# Terms of Reference

# Independent Monitoring Mechanism (IMM) for the United Nations Convention on the Rights of Persons with Disabilities

## Membership

Three partners make up the IMM – they are the:

* Human Rights Commission (HRC);
* Disabled People’s Organisations’ Coalition (DPO Coalition); and
* Office of the Ombudsman (OOTO).

Note: an explanation of each partner’s role within the IMM is included as [Appendix 1](#Appendix1).

## Designation

Structural and funding arrangements for the IMM are set out in a 2010 Cabinet paper by the Minister for Disability Issues – *Framework to Promote, Protect and Monitor Implementation of the Convention on the Rights of Persons with Disabilities* (the Convention).

On 13 October 2011, the three partners were formally designated by the Minister for Disability Issues as New Zealand’s IMM, by notice in the New Zealand Gazette.

## Purpose

The purpose of the IMM is to promote, protect and monitor implementation of the Convention in New Zealand, in order to help make disability rights real.

## Role of the IMM

To deliver a monitoring framework that involves:[[1]](#footnote-2)

1. identifying priority areas drawing on the IMM partners’ existing programmes of work;
2. analysing legislation, policy, and practice affecting disabled people;
3. developing indicators in consultation with public and private sector agencies;
4. engaging with government to establish a comprehensive reporting process that includes engagement with civil society, integration across public agencies and clear accountability for publicising reports and following up recommendations; and
5. considering the most marginalised and vulnerable disabled people along with generic issues that affect all or most disabled people.

## Vision

The IMM’s shared vision is that the rights of disabled people are promoted, protected and monitored through effective implementation of the Convention.

## Objectives

The IMM’s objectives to achieve its vision are that:

1. a functioning and effective IMM is in place, that is a recognised, credible, moral and trusted institution;
2. all partners have stable and independent funding;
3. effective monitoring projects have been completed;
4. the Government is held to account for implementation of the Convention;
5. the Government has implemented IMM recommendations or has a timeframe for implementation;
6. IMM reports show monitoring has made a difference with impactful findings that are used to inform government decision making and policy development;
7. there is increased awareness and recognition in policy development that a quarter of New Zealand’s population has a disability;
8. effective consultation processes with disabled people are in place;
9. the IMM demonstrates recognition of the Crown’s Treaty of Waitangi partnership in its work;
10. effective liaison arrangements are in place with wider stakeholder groups; and
11. effective arrangements are in place for information sharing between the partners.

## Scope of work

The IMM will give effect to its role by:

1. working collaboratively in partnership, and having a single united voice as the IMM on disability rights;
2. developing and publishing a four/five year IMM work plan, including key priorities and timetables for monitoring projects;
3. seeking and providing feedback and comments on each other’s stand-alone work, as and when requested;
4. reporting IMM work and recommendations, to support key influencers and decision-makers to understand and use these findings;
5. following up with government on IMM recommendations, and in particular seeking feedback from the Office for Disability Issues (ODI);
6. establishing and maintaining relationships with key stakeholders and influencers, for example the Chief Executives’ Group on Disability Issues and ODI;
7. holding regular meetings with the Ministerial Leadership Group on Disability Issues, the Chief Executives’ Group on Disability Issues, and ODI, to discuss priorities and progress;
8. identifying potential overlaps between the IMM’s work and monitoring of the Disability Action Plan or any disability-related outcomes;
9. continuing to engage with government to ensure all partners obtain the level of independent funding required to do the IMM work effectively;
10. engaging with other agencies and entities to bring a disability perspective including:
    * State Services Commissioner;
    * the Health and Disability Commissioner;
    * the Office of the Children’s Commissioner;
    * IMM UN Declaration on the Rights of Indigenous Peoples;
    * Convention Monitoring Group on the Rights of the Child; and
    * the Privacy Commissioner.
11. Developing and implementing engagement mechanisms and relationships that demonstrate a commitment to the principles of the Treaty of Waitangi in IMM work;
12. engaging with the wider community of Disabled People’s Organisations and all disabled people in Aotearoa/New Zealand to ensure diversity in the IMM’s work;
13. developing and implementing arrangements for information sharing between IMM partners that recognises confidentiality of information, and management of records; and
14. reporting to and liaising with the United Nations Committee on the Rights of Persons with Disabilities, as required.

