

Ref: 129869

Monday 15 July 2019

Byron Clark  
By FYI

Tēnā koe Byron,

### **Response to your request for Official Information**

On 17 June 2019, you requested the following information from the Human Rights Commission (“the Commission”):

1. How many instances are there where the human rights review tribunal has found that a person breached s 61?
2. How many instances are there where the human rights commission has been involved in a settlement being reached in relation to a complaint about possible breaches of s 61?
3. How many complaints have been made to the human rights about possible breaches of s 61?
4. How many times did the HRC take action in relation to a complaint about possible breaches of s 61?

### **Human Rights Review Tribunal**

The Commission is not aware of any instance where the Human Rights Review Tribunal (“Tribunal”) has found that a person breached s 61.

However, the Commission does not hold comprehensive information on the Tribunal cases or findings. The [Tribunal's decisions](#) are publicly available on the Ministry of Justice website.

### **Settlement Agreements**

Between 1 June 2016 – 1 June 2019, the Commission has not mediated any complaints under s 61 of the Human Rights Act (“the Act”), and therefore has not been involved in any settlements.

As you may know, *Wall v Fairfax* is one of the few cases under s 61 to go through the Tribunal. It was held there that s 61 established a high threshold and was targeted to racist speech at the serious end of the spectrum.

Complainants who raise complaints under s 61 are often advised that their complaint does not meet the threshold established in *Wall v Fairfax* to come within the Commission's jurisdiction to mediate.

### **Complaints and action taken**

Between 1 June 2016 – 1 June 2019, the Commission received 168 complaints which alleged racial disharmony under s 61 of the Act.

As stated above, the Commission did not carry out any mediations on these complaints; however, one complainant was offered mediation, but this option was declined by the respondent.

Beyond an offer of mediation, the Commission cannot compel a person to participate in dispute resolution. Instead, the Human Rights Review Tribunal and the courts have the powers to make a decision on whether the facts before them result in a breach of s 61.

### **Alternative avenues**

If you are unhappy with this response, under the Official Information Act you are entitled to complain to the Ombudsman's Office. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or on freephone 0800 802 602.

If you have any further queries about this response, please feel free to contact me directly.

Nāku noa, nā

A handwritten signature in blue ink that reads "Jaimee Paenga". The signature is written in a cursive, flowing style.

**Jaimee Paenga**  
Legal Officer | Kaitiaki Ture