



Human Rights Review Tribunal

Private Bag 32001, Featherston Street

DX SX11159 | Wellington 6146

T 09 351 2099

rodger.haines@justice.govt.nz | [www.justice.govt.nz](http://www.justice.govt.nz)

3 November 2017

Minister Andrew Little  
Minister of Justice  
Freepost Parliament  
Private Bag 18 888  
Parliament Buildings  
WELLINGTON 6160

BY POST AND BY EMAIL

Dear Minister

**RE: HUMAN RIGHTS REVIEW TRIBUNAL**

1. On behalf of the Human Rights Review Tribunal I congratulate you on your appointment as Minister of Justice.
2. Regrettably, I must draw to your attention three facts about the Tribunal:
  - 2.1. First, the Tribunal has for some time been overwhelmed by a caseload well beyond its capacity to address. Parties are presently waiting between 16 and 19 months for a first case management conference and can expect an overall delay of between 22 and 28 months from the filing of the proceedings to the hearing date. Access to justice is being denied to almost all. For a tribunal charged with protecting human rights the situation is ironic, to say the least.
  - 2.2. Second, the solution proposed in the Tribunals Powers and Procedures Bill (Tribunals Bill) is wholly misconceived and will not solve the problem. More likely matters will be made worse.
  - 2.3. The solution lies in making the simplest of changes to a single section in the Human Rights Act 1993.
3. The problem has been caused by an exponential increase (of about 145%) in the number of new cases filed with the Tribunal coupled with the fact that a statutory anomaly in s 102 of the Act prevents the appointment of a deputy chair (or chairs) to share the Chairperson's workload.
4. In the result the entire caseload of the Tribunal (presently some 130 cases) has been carried by one person, being myself as the current Chairperson.

5. Recognising that the situation is untenable, Hon Mark Mitchell, the former Associate Minister of Justice, secured the appointment (on 3 August 2017) of Ms MA Roche as Co-Chair for a period of 12 months. Welcome though the appointment is, the practical effect has been to add a part-time contribution of only .6 FTE. It remains impossible for a 1.6 FTE resource to make any appreciable difference to the growing backlog of cases and decisions.
6. The degree of the crisis facing the Tribunal can be put another way. It will take five full-time decision-makers (one Chair and four deputy chairs) five years to eliminate the backlog while keeping up with current claims.
7. It goes without saying that the longer the problem is left unaddressed the backlog will increase with another 60 to 90 cases being added each 12 months. The overall delays will become even more egregious. As one who, since at least 2015 has endeavoured to have the problem remedied, I find the present situation unconscionable.
8. The more so given the solution is simplicity itself. All that is required is a minor amendment to s 102 of the Act removing the anomalous restriction on the appointment of deputy chairs to assist with the workload.
9. The Privacy Commissioner has written to the Chief Executive of the Ministry of Justice pointing out that the delays in the Tribunal will jeopardise the proposed reforms to the Privacy Act. The Director of Human Rights Proceedings has also written expressing his concern at the long delays and their impact on the functions of his Office. Both support the amendment sought by the Tribunal.
10. As the delays in the Tribunal are reaching the point where the system is in danger of falling into disrepute if not collapsing, I would be grateful for an opportunity for Ms Roche and I to meet with you in person to see if there is some way you could assist.
11. I look forward to hearing from you.

Yours sincerely



**Rodger Haines QC**  
Chairperson  
Human Rights Review Tribunal