with the strategic direction and general nature of activities set by the Board and reflected in the annual Business Plan). The SLT is responsible for the monitoring of strategy implementation.

The Executive Director is responsible for reporting the progress against the outputs, measures and standards of the statement of service performance within the SOI to the Board.

The Chief Commissioner is responsible for the outcomes of strategy, and therefore responsible for deciding the boundaries of roles where there is ambiguity, provided she or he does that within legislative and other constraints and consults with the Minister as required.

The Commissioners and Executive Director may from time to time wish to advise the Chief Commissioner about those boundary decisions but the decision is the Chief Commissioner's.

In the ordinary course of day-to-day activities, where Commissioner has a concern about the strategy implementation work of the Executive Director, a manager or staff member that concern may be raised informally with the other person concerned or with his or her manager. Similarly, the Executive Director may raise concerns about the work of a Commissioner with the Commissioner themselves. If concerns are not resolved informally they are referred to the Chief Commissioner for resolution because the Commissioners and the Executive Director have lines of responsibility to the Chief Commissioner.

### **Managing resources**

Delegations of responsibility from the Chief Commissioner to the Executive Director and from the Executive Director to Managers and staff provide the framework for decision making on resources and decision making. These delegations exist but will be reviewed.

Guidelines for practice will include consultation where desirable with the manager-once-removed to reduce the opportunities for managers to make mistakes acting alone.