

Briefing to the incoming Minister of Labour the Hon Kate Wilkinson



This briefing outlines the challenges and opportunities IHC has identified for the incoming Minister of Labour in the areas of:

- Workplace regulation in relation to the Minimum Wage Act 1983
- The impact of the passage of the Employment Relations (Probationary Employment) Bill on people with an intellectual disability
- Enabling the participation of family carers in the workforce.

IHC welcomes the opportunity to work with the incoming Government. IHC advocates for the rights, inclusion and welfare of over 50,000 people in New Zealand with an intellectual disability. IHC is well connected to the disability sector and works in partnership with organisations such as People First, the Disabled Persons Assembly and CCS Disability Action. IHC also delivers \$195 million of government contracts through our wholly owned subsidiary IDEA Services Ltd and employs almost 6500 staff.

Challenges in the current environment

IHC's mission is to advocate for the rights, inclusion and welfare of all people with an intellectual disability and support them to live satisfying lives in the community.

Essential to achieving this vision is:

- The same employment rights, protections and outcomes for people with intellectual disabilities as other working New Zealanders
- Retaining the Employment Relations (Flexible Working Arrangements) Amendment Act 2007 and other legislative provisions that support family carers
- A regulatory environment that adequately balances the rights of disability support staff and the needs of disability service providers.

People with an intellectual disability as employees

IHC supported the repeal of the Disabled Persons Employment Promotion Act 1960 that removed the blanket minimum wage and holidays' exemption available for sheltered employment workplaces. However, there are still provisions in the Minimum Wage Act 1983 that allow individuals with an intellectual disability to be paid below the minimum wage though the use of minimum wage exemption permits.

IHC is opposed to minimum wage exemptions. We have several concerns:

- the range and variation of tools that are used to assess minimum wage exemptions means inconsistent outcomes across the country are inevitable
- some individuals are being paid as low as 15 cents per hour
- the lack of independent representation and advocacy for people with an intellectual disability in situations where an employer decides an assessment for a minimum wage exemption is necessary.

IHC is also concerned about the potential impact of the amendment to the Employment Relations Act 2000 allowing small businesses a 90-day probationary period without the right to take a personal grievance. People with an intellectual disability already are a disadvantaged group in the workforce and we are concerned that removing the right to take

a personal grievance increases potential for abuse. We are interested in how this new provision will be monitored, especially in relation to the most vulnerable employees.

IHC as an employer

The 2008 Employment Relations Authority determination that a sleepover allowance is a breach of the Minimum Wage Act 1983 has far-reaching implications, not only for IHC's provider arm, IDEA Services Limited but much more widely across a range of industries in New Zealand. The potential fiscal risk to IDEA Services as assessed in 2008 is over \$80 million (includes six years retrospective payment). IHC is appealing the Employment Relations Authority sleepover decision, and is keeping the Ministry of Health fully informed of legal proceedings and outcomes.

Opportunities for partnership

IHC welcomes New Zealand's commitment to enabling disabled people to work on an equal basis with others as set out in:

- The New Zealand Disability Strategy (Objective 4)
- The United Nations Convention on the Rights of Persons with Disabilities (Article 27)
- The Human Rights Act 1993.

IHC believes that progress can be made towards these commitments through:

- An increase in transparency and clarity in the application of minimum wage exemption provisions
- Engagement between the Department of Labour, Ministry of Health, IHC and Unions regarding solutions to the sleepover allowance issue
- Continued multi-agency collaboration on issues concerning the participation of people with an intellectual disability in the work force
- Continued development and dissemination of accessible information to assist with the employment of people with intellectual disabilities in the workforce.

About IHC

IHC was formed in 1949 by parents who wanted better lives in the community for their children. IHC is now the largest disability services provider in New Zealand and a leader in the disability sector. This includes having the largest housing portfolio outside government.

IHC:

- Delivers \$195 million of government contracts and \$10.5 million of non-government funded services
- Provides disability support services for over 6350 people with intellectual disabilities and their families
- Advocates for the rights, inclusion and welfare of over 50,000 people in New Zealand with an intellectual disability.

Final Words

Assisting disabled people and their families to participate in the workforce on an equal footing to other workers is a true 'win-win' policy. Participation in the workforce increases independence, leads to higher incomes and raises the prospect of higher economic output in the long term. IHC is looking forward to working with the incoming government to get the best outcomes for employees in the disability sector and people with an intellectual disability and their families. We look forward to hearing from you to discuss this further.