

# Annual Report 2016/17



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Mr Speaker

I submit to you our report for the year  
1 July 2016 to 30 June 2017.

**Peter Boshier**

Chief Ombudsman

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2016/17  
Report of the Ombudsman  
Tari o te Kaitiaki Mana Tangata  
for the year ended 30 June 2017

*Presented to the  
House of Representatives  
pursuant to section 29  
of the Ombudsmen Act 1975*

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## PART 1

# Introduction

**Peter Boshier**  
Chief Ombudsman



New Zealand was the fourth country in the world to appoint an Ombudsman. Sir Guy Powles presented his first Annual Report to Parliament in 1962; he had two full-time staff, oversight of 66 central government agencies, and 142 complaints to deal with during his first year in office.

Fifty-five years later, we now have oversight of 4000 public sector agencies. At the end of this reporting year we had 101 people working for us in Auckland, Christchurch and Wellington<sup>1</sup>,

and in the last year we completed 12 141 complaints and other work.

Our functions today are much broader than could have been envisaged in 1962. They include ensuring freedom of information for citizens, protecting the human rights of people who are detained and people who have disabilities, supporting people who wish to make protected disclosures, resolving systemic issues across the public sector and promoting good decision making and transparency.

One very real measure of our success is that in 2016/17 we achieved 700 remedies for New Zealanders—*‘remedy’* being the legal term for a solution to a problem. This is an increase of 20 percent on the previous year, one of many positive figures in this year’s Annual Report. We also had 149 recommendations for improvement in places of detention accepted.

<sup>1</sup> Including staff, casuals and temporary resource.

Sometimes a remedy is an apology for an agency's mishandling of a process or decision. Sometimes it is a reversal of an unfair decision, or the release of official information that had been withheld. A remedy can involve a change in government policy in the interests of fairness for all, or an agency providing better processes or training for staff so administrative problems won't be repeated.

Here are a very few examples of the remedies and improvements we achieved in 2016/17.

- Schools are no longer putting children in seclusion rooms to manage their behaviour. At my request, the Secretary of Education wrote to all schools prohibiting the use of seclusion when I started an investigation into the use of seclusion rooms at two primary schools.
- The Department of Corrections has agreed to review its policies of strip searching every prisoner after a visit, filming prisoners in At-Risk Units while they are using the bathroom, and not providing privacy screens in At-Risk Units, in response to my recommendations following unannounced prison inspections.
- The Department has also reduced its use of tie-down beds in prisons and is reviewing its overall use of mechanical restraints, after the release of our ground-breaking report *A question of restraint*.
- A father who is the full-time caregiver for his severely disabled adult son had his Family Funded Care payments restored to 40 hours a week, after his hours were cut on an unreasonable basis.
- Canterbury schools and communities received a public apology from the Ministry of Education for its mishandling of the school closures and mergers process following the 2011 earthquake, identified in our comprehensive report *Disclosure*. Work is underway to ensure the same mistakes aren't repeated elsewhere.
- Following a complaint to me, the Police released a tactical operations report from a taser incident. Whether a report on a former prisoner's compensation claim, the results of

a local government agency staff satisfaction survey or a tactical operations report, our role is to make sure New Zealanders can get the official information they are entitled to, unless there is good reason to withhold it.

In 2016/17, we consistently exceeded our targets for the timeliness and clearance rate of complaints, advice and other work. We achieved my ambitious early resolution goal of completing at least 70 percent of new complaints within three months. We also reduced our backlog of aged complaints by almost two thirds, so that we are now tracking to complete the backlog by 30 June 2018, one year ahead of schedule. People who approach us for help are getting faster resolution.

We're also continuing to work with public sector agencies to improve their official information practices and response times, and I'm really encouraged by the willingness of agencies to lift their game. A particular highlight this year was our publication of the first set of detailed data about complaints received under the Official Information Act, and their outcome.

Another highlight of the year was New Zealand's restoration to first place (equal with Denmark) in the *Transparency International Corruption Perceptions Index*. I'm determined that we will stay up there.

Finally, this year I have continued to create the structure and processes that will ensure we are well positioned for the challenges ahead. I have created a new senior management structure, as well as organising our operational teams into two groups, the Complaints Resolution Group with a clear focus on quick and effective complaint handling, and the Compliance and Practice Group with a clear focus on proactive interventions to achieve systemic change.

We're having an impact in more areas and on more lives, more New Zealanders know about us, and more are using our information and services. I am confident the Ombudsman is a growing and robust institution in New Zealand, and we are more relevant than ever in today's world.



PART 2

# 2016/17 at a glance

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## Complaint handling overview

- Received 11 846 and completed 12 141 complaints and other work<sup>2</sup>
- Finished the year with 1219 complaints on hand, an improvement of 21 percent less on hand than at the same time last year
- Overall net clearance rate of 108 percent for complaints and 100 percent for other contacts
- Reduced our backlog of aged complaints received before 1 July 2015, from 561 at the start of the year to 202 at year end
- 92 percent of all complaints and other contacts completed within six months
- 79 percent of complaints received from 1 July 2016 completed within three months
- Obtained 700 remedies for the benefit of individuals and public administration, an increase of 20 percent from last year

## Ombudsmen Act complaints

- Received 2191 Ombudsmen Act (OA) complaints and 6580 other contacts concerning OA matters
- Completed 2285 OA complaints and 6579 other contacts concerning OA matters
- Net clearance rate of 104 percent for OA complaints
- Finished the year with 434 OA complaints and other contacts on hand, an improvement of 20 percent less on hand than at the same time last year
- Resolved 136 cases<sup>3</sup>
- Provided advice and assistance in 2616 cases
- Formally investigated 183 complaints, and formed 97 final opinions
- Identified administrative deficiency in 48 complaints, or 49 percent of all complaints

where a final opinion was formed

- Made 16 recommendations
- Obtained remedies for the benefit of the individual concerned in 153 cases
- Obtained remedies for the benefit of public administration in 26 cases, more than double the result for last year

## Official information complaints

- Received 1174 Official Information Act (OIA) complaints and 248 Local Government Official Information and Meetings Act (LGOIMA) complaints
- Completed 1375 OIA complaints and 258 LGOIMA complaints, 23 percent more than last year
- Net clearance rate of 117 percent for OIA complaints and 104 percent for LGOIMA complaints
- Finished the year with 647 OIA complaints and 142 LGOIMA complaints on hand, an improvement of 21 percent less on hand than at the same time last year
- Resolved 424 complaints, or 26 percent of all complaints completed—and 25 percent more than last year
- Investigated 800 complaints, and formed 441 final opinions
- Identified administrative deficiency in 195 complaints, or 44 percent of all complaints where a final opinion was formed
- Obtained 497 remedies for the benefit of the individual concerned, an increase of 28 percent from last year
- Obtained 16 remedies for the benefit of public administration

<sup>2</sup> Including complaints, other contacts and other work.

<sup>3</sup> 'Cases' refers to OA complaints and other contacts concerning OA matters.

## Systemic improvement

- Published a major report—*Disclosure: An investigation into the Ministry of Education’s engagement processes for school closures and mergers*
- Reviewed the way in which we monitor serious incidents in prison (including all deaths in custody)

## Official information practice improvement

- Published and commenced implementation of our *Strategic Priorities for improving the operation of the Official Information Act (OIA)*

## Protected disclosures

- Completed 10 requests for guidance and assistance and responded to 34 informal enquiries
- 95 percent of all requests and enquiries completed within three months
- Continued our partnership in trans-Tasman research project on whistleblowing procedures in New Zealand and Australia

## United Nations Optional Protocol to the Convention against Torture

- Visited 57 places of detention, including 13 full inspections
- 63 percent of visits to places of detention were unannounced
- Made 185 recommendations for improvement, 149 of which were accepted or partially accepted

## United Nations Convention on the Rights of Persons with Disabilities

- Received 65 complaints and other contacts which raised issues relevant to the Disability Convention
- Launched a guide on *Reasonable accommodation of persons with disabilities in New Zealand*, with translations into New Zealand Sign Language, Te Reo and Easy Read
- Provided continuing input to the review of the *New Zealand Disability Strategy*



## Advice, guidance and information

- Advised on 29 legislative, policy and administrative proposals relevant to our jurisdiction
- Provided informal advice on 184 occasions to public sector agencies, mainly in relation to the processing of official information requests
- Advised the Secretary of Transport on seven applications for authorised access to personal information on the motor vehicle register
- Conducted 30 workshops and training seminars
- Published 26 new guidance materials
- Published the first set of detailed data about complaints received under the OIA and their outcome
- Eight percent increase in visitors to our website, compared to last year
- Delivered 40 speeches and presentations on the role of the Ombudsman and the operation of the official information legislation
- Nationwide survey showed 73 percent awareness of the Ombudsman by the New Zealand public, an increase of five percent from last year



## PART 3

# Background

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## Nature and scope of the Ombudsman's functions

The Ombudsmen are Officers of Parliament. Each Ombudsman is appointed by the Governor-General on the recommendation of Parliament. We are responsible to Parliament and independent of the Government.

### Our purpose

Our overall purpose is to investigate, review and inspect the administrative conduct of public sector agencies and provide advice and guidance, in order to ensure people are treated fairly in New Zealand.

## Our functions

Our functions are to:

- resolve and investigate complaints about public sector administration and decision making;<sup>4</sup>
- resolve, investigate and review complaints about decisions on requests to access official information;<sup>5</sup>
- identify, resolve and investigate significant and systemic concerns with public sector administration and decision making;<sup>6</sup>
- monitor general compliance and good practice by public sector agencies in managing and responding to official information requests;<sup>7</sup>
- deal with requests for advice and guidance about alleged serious wrongdoing;<sup>8</sup>
- monitor and inspect places of detention for cruel and inhuman treatment;<sup>9</sup>
- protect and monitor disability rights in New Zealand;<sup>10</sup>
- provide comment to the Ministry of Transport on applications for authorised access to personal information on the motor vehicle register;<sup>11</sup>
- provide advice, guidance and training in areas relevant to our role, in order to improve overall administrative capability;
- publish relevant information about public sector administrative performance; and
- improve public awareness of the importance of good administration and the official information legislation, and accessibility to our services.

In carrying out our functions, we provide Parliament and the New Zealand public with an independent and impartial check on the quality, fairness and integrity of public sector administrative conduct.

By contributing to administrative improvement across the public sector, we can help to reduce overall downstream costs caused by poor decision making and ineffective administrative processes.

### What is the public sector?

We have authority to investigate approximately 4000 entities in the public sector, including:

- government departments and ministries
- local authorities
- crown entities
- state-owned enterprises
- district health boards
- tertiary education institutions
- school boards of trustees
- Ministers of the Crown (in relation to decisions on requests for official information).

## Outcomes and impacts sought by the Ombudsman

Our strategic direction is:

- guided by the functions assigned to us by Parliament; and

4 Under the Ombudsmen Act 1975.

5 Under the Official Information Act 1982 and the Local Government Official Information and Meetings Act 1987.

6 Above, n 4.

7 Through investigation under the Ombudsmen Act.

8 Under the Protected Disclosures Act 2000.

9 We are a *National Preventive Mechanism* under the Crimes of Torture Act 1989. This Act fulfils New Zealand's responsibilities under the *United Nations Optional Protocol to the Convention Against Torture*.

10 We are part of the *Independent Monitoring Mechanism* protecting and monitoring implementation in New Zealand of the *United Nations Convention on the Rights of Persons with Disabilities*.

11 Under section 241 of the Land Transport Act 1998.

- informed by the current environment and the Government's strategic direction.

In essence, our functions cover a range of key democratic and human rights measures aimed at safeguarding the rights of individuals and increasing government transparency and accountability. The overall outcome we contribute to is maintaining a high level of public trust in government.

Our *Outcomes Framework* on page 13 demonstrates the links between the services we deliver through our outputs, and the outcomes and impacts we are seeking to achieve.

## Impacts

The impacts we seek to achieve are:

- improved administration and decision making in public sector agencies;
- official information is increasingly available and the public is assured access is not denied unnecessarily;
- serious wrongdoing is brought to light and investigated by appropriate authorities; and
- people in detention are treated humanely.

We have two high-level measures of our impacts. These relate to the overall status of New Zealand society and the public sector, to which we are but

one contributing factor.

Our first impact measure is that the overall quality of public services improves over time. We measure this through the Kiwis Count Survey which is administered by the State Services Commission. Our target is for the public services to achieve an overall quality score higher than 70 points. The quality score in December 2016 was 74 points.

Our second impact measure is that New Zealand is rated as one of the leading countries in public service probity as measured by the Transparency International Corruption Perceptions Index. Our target is for New Zealand to be in the top three ranked countries over the next five years. In 2016, New Zealand ranked first equal.

## Outputs

In order to achieve these impacts, as well as our overall outcomes, we carry out work under six output areas. These are set out below, and our achievement in these areas is detailed in Part 4 (with detailed statistics in Parts 6 and 7).

