

5.3 *The Human Rights Act*

There are two main New Zealand laws that specifically promote and protect human rights. One is the Human Rights Act of 1993, and the other is the Bill of Rights Act of 1990.¹

The Bill of Rights Act sets out a range of civil and political rights, which arise from the United Nations International Covenant on Civil and Political Rights. These include the rights to freedom of expression, religious belief, freedom of movement, and the right to be free from discrimination. It requires the government and anyone carrying out a public function to observe these rights, and to justify any limits placed on them.² Rights under this law are not absolute: other laws make take precedence but it is preferable for them to be interpreted to be consistent with the Bill of Rights, and any other restrictions on these rights need to be justifiable. This Act is a mechanism under which New Zealanders can challenge the laws, and the courts can scrutinise those laws and point out any problems or inconsistencies in them so the government has to respond. This was the Act that the Director General of Health was challenged under in 2020, for the Government's COVID-19 response and the Public Health Order which was made under the provisions of section 70 of the Public Health Act 1956. We and our organisations are generally not providing a public function so this act does not directly affect us.

However, the Human Rights Act does affect spiritual healers to the extent we offer spiritual healing to the public. Human rights are not just about the rights that we can expect as people but they are also about our responsibilities to each other. The Human Rights Act 1993 is aimed at giving all people equal opportunities and preventing unfair treatment on the basis of irrelevant personal characteristics. It covers discrimination on the grounds of:³

- Sex (including pregnancy, childbirth and breastfeeding)
- marital status
- religious belief
- ethical belief
- colour
- race
- ethnic or national origins (including nationality or citizenship)

¹ Te Kāhui Tika Tangata The Human Right Commission, "Human rights in legislation", <https://tikatangata.org.nz/human-rights-in-aotearoa/human-rights-in-legislation>

² Te Kāhui Tika Tangata The Human Right Commission, "New Zealand Bill of Rights Act", <https://tikatangata.org.nz/human-rights-in-aotearoa/human-rights-in-legislation>

³ The Ministry of Justice, "The Human Rights Act" with additions in (brackets), <https://www.justice.govt.nz/about/learn-about-the-justice-system/how-the-justice-system-works/the-basis-for-all-law/the-human-rights-act/>, © Crown Copyright

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- disability
- age
- political opinion
- employment status
- family status
- sexual orientation (including trans people).

It's unlawful to discriminate someone on the above grounds in the following areas of public life:⁴

- employment
- education
- access to public places
- provision of goods and services
- housing and accommodation.

An action will be considered discriminatory if a person is treated differently on one of the above grounds and that **results in disadvantage**, and a statutory exception does not apply. As with the Bill of Rights, any exception must be justifiable and most of the statutory exceptions are relatively common sense. For example, a bar employer can discriminate based on age if the job applicant is under the age legally required to work in a public bar. Disabled people can be treated differently if they can only be accommodated with unreasonable adjustments to the environment or conditions, or the environment is such that there is a risk to the person or others. Under section 48, Insurance companies can issue different policies to clients based on the sex, age and disability where those differences are based on statistical or actuarial data demonstrating different life expectancies or propensity for accidents or sickness (or based on reputable medical or actuarial advice if no statistics are available). Hence insurance premiums and excesses are higher for drivers under 25 years.

Apart from unlawful discrimination described above, the Human Rights Act also protects against:⁵

- Sexual harassment: unwelcome or offensive sexual behaviour or requests for sexual activity
- Racial harassment: racist, hurtful and offensive behaviour in certain circumstances (including providing services)
- Conversion practice: a practice that seeks to change or suppress a person's sexual orientation, gender identity or gender expression

⁴ ibid

⁵ Te Kāhui Tika Tangata The Human Right Commission, "What can I complain about?", <https://tikatangata.org.nz/resources-and-support/make-a-complaint>



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- **Victimisation:** being treated differently by others because you made a Human Rights complaint or a protected disclosure (whistleblowing)
- **Harmful or hate speech:** words expressing hostility against a group of people because of their race, religion, gender, disability or another personal characteristic.

People who think they have been discriminated against can complain to the Human Rights Commission. The Commission can provide information and dispute resolution services to help people deal with unlawful discrimination and prohibited behaviour, but they do not investigate complaints or decide if the law has been breached.⁶ People will need to seek independent legal advice for that.

As spiritual healers we just need to ensure we are treating all clients and prospective clients with equal respect, and providing a healing service available to all without discrimination. If we are spiritual healing supervisors and trainers, we need to do the same with regards to our healers.

⁶ Te Kāhui Tika Tangata The Human Right Commission, "Making a Complaint?", <https://tikatangata.org.nz/resources-and-support/make-a-complaint>