

Ref: 200300

Friday, 20 December 2019

Ani O'Brien

By email to fyi-request-11732-5096cac0@requests.fyi.org.nz

Tēnā koe Ani,

Response to your request for Official Information

On 25 November 2019, you requested from the Human Rights Commission (“the Commission”) the following:

1. All information, statistics, and data used to inform your communications and positions in regard to violence against these specific groups:
 - a. Women;
 - b. Transwomen;
 - c. Transmen.
2. Please also provide the information, statistics, and data you have in regard to who are the perpetrators of this violence.
3. In addition, please supply all correspondence (internal/external) that refers to or discusses any of the following:
 - a. TERFs or TERF;
 - b. Gender Critical Feminists/Women;
 - c. Women’s right to single-sex spaces.

Violence against women, including trans women; and trans men

The Commission’s main function under the Human Rights Act is to advocate and promote respect for and understanding and appreciation of, human rights in New Zealand society. Advocacy for those who have or are experiencing violence (such as women, including trans women; and trans men) is a core part of the Commission work. Information on physical and psychological violence against women, including trans women; and trans men is both vast and well documented.

To provide you with all information the Commission holds on this topic would require substantial collation. However, as much of the information you request is publicly

available either online or through the sources directly, we have provided you with a list of sources you may find particularly relevant.

New Zealand Central and Local Government

- [Andrew Little speech to United Nations Human Rights Council for the third Universal Periodic Review](#), (2019), New Zealand Government.
- [3Questions Auckland Council Rainbow Communities Advisory Panel Community Engagement Project](#), Auckland Council.

Human Rights Commission work

- [To Be Who I am: Kia noho au ki tōku anō ao: Report of the Inquiry into Discrimination Experiences by Transgender People](#) Human Rights Commission (2007).
- Chapter 18. Rights of Women and Chapter 19. Rights of Sexual and Gender Minorities, [Human Rights in New Zealand](#), Human Rights Commission (2010).
- [Women's Rights in New Zealand - Submission of the New Zealand Human Rights Commission for the Seventh Periodic Review of New Zealand under the Convention on the Elimination of Discrimination Against Women](#) (2018), Human Rights Commission.

Public consultations

- *Stakeholder engagement meeting notes sexual orientation, gender identity, and sex characteristics (SOGISC) consultation* in [Auckland](#), [Wellington](#) and [Christchurch](#) (2018) Human Rights Commission.
- *Convention on the Elimination of All Forms of Discrimination Against Women consultations* (2018) Human Rights Commission.¹

United Nations

- [Reports of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity](#), (2017 - 2019).
- [The Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity](#), (2007), United Nations.
- [The Yogyakarta Principles plus 10](#), (2017), United Nations.

¹ Currently withheld pending consultation.

Academic Research

- Section 11: Safety and Violence, [Counting Ourselves: The health and wellbeing of trans and non-binary people in Aotearoa New Zealand](#) Veale J, Byrne J, Tan K, Guy S, Yee A, Nopera T & Bentham R (2019), University of Waikato, Hamilton, New Zealand.
- [Guidelines for Gender-Affirming Healthcare in Aotearoa New Zealand](#), Oliphant J, Veale J, Macdonald J, Carroll R, Johnson R, Harte M, Stephenson C, Bullock J (2018) Transgender Health Research Lab, University of Waikato.
- [Trans pathways: the mental health experiences and care pathways of trans young people. Summary of results](#) Strauss P, Cook A, Winter S, Watson V, Wright Toussaint D, Lin A (2017) Telethon Kids Institute, Perth, Australia.
- [American Academy of Paediatrics Policy Statement Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents](#), (2018), Official Journal of the American Academy of Paediatrics, United States of America.

Surveys and analysis

- [The Health and Well-Being of Transgender High School Students: Results From the New Zealand Adolescent Health Survey](#) Clark T, Lucassen M, Bullen P, Denny S, Fleming T, Robinson E, Rossen F (2012), Journal of Adolescent Health.
- ["In our own words": student experiences of sexual violence prior to and during tertiary education](#), Thursdays in Black (2017), New Zealand Family Violence Clearinghouse.

Non-Governmental Organisations

- [Rainbow communities, mental health and addictions a submission to the Government Inquiry into Mental Health and Addiction – Oranga Tāngata, Oranga Whānau](#), (2018), Mental Health Foundation.
- [UPR Submission from the Aotearoa New Zealand IDAHOBIT Day Coalition](#), (2019), IDAHOBIT Day Coalition.
- [Feminism and trans rights must go hand-in-hand](#), (2018), National Council of Women of New Zealand.
- [Suffrage 125 a milestone year for the National Council of Women](#), (2018), National Council of Women of New Zealand.
- [National Council of Women votes to include all genders in lead up to Suffrage Day](#), (2019), National Council of Women of New Zealand.
- [Making schools safer for trans and gender diverse youth](#), (2016), InsideOUT.