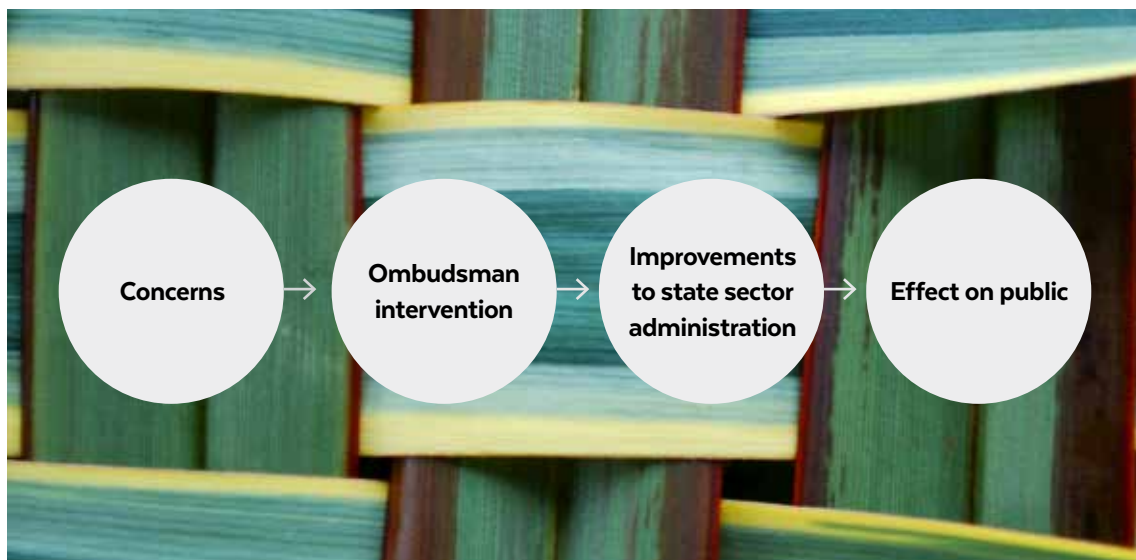


Figure 1: The overall impact of our work

## **INVESTIGATE PUBLIC SECTOR ADMINISTRATION AND DECISION MAKING**

We seek to improve administration and decision making in public sector agencies, primarily by resolving and investigating issues under the Ombudsmen Act 1975. Our investigations may be in response to complaints or may be self initiated, particularly where systemic or wider public interest issues are raised. In relation to people with disabilities, we also investigate issues relating to the implementation of the Disability Convention.

## **INVESTIGATE AND REVIEW OFFICIAL INFORMATION DECISIONS**

We seek to increase transparency, accountability and public participation in government decision making, primarily by resolving and investigating and reviewing complaints to ensure compliance with the official information legislation.

## **DEAL WITH REQUESTS FOR ADVICE AND GUIDANCE ABOUT SERIOUS WRONGDOING**

We perform advisory, referral and investigative functions under the Protected Disclosures Act 2000 to ensure:

- people who are concerned about serious wrongdoing can seek advice;

- people feel confident enough to raise their concerns through the appropriate channels; and
- legitimate concerns are investigated by appropriate authorities.

## **MONITOR AND INSPECT PLACES OF DETENTION**

We seek to ensure people in detention are treated humanely, by:

- monitoring and inspecting prisons, immigration detention facilities, health and disability places of detention, child care and protection residences and youth justice residences; and
- making recommendations to improve the conditions of detention and the treatment of detainees.

## IMPROVE STATE SECTOR CAPABILITY IN AREAS RELEVANT TO OUR JURISDICTION

Although investigation is one way of contributing to improvements in public sector administration, we also seek to be more proactive in assisting agencies before things go wrong and we are asked to investigate. We do this by:

- reviewing and commenting on legislative, policy and procedural matters to ensure they:
  - reflect good administrative practice;
  - promote good decision making; and
  - are consistent with the principles of open and transparent government;
- providing advice, guidance and training to public sector agencies, and reviewing and monitoring compliance and good practice, to help agencies:
  - › develop and implement good administrative and complaints handling practices;
  - › develop and implement good official information handling processes, policies and systems; and
  - › comply with their obligations under the official information legislation; and
- promoting the proactive disclosure of official information where appropriate to reduce the administrative burden and transaction costs of reacting to individual requests for the same or similar information.

## IMPROVE PUBLIC AWARENESS AND ACCESSIBILITY OF OUR SERVICES

We aim to improve awareness amongst New Zealanders of our role, and make access to our services and resources easy for all.

We undertake a range of public awareness-related activities, including giving speeches and presentations, publishing information and maintaining a website so that people can access our information and resources electronically.

# Ombudsman outcome framework

<b>PURPOSE</b>	We investigate, review and inspect the administrative conduct of state sector agencies and provide advice and guidance, in order to ensure people are treated fairly in New Zealand			
<b>OUTCOME</b>	A high level of public trust in government is maintained			
<b>INTERMEDIATE OUTCOMES</b>	Government is increasingly fair, responsive and reasonable State sector agencies are progressively more open and transparent Public is informed and better able to participate in government decision making State sector agencies are increasingly more accountable			
<b>IMPACTS</b>  <i>What are we seeking to achieve?</i>	<b>1.</b>  Improved administration and decision making in state sector agencies	<b>2.</b>  Official information increasingly available and public assured access is not denied unnecessarily	<b>3.</b>  Serious wrongdoing brought to light and investigated by appropriate authorities	<b>4.</b>  People in detention treated humanely
<b>OUTPUTS</b>  <i>What will we do to achieve it?</i>	<b>A.</b>  Investigate state sector administration and decision making	<b>B.</b>  Investigate and review official information decisions	<b>C.</b>  Deal with requests for advice and guidance about serious wrongdoing	<b>D.</b>  Monitor and inspect places of detention
	<b>E.</b> Improve state sector capability in areas relevant to our jurisdiction  <b>F.</b> Improve public awareness and accessibility of our services			



PART 4

# Report on operations

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## Public sector administration and decision making

In this section we give an overview of our complaints handling and systemic improvement work under the Ombudsmen Act (OA), including responding to other contacts. Detailed statistics can be found in Part 7.

### Complaint numbers

We treat matters as formal ‘complaints’ once they have been put in writing.<sup>12</sup> However, we also deal with a large number of oral complaints

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<sup>12</sup> See section 16(1A) OA.



and enquiries from members of the public, mainly over the telephone, prior to a complaint being made to us in writing. While we term these matters *'other contacts'*, our staff spend a significant amount of time providing advice and assistance, and resolving these matters.

We received a total of 8771 OA complaints and other contacts concerning OA matters in 2016/17. The total received is made up of:

- 2191 complaints (an increase of seven percent from last year); and
- 6580 other contacts (a decrease of 15 percent from last year).

The decrease in other contacts is largely attributable to a decrease in telephone calls from prisoners over the year, as the Department of Corrections' complaints telephone line came into operation.

We completed a total of 8864 OA complaints and other contacts concerning OA matters in 2016/17. The total completed is made up of:

- 2285 complaints; and
- 6579 other contacts.

We finished the reporting year with 430 complaints and four other contacts on hand. This is an improvement of 20 percent less on hand than at the same time last year, and resulted in a net clearance rate for OA complaints of 104 percent.

## Complainants

The OA is primarily used by individual members of the public. This reflects the intent of the legislation, which is to provide recourse for people personally affected by the administrative conduct of public sector agencies. In 2016/17, 84 percent of OA complaints were from individual members of the public and 12 percent were from prisoners or prisoner advocates.<sup>13</sup> Only

four percent of OA complaints were made by corporate entities, media, government agencies, special interest groups, political party research units and Members of Parliament.

In terms of other contacts concerning OA matters, 54 percent were from individual members of the public and 45 percent were from prisoners or prisoner advocates.<sup>14</sup> This has reversed the trend of the past three years, where both an increasing proportion and an increasing number of other contacts were coming from prisoners.<sup>15</sup> However, while prisoner contact has declined as the Department of Corrections' complaints telephone line came into operation, dealing with prisoner matters remains a large part of the work we do in responding to and resolving matters by telephone.

## Agencies

Half of the OA complaints we received (49 percent) were made against central government departments. Other state sector agencies accounted for 28 percent of OA complaints, and 14 percent were made against local government agencies. These trends are very consistent with previous years.

The agencies generating significant numbers of complaints tend to be ones that interact with, and impact upon, large numbers of people, such as the Department of Corrections, the Ministry of Business, Innovation and Employment (Immigration New Zealand), the Ministry of Social Development and the Inland Revenue Department. In terms of local government, Auckland Council generated the greatest number of complaints.

Half of other contacts (50 percent) concerned the Department of Corrections. Other central government departments accounted for 16 percent of other contacts, 13 percent concerned

13 Not all against the Department of Corrections.

14 Above, n 13.

15 In the 2015/16 reporting year, 45% of other contacts were from individual members of the public and 54% were from prisoners or prisoner advocates.

other state sector agencies, and five percent concerned local government agencies.

## Complaint outcomes

### Complaints

Not all OA complaints we receive require formal investigation. In 245 cases (11 percent of the total completed during 2016/17) our role was to provide an explanation, advice or assistance to complainants about the most appropriate way of addressing their concerns.

We were also able to resolve 127 complaints<sup>16</sup>—in 83 cases before investigation, and in 44 cases during an investigation.

We advised complainants in 940 cases<sup>17</sup> to raise their complaint with the public sector agency of concern in the first instance. We also declined to investigate in 112 cases<sup>18</sup> where there was another remedy or right of appeal available to the complainant, and in 319<sup>19</sup> cases where we considered it unnecessary. A further 254 complaints<sup>20</sup> were not within our jurisdiction.

We formally investigated 183 complaints,<sup>21</sup> and we formed 97 final opinions.<sup>22</sup> In only 48 cases (49 percent of all complaints where a final opinion was formed) did we identify administrative deficiency by the public sector agency.

We made 16 recommendations. Our recommendations have been accepted in 10 cases, partially accepted in one case, not accepted in one case,<sup>23</sup> and in four cases we are awaiting confirmation as to whether the recommendation is accepted.

### Other contacts

In terms of other contacts concerning OA matters, we provided an explanation, advice or assistance in 2371 cases (36 percent of the total completed during 2016/17).

We advised individuals in 3133 cases<sup>24</sup> to raise their complaint with the public sector agency of concern in the first instance. We referred individuals to other review agencies in 416 cases,<sup>25</sup> including the Health and Disability Commissioner, the Independent Police Conduct Authority and the Privacy Commissioner. We referred 32 cases directly to a public sector agency for consideration by that agency, and we invited 384 individuals<sup>26</sup> to make a complaint to us in writing.

## Administrative deficiencies

In relation to the OA complaints where we formed a final opinion, we identified:

- 24 cases where there were procedural deficiencies;
- 13 unreasonable, unjust, oppressive or discriminatory acts, omissions or decisions;
- 5 cases of unreasonable delay;
- 4 cases of legal error;
- 4 wrong actions or decisions;
- 1 instance of inadequate advice, explanation or reasons;
- 1 case of factual error or mistake; and
- 1 unreasonable charge.

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16 6% of cases.

17 41% of cases.

18 5% of cases.

19 14% of cases.

20 11% of cases.

21 8% of cases.

22 4% of cases.

23 On the basis that alternative action had been taken to remedy the matter.

24 48% of cases.

25 6% of cases.

26 6% of cases.

## Funding restored for father and carer of disabled son

The Ministry of Health restored 40 hours a week Funded Family Care to father Cliff Robinson, after Mr Robinson complained to the Ombudsman that the Ministry had reduced his funded hours for care of his adult disabled son to 29 and a half hours.

Mr Robinson provides care to his two adult disabled children. He was a plaintiff in the *Atkinson v Ministry of Health* case, which won the right for parents of intellectually disabled adult children to be paid for their care.

One of Mr Robinson's sons has an intellectual disability, schizophrenia, bipolar disorder and microcephalus. In 2014, the Disability Support Link (DSL) from the Ministry's Needs Assessment and Service Coordination Service (NASC) advised Mr Robinson that he had been awarded 59 hours Funded Family Care per week to care for this son. Forty of these hours were to fund his own care of his son, and the remainder were to fund an external carer.

Mr Robinson turned down the offer of an external carer as he felt this would be impractical and stressful for his son. He was then advised that he could appeal to the Individual Review Panel to receive the additional 19 hours to fund his own caregiving, and decided to make this appeal.

DSL then advised Mr Robinson, by email, that the Panel had declined his request for the additional 19 hours of employment under Funded Family Care. The NASC then advised him that his allocation of 40 hours of Funded Family Care per week was calculated in error, and would be reduced to 29 and a half hours per week.

Mr Robinson felt this decision was unfair and made a complaint under the Ombudsmen Act.

Ombudsman Leo Donnelly formed the opinion that the decision to award Mr Robinson 40 hours of Funded Family Care and then reduce it to 29 and a half hours was unreasonable:

*Having been awarded 40 hours of Funded Family Care, Mr Robinson would have relied on that decision . . . to then reduce it to 29 and a half hours was unreasonable.*

In response, the Ministry acknowledged that Mr Robinson would have had a reasonable expectation of payment of 40 hours of care and would have relied on that decision in planning his budget and care for his son.

The Ministry reinstated the 40 hours of Funded Family Care to Mr Robinson, and undertook to strengthen the natural justice requirements of the Individual Review Panel.

Read the full opinion at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

## Remedies

We obtained remedies for the individual concerned in 153 OA complaints and other contacts concerning OA matters,<sup>27</sup> including:

- 38 cases where a decision was changed;
- 31 cases where a decision was reconsidered;
- 30 cases where an omission was rectified;
- 21 cases where an apology was given;
- 20 cases where reasons or an explanation for a decision was given; and
- 13 cases where a financial remedy was provided.

We also obtained a public administration benefit in 26 cases, with:

- a change in practice or procedure in 13 cases;
- agency agreement to review a law, policy, practice or procedure in 6 cases;
- the provision of guidance or training to agency staff in 5 cases;
- a change in law or policy in 1 case; and
- the provision of additional resources in 1 case.

The data supports our experience that public sector agencies are generally very receptive to Ombudsman investigations and inquiries, and willingly take the opportunity to examine their conduct and remedy any administrative deficiencies that have occurred.

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27 In cases that were both investigated, and resolved informally without investigation.

## Freedom of expression vs possible harm

An investigation into a journalist's request to interview prisoner Pita Edwards highlighted matters of legal precedent and best practice for how these requests are assessed and decided upon.

Pita Edwards was jailed in 2014 for a series of offences. A journalist asked the Department of Corrections for an interview with Mr Edwards, and when her requests were declined she complained to the Ombudsman.

When considering whether to approve media interviews with prisoners, the Department must:

- have regard to the need to protect the interests of other people and to maintain the security and order of the prison; and
- be satisfied the prisoner understands the nature and purpose of the interview and any recording and the possible consequences for themselves or other people.

Chief Ombudsman Peter Boshier found that the Department had been unreasonable in refusing the journalist's request, and recommended an interview be granted under conditions it had specified: the interview take place in a visiting or interview room, Corrections staff be present, and any recording equipment taken to the interview be inspected.

