

NATIONAL PUBLIC INQUIRIES

The *Ombudsman Act 2013* gives the Ombudsman wide-ranging duties and powers to promote and protect human rights in Samoa. One of its human rights functions is to inquire into widespread, systemic or entrenched situations or practices that violate human rights (section 34). This can take the form of a 'National Inquiry' – one of the most powerful tools of any NHRI.

A national inquiry enables a broad human rights approach and examination of a large and complex situation. It has both fact finding and educational roles and has been used to great success by NHRIs globally. Combined with the unique nature of NHRIs, the process has the potential to address and resolve wide-spread human rights issues, such as family violence, in a manner no other approach could achieve.

In 2016, the Office initiated the first ever national public inquiry for Samoa (and the region) looking into the issue of family violence. This was a result of overwhelming evidence contained in the Office's 2015 State of Human Rights Report as well as data from the Ministry of Police and media articles, depicting family violence in Samoa as a systemic issue affecting the most vulnerable.

STEPS FOR PLANNING/ CONDUCTING A NATIONAL PUBLIC INQUIRY

- **Choose the issue** - the issue must have a strong, clear human rights dimension and selected with a view to the possibilities for human rights education.
- **Prepare a background or scoping paper** - identifies the breadth of matters that arise under the particular issue and the nature of the inquiry processes.
- **Identify, consult and engage stakeholders** - those who will have an interest in a national inquiry and whose contribution to the inquiry will be valuable come from many sectors.
- **Draft objectives and terms of reference** - Objectives relate to what the NHRI aims to accomplish through the national inquiry. Terms of reference set out what the inquiry will actually examine and report on. Together, the objectives and terms of reference form the basis of what the inquiry is to do.
- **Appoint Inquiry Commissioners and staff** - responsible collectively for the inquiry. They decide its direction, conduct the formal hearings, determine the findings and conclusions and make the recommendations. They have public and political responsibility for the inquiry.
- **Gather other resources** - In addition to personnel – Inquiry Commissioners and staff – the inquiry has other resource needs, in particular money, premises. All of these need to be acquired before the process begins.
- **Finalize an inquiry plan** - address all the relevant matters relating to the conduct of the inquiry. It should ensure that the methodology is clear, the timetable is achievable and the products are known. The inquiry plan is not merely a planning document but a strategic document that sets out how the inquiry will achieve its objectives.
- **Obtain information: research and evidence** - a large part of the work of a national inquiry is obtaining sufficient reliable information to enable the NHRI to analyse and understand the situation being investigated and develop recommendations to remedy violations, to prevent further violations and to enable the fulfillment of human rights.

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- **Conduct public hearings** - public hearing is an opportunity for persons with expert knowledge of the human rights situation under investigation to come forward in a public setting to provide their views, experiences and knowledge to the inquiry. The central purpose of public hearings is to enable a wide range of perspectives to be placed before the inquiry and before the general community.



DO NO HARM PRINCIPLE

When gathering evidence especially from those who have been gravely affected by an issue such as family violence, it is important for to be aware of the sensitivity of the matter and therefore must be carefully planning and treated. The “do no harm” principle is fundamental when engaging with survivors of family violence. The principle simply, is to avoid causing any or more harm to the survivor. This is because attempts to obtain evidence from survivors of family violence can re-traumatize them and even put them at greater risk in their homes or community. Therefore, it is important that any actions must be taken under the principle of “do no harm”.

- **Develop recommendations** - an Inquiry is to seek solutions to a widespread violation of human rights. Therefore at the end of the process, recommendations need to be developed. Recommendations are directed towards two issues, redress and prevention.
- **Prepare the report** - The national inquiry's report is its most tangible product. A good report will ensure much better community understanding of the nature of the human rights issue or situation that has been examined and a much better possibility that the inquiry's recommendations are accepted and implemented.
- **Release the report** - Releasing the report is directed towards: public acknowledgement of and reporting back to victims; informing the community and key stakeholders of the inquiry's findings and recommendations; and promoting implementation of the recommendations.
- **Follow up** - it is important that after the release of the report follow up work needs to also be done, to advocate for, monitor and report on the implementation.
- **Evaluate** - Evaluation is an essential part of the national inquiry process. It enables the NHRI to learn from the experience of this particular inquiry and, in that way, increase the effectiveness of future inquiries.

For more information on how to conduct National Inquiries see:

https://www.asiapacificforum.net/media/resource_file/Conducting_National_Inquiries_Manual_cNSg0ju.pdf