## Meetings

The following arrangements will be made for IMM meetings:

1. IMM Governance Group will hold quarterly meetings. The IMM Governance Group will agree on dates and how far in advance to schedule them. These meetings are strategic and will include agenda items such as:
   * planning and budget setting;
   * priority setting;
   * review work programme;
   * updating progress on projects and scope of work issues;
   * updating stakeholder relationships; and
   * reporting from IMM partners.
2. Working Group meetings will be held as and when required.
3. Chairing of Quarterly Governance Group Meetings will be rotated six-monthly in turn, amongst the HRC, OOTO, and DPO Coalition. The Chair is a facilitation role.
4. The secretariat will rotate between the OOTO and the HRC, and will coincide with the term of office of the Chair.
5. The secretariat will provide support to the IMM through a range of functions such as:
   * implementing administrative support and working to timeframes agreed by the IMM;
   * calling for agenda items;
   * compiling and sending out the agenda;
   * taking and distributing minutes;
   * ensuring information is available in accessible, alternate formats;
   * booking interpreters; and
   * arranging and notifying meeting facilities, etc.
6. Hosting of meetings will be shared between the OOTO and HRC, and will include the use of video-conferencing and / or telephone conferencing facilities.
7. The IMM will agree which agencies, entities, and / or individuals it will invite to attend its Quarterly Governance meetings, to bring additional perspectives to inform the work of the IMM.
8. The HRC and OOTO will share the cost of meeting assistance requirements such as NZ Sign Language Interpreters, in relation to IMM meetings.
9. The costs of publishing and launching joint IMM reports will be shared equally by all members of IMM.

## Ways of working

1. Decision making**:** Consensus decision making within meetings will be used by the IMM (this means that all members need to be satisfied with the decision even though it may not be their first choice).
2. IMM partners commit to:
   * attending all scheduled IMM meetings;
   * wholeheartedly championing the partnership within and outside of work areas;
   * maintaining confidentiality around documentation and discussions as agreed on a case-by-case basis;
   * share all agreed communications and information across all IMM partners, as far as possible; and
   * make timely decisions and take action so as to not hold up the work of the IMM.
3. IMM partners expect:
   * that each partner will be provided with complete, accurate and meaningful information in a timely manner, as far as possible;
   * to be given reasonable time to make key decisions;
   * that communications on behalf of, and / or in the name of the IMM will be agreed including in terms of content, mechanism(s) and sender;
   * to be alerted to potential risks and issues that could impact the IMM, as they arise; and
   * open and honest discussions.

## Review

The IMM will review the relevance and value of its work and the Terms of Reference every two years, or as otherwise agreed.

The Terms of Reference may be amended, varied or modified in writing, after consultation and agreement by IMM partners.

## IMM History

For background information about the IMM, refer to [Appendix 2](#Appendix2).

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1. IMM Partner Descriptions

## Disabled People’s Organisations Coalition

The Disabled People’s Organisations Coalition (DPO Coalition) comprises Association of Blind Citizens of New Zealand (Blind Citizens NZ), Balance New Zealand, Deaf Aotearoa New Zealand, Disabled Persons Assembly (DPA), Kāpō Māori Aotearoa, Muscular Dystrophy Association of New Zealand, and People First New Zealand.

Disabled People’s Organisations (DPOs) are membership organisations of disabled people, primarily governed by disabled people. The Convention describes key roles for DPOs, specifically Articles 4.3 and 33, which obliges Government to closely consult with and actively involve disabled people through their representative organisations (DPOs), and to fully participate in promoting, protecting and monitoring the Convention. The DPO Coalition works with Government (and others) to make the Convention rights real for disabled people.

## Human Rights Commission

The purpose of the Human Rights Commission (HRC) is to promote and protect the human rights of all people in Aotearoa New Zealand. The HRC works for a free, fair, safe and just New Zealand, where diversity is valued and human dignity and rights are respected.

In day-to-day work this means we:

* support implementation and monitoring of the New Zealand Human Rights Action Plan;
* engage in education, advocacy and promotion of human rights;
* monitor and report on compliance with New Zealand law and international human rights instruments;
* provide a free and confidential service responding to, and resolving, human rights complaints; and
* provide legal representation and bring proceedings.