In reaching his opinion, Peter Boshier cited recent legal rulings on the issue and discussed the prisoner's rights to freedom of expression under the Bill of Rights Act 1990 (BORA). In particular, the Chief Ombudsman highlighted that:

- The prisoner's rights to freedom of expression under BORA are the first and mandatory thing the Department must consider when assessing an interview request.

- The onus is then on the Department to show that any potential harm or risk to security from the interview outweighs the prisoner's rights under BORA. The prisoner does not have to show that his or her rights under BORA carry greater weight than possible harm resulting from the interview.
- Evidence about potential harm to victims must be fairly and accurately assessed, the connection between the interview and possible harm must be clearly established, and the Department must show it has considered ways to mitigate that harm.

The Chief Ombudsman did not find evidence that a face-to-face interview with a prisoner would result in more harm than an interview conducted via email or letter. Therefore, offering a written interview was not justification for refusing a face-to-face interview.

In explaining his findings, Mr Boshier referred to the case *Scott Watson v CE of Department of Corrections*. The High Court found in this case there was no justification in limiting a journalist's interview with Mr Watson to written communications only, as the Department had not satisfactorily shown a face-to-face interview would result in more harm to Scott Watson's victims.

In Pita Edwards' case, the Department of Corrections agreed to grant the interview request, but then contacted the journalist with further conditions such as limiting the topics she could discuss with him. The journalist had not expected to receive further conditions, and asked the Ombudsman to clarify.

After further discussion with the Chief Ombudsman, the Department agreed not to impose further conditions on the journalist, and the interview went ahead.

## Complaint timeliness and clearance rates

In 2016/17 we met our net clearance rate targets, which apply across all OA, OIA and LGOIMA complaints and other contacts, achieving:

- a net clearance rate of 108 percent for all complaints (*target 105 percent*); and
- a net clearance rate of 100 percent for all other contacts (*target 100 percent*).

Our success this year has reflected the hard work we have put in to reducing our backlog of aged complaints received before 1 July 2015, and to take immediate action on new complaints. This has resulted in us finishing the reporting year with 1219 OA, OIA and LGOIMA complaints on hand, an improvement of 21 percent less on hand than at the same time last year. We also reduced our backlog from 561 at the start of the year to 202 at year end. As a result, we expect to eliminate our backlog by 30 June 2018, one year earlier than predicted.

We completed 92 percent of all complaints and other contacts within six months. Excluding the backlog, we completed 72 percent of all complaints within three months and 93 percent within 12 months.<sup>28</sup>

In terms of our timeliness targets, which apply across all OA, OIA and LGOIMA complaints and other contacts, we completed:

- 100 percent of other contacts within three months of receipt (*target 100 percent*);
- 79 percent of complaints received from 1 July 2016 within three months (*target 70 percent*);
- 91 percent of complaints received from 1 July 2016 within six months (*target 75 percent*);
- 96 percent of complaints received from 1 July 2016 within nine months (*target 80 percent*); and
- 93 percent of complaints received from 1 July 2015 within 12 months (*target 90 percent*).

## Quality assurance

We performed formal quality assurance across a random sample of all OA, OIA and LGOIMA complaints and other contacts completed in the 2016/17 year. The result was that 57 percent of the complaints and other contacts reviewed met our internal quality standards.

The main reason for complaints not meeting quality standards was timeliness. With a large number of backlog complaints completed this year, our quality standards performance was affected for timeliness reasons. If timeliness was excluded as a factor, then 81 percent of the complaints and other contacts reviewed met our internal quality standards. We expect the proportion of complaints meeting quality standards to increase as our timeliness continues to improve over 2017/18.

As well as conducting formal quality assurance sampling, we also ensure the quality of our work through review of all correspondence by senior staff with delegated authority from the Ombudsmen, and the participation by staff in our in-house training programmes.

## Systemic improvement

As part of a drive to enhance our ability to proactively identify and address systemic issues arising throughout the public sector, we now have teams within the Office dedicated to:

- identifying, monitoring and resolving significant and systemic issues, so that they may be addressed early and effectively; and
- investigating significant and systemic issues, where necessary and appropriate.

One of the first projects we have undertaken is to review the way in which we monitor serious incidents in prison (including all deaths in custody). This initiative involves an assessment, from first principles, of how we ensure that our processes are

28 Including the backlog, we completed 66 percent of complaints within three months and 85 percent within 12 months.

optimally effective in pinpointing and addressing the causes of serious incidents in prison. We are ensuring that our work in this area is well-integrated with the work of the Department of Corrections Office of the Inspectorate, the Coroner, and the Police.

In general terms, the systemic improvement

monitoring, resolution and investigation functions are designed as a hub for us to address trends and issues across the public sector, so that we can target our resource for proactive intervention where it is most needed. We expect this to be an increasingly important area of our work.

## Unprecedented—and severely mishandled

On Chief Ombudsman Peter Boshier's recommendation, the Ministry of Education is working with the schools sector to develop a strong, genuine and transparent process for consultation around school closures and mergers.

This was one of the recommendations of our report *Disclosure: An investigation into the Ministry of Education's engagement processes for school closures and mergers*. The report was the result of one of the most comprehensive investigations undertaken by the Office of the Ombudsman.

*Disclosure* examined the process of school closures and mergers since Tomorrow's Schools was introduced in 1989, with a particular focus on the reorganisation following the Canterbury earthquakes.

The investigation found that in the decades before the Canterbury earthquakes, policy around school reorganisations see-sawed from school-led to government-led approaches, with no clear policy or criteria established.

After the earthquake of February 2011, Ministry staff faced an unprecedented situation, with severely impacted communities and significant property damage across the school network. *Disclosure* recognised this, and also recognised that in embarking upon the school reorganisation, the Ministry was working without any established process or institutional framework.

Nonetheless, *Disclosure* was highly critical of the Ministry's engagement process with Canterbury schools and communities, finding significant gaps and flaws in the decision making process and the way it was announced to communities.

In particular, *Disclosure* found that the Ministry effectively ran two parallel processes: the visible engagement in which the community contributed to a vision for future education in Canterbury, and the business case with detailed plans for school property progressing through Cabinet at the same time.

*In Canterbury, the Ministry had no established process or framework for school reorganisations, and was working in unprecedented circumstances with a traumatised community.*

The results of the business case were announced to schools and communities on 13 September 2012, a date nicknamed '**Black Thursday**' by some in the community. *Disclosure* found that the announcement was very poorly planned and delivered, with incorrect and inadequate information provided. Schools slated for closure or merger had to resort to the Official Information Act to get information about their own schools in order to submit on the proposals.

The Ministry of Education responded immediately to the Chief Ombudsman's recommendation that it publicly apologise to Canterbury schools, and by the time of the report's publication had commenced working with education groups to establish a much better framework for engagement.

Educators in Canterbury welcomed the report, saying it accurately reflected the concerns they had been expressing since September 2012. We will continue to monitor the Ministry's work towards a much better process for school reorganisations.

*Disclosure* is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

## Ending the use of seclusion in schools

On the Chief Ombudsman's request, the Secretary for Education wrote to all schools in November 2016 instructing any school that was putting children in seclusion to stop immediately. Legislation passed in May 2017 then specifically prohibited the use of seclusion by or on behalf of schools or early childhood centres.

The term '**seclusion**' means a person being placed in a room alone, apart from their peers, and with no means of leaving voluntarily. It's a method sometimes used in hospitals, prisons, and other detention facilities when a person's behaviour presents a risk to themselves or others.

In October 2016 Chief Ombudsman Peter Boshier started an investigation into the use of seclusion rooms in schools, following complaints from parents at two primary schools that their children had been placed in seclusion without the parents' knowledge or consent. The investigation is looking into the parents' specific complaints, the overall use of

seclusion in schools, and any related actions or omissions by the Ministry of Education and the Education Review Office.

When the investigation started, the Secretary for Education wrote to all schools at the Chief Ombudsman's request, providing guidelines on managing behaviour without physical restraint and stating that seclusion should not be used in any situation.

In May 2017, the Education (Update) Amendment Act 2017 was enacted, including a new section specifically prohibiting the use of seclusion at, or on behalf of, a school or an early childhood education centre.

We strongly welcome the Ministry's directive to schools to cease using seclusion and the support the Ministry is providing schools to seek alternative and better ways of managing difficult student behaviour. The Chief Ombudsman's investigation is still underway and involves interviewing parents and school representatives, reviewing school records, and examining the legislation and guidance available at the time.

## Official information practice improvement

In May 2017 we published our *Strategic Priorities for improving the operation of the Official Information Act (OIA)*, setting out six key areas of work as follows:

- quick and effective resolution and investigation of OIA complaints;
- publication of OIA data;
- providing advice, guidance and training for agencies;

- developing good practice indicators;
- establishing a monitoring programme of agencies' OIA practices and capabilities; and
- collaboration with other agencies.

These areas of work give effect to the recommendations in our report *Not a game of hide and seek—Report of an investigation into the practice adopted by central government agencies for the purpose of compliance with the OIA*.

Over 2016/17 we have progressed these areas of work,<sup>29</sup> in collaboration with the State

29 Our efforts to provide quick and effective resolution and investigation of OIA complaints are discussed at pages 23 to 28. Our publication of OIA data and advice, guidance and training is discussed at pages 45 to 49.



Services Commission, Ministry of Justice and the Department of Prime Minister and Cabinet.

We have revised our structure and set up a team specifically tasked with investigating agencies' official information practices. By the end of 2017, we will conclude our reports to the 12 individual agencies initially identified for investigation in

respect of their official information practice. We are also making good progress in developing good practice indicators and a maturity model to inform our subsequent investigations in 2017/18 and out years.

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## Official information decisions

In this section we give an overview of our complaint handling work under the Official Information Act 1982 (OIA) and the Local Government Official Information and Meetings Act 1987 (LGOIMA). Detailed statistics can be found in Part 7.

### Complaint numbers

We continued to receive a high number of official information complaints this year. We received 1174 complaints under the OIA<sup>30</sup> and 248 complaints under the LGOIMA, an increase of six percent on the previous year. We expect this level of complaints to continue in the foreseeable future.

We completed 1375 OIA complaints<sup>31</sup> and 258 LGOIMA complaints, 23 percent more than we completed in the 2015/16 year. While our net clearance rate for LGOIMA complaints remained steady at 104 percent, our net clearance rate for OIA complaints significantly improved from

99 percent in 2015/16 to 117 percent in 2016/17. This demonstrates a reversal of the trend over previous years, where we have now been able to complete more work than we received, and therefore address much of the backlog of aged complaints. We received additional funding over three years to address the backlog, but as noted above we are now well on track to eliminate it within two years, by 30 June 2018.

We finished the year with 647 OIA complaints and 142 LGOIMA complaints on hand, an improvement of 21 percent less than at the same time last year.

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30 This total differs slightly from the totals reported in the Ombudsman's OIA complaints data (available here: <http://www.ombudsman.parliament.nz/resources-and-publications/oia-complaints-data>). End of year reconciliation calculations showed that an additional 15 OIA complaints were received between 1 July 2016 and 31 December 2016.

31 This total differs slightly from the totals reported in the Ombudsman's OIA complaints data (available here: <http://www.ombudsman.parliament.nz/resources-and-publications/oia-complaints-data>). End of year reconciliation calculations showed that an additional 13 OIA complaints were completed between 1 July 2016 and 31 December 2016. This total also includes 5 OIA complaints not included in the Ombudsman's OIA complaints data because they were closed for internal administrative purposes.

## Report about Police taser incident released

New Zealand Police released a tactical options report concerning a taser incident after Chief Ombudsman Peter Boshier found there was no good reason to withhold it.

A television journalist complained to the Chief Ombudsman after his request to Police for the tactical options report relating to a taser incident was refused. The complaint also concerned Police refusing the journalist's request to view Police camera footage of the incident.

Police withheld the footage on the grounds of the privacy of the man who was tasered (section 9(2)(a)). Police withheld the tactical options report under sections 6(c), 9(2)(ba) (i) and 9(2)(g)(i): maintenance of the law, confidentiality, and free and frank expression.

In relation to the tactical options report, the Chief Ombudsman found that:

- The grounds of confidentiality did not apply. Police argued that officers supplied the information in the tactical options reports confidentially, and that their release could affect future reports' quality and detail. The Chief Ombudsman did not agree that the information had been provided in confidence, or that release would inhibit an officer's description of events in future reports.
- The grounds of free and frank expression did not apply. While it was important for officers to be forthcoming in their reports about the use of force, it was already the case that a tactical options report could be used in court proceedings or professional conduct investigations, so the reports were already being written in the knowledge that their content might be shared.
- The grounds of protecting the maintenance of the law did not apply. The Police view was that the threat of disclosure might deter Police from using a tactical option such as a taser when needed. The Chief Ombudsman stated he found it difficult to comprehend how release of a tactical options report could have this effect.

However, the Chief Ombudsman found that withholding the taser camera footage was justified under privacy grounds. He noted that while the identity of the man who was tasered was not clear from the footage, he could be identified from related media coverage, and therefore had a high privacy interest in the information. This provided good reason for withholding the information as the Chief Ombudsman did not identify any countervailing public interest in release of the footage on this occasion.

Read the full case note at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

## Complainants

This year's statistics concerning the type of complainants who raised concerns about official information decisions continue to suggest that members of the public are making good use of their right to request information, and to complain to the Ombudsman if dissatisfied. The statistics also indicate a growing trend for the media to make complaints to us.

Individuals accounted for 61 percent of OIA complaints and 68 percent of LGOIMA

complaints. The next highest users were the media, who made 19 percent of OIA complaints, and 21 percent of LGOIMA complaints. MPs and political party research units accounted for eight percent of the OIA complaints received.

## Agencies

This year, 522 official information complaints were made against government departments, and 521 against other state sector agencies,

each making up 37 percent of all complaints received respectively. This shows an ongoing trend for complaints to be made against the wider state sector just as much as against central government.

Local government agencies made up 17 percent of the official information complaints received, and eight percent of complaints were against Ministers of the Crown.

## Overall results of staff survey released

A Council released the aggregated results of its staff satisfaction survey after Ombudsman Leo Donnelly found there were no privacy interests supporting the decision to withhold the information.

