

6 August 2021

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## **Christchurch City Council submission on the proposals against incitement of hatred and discrimination**

### **Introduction**

1. Christchurch City Council (the Council) thanks the Ministry of Justice for the opportunity to provide comment on the Proposals against incitement of hatred and discrimination.
2. We welcome the proposals to strengthen provisions to protect our communities from direct, indirect and incited hatred and discrimination. Christchurch has been uniquely impacted since the events of 15 March 2019, and the Council supports greater protections for our communities. As a result of these events, Christchurch knows and has experienced the consequences of incitement, which underlines why the changes proposed are so important.
3. We note that feedback is requested for each of the six proposals, and have provided specific feedback for each area. We would like to highlight that the proposals do not raise the need for prevention. Greater investment in social cohesion and addressing inequality, alongside deterrents, will have a greater impact in preventing incitement towards hatred and discrimination than a focus on prosecution. We believe that efforts towards prevention of hatred and discrimination, and investment in social cohesion require a genuine and close partnership between central and local government. Local government, in partnership with communities, work closer to the sources and causes of hatred and discrimination, and are key partners in prevention.

### **Submission**

*Proposal One: Change the language in the incitement provisions in the human rights act so that they protect more groups that are targeted by hateful speech.*

4. We agree that more groups need to be covered by the incitement provisions to protect them from discrimination. The current limitations on "colour, race, or ethnic or national origins" does not cover a number of other vulnerable communities, such as religion and ethical beliefs, gender and sex, disability, age, or sexual orientation. While these are specific areas susceptible to hatred and incitement, we would welcome the addition of all thirteen grounds for discrimination to ensure consistency across legislation, noting the Attorney-General's approval would prevent frivolous prosecutions.

*Proposal Two: Replace the existing criminal provision with a new criminal offence in the Crimes Act that is clearer and more effective.*

5. We support the intent of adjusting the criminal provisions for greater clarity and effectiveness, in particular the extension to include electronic means. Intentionally inciting or normalising hatred against protected groups should be an offence regardless of the means of transmission, and this gap in modern legislation should be addressed.
6. Modernising terminology to increase the clarity of legislation is also welcomed. However, we question whether "hatred" is too narrow in meaning to replace the existing terms as this could create opportunities for less emotive, but still highly damaging messages of incitement.
7. We agree that the success of incitement should not be one of the determinants of whether it is a criminal offence; the intent of the action itself is cause enough for consideration as a possible criminal offence.
8. We note that criminal offences should not be bound by the threshold of "inciting violence", as hatred and discrimination extends beyond that barrier, causing harm that is not physical in nature. Harm to the dignity and autonomy of our people and communities is important, and should be included in any criminal provisions. Clarification on the severity of different offences would be appropriate as part of the public consultation process in order to reduce concerns relating to freedom of expression.

*Proposal Three: Increase the punishment for criminal offences to reflect their seriousness.*

9. We agree that the punishment for these criminal offences should be elevated to be in line with similar benchmarks and welcome the requirement for the Attorney-General to approve criminal prosecutions in order to prevent frivolous reporting.

*Proposal Four: Change the language of the civil incitement provision to match the changes being made to the criminal provision.*

10. We acknowledge the opportunity to reword the civil incitement provisions in s.61 Human Rights Act 1993 to include "inciting/stirring up, maintaining or normalising hatred". As with paragraph eight above clarification on the differing levels of severity for these types of incitement would likely help address public concerns surrounding freedom of expression. We would welcome the extension of s.61 to include the thirteen recognised areas of discrimination to remain consistent with the previously proposed changes.

*Proposal Five: Change the civil provision so that it makes "incitement to discriminate" against the law.*

11. The extension of a civil provision to make it against the law to "incite to discriminate" is logical and welcome where there is established intent (as identified in Proposal Two). We believe it is important to ensure that any deliberate attempt to incite discrimination upon others is unlawful. We acknowledge Aotearoa New Zealand's obligations in the International Covenant on Civil and Political Rights (ICCPR).

*Proposal Six: Add to the grounds of discrimination in the human rights act to clarify that trans, gender diverse, and intersex people are protected from discrimination.*

12. We understand that this is a proposal that clarifies existing protections for these groups under the status quo. This is a community vulnerable to discrimination and messages of hate, and we welcome the clarification ensuring they will be protected.

## **Conclusion**

13. These proposals are a welcome opportunity to revise, update and clarify Aotearoa New Zealand's protections for those being target by hatred and discrimination. We view that any targeted hatred and discrimination should have provisions under legislation to address significant concerns and reduce the harm to our communities and all people in Aotearoa New Zealand.
14. Attached for reference is the speech Mayor Lianne Dalziel gave at He Whenua Taurikura: New Zealand's Hui on Countering Terrorism and Violent Extremism in June 2021.

Thank you for the opportunity to provide this submission.

For any clarification on points within this submission please contact Nicholas Adams, Policy and Planning Advisor (nick.adams@ccc.govt.nz).

Yours faithfully



Lianne Dalziel  
**Mayor of Christchurch**