From time to time the HRC may need to limit its involvement in IMM activities on a particular issue if it has received complaints of discrimination related to that issue.

## Office of the Ombudsman

The role of the Ombudsman is to investigate, review and inspect the administrative conduct of public sector agencies and provide advice and guidance, to ensure people are treated fairly. The Ombudsman is an Officer of Parliament, which means they are appointed by Parliament and independent of the government of the day.

In the context of the IMM an Ombudsman or his or her authorised representatives may be limited in their ability to participate in IMM activities involving promotion of the Convention that involve advocacy for a certain position, or set of circumstances, in respect of which an Ombudsman could be asked to independently investigate or inspect. Should this situation arise, the Ombudsman or authorised representative will advise IMM partners and not participate in the activity at issue. A decision would then need to be made whether the IMM partners continue in their IMM capacity, with the Ombudsman’s abstention noted, or whether they act separately, in their respective organisational capacities, rather than as part of the IMM.

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1. History of the Independent Monitoring Mechanism (IMM)

## Formation and designation

1. The structural arrangements for the IMM were set out in a 2010 Cabinet Paper by Hon Tariana Turia, Minister for Disability Issues – *Framework to Promote, Protect and Monitor Implementation of the Convention on the Rights of Persons with Disabilities*. It was proposed that the Human Rights Commission, the Office of the Ombudsman and the Convention Coalition (now known as the Disabled People’s Organisations’ Coalition) be instituted as three equal partners to implement and monitor Article 33 of the United Nations Convention on the Rights of Persons with Disabilities. On 13 October 2011, the three partners were formally designated by Minister Turia as New Zealand’s IMM, by notice in the New Zealand Gazette.

## Purpose, role and scope

1. The purpose of the IMM is to promote, protect and monitor implementation of the Convention in New Zealand, in order to make disability rights real. The role of the IMM is to deliver a monitoring framework that involves:
   * identifying priority areas drawing on IMM partners’ existing programmes of work;
   * analysing legislation, policy and practice affecting people with disabilities;
   * developing indicators in consultation with public and private sector agencies;
   * engaging with government to establish a comprehensive reporting process that includes engagement with civil society, integration across public agencies and clear accountability for publicising reports and following up recommendations; and
   * considering the most marginalised and vulnerable people with impairments along with generic issues that affect all or most people with impairments.
2. The IMM drafted initial Terms of Reference in 2014 emphasising the importance of a partnership approach and outlining of vision for the four year period that followed.
3. The IMM’s scope is broad and should give effect to its role by working collaboratively in partnership, and having a single united voice on disability rights. The scope of the IMM is recorded in the detail in the IMM’s Terms of Reference.

## Working together

1. Since 2011, the IMM has worked using a partnership model. The Chairperson and administrative duties are held concurrently by one of the three partners and rotate between agencies on a six-monthly basis. The partner currently ‘holding the pen’ is seen as a ‘ringmaster’ rather than the current ‘president’ of the IMM.
2. All three partners must agree before a statement or publication can be made on behalf of, or attributed to the IMM. All IMM publications, and in particular the *Making Disability Rights Real* reports are shared publications that require collaboration and a final consensus. All three IMM members wholeheartedly champion the partnership and share all communications and information as far as possible. Each IMM partner has its own independent projects and programmes of work which contribute to the implementation of the Convention in New Zealand, and agrees to share a summary of recent initiatives at appropriate meetings.
3. The constitutional position of the Ombudsman as an independent, impartial arbiter means they cannot act as an advocate. Accordingly, where advocacy is called for the Human Rights Commission and Disabled People’s Organisations’ Coalition tend to act separately, rather than as part of the IMM.
4. Since 2011, the IMM has held four Quarterly Strategic Meetings each year. The partner currently holding the Chairperson and administrative duties will organise these meetings, the agenda and the minutes. Monthly IMM Project Working Group Meetings may also be held as and when required.

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1. Refer to the 2010 Cabinet paper by the Minister for Disability Issues – *Framework to Promote, Protect and Monitor Implementation of the Convention on the Rights of Persons with Disabilities*, at page 6*.*  [↑](#footnote-ref-2)