Fairfax Media requested the full report on the Council's staff satisfaction survey. The Council withheld the information on the grounds of section 7(2)(a) (privacy), 7(2)(c) (confidentiality), and section 7(2)(f)(i) (free and frank expression).

Fairfax Media advised that it didn't seek the identities of people who completed the survey, or comments that could be attributed to individuals, but the Council continued to withhold the information. Fairfax Media then asked the Ombudsman to review the Council's decision.

The Council told the Ombudsman it was concerned that release of the information would breach the Chief Executive's privacy (as the survey formed part of his performance assessment), and the privacy of staff members.

The Council was also concerned about possible reputational damage of the survey results being made public, and noted that staff taking part had been assured of confidentiality.

Ombudsman Leo Donnelly consulted with the Privacy Commissioner in forming his opinion. He found that the release of aggregated results would not affect either the Chief Executive's privacy, as they did not relate directly to his performance; or the privacy of individuals, as individuals were not identified in the aggregated results.

The Ombudsman noted that LGOIMA aims for the progressive availability of official information to the people of New Zealand, and that there was no blanket protection for staff surveys as a class of official information.

However, the Ombudsman agreed that releasing comments that could be attributed to particular people would discourage staff to respond candidly in future surveys. Therefore, this information was protected by section 7(2)(c)(i) of LGOIMA.

On the Ombudsman's recommendation, the Council released the aggregated results to Fairfax Media.

Read the full case note at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

## Complaints profile

This year, 53 percent of all official information complaints concerned the refusal of requests for official information, and 22 percent concerned delays by agencies in making decisions on

requests or in releasing information. These figures show the proportion of delay complaints has remained steady over the past three years.

## Complaint outcomes

In 2016/17, we resolved 26 percent of all official information complaints, with 216 resolutions achieved without formal investigation and 208 resolutions achieved during an investigation. In particular, with our continued focus on 'early resolution' we resolved 25 percent more complaints than in the 2015/16 year.<sup>32</sup>

We formally investigated 49 percent of all completed complaints,<sup>33</sup> and we formed 441 final opinions.<sup>34</sup> In 195 cases<sup>35</sup> we identified administrative deficiency by the agency concerned.

We made 21 recommendations under the OIA and 10 recommendations under LGOIMA. Thirty of our recommendations have been accepted, and in one case we are awaiting advice as to whether our recommendations are accepted.

## Administrative deficiencies

In relation to the complaints where we formed a final opinion, we identified:

- 148 cases of delay;
- 36 cases where the refusal of official information was not justified;
- 8 cases where there was an unreasonable extension;
- 2 cases of factual error or mistake; and
- 1 unreasonable charge.

While we are making greater efforts to resolve complaints as early as possible, this does not limit our ability to identify administrative deficiency where that is occurring and the matter cannot be resolved.

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32 A total of 338 complaints were resolved in 2015/16, as compared to 424 complaints in 2016/17.

33 800 out of 1633.

34 27% of all completed official information complaints.

35 44% of all complaints where a final opinion was formed.

## Charging for substantial collation or research

Ombudsman Leo Donnelly found it was reasonable for Victoria University to charge for the collation of information about academic misconduct by international students, even though other universities may have provided the information without charge.

A requester complained to the Ombudsman after Victoria University refused to provide information about how many international students were penalised and disciplined for misconduct during 2012, 2013 and 2014.

The university provided the figures for all students, but as the Academic Misconduct Register (AMR) didn't specify whether a student was domestic or international, the university refused to provide that information on the basis that substantial collation or research would be required.

After enquiries from the Ombudsman, the university advised it would grant the request but would charge for the time required for collation, as permitted by section 15(2) of the OIA.

This was estimated at 14 hours at \$38 per half hour, a total of \$1064. The University later revised the estimate down by one hour, to \$988.

The Ombudsman agreed with the university's estimation of the time required for a manual cross-check between the student record system (which recorded international or domestic status) and the AMR.

The Ombudsman agreed a charge was justified in this case, even though another university may have not needed to undergo a cross-checking exercise to provide the information and therefore would not charge for its collation.

Finally, the Ombudsman found there was no reason to believe that imposing a charge would cause the requester financial hardship, and did not believe any public interest in the release of information would require the university to reduce or cancel the charge.

Read the full case note at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

## Remedies

We obtained 497 remedies for complainants,<sup>36</sup> including:

- 275 cases where a decision was changed;
- 109 cases where reasons or an explanation for a decision were given;
- 58 cases where a decision was reconsidered;
- 46 cases where an omission was rectified; and
- 9 cases where an apology was given.

We also obtained 16 remedies with a public administration benefit, including:

- 7 cases where there was a change in practice or procedure;
- 4 cases where guidance or training was provided to staff;
- 4 cases where a law, policy, practice or procedure was reviewed; and
- 1 case where there was a change in law or policy.

Overall, we obtained 25 percent more remedies in the official information area than in 2015/16.

36

In cases that we both investigated, and resolved informally without investigation.

## Complaint timeliness, clearance rates and quality assurance

Discussion of our timeliness, clearance rates

and quality assurance in relation to OA, OIA and LGOIMA complaints is set out at pages 20 to 21.

### Legal privilege and David Bain's compensation claim

Chief Ombudsman Peter Boshier formed the opinion that the maintenance of legal professional privilege outweighed the public interest in release of a report into David Bain's compensation claim for wrongful imprisonment.

In 1995, David Bain was convicted of killing his parents and three siblings at their home in Dunedin. Mr Bain spent 13 years in prison before being found not guilty at a second trial in 2009, and then claimed government compensation for wrongful conviction and imprisonment.

The government commissioned two reports from former Judges into the claim, which reached conflicting conclusions about Mr Bain's probable innocence and right to compensation. In 2015 the government announced that both reports would be set aside and a new report provided by Hon Ian Callinan QC.

Hon Callinan delivered his report to the Minister of Justice in January 2016. The following month, before Cabinet had made or announced its decision on compensation, a requester asked the Minister of Justice for a copy of the report. When the Minister refused the request under section 9(2)(h) of the Official Information Act, being the maintenance of legal professional privilege, the requester complained to the Ombudsman.

The Chief Ombudsman formed the opinion that the Minister's purpose in commissioning the Callinan report was to seek legal advice that would enable her to advise Cabinet on the claim. The report was therefore confidential communications between a legal advisor and a client, and was covered by legal professional privilege. He found no evidence that the Minister had waived this privilege, and did not find that the need to maintain legal professional privilege was outweighed by the public interest in release. This was the situation even given the high public profile of the case, and although parts of the report had been allegedly leaked to the media.

In August 2016, the Justice Minister announced the Cabinet decision. Hon Ian Callinan's report had concluded that David Bain had not established his innocence on the balance of probabilities, and therefore compensation should not be paid.

The government accepted that finding but did make a \$925,000 ex gratia payment to Mr Bain in recognition of the time the matter had taken to resolve, and to avoid further legal action. The government then released the Callinan report in full.

Read the full case note at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

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# Protected Disclosures

The purpose of the Protected Disclosures Act (PDA) is to:

- facilitate the disclosure and investigation of serious wrongdoing in or by public and private sector organisations; and
- protect employees who disclose information about serious wrongdoing.

Our primary role under the PDA is to provide advice and guidance to employees wanting to make protected disclosures. However, we can also:

- investigate the issues raised or refer them to other appropriate authorities for investigation;
- take over investigations by public sector organisations, or investigate in conjunction with them; and
- review and guide investigations by public sector organisations.

A common trend in enquiries received under the PDA is that the issues raised do not relate to 'serious wrongdoing' as defined in the legislation. The threshold for serious wrongdoing is high. It includes:

- offences;
- actions that would pose a serious risk to public health and safety or to the maintenance of the law; and
- in the public sector context, unlawful, corrupt or irregular use of funds or resources, and gross negligence or mismanagement by public officials.

In 2016/17, we completed 10 requests for guidance and assistance and we responded to 34 informal enquiries. We completed 95 percent of all requests and enquiries within three months of receipt (*target 85 percent*).

As well as receiving disclosures and providing advice and guidance to whistleblowers, we continued our involvement as a partner in a trans-Tasman research project by Griffith University designed to ascertain the strength of whistleblowing procedures in New Zealand and Australia.

## When can the confidentiality provisions of the PDA be overridden?

Chief Ombudsman Peter Boshier dealt with a case that caused him to consider the parameters of the confidentiality obligations of the PDA. An agency had provided the name of the discloser to persons accused of serious wrongdoing in the course of investigating the allegations, believing that release of the name was appropriate for natural justice purposes.

Section 19 of the PDA requires the name of the person who made the disclosure to be kept confidential unless it is reasonable to believe that disclosure is **'essential'** to the effective investigation of the allegations, or **'essential'** for the purposes of natural justice.

The PDA does not define **'essential'** for the purposes of that Act. The Court of Appeal has observed that:

*...essential is a strong word, **somewhat stronger even than necessary**. It is a word in common use in the English language and we do not think that its meaning is made any clearer by attempts at paraphrase.<sup>37</sup>*

As the PDA is intended to facilitate the disclosure of serious wrongdoing and to protect employees who make such disclosures, the Chief Ombudsman found whether it is **'essential'** to disclose the identity of an employee who has made a disclosure should be considered in light of the law on the disclosure of informants' identities. The case of *Nicholl v Chief Executive of the Department of Work and Income* was instructive. In that case the plaintiff had sought an informant's identity under the Privacy Act 1993.

The High Court upheld the decision of the Complaints Review Tribunal that section 27(1)(c) of the Privacy Act 1993<sup>38</sup> could be relied upon for withholding an informant's name, stating:

*In my view, the respondent's fears that disclosure of the identity of the informant could discourage other potential informants from giving information are fully justified. It undoubtedly would prejudice the maintenance of the law, and by the means identified in s 27(1)(c)—the prevention, investigation and detection of offences. There are no special circumstances which could support a contrary view. It follows that the respondent was entitled to refuse disclosure and the tribunal and the Commissioner were right to uphold the decision.*

The Chief Ombudsman considered that reasoning to be applicable to an employee's identity where information is disclosed under the PDA. It followed that to consider disclosure **'essential'** for the purposes of natural justice, or for investigating the allegations, was **'a very high threshold'**.

He found that while the PDA contemplates circumstances may arise where it would be **'essential'** to override the confidentiality obligation, unless there is a strong factual base for concluding that disclosure is **'essential'**, the confidentiality requirement prevails.

In the case in question, the discloser did not directly witness the alleged serious wrongdoing, and the Ombudsman considered the agency's investigation of the disclosure could have readily been done without their name being released.

37 *Environmental Defence Society Inc v South Pacific Aluminium Ltd* (No 3) [1981] 1 NZLR 216 at 219 (emphasis added).

38 *Nicholl v Chief Executive of the Department of Work and Income* [2003] 3 NZLR 426.



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# United Nations Optional Protocol to the Convention against Torture

In this section we give an overview of our work under the *United Nations Optional Protocol to the Convention against Torture* (OPCAT), and discuss issues arising in prisons, immigration detention facilities and health and disability places of detention.

## Overview

Under the Crimes of Torture Act 1989 (COTA), the Ombudsmen are a designated *National Preventive Mechanism* (NPM) for the OPCAT in New Zealand, with responsibility for monitoring and making recommendations to improve the conditions and treatment of detainees, and to prevent torture, and other cruel, inhuman or degrading treatment or punishment, in:

- 18 prisons;
- 80 health and disability places of detention;
- 3 immigration detention facilities;<sup>39</sup>
- 4 child care and protection residences; and
- 5 youth justice residences.

The designation in respect of child care and protection and youth justice residences is jointly shared with the Children's Commissioner. Work is underway with the Ministry of Justice to review the current NPM designations.

We are funded for three Inspectors and specialist advisors to assist us in carrying out our NPM functions. In 2016/17 we committed to carrying out 32 visits to places of detention. We exceeded this commitment and carried out a total of 57 visits,<sup>40</sup> including 13 formal inspections. Thirty-six visits (63 percent) were unannounced.

For the 2017/18 year onwards we were successful in obtaining new funding from Parliament which will enable us to increase the number of Inspectors on our OPCAT team and expand and intensify our programme of inspections. As part of this more intensive programme, we are committed to progressively publishing our reports, in the interests of transparency and accountability.

Each place of detention we visit contains a wide variety of people, often with complex and competing needs. Some detainees are difficult to deal with and can be demanding and vulnerable, whereas others are more engaging and constructive. All have to be managed within a framework that is consistent and fair to all. While we appreciate the complexity of running such facilities and caring for detainees, our role is to monitor whether appropriate standards are maintained in the facilities and people detained in them are treated in a way that avoids the possibility of torture or other cruel, inhuman or degrading treatment or punishment occurring. In line with our power to make recommendations with the aim of improving the treatment and the conditions of people deprived of their liberty, we also review and comment on proposed policy changes and legislative reforms.

The 13 formal inspections were at the sites set out in the table below.

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39 After visits to Auckland and Christchurch International Airports, it was established both facilities are places of detention. This brings the total number of immigration detention facilities to 3. Wellington airport has 1 police cell which does not fall within the Ombudsman's designation.

40 Nineteen visits were undertaken to secure community homes. Between 2 and 3 homes were visited at a time due to their close proximity.

Name of facility	Type of facility	Recommendations made	Report published
Hawke's Bay Regional Prison	Men's Prison	37	Yes
Ward 35 (Middlemore Hospital) Counties Manukau DHB	Elderly/dementia	6	No
Spring Hill Corrections Facility	Men's Prison	33	Yes
Te Whetu Tawera Inpatient Unit (follow-up visit) Auckland DHB	Adult Mental Health	-	No
Pohutukawa (Mason Clinic) Waitemata DHB	Forensic Intellectual Disability	2	No
New Plymouth Remand Centre (Whanganui)	General Prison	2	No
Rolleston Prison (follow-up visit)	Men's Prison	7	Pending
Christchurch Men's Prison	Men's Prison	53	Pending
Wards 34, 35 and 36 Henry Rongomau Bennett Centre Waikato DHB	Adult Mental Health	12	No
Arohata Prison (follow-up visit)	Women's Prison	6	Pending
Ward 21 (follow-up visit) MidCentral DHB	Adult Mental Health	4	No
STAR 1 MidCentral DHB (follow-up visit)	Elderly/dementia	4	No
Manawatu Prison (follow-up visit)	Men's Prison	12	Pending

We reported back to all 13 places of detention within eight weeks of conducting the inspection.<sup>41</sup>

This brings the total number of visits conducted over the 10 year period of our operation as an NPM to 438, including 171 formal inspections.