- [Building Rainbow communities free of partner and sexual violence](#), (2016) Hohou te Rongo Kahukura – Outing Violence.
- [Anti-Violence](#), National Centre for Transgender Equality website.
- [Annual Report on Epidemic of Anti-Transgender Violence](#), (2019), Human Rights Campaign.²

International governments

- [2018 Hate Crime Statistics](#), Federal Bureau of Investigation.
- [Trans respect versus Transphobia project](#) including the [Trans Murder Monitoring](#), Transgender Europe.

Perpetrators of violence against women including trans women and trans men

Identifying the perpetrators of violence against women including trans women and trans men is not an area that the Commission currently has a position on.

Gender Minorities Aotearoa has raised with the Commission the lack of data on the perpetrators of violence against trans people.

Further information about some perpetrators of violence against trans people can be found in *Thursdays in Black* and *Trans Murder Monitoring* provided above.

Information withheld

The Commission has withheld the following information:

1. A draft Commission paper on human rights concerns relating to people with a diverse sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) in Aotearoa;³
2. Confidential meeting minutes with Government and NGOs;⁴
3. Confidential information which forms part of the Commission's confidential dispute resolution process.⁵

² See also the [2018 Annual Report](#), [2017 Annual Report](#), [2016 Annual Report](#) and the [2015 Annual Report](#).

³ The final paper will be publicly available in 2020.

⁴ Withheld under s85 of the Human Rights Act 1993 and s9(2)(ba) of the Official Information Act 1982.

⁵ Withheld under s85 of the Human Rights Act 1993 and s9(2)(ba) of the Official Information Act 1982.

Correspondence which refers to or discusses “TERF”, “gender critical Feminists/Women” or Women’s right to single-sex spaces

Due to the substantial amount of work that would be required to collate the information you have requested, we are refusing some aspects of your request under s 18(f) of the Official Information Act.

Instead, we have limited the collation of correspondence to those within the Commission who work within the area of SOGIESC advocacy since 2017 when the Commission appointed a full-time human rights advisor on SOGIESC.

Attached is the information you requested. Some information has been withheld for the following reasons:

- To protect the privacy of natural persons;⁶
- Content within correspondence which is out of scope or not relevant to the request;
- Providing correspondence both internal or external would inhibit free and frank opinions in the future and would in-turn would undermine the Commissions advocacy function under the Human Rights Act;
- Internal correspondence which is subject to professional legal privilege;⁷
- Confidential correspondence which forms part of the Commission’s confidential dispute resolution process or other obligations of confidence;⁸ and
- Content withheld pending consultation with external persons. The Commission will reconsider release of information when consultation is complete.

In withholding this information, the Commission did consider providing the information in an alternative form. In the attached we have provided summaries for some of the withheld correspondence as well as final versions of positions while withholding the discussions which led the to the final position.⁹

Rights to single-sex spaces

Finally, in response to your request for correspondence which mention or discuss women’s rights to single-sex spaces.

⁶ Withheld under s9(2)(a) of the Official Information Act 1982.

⁷ Withheld under s9(2)(h) of the Official Information Act 1982.

⁸ Withheld under s9(2)(ba) of the Official Information Act 1982.

⁹ Withheld under s9(2)(g)(i) of the Official Information Act 1982.

The Commission's position for a number of years has been that accommodating gender diversity in the area of single-sex spaces does not require the rights of cis women and the rights of trans people to be traded off. Instead an inclusive approach that aims to encourage dialogue, promote positive behaviours, increase understanding and accommodate a diverse range of needs ought to be taken. The Commission acknowledges the steps taken by the employment and education sector towards accommodating gender diversity.¹⁰

Alternative avenues

If appropriate we would appreciate the opportunity to meet with you to discuss these matter further, to answer any questions you may have and to outline the Commission's work in this area.

If you would like to meet, please contact me further with times that would be convenient to you.¹¹

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 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

Jaimee Paenga
Legal Officer

¹⁰ For more information see: <https://www.employment.govt.nz/starting-employment/hiring/discrimination-when-hiring/transgender-employees/> and <http://education.govt.nz/news/creating-rainbow-inclusive-schools/>.

¹¹ Please note the Human Rights Commission will be closing on 20 December 2019 and returning on 6 January 2020.