

11 June 2018

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Tēnā koe Jem

Official information request for implementation of To Be Who I Am inquiry report 2008

I refer to your official information request dated 11 May 2018 about what the Ministry of Justice (Ministry) is doing to implement the 2008 *To Be Who I Am* inquiry report. The Ministry is committed to valuing, reflecting and better understanding the communities we serve and this report is an important and valuable resource for us to understand the experiences of transgender people in our society.

The report recommended the Government amend the Human Rights Act 1993 to secure protection from discrimination on the grounds of gender identity. The Human Rights Act already protects against discrimination on the grounds of a person's sex, including gender identity. As you are aware, the interpretation that discrimination on the grounds of sex includes gender identity was confirmed by the Solicitor-General in an opinion provided to the Attorney-General in 2006 and is publicly available here: www.beehive.govt.nz/release/crown-law-opinion-transgender-discrimination. That said, the Ministry acknowledges the report's finding that a more specific reference to gender identity in the Act could clear up any legal uncertainty.

It is a requirement for all policy proposals leading to legislation to be assessed for any inconsistency with the right to freedom from discrimination affirmed by the Human Rights Act and the Bill of Rights Act 1990. The Ministry works with other Government agencies to do this assessment, and to ensure other human rights affirmed in international human rights treaties and in legislation are considered in policy development.

The report also recommended the Ministry record information about crimes against transgender people, including crimes motivated by a victim's gender identity. The Ministry recently began a significant new survey - the New Zealand Crime and Victims Survey. This includes questions on gender identity and sexual orientation. The questions aim to gather information about crimes against transgender people, including whether the crime was motivated by the offender's attitude towards their gender identity, or sexual orientation. The first results from the survey are expected in December 2018 and the results will inform how government agencies can make our communities safer, including for transgender people.

More information is available about this survey online at <https://www.justice.govt.nz/justice-sector-policy/research-data/nzcvs/>

The report mentions a lack of information about the number of complaints and enquiries Police receive from transgender people. The Ministry provides leadership around the way administrative data is collected about crime and victimisation by justice sector agencies. To this end, Police is working on changes to the way it records information about gender. This change will be a significant undertaking, and have implications for the whole sector, as it affects the operation of the core information and communications technology systems that are used.

The Ministry's draft Code of Practice for Domestic Violence Programmes sets high level requirements for domestic violence programme providers to use to develop programmes that meet the needs of their communities. The Code of Practice explains there are forms of abuse that are specific to the context of intersex and transgender intimate relationships. It states providers need to know how to be safe places for rainbow families and whānau, with appropriate planning, resources and training. It requires that group "non-violence programmes" (for perpetrators of family violence referred by the Courts) should be made up of clients of the same gender/gender identity. The Code of Practice is expected to be finalised in September 2018 and will be available online. If you would like to be consulted on the draft Code of Practice please email us at dvreporting@justice.govt.nz

The last recommendation for the Ministry was to investigate options for disclosure of previous names where a Police clearance is needed for a transgender person. The Ministry is not actively pursuing this at this stage and understands work in this area is being managed by the New Zealand Police.

The Ministry is focusing on ensuring that we have a diverse and inclusive workforce and workplaces, and want to be a place where people can be themselves. We understand that a diverse workforce includes gender identity and sexual orientation and this is reflected in our Diversity and Inclusion Strategy. Actions include ensuring we recruit diverse groups and exploring recruitment initiatives that promote inclusive selection practices and address unconscious bias. In addition, we have established several employee driven Diversity and Inclusion networks and will continue to grow and expand these to support the diversity of our employees.

I hope this information is of assistance to you.

Nāku noa, nā



Caroline Greaney

General Manager, Civil and Constitutional