<sup>41</sup> All 13 reports were provided to detention facilities within eight weeks of the inspection for their comment. However, of the 13 reports, 6 were not finalised and published within 3 months due to an extended comment process. A protocol with the Department of Corrections is currently being developed, which should streamline the publication process for our OPCAT reports.

This year, we made 185 recommendations, of which 149 (81 percent) were accepted or partially accepted as set out in the table below.<sup>42</sup>

Recommendations	Accepted/Partially accepted	Not accepted
Prisons	126	31
Health and disability places of detention	23	5

The 44 informal visits were at the sites set out in the table below.

Name of facility	Type of facility	Number of visits
Te Roopu Taurima O Manukau Trust	Secure community home for clients with an intellectual disability	3 homes
Community Living	Secure community home for clients with an intellectual disability	1 home
Community Care Trust	Secure community home for clients with an intellectual disability	4 homes
Emerge Aotearoa	Secure community home for clients with an intellectual disability	1 home
IDEA Services	Secure community home for clients with an intellectual disability	10 homes
Arohata Prison	Women's Prison	1
Rimutaka Prison	Men's Prison	3
Wellington District Court	Court Cells	1
Mangere Accommodation Centre	Immigration	1
Auckland International Airport	Immigration	1
Tawhirimatea Capital & Coast DHB	Mental Health	1

<sup>42</sup> Eleven recommendations were accepted by the Department of Corrections but the accompanying commentary suggests they should be read as rejected. For reporting purposes these have been recorded as not accepted.

Name of facility	Type of facility	Number of visits
Haumietiketike Capital & Coast DHB	Forensic Intellectual Disability	1
Te Whare Ahuru Hutt Valley DHB	Mental Health	1
Christchurch Men's Prison	Men's Prison	1
Christchurch International Airport	Immigration Holding Facility	1
Pohutukawa Waitemata DHB	Forensic Intellectual Disability	1
Kauri Waitemata DHB	Forensic Unit	1
Totara Waitemata DHB	Forensic Unit	1
Rata Waitemata DHB	Forensic Unit	1
Auckland Prison	Men's Prison	1
Auckland South Corrections Facility	Men's Prison	1
Mount Eden Corrections Facility	Men's Prison	1
Auckland Region Women's Corrections Facility	Women's Prison	1
Otago Corrections Facility	Men's Prison	1
Invercargill Prison	Men's Prison	1
Tiaho Mai Counties Manukau DHB	Mental Health	1
Henry Rongomau Bennett (Ward 36) Waikato DHB	Mental Health	1
Rotorua Police Hub	Police Jail	1

## Prisons

This year, we trialled new inspection criteria for prisons.<sup>43</sup> The criteria are made up of seven core inspection standards, each of which describes the standards of treatment and conditions a prison is expected to achieve. These standards are underpinned by a series of indicators that identify the evidence Inspectors should collect in order to determine whether there is anything that could be considered to be torture, or cruel, inhuman or degrading treatment or punishment, or otherwise impact adversely on detainees. The list of indicators underpinning the standards is not exhaustive, and does not prevent an establishment demonstrating that the standard has been met in other ways.

This year, we identified several areas of concern. These relate to:

- the increase in prison population, particularly female and remand prisoners;
- levels of violence—particularly prisoner-on-prisoner assaults;
- the number of 16 and 17 year olds being detained in non-youth facilities; and
- the effectiveness of the prisoner complaint process.

### Increase in prison population

Towards the end of 2016, the prison population in New Zealand hit 10 000 for the first time. Since then it has continued to rise, peaking at 10 308 at the end of June 2017. The remand population has experienced a significant increase of 14.7 percent from June 2016 to June 2017.<sup>44</sup> Inspectors identified a significant number of remand prisoners spending extended periods locked in their cells, not involved in purposeful activities.<sup>45</sup>

At the end of June 2017, 752 prisoners were female. The increase in the female population

has resulted in the decommissioned top jail at Rimutaka Prison (Wellington) being reopened to accommodate low-security women. We will continue to closely monitor conditions for women and remand prisoners over the coming year.

Corrections has acknowledged the growing prison population, and advises extra capacity has been added through double bunking and reopening units, as well as planning new facilities.

### Levels of violence

During recent inspections, Prison Directors reported concerns around levels of violence. There was a perception amongst both staff and prisoners that levels of violence had increased, which some staff attributed to the use of New Psychoactive Substances. Responses from our prisoner questionnaire continue to suggest that a significant number of prisoners do not report assaults.

Corrections acknowledges that violence occurs in prisons and states procedures are in place when assaults are reported, as well as a tool to help officers assess the overall level of tension in units.

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43 Criteria trialled at Hawke's Bay Regional Prison and Spring Hill Corrections Facility.

44 Figures provided by the Ministry of Justice.

45 From OPCAT inspection reports for Hawke's Bay Regional Prison, Spring Hill Corrections Facility and Christchurch Men's Prison.

## Prisoner questionnaire results—safety<sup>46</sup>

	Hawke's Bay	Spring Hill
Muster on the day of inspection	676	969
Number of questionnaires handed out	646	854
Number of questionnaires completed & returned	442 (68%)	562 (66%)
% of prisoners surveyed who reported being assaulted at that prison <i>Number of responses:</i>	46% (204)	37% (203)
% of prisoners assaulted who did not report the assault at the time <i>Number of responses:</i>	66% (134)	65% (129)
% of prisoners surveyed who had felt unsafe in current prison <i>Number of responses:</i>	60% (265)	54% (300)
% of prisoners surveyed who felt unsafe at the time of inspection <i>Number of responses:</i>	29% (133)	48% (135)
% of prisoners surveyed who felt they had been victimised in prison <i>Number of responses:</i>	53% (235)	53% (290)
% of prisoners surveyed who felt they had a member of staff they can turn to. <i>Number of responses:</i>	71% (315)	65% (337)

## Young persons in detention

A significant number of young people aged 16 to 17 have been identified as being held in adult prison units. Inspectors found two 17-year old remand accused prisoners<sup>47</sup> held at Manawatu Prison in conditions deemed unacceptable.<sup>48</sup> They were housed in cells previously identified as not fit for purpose.<sup>49</sup> They were subject to a basic yard-to-cell regime, exercising in small safe cell yards and had no access to the gym, library or any form of constructive activity or regular

staff interaction. The Department was notified and the youth were relocated to Hawke's Bay Regional Prison where they could participate in programmes and activities for youth.

The Department provided information advising the number of 16 to 17 year olds held at each facility for the week of 19 May to 26 May 2017.

46 Hawke's Bay survey conducted on 28 November 2016, Spring Hill survey conducted on 20 February 2017.

47 My Inspectors' short interactions with the youth indicated that one 17-year old appeared to have a learning disability and his cognitive functioning appeared to be that of a much younger boy.

48 Corrections advises that the youth did not interact with mainstream adult prisoners while being held at Manawatu Prison.

49 Manawatu Inspection report—January 2016.

On 19 May, there were twenty-five 17-year olds housed in adult accommodation.<sup>50</sup>

## Complaints process

The Department has enhanced its prisoner complaints process and set up a dedicated complaints telephone line. The new system

was implemented on 1 December 2016. We are continuing to work with Corrections as the new system is refined, including on teething issues which my Inspectors are identifying, such as some prisoners not knowing how to raise a complaint and experiencing difficulties accessing complaint forms. These issues appear to be occurring at a site level and are reflected in prisoner questionnaire responses.

## Prisoner questionnaire results— complaints process<sup>51</sup>

	Hawke's Bay	Spring Hill
Muster on the day of inspection	676	969
Number of questionnaires handed out	646	854
Number of questionnaires completed & returned	442 (68%)	562 (66%)
% of prisoners surveyed who reported <b>not knowing</b> how to raise a complaint	24%	14%
Number of responses:	(107)	(78)
% of prisoners surveyed who reported it <b>was difficult</b> to access a complaint form	41%	53%
Number of responses:	(181)	(296)
% of prisoners surveyed who reported they <b>have faith</b> in the complaint system	27%	16%
Number of responses:	(120)	(90)

50 There were also 107 eighteen year olds housed in adult accommodation on 19 May 2017, who are not deemed 'young persons' under the Oranga Tamariki Act 1989. However, the Department assesses prisoners aged 18 to 20 to determine where they should be held in light of their potential vulnerability. A *Test of Best Interest Assessment* is completed to determine whether they should be held separately from the adult prison population or whether they are able to safely mix with them.

51 Above, n 46.

## What appeared to be working well at the prisons visited

Set out below are examples of good practice that were observed during inspections in the reporting year:

- The Mental Health In-Reach clinician at Christchurch Men's Prison provided an invaluable service. Provision of mental health support for prisoners is being expanded in the region.
- Receiving Office staff and processes at Christchurch Men's Prison were particularly responsive to the individual needs of first-time prisoners.
- Hawke's Bay Regional Prison arranged a job exposition to showcase the range of employment and training opportunities available to sentenced prisoners, and the connections between activities in the Prison and employment opportunities on release. An event to address domestic violence delivered with the assistance of respected community leaders was also provided to prisoners.
- Selected youth are participating in a Duke of Edinburgh's Hillary Award Scheme at Hawke's Bay Regional Prison.

## Airport holding areas and immigration detention facilities

Inspectors conducted visits to Christchurch and Auckland International Airports (holding areas), as well as Mangere Refugee Resettlement Centre which also has an immigration detention function. Inspectors were impressed with accommodation standards at the Centre and associated auxiliary areas, as well as the

professionalism of staff. Airport holding areas were well-maintained and well-managed, and did not give Inspectors any cause for concern.

## Health and disability places of detention

### Intellectual Disability (Compulsory Care and Rehabilitation) Act

There are two types of facility that meet the definition of a place of detention for Care Recipients under the Intellectual Disability (Compulsory Care and Rehabilitation) Act (IDCCR). Regional Intellectual Disability Secure Services (RIDSS)<sup>52</sup> and Regional Intellectual Disability Supported Accommodation Services (RIDSAS). RIDSAS services for secure care recipients are delivered in residential homes in the community. There are a number of homes in a region that may be designated secure and meet the definition at any given time.

This year Inspectors visited 19 residential homes in five regions for secure care recipients being detained under the IDCCR.<sup>53</sup> Generally, they observed that staff interacted effectively and positively with clients across all homes, and that efforts were being made to involve clients more in decisions about their own care and treatment. Staff training and supervision, particularly on how to deal with difficult and challenging behaviour, was not well documented and staff retention was a concern for most service providers. On occasion, Inspectors encountered civil clients in secure homes and consequently subject to the same restrictions as secure care recipients.

52 Wakari Hospital, Dunedin; Hillmorton Hospital, Christchurch; Ratonga Rua Porirua, Wellington; Henry Bennett Centre, Hamilton and the Mason Clinic, Auckland.

53 At the time of writing there were six service providers (Te Roopu Taurima O Manukau Trust, IDEA Services, Community Living, Community Care Trust, Navigate and Emerge Aotearoa) providing care across 26 secure residential homes for people detained under a secure care order or supervised care order.



There was limited evidence at some homes on how clients could make a complaint, including contacting the District Inspector, and not all clients had free access to a telephone.

A number of homes were run down and in need of modernisation. Some bedroom doors potentially compromised clients' privacy and dignity. Observation glass in the doors allowed people outside in the hall/corridor, including other clients, to look into a person's bedroom.

Inspectors observed an increase in the number of cases where the disability sector appears to be unable to sustain appropriate support for young people with respect to their disability support needs. Inspectors encountered a 15 year old being managed in an adult secure home due to the lack of appropriate youth facilities. The lack of appropriate youth beds has brought about an inappropriate default to the mental health and criminal justice pathways to find a solution for some youngsters. Inspectors noted several 16 and 17 year olds being managed in acute mental health units due to the lack of secure youth beds. While there were measures put in place to mitigate the risks for the youth (line of sight supervision), the mixing of youth and adults is a breach of the *United Nations Convention on the Rights of the Child*.

As well as raising our concerns at the time of the inspection, ongoing discussions are being held with the National Manager for Intellectual Disability and the Children's Commissioner to find a workable solution.

## **Mental Health (Compulsory Assessment and Treatment) Act**

Similar to last year, Inspectors observed an increase in pressure on acute admission beds with dayrooms, offices and seclusion rooms routinely being used as bedrooms. The effect of high occupancy levels was having a detrimental effect on the health of staff and service users as well as reducing staff ability to provide optimal nursing care. The risks associated with high occupancy levels has resulted in an increase in restrictions for all service users, including voluntary clients.

Service users reported to the Inspectors that the environmental restrictions (locked doors), and lack of autonomy adversely affected their experience of the Service. Inspectors also noted evidence of service users being discharged at short notice because their bed was required for an acute admission.

Due to the high demand for beds, a greater number of service users appeared to be sectioned under the Mental Health (Compulsory Assessment and Treatment) Act in order to secure an inpatient bed. Recommendations to the relevant detaining agency were made with the aim of improving the treatment and conditions of service users. Reports, including recommendations were sent to the Ministry of Health for follow-up and further discussion.

The Ministry of Health has acknowledged that *'the [Act] has shifted emphasis away from determining whether a person should be detained in hospital to the timely consideration of whether treatment for mental disorder is required'*. The Ministry has advised that services and targeting of funding are under review.

## A question of restraint

A thematic inspection into the care and management of prisoners at risk of self-harm or suicide found that the use of restraints on five prisoners amounted to cruel, inhuman or degrading treatment.

In March 2017 Chief Ombudsman Peter Boshier published our first thematic OPCAT report *A Question of Restraint*, about the use of seclusion and restraint in five At-Risk Units in New Zealand prisons. Some jurisdictions that have ratified OPCAT have banned the use of tie-down beds.

The Chief Ombudsman found that the Department of Corrections had breached Article 16 of the *United Nations Convention Against Torture* in its use of restraints on five prisoners. One prisoner was tied to a bed for 37 consecutive nights, the period of his restraint coinciding with reduced staffing; another was kept in a waist restraint with his hands cuffed behind his back for 12 weeks, the cuffs being removed every two hours during the day and every four hours at night.

The Chief Ombudsman also found that monitoring At-Risk Units at all times by a live camera feed, including when prisoners were abluting, was degrading treatment under the *Convention*. Other concerns included a lack of mental health training for Corrections staff, limited interaction or therapeutic activities for prisoners isolated in At-Risk Units, poor record keeping and limited staff training. In response to the report, Corrections has started a review of its practice in At-Risk Units and we will monitor progress with this.

Our OPCAT team also supported international human rights expert Dr Sharon Shalev when she visited New Zealand in late 2016 at the invitation of the Human Rights Commission to consider seclusion and restraint practices in prisons, health and disability units, youth justice and care and protection residences. Dr Shalev's report *Thinking Outside the Box* recommended New Zealand eliminate the use of mechanical restraints altogether.

Corrections advises that it is in the process of reviewing its At-Risk Units.

*A Question of Restraint* is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

*Thinking Outside the Box* is available at [www.hrc.co.nz](http://www.hrc.co.nz)

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# United Nations Convention on the Rights of Persons with Disabilities

In this section we give an overview of our work under the *United Nations Convention on the Rights of Persons with Disabilities* (the Disability Convention).

## Overview

The purpose of the Disability Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities.

Article 33 of the Disability Convention says that states should establish a framework, including one or more independent mechanisms, to 'promote, protect and monitor' progress in implementation of the Disability Convention.

In 2010 we took on the role of an independent mechanism, with responsibility for protecting and monitoring implementation of the Disability Convention in New Zealand. During 2016/17 we shared our role as an independent mechanism with the Human Rights Commission and the New Zealand Convention Coalition Monitoring Group (Convention Coalition), a group of national disabled people's organisations. On 13 October 2011, the three independent mechanisms were formally designated by the Minister for Disability Issues as New Zealand's *Independent Monitoring Mechanism* (IMM), by notice in the New Zealand Gazette.

Our role as part of the IMM is carried out under the Ombudsmen Act, pursuant to which we:

- receive, and where appropriate, investigate complaints from affected individuals or groups about the administrative conduct of public sector agencies which relate to implementation of the Disability Convention; and
- conduct self-initiated investigations and other monitoring activities in relation to the administrative conduct of public sector agencies in implementing the Disability Convention.

We also note issues as they arise in relation to the inspections we carry out under OPCAT.

## New Zealand accedes to the Optional Protocol to the Disability Convention

The *Optional Protocol* is an additional agreement to the Disability Convention that establishes a complaints mechanism for disabled people who allege that their rights under the Convention have been denied.

The *Optional Protocol* enables individuals or groups who claim to have had their rights breached under the Disability Convention to make a complaint to the *United Nations Committee on the Rights of Persons with Disabilities*. The Committee can then investigate the complaint and make non-binding recommendations to a government. Although the Committee's recommendations are not obligatory, they hold considerable significance.

In previous reporting years, we noted that New Zealand had not yet acceded to the *Optional Protocol* and this meant that individuals or groups were unable to take their disability rights-related complaints to the Committee. We considered it inequitable that persons with disabilities in New Zealand did not have recourse to the Committee.

New Zealand acceded to the Optional Protocol on 5 October 2016, and it came into force on 4 November 2016. We are pleased that New Zealand has now taken this significant step.

## Working as an Independent Monitoring Mechanism

In 2016/17 we continued to spend a considerable amount of time working with the Human Rights Commission and the Convention Coalition to identify and assess the key issues that persons with disabilities face in contemporary New Zealand.

The IMM continued to monitor the experiences of persons with disabilities in New Zealand, including the barriers that prevent the full

realisation of the rights set out in the Disability Convention. As part of the IMM we:

- held quarterly meetings of executive members to discuss key disability rights issues and initiatives;
- scheduled regular working group meetings to coordinate projects and responses relevant to disability rights issues;
- regularly met with government agencies and other key disability stakeholders to ensure our feedback was provided and considered;
- made submissions on issues affecting persons with disabilities in New Zealand; and
- published reports that highlighted the importance of equal rights for persons with disabilities in New Zealand, and provided guidance on how these rights can be guarded.

The IMM continues to keep a record of the most pressing disability rights issues in New Zealand, and has commenced planning around its next *Making Disability Rights Real* report which is due to be published in 2018.

## New Zealand Disability Strategy 2016-2026

The *New Zealand Disability Strategy 2016-2026* (the Strategy) was updated and launched by the government on 29 November 2016. The revised Strategy will continue to be central in improving the lives of disabled New Zealanders by ensuring their rights are protected. It will guide government agencies on how to meet their obligations under the Disability Convention. This is a significant milestone as the previous Disability Strategy had existed since 2001, and did not include reference to the Disability Convention.

As a member of the IMM, we had an observer on the expert reference group advising government on the revised Strategy. Following the launch of the Strategy, work has begun on devising an Outcomes Framework, which will specify targets and indicators to enable monitoring of progress against the Strategy.

## Multi Agency Group to reduce discrimination against people with mental illness

In October 2016, we formally became a member of the *Multi Agency Group to reduce discrimination against people with mental illness* (MAG). MAG has a vision of New Zealand as a country where people with experience of mental distress or illness are not discriminated against, and their human rights are actively respected and realised, enabling participation and the opportunity to experience a valued life.

The purpose of MAG is to contribute strategically and nationally to reduce discrimination and promote the rights of people with experience of mental illness. This is underpinned by a human rights framework, the social model of disability and a holistic view of mental health and recovery. MAG aims to achieve its purpose by:

- exchanging information to enable alignment of work plans and added value;
- providing a collective voice (where possible) on issues of mutual concern;
- acting as a reference group for projects where the input of other agencies is relevant; and
- undertaking joint projects that have a strategic focus.

## Reasonable accommodation

In the previous reporting year, we led an IMM project to publish the guide *Reasonable accommodation of persons with disabilities in New Zealand*. On 26 September 2016 the guide was officially launched in New Zealand. The IMM was delighted that Catalina Devandas Aguilar, the first *United Nations Special Rapporteur on the Rights of Persons with Disabilities*, was able to attend and deliver a speech on the importance of reasonable accommodation.

The launch provided an invaluable opportunity to promote the concept of reasonable accommodation throughout the disability community. We have received widespread feedback that the Guide is a useful publication for

persons with disabilities and those who provide services to them.

Subsequent to the launch, our staff have delivered training sessions on the concept of reasonable accommodation to community and disability groups. Reasonable accommodation continues to be a key focus in our work, and is a common theme in a number of complaints that we receive.

### Good example of reasonable accommodation in a prison

Our Senior Advisors for Disability Rights joined our OPCAT team on a number of inspections of prisons and health and disability places of detention in 2016/17. Requests for reasonable accommodation by prisoners with disabilities are regularly considered by this Office.

During an inspection of Spring Hill Corrections Facility, an Advisor reported positive interactions between nursing staff and a prisoner with a disability. On this occasion, the prisoner who was deaf, and unable to communicate easily through speech, was seen by a nurse who put considerable effort into clearly outlining an ongoing treatment plan in writing. The nurse also provided the prisoner with the opportunity to write any questions down before his review commenced. Subsequent to the consultation, the nurse spent additional time with the prisoner to ensure he understood how to best manage his ongoing health issue.

This consultation shows that reasonable accommodation can often be provided without significant resources, and that it is frequently as simple as changing attitudes, means of communication, or improving accessibility.

The full report of the Spring Hill inspection is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

## Making it easy

We are committed to 'walking-the-talk' by providing information in accessible formats. Key information is currently being produced in Easy Read format.

Easy Read makes information accessible to people with an intellectual disability. The information is presented sentence by sentence with an accompanying image to assist with the meaning of the text. The information is translated or rewritten, so it is not interrupted by the use of jargon, superfluous information, or complex sentence structures.

Although the target audience is people with intellectual disabilities, Easy Read also assists those who have English as a second language. It also offers those who are 'time poor' quick access to sometimes complex information.

The IMM guide on [Reasonable accommodation](#) is available in Easy Read (and also in New Zealand Sign Language and Te Reo). Our Ombudsman leaflets and fact sheets are also being translated into Easy Read and will be available in the 2017/18 reporting year. People First New Zealand, a self-advocacy organisation for people with learning disabilities, has undertaken this work.

## New Zealand to join the Marrakesh Treaty

In June 2017, the New Zealand Government announced its decision to join the Marrakesh Treaty, upon completion of the parliamentary treaty examination process and implementation of necessary legislation. The proposal to join included additional changes beyond those required by the Marrakesh Treaty to further improve access to copyright works for individuals with a print disability.

The Marrakesh Treaty is a multilateral treaty developed by the World Intellectual Property Organization in 2013. It will help people who are blind, visually impaired or otherwise print disabled have more timely access to a greater variety of books and other literary works in accessible formats, such as Braille, audio and large print.

The Marrakesh Treaty provides an international legal framework for copyright exceptions that allows for the reproduction, distribution and cross-border exchange of copyright works in accessible formats among countries party to the Treaty.

In February 2016, we made a submission to the Ministry of Business, Innovation and Employment based on a discussion paper encouraging New Zealand to accede to the Marrakesh Treaty.

We are delighted that New Zealand has agreed to formally accede to the Marrakesh Treaty which we hope will ensure greater access to books and other written material by people with disabilities.

## Complaints, submissions and statistics

In 2016/17 we recorded 65 complaints and other contacts which raised issues relevant to the Disability Convention. The issues concerned various public sector agencies, over a wide range of subject matters, with healthcare, education and funding being three areas where a number of complaints or queries were made.

Moving forward, we will continue to identify complaints and investigations where a disability element is evident. We will maintain our focus on quickly recognising specific articles in the Disability Convention which are relevant in a particular case.

Disability training, including education on the Disability Convention, is incorporated into the induction programme for all new staff that commence employment with us. We also have two Senior Disability Rights Advisors who work exclusively in the disability rights area, and

assist staff to take the Disability Convention into account in their work.

Over the course of the year, we made a number of submissions on disability matters to government and public sector agencies, including Statistics New Zealand, the Health and Disability Commissioner's Office, the Ministry of Transport, the Ministry of Education and the Parliamentary Justice and Electoral Committee. Our staff also actively attended disability rights-related seminars and gave several speeches to disability and community groups.

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## Advice, guidance and information

In support of our legislative functions, we aim to:

- build public sector capability in areas relevant to our jurisdiction; and
- improve public awareness and accessibility of Ombudsman services.

We also carry out a range of international relations and development work. This section summarises our work in these three areas.

### Public sector capability

In order to build public sector capability, we provide advice, comment on legislative, policy and administrative proposals, run training sessions, and publish guides and information.

#### Advice and comment

In 2016/17 we commented on 29 legislative, policy and administrative proposals relevant to our role. In particular, we commented on Cabinet papers, Bills and administrative policies and procedures.

We provide comments on good administrative conduct, good decision making and effective complaints handling, as well as the impacts of particular proposals on the application of the

official information legislation, whether legislation is compliant with the Disability Convention, and whether legislation has implications relevant to New Zealand's obligations under the *Optional Protocol to the Convention Against Torture*.

These included the following formal submissions:

- *Submission on Government Administration Committee Enquiry into Captioning in New Zealand.*
- *Submission to Justice and Electoral Committee on the Disability Convention Optional Protocol (on behalf of the IMM).*
- *Submission to Transport and Industrial Relations Committee on the Land Transport Amendment Bill.*
- *Submission to the Justice and Electoral Committee on the Family and Whanau Violence Amendment Bill.*
- *Submission to the Education and Science Committee on the Education (Amendment) Bill.*
- *Submission to the Ministry of Health on the relationship between the Mental Health Act and Human Rights.*

In addition to commenting on legislative, policy and administrative proposals, we also provided

advice on 184 occasions to public sector agencies, mainly in relation to enquiries about the processing of official information requests. This is at a consistent level with 2015/16, and shows that agencies are continuing to seek our advice on 'live' requests for official information.

We do not tell agencies what to do in relation to 'live' requests. This would be inappropriate since we may be called on to investigate and review the decision ultimately taken. However, we are happy to provide advice in general terms about the requirements of the legislation, and the types of considerations that agencies ought to be taking into account when making their decisions. This can assist agencies to effectively manage official information requests from the outset, including the consideration of proactive release of information where there is a public interest in it being available.

We also provided advice to the Secretary of Transport on seven applications for authorised access to the motor vehicle register under section 241 of the Land Transport Act 1998, returning to similar levels as 2014/15 after a significant peak last year.

## Training

We offer training to agencies and other stakeholders who are seeking to improve their understanding of our role and functions, and the requirements of the OA and official information legislation. In 2016/17, we provided 30 workshops and training sessions on request.<sup>54</sup>

Some agencies have continued to seek multiple training sessions from us, and some agencies have continued to group together to participate in our training. Training topics included official information, disability awareness and reasonable accommodation, our role, managing unreasonable complainant conduct, and managing conflicts of interest.

We continue to receive overwhelmingly positive

feedback from the stakeholders who access our training services, with 99 percent of participants reporting the training would assist them in their work.

## New Zealand organisations which received Ombudsman training in 2016/17

- Auckland Disability Law
- Commerce Commission
- Department of Corrections
- Financial Markets Authority
- Hawke's Bay Regional Council
- Horowhenua District Council
- Insurance Council of New Zealand
- Land Information New Zealand
- Metservice
- Ministry of Business, Innovation and Employment
- Napier City Council
- Nelson City Council
- New Zealand School Trustees Association
- Serco
- Tasman District Council
- Te Roopu Taurima
- Wairoa District Council
- Waitaki District Council
- Waimate District Council
- Western Bay of Plenty District Council

54 Including 4 training sessions for Pacific Ombudsmen.



## Guides and information

In 2016/17 we continued to publish new guides to replace the *Ombudsman Practice Guidelines*, which have for many years been our primary resource to assist agencies in complying with their obligations under the official information legislation. Our guides are supplemented by case notes and opinions available on our website. Significant publications this year were:

- *Substantial collation or research—a guide to section 18(f) of the OIA and section 17(f) of the LGOIMA*
- *Dealing with OIA requests involving Ministers—a guide to transfer, consultation, and the notification of decisions on OIA requests*
- *Ombudsman’s approach to delay complaints*

Other guidance materials produced this year included:

- 11 new opinions and case notes on key complaints we investigated;
- updates to four guides;
- guidance on official information response times following the Kaikoura earthquake and over the Christmas and New Year break;
- publication of a suite of template letters and work sheets for dealing with official information requests; and
- four e-newsletters to keep our stakeholders up to date with developments relevant to our jurisdiction, role and functions.

## Transparency and the OIA

In 2016/17 we made great strides in improving agency compliance with the Official Information Act, and in promoting the Act’s value for open government and engagement.

In October 2016 we announced with the State Services Commission (SSC) our joint work to increase agency compliance with the OIA. This work is assisting in the delivery of one of the commitments in New Zealand’s *National Action Plan* under the *Open Government Partnership*.

In January 2017, we released the first set of detailed data about agencies and the OIA. The SSC data concerned the number and timeliness of responses to OIA requests received by agencies in 2015/16, while the Ombudsman’s data showed the number of complaints received under the OIA in the last six months of 2016, and their outcome. We will release updated data every six months.

The full data is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

## Public awareness and accessibility

One of our priorities is to improve public awareness of our role and to make access to our services easy for all. We undertake a range of public awareness activities, including conducting presentations and workshops, publishing information and resources, and maintaining a website so that people can access our services electronically.

In 2016/17 we undertook our sixth nationwide public awareness survey to gauge the level of awareness of the Ombudsman in the community. The survey found 73 percent of the New Zealand public had heard of us, with levels of awareness tracking significantly higher than in 2015/16 at 68 percent.

More older respondents had heard of the Ombudsman, with awareness levels in 2016/17 at:

- 94 percent for those aged 60 years or older;
- 93 percent for those aged 45 to 59 years;
- 73 percent for those aged 30 to 44 years; and
- 23 percent for those aged under 30 years.

This continues to demonstrate that we need to raise greater awareness amongst young people.

The level of awareness amongst Māori and Pacific people increased significantly this year, rising:

- from 50 percent last year to 71 percent this year for Māori; and
- from 40 percent last year to 62 percent this year for Pacific people.
- Regionally, Auckland had the lowest awareness of the Ombudsman, on 68 percent.
- Most respondents who had heard of the Ombudsman had a good idea of what we do, as:
- 29 percent believe that we handle complaints and disputes generally;
- 16 percent believe that we consider complaints about central and local government services; and
- 8 percent believe that we are a regulator or watchdog.

When asked where they would go to find out about the Ombudsman, respondents primarily favoured online sources. Seventy-eight percent of those surveyed said they would use the internet to search for information about the Ombudsman. Only five percent said they would ask a government agency, and only five percent said they would ask a community organisation for information.

The popularity of our website has continued to increase, with 71 087 visitors this year—an eight percent rise on 2015/16, with almost half (47 percent) estimated to be visiting for the first time. Overall, most visits came from people in New Zealand (83 percent) followed by the United States and Australia. Aside from our home page, the resources and publications section continued to be the most popular—with a particular focus on our guides to official information.

We continued our efforts to be more visible, active and engaged in the community this year. We delivered 40 external speeches and presentations. Audiences included complainant representatives, community groups, public servants, media, lawyers, political parties, students, disabled people's organisations, fellow integrity agencies, various conference participants and international delegations.



Figure 2: Word cloud produced by UMR Research, showing the most frequently used words to describe what the Ombudsman does

## International relations

Our commitments in this area include hosting visiting international delegations, participating in international Ombudsman and Information Commissioner networks, and providing training and assistance to international Ombudsmen or Ombudsman-type organisations.

### Delegations

In 2016/17 we received delegations from China, Northern Ireland, Papua New Guinea and South Korea. The comparative experience New Zealand has to offer in reviewing administrative practice, enforcing official information legislation, and monitoring places of detention continues to be of considerable interest to other countries.

### Networks

We maintained awareness of international developments and trends and undertook joint initiatives through membership of the:

- Australasian and Pacific Ombudsman Region (APOR) of the International Ombudsman Institute (IOI);
- Australia and New Zealand Ombudsman Association (ANZOA);
- Association of Australasian Information and Access Commissioners (AIAC); and
- Australasian Deputy Ombudsman Network.

In the 2016/17 reporting year, the Chief Ombudsman was appointed to the Board of Directors of the IOI and is one of three Directors of APOR. The Chief Ombudsman is also a member of ANZOA and the Deputy Ombudsman is an associate member of ANZOA.

As a result of our membership of these organisations, we have participated in the following joint initiatives:

- joint communications network led by the Queensland Information Commissioner;
- Australasian Parliamentary Ombudsmen benchmarking project;
- Australian Research Council (ARC) linkage

project *Whistling While They Work*;

- Society of Consumer Affairs Professionals (SOCAP) *Return on Investment of Good Complaint Handling* project;
- Australasian guidance on effective complaint management; and
- Review of Australasian Parliamentary Ombudsmen guidance on managing unreasonable complainant conduct.

### Training and assistance

We continue to provide training and development assistance when possible, primarily to countries in the Pacific region.

In 2016/17, with the support of the Ministry of Foreign Affairs and Trade, we engaged with staff from the Tongan Ombudsman and Samoan Ombudsman. They attended our staff conference in November 2016 in Wellington, together with a one day Pacific Symposium with discussion and presentations from our staff and other New Zealand agencies on areas of mutual interest.



## PART 5

# Organisational health and capability

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## Overview

In recent years, our Office has grown from its original classical model of an investigator of administrative conduct under the Ombudsmen Act, to that of a modern Ombudsman with multiple responsibilities and functions arising from a variety of pieces of legislation. We have seen an increasing demand for our services, with the number of complaints and other contacts concerning public sector agencies continuing to be at record levels.

In order to manage the impact of these high levels of work, we have implemented a *Continuous Practice Improvement (CPI)* programme with initiatives that have resulted in changes at each stage of our complaint handling, resolution, investigation and inspection processes; and strengthened our training, knowledge

management, information management and outreach capabilities. The Officers of Parliament Committee supported our CPI programme by recommending an increase in funding for the various initiatives associated with our increased workload, multiple roles and modernisation of the Office, for which we are grateful.

We place considerable importance on having a strong foundation of highly skilled people working together towards our vision and applying our values in a well-run and appropriately supported organisation. This year we have placed significant investment in reorganising our senior management structure and establishing a group that is dedicated to carrying out our proactive monitoring, intervention and outreach advisory roles. We also committed to key projects aimed at developing our organisational values, promoting positive health and safety policies and practices in the workplace, and enabling us to be confident in both responding appropriately in an emergency and ensuring quick recovery and business continuity after a disaster.

In addition, given most of our work relies on information systems to support our collection, analysis and reporting of information, we have prioritised the implementation of a fit for purpose ECM/CMS<sup>55</sup> for the Office which will support the growth of our work, the changing environment we operate in and the need for us to be more mobile, agile and responsive in our practices.

As a result, we are confident that we are well positioned to continue making considerable gains in meeting our performance targets during the 2017/18 year whilst also ensuring a healthy and productive work environment for our staff.

## Financial and asset management

This financial year we continued to operate under tight fiscal conditions. Vote Ombudsmen is small, with an appropriation of \$14.266 million

(excluding GST) for the year ended 30 June 2017. Personnel and accommodation costs accounted for 69 percent of the actual amount spent. The remaining spending was primarily on service contracts, travel, depreciation and communication.

There is little expenditure of a discretionary kind. What discretionary financial resources do exist are allocated in a contestable manner. The allocation of every dollar is closely scrutinised to ensure the investment is the best use we can make with the limited resources available. Discretionary funding may be spent on staff training or assigned to a specific project.

We use GreenTree accounting and reporting software as our primary accounting tool. The financial reports generated by the system deliver detailed information on a business unit basis and are reported monthly to senior management. A range of internally developed spreadsheets use information generated from the GreenTree accounting system to provide budget projections for the current and future year. These contribute to the effective use of our assets and assist in identifying any potential problems at an early stage. We have upgraded the GreenTree accounting system to enhance its efficiency and provide a better service to both the Office and budget managers.

When procuring goods and services, we seek the best price possible by negotiation or competitive quote. We also negotiate term supply arrangements where there is an identified potential for savings.

We work closely with the Treasury and Audit New Zealand to ensure a 'no surprises' policy. The liaison allows us to benefit from their advice and guidance in matters relating to improving transparency of performance and reporting systems, and ensures that both agencies have a sound understanding of our working environment and the issues confronting us.

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55 Electronic Content Management/Case Management System.

## Our people

As at 30 June 2017, we had 75 employees<sup>56</sup> (plus 2 Ombudsmen).

The regional breakdown was:

- Auckland (12 percent);

- Christchurch (7 percent); and
- Wellington (81 percent).

In terms of gender representation:

- 71 percent of our people are female
- 29 percent of our people are male.

Further details are set out below.

Role	Number	% of total staff	% Female	% Male
Senior Managers (excluding 2 Ombudsmen)	5	6%	100%	-
Managers	10	13%	60%	40%
Operations staff	50	69%	65%	35%
Specialist staff	5	6%	80%	20%
Administration and support staff	5	6%	100%	-

In terms of working arrangements 57 percent of employees were covered by an Individual Employment Agreement as at 30 June 2017, and 43 percent of employees were covered by the Office's one Collective Agreement. Of our permanent employees, 13 percent work part time.

Our work is very interesting and attractive, however, employee turnover is inevitable for a variety of reasons. Our people are highly trained and are in demand within the wider public sector. Eight staff left voluntarily in the 2016/17 year, resulting in a voluntary staff turnover for the year of 11 percent.

During the course of the year, two major reviews were undertaken of our organisational structure. The review of the existing senior management structure resulted in the establishment of new

senior manager roles, in particular a single Deputy Ombudsman to lead the work of the Office and two Assistant Ombudsmen to lead the Complaints Resolution Group and Compliance and Practice Group. Our new senior management structure, which includes the Finance and Business Services Manager, has enabled the Chief Ombudsman to realign the direction of the leadership team with his new vision and strategic intentions. This included the establishment of a new Compliance and Practice Group, which focuses on proactive interventions with public sector agencies to improve system-wide performance.

<sup>56</sup> There were 18 net vacant positions as at 30 June 2017. These figures do not include casuals or staff on parental leave. Temporary resources were engaged to assist in the delivery of key priority projects as necessary.

## People performance and capability

In 2016/17 we focused on the capability development of our people in a variety of ways, including:

- the provision of opportunities to develop specific skills to support ongoing professional development, including opportunities for internal secondments to different roles or to perform specific project work;
- ongoing delivery of our core training programmes for new and existing staff;
- participation in the staff survey to gauge the climate of the work environment and what staff thought about their work which provided indicators of success and areas to focus new initiatives regarding work arrangements and capability development for our people;
- implementation of a revised performance review and planning policy;
- development of a new remuneration policy which was implemented on 1 July 2017; and
- development and implementation of initiatives to launch our new organisational values, with the connection of the values to all, at our Staff Conference.

Specific projects were delivered during the course of the year with the aim of project outcomes focused on enabling capability development for our people. Projects included:

- review of our model of learning and a revised vision and strategy for learning and development;
- development of a new project management framework to enable skills development and competence in managing projects effectively;
- development of a performance objectives and measures framework to enable robust assessment and review of individual performance;
- implementation of new Health and Safety

policies in line with the Health and Safety at Work Act 2015 and training to enable understanding and knowledge of everyone's responsibilities under the new Act;

- review of our existing unreasonable complainant conduct policies and procedures and integration of this with our health and safety management and reporting framework;
- review of some work functions and groups including the senior management structure, to reorganise and establish efficiencies in the delivery of our functions and roles to achieve the Chief Ombudsman's vision and strategic intentions.

In respect of people resourcing capability, we experienced significant increased volume in recruitment activity throughout the year due to the establishment of new positions arising from reorganisation and business-as-usual backfilling of existing positions vacated during the course of the year. We also recruited temporary people resources to provide specialist expertise in delivering and completing organisational projects.

## Information management

We have continued work this year on reviewing and improving our information management technologies, structure and related policies, processes and practices for managing information to support our *Continuous Practice Improvement* strategy.

All complaints and other contacts records in electronic format are stored in a customised *Case Management System*. The *Case Management System* was upgraded in 2010 and has since been modified and enhanced via process change requests to support the new *Continuous Practice Improvement* initiatives as they have been introduced since 2011/12. All other work carried out in the Office is stored either in hard copy, or in an electronic file system created some 20 years ago comprising a series of shared drives and folders. We are aware that a number of issues have arisen that inhibit our ability to achieve

maximum efficiency due to the limitations of our current information management and communication technologies, including their age and appropriateness to service our growth in jurisdiction and functions, and the growth in demand for our services over recent years.

In 2015 we launched a three-year work programme via our *Information Systems Strategic Plan* which is intended to ensure that we apply a more strategic approach to our IM and ICT systems so that we can be confident that we are able to effectively support the:

- various roles and functions of the Ombudsmen;
- needs of our staff;
- strategic direction and performance targets agreed with Parliament; and
- public expectations for the Ombudsmen to deliver as Officers of Parliament reporting on the activities of the public sector.

We also established a four-tiered governance<sup>57</sup> and management framework to oversight its implementation.

In the 2016/17 reporting year we completed the process of identifying a preferred ECM/CMS<sup>58</sup> for the Office which will support the growth in our work, changing environment, increased staffing numbers and the need to be more mobile, agile and responsive. This will be implemented during the 2017/18 year.

## Risk management

Our 2016/20 *Strategic Intentions* identifies our key risks and sets out the strategies we use to manage these risks. In summary, our key risks are:

- damage to our credibility or reputation;
- complaint handling pressures and finite resources;
- loss of relevance; and
- loss of international credibility and reputation.

We also face staffing and accommodation risks, including those arising from:

- the departure of key staff and the consequent loss of expertise and experience;
- physical and electronic security;
- impacts on staff health and safety and the efficient use of our resources arising from unreasonable complainant conduct; and
- natural disaster, including fire and earthquakes.

We have targeted measures in place to manage these specific risks. We invested in projects aimed at developing our organisational values, promoting positive health and safety policies and practices in the workplace, and enabling us to be confident in both responding appropriately in an emergency and ensuring quick recovery and business continuity after a disaster.

We established a Security Reference Group and commenced security threat and risk assessments to ensure our environment and the way we work is consistent with best practice. Most importantly, we consulted and surveyed our staff regularly to identify areas that needed to be prioritised, and to ensure our policies and practices are relevant, clear and workable.

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57 Made up of the Chief Ombudsman as Chief Executive, the Executive Management Team, the Information Management Policy and Strategy Governance Group, and Operational management and delivery.

58 Above, n 55.





## PART 6

# Financial and performance information

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# Statement of responsibility

I am responsible, as Chief Ombudsman, for:

- the preparation of the Office's financial statements and the statements of expenses and capital expenditure and for the judgements expressed in them;
- having in place a system of internal controls designed to provide a reasonable assurance as to the integrity and reliability of financial reporting;
- ensuring that end-of-year performance information on the appropriation administered by the Office is provided in accordance with sections 19A to 19C of the Public Finance Act 1989, whether or not that information is included in this annual report; and
- the accuracy of any end-of-year performance information prepared by the Office, whether or not that information is included in the annual report.

In my opinion:

- these financial statements fairly reflect the financial position of the Office of the Ombudsman for the year ended 30 June 2017 and its operations for the year ended on that date; and
- the forecast financial statements fairly reflect the forecast financial position of the Office of the Ombudsman as at 30 June 2017 and its operations for the year ending on that date.

**Peter Boshier**

Chief Ombudsman

2 October 2017

**Meaw-Fong Phang**

Finance and Services Business Manager

2 October 2017

# Independent Auditor's Report

## To the readers of the Office of the Ombudsman's annual report for the year ended 30 June 2017

The Auditor-General is the auditor of the Office of the Ombudsman (the Office). The Auditor-General has appointed me, Andrew Clark, using the staff and resources of Audit New Zealand, to carry out the audit on her behalf of:

- the financial statements of the Office on pages 66 to 89, that comprise the statement of financial position, statement of commitments, statement of contingent liabilities and contingent assets as at 30 June 2017, the statement of comprehensive revenue and expense, statement of changes in equity, and statement of cash flows for the year ended on that date and the notes to the financial statements that include accounting policies and other explanatory information;
- the performance information prepared by the Office for the year ended 30 June 2017 on pages 14 to 49 and 62 to 65, comprising the report on operations and the statement of objectives and service performance; and
- the statements of expenses and capital expenditure of the Office for the year ended 30 June 2017 on pages 90 and 91, comprising the appropriation statements.

## Opinion

In our opinion:

- the financial statements of the Office:
  - › present fairly, in all material respects:
    - » its financial position as at 30 June 2017; and
    - » its financial performance and cash flows for the year ended on that date; and
  - › comply with generally accepted accounting practice in New Zealand and have been prepared in accordance with Public Benefit Entity Reduced Disclosure Regime.
- the performance information of the Office:
  - › presents fairly, in all material respects, for the year ended 30 June 2017:
    - » what has been achieved with the appropriation; and
    - » the actual expenses or capital expenditure incurred compared with the appropriated or forecast expenses or capital expenditure; and
  - › complies with generally accepted accounting practice in New Zealand.
- the statements of expenses and capital expenditure of the Office on pages 90 and 91 are presented fairly, in all material respects, in accordance with the requirements of section 45A of the Public Finance Act 1989.

Our audit was completed on 2 October 2017. This is the date at which our opinion is expressed.

The basis of our opinion is explained below. In addition, we outline the responsibilities of the Chief Ombudsman and our responsibilities relating to the information to be audited, we comment on other information, and we explain our independence.

## **Basis for our opinion**

We carried out our audit in accordance with the Auditor-General's Auditing Standards, which incorporate the Professional and Ethical Standards and the International Standards on Auditing (New Zealand) issued by the New Zealand Auditing and Assurance Standards Board. Our responsibilities under those standards are further described in the Responsibilities of the auditor section of our report.

We have fulfilled our responsibilities in accordance with the Auditor-General's Auditing Standards.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

## **Responsibilities of the Chief Ombudsman for the information to be audited**

The Chief Ombudsman is responsible on behalf of the Office for preparing:

- Financial statements that present fairly the Office's financial position, financial performance, and its cash flows, and that comply with generally accepted accounting practice in New Zealand.
- Performance information that presents fairly what has been achieved with each appropriation, the expenditure incurred as compared with expenditure expected to be incurred, and that complies with generally accepted accounting practice in New Zealand.
- Statements of expenses and capital expenditure of the Office, that are presented fairly, in accordance with the requirements of the Public Finance Act 1989.

The Chief Ombudsman is responsible for such internal control as is determined is necessary to enable the preparation of the information to be audited that is free from material misstatement, whether due to fraud or error.

In preparing the information to be audited, the Chief Ombudsman is responsible on behalf of the Office for assessing the Office's ability to continue as a going concern. The Chief Ombudsman is also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting, unless there is an intention to merge or to terminate the activities of the Office, or there is no realistic alternative but to do so.

The Chief Ombudsman's responsibilities arise from the Ombudsmen Act 1975 and the Public Finance Act 1989

## **Responsibilities of the Auditor for the information to be audited**

Our objectives are to obtain reasonable assurance about whether the information we audited, as a whole, is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit carried out in accordance with the Auditor-General's Auditing Standards will always detect a material misstatement when it exists. Misstatements are differences or omissions of amounts or disclosures, and can arise from fraud or error. Misstatements are considered material if, individually or in the aggregate, they could reasonably be expected to influence the decisions of readers, taken on the basis of the information we audited.

For the budget information reported in the information we audited, our procedures were limited to checking that the information agreed to the relevant Estimates and Supplementary Estimates of Appropriation for 2016/17, and the 2016/17 forecast financial figures included in the Office's 2015/16 Annual Report.

We did not evaluate the security and controls over the electronic publication of the information we audited.

As part of an audit in accordance with the Auditor-General's Auditing Standards, we exercise professional judgement and maintain professional scepticism throughout the audit. Also:

- We identify and assess the risks of material misstatement of the information we audited, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- We obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Office's internal control.
- We evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Chief Ombudsman.
- We evaluate the appropriateness of the reported performance information within the Office's framework for reporting its performance.
- We conclude on the appropriateness of the use of the going concern basis of accounting by the Chief Ombudsman and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Office's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the information we audited or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Office to cease to continue as a going concern.
- We evaluate the overall presentation, structure and content of the information we audited, including the disclosures, and whether the information we audited represents the underlying transactions and events in a manner that achieves fair presentation.

We communicate with the Chief Ombudsman regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

Our responsibilities arise from the Public Audit Act 2001.

## **Other information**

The Chief Ombudsman is responsible for the other information. The other information comprises the

information included on pages 2 to 13, 50 to 55, and 93 to 119, but does not include the information we audited, and our auditor's report thereon.

Our opinion on the information we audited does not cover the other information and we do not express any form of audit opinion or assurance conclusion thereon.

Our responsibility is to read the other information. In doing so, we consider whether the other information is materially inconsistent with the information we audited or our knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on our work, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

## **Independence**

We are independent of the Office in accordance with the independence requirements of the Auditor-General's Auditing Standards, which incorporate the independence requirements of Professional and Ethical Standard 1 (Revised): Code of Ethics for Assurance Practitioners issued by the New Zealand Auditing and Assurance Standards Board.

Other than in our capacity as auditor, we have no relationship with, or interests, in the Office.

### **Andrew Clark**

Audit New Zealand

On behalf of the Auditor-General  
Wellington, New Zealand

# Statement of objectives and service performance for the year ended 30 June 2017

Performance Measures	2016/17		2015/16
	Budget Standard	Actual	Actual
<b>Impact measures</b>			
Overall quality of public services improves over time	Higher than 70 points in Kiwis Count Survey	<b>74 points<sup>59</sup></b>	74 points <sup>60</sup>
New Zealand rated as one of the leading countries in public service probity as measured by the Transparency International Corruption Perceptions Index	On average over the next 5 years New Zealand in the top three ranked countries	<b>In 2016, New Zealand ranked first equal<sup>61</sup></b>	In 2015, New Zealand ranked fourth
<b>Outputs A &amp; B – Complaint handling and investigations</b>			
Demand driven measures			
# of OA complaints completed	2,250	<b>2,285</b>	2,241
# of official information complaints completed (amended measure)	1,250	<b>1,633</b>	1,331
# of OA other contacts completed	6,000	<b>6,579</b>	7,751
# of official information other contacts completed (amended measure)	450	<b>448</b>	539
Proactive measures			
All complaints and other contacts considered	100%	<b>100%</b>	100%

59 As at December 2016, see <http://www.ssc.govt.nz/kiwis-count>

60 As at June 2015.

61 See <https://www.transparency.org/>



Performance Measures	2016/17		2015/16
	Budget Standard	Actual	Actual
# of wider administrative improvement investigations completed	13	<b>1</b> <sup>62</sup>	1
% net clearance rate <sup>63</sup> of complaints (amended measure)	105%	<b>108%</b> <sup>64</sup>	105%
% of complaints received from 1 July 2016 completed within 3 months <sup>65</sup> from date of receipt (new measure) <sup>66</sup>	70%	<b>79%</b>	new measure
% of complaints received from 1 July 2016 completed within 6 months <sup>67</sup> from date of receipt (amended measure)	75%	<b>91%</b>	new measure
% of complaints received from 1 July 2016 completed within 9 months <sup>68</sup> from date of receipt (new measure)	80%	<b>96%</b>	new measure
% of complaints received from 1 July 2015 completed within 12 months <sup>69</sup> from date of receipt (amended measure) <sup>70</sup>	90%	<b>93%</b>	new measure
# of complaints received before 1 July 2015 on hand at end of reporting year (new measure)	500	<b>202</b>	new measure
% net clearance rate of other contacts (amended measure)	100%	<b>100%</b>	100%
% of other contacts completed within 3 months from date of receipt (amended measure)	100%	<b>100%</b>	100%

62 One significant wider administrative improvement investigation was completed during the 2015/16 reporting year, Disclosure—An investigation into the Ministry of Education’s engagement processes for school closures and mergers. We had also programmed to conclude in 2016/17 our investigations of the 12 individual agencies identified in our self-initiated investigation of OIA practices by central government agencies. Those 12 investigations will be concluded by the end of 2017.

63 ‘Net clearance rate’ means the total number of complaints closed in the reporting year as a proportion of the total number of complaints received during the year.

64 305 more complaints closed than received in 2016/17.

65 Counted as 90 calendar days.

66 This measure and the next two measures are calculated on the basis of all complaints received between 1 July 2016 and 30 June 2017, and either closed in the reporting year or remaining open at year end. Complaints remaining open and over target at year end were counted as not met when calculating the percentages.

67 Counted as 180 calendar days.

68 Counted as 270 calendar days.

69 Counted as 365 calendar days.

70 This measure is calculated on the basis of all complaints received between 1 July 2015 and 30 June 2017, and either closed in the reporting year or remaining open at year end. Complaints remaining open and over target at year end were counted as not met when calculating the percentages.

Performance Measures	2016/17		2015/16
	Budget Standard	Actual	Actual
% of completed complaints and other contacts meeting internal quality standards, following random quality assurance check <sup>71</sup> (amended measure)	80%	57% <sup>72</sup>	amended measure
# of successful appeals for judicial review of Ombudsman	Nil	<b>Nil</b>	Nil
<b>Output C – Deal with requests for advice and guidance about serious wrongdoing</b>			
Demand driven measure			
# of requests for advice and guidance completed	10	<b>10</b>	9
# of enquiries completed (new measure)	30	<b>34</b>	new measure
Proactive measures			
All requests for advice and guidance considered	100%	<b>100%</b>	100%
% of requests and enquiries completed within 3 months from date of receipt (new measure)	85%	<b>95%</b>	new measure
<b>Output D – Monitor and inspect places of detention</b>			
Proactive measures			
# of full inspections and visits to places of detention (amended measure)	32	<b>57<sup>73</sup></b>	43

71 Along with quality assurance, we have other measures in place to ensure quality, including review of all letters by senior staff with delegated authority from the Ombudsmen.

72 The main reason for complaints not meeting quality standards was timeliness. With a large number of backlog complaints completed this year, our quality standards performance was affected for timeliness reasons. If timeliness was excluded as a factor, then 81% of the complaints and other contacts reviewed met our internal quality standards.

73 We completed more visits than budgeted as these often took place at the same time as we were in a particular region of New Zealand to complete a full inspection.

74 The internationally accepted standard is for at least 1/3 of inspections to be unannounced.

75 Increasing the proportion of unannounced visits allows us to gain a good perspective of day-to-day practice within the facilities visited.

76 All reports were sent to places of detention within 3 months of the visit for their comment. Of the 13 reports sent to places of detention, 6 reports were not finalised within 3 months due to an extended comment process.

Performance Measures	2016/17		2015/16
	Budget Standard	Actual	Actual
% of unannounced full inspections and other visits	At least 33.3% <sup>74</sup>	<b>63%</b> <sup>75</sup>	90%
% of reports sent to places of detention within 3 months of visit	95%	<b>100%</b> <sup>76</sup>	100%
% of reports peer reviewed, to meet internal quality standards	100%	<b>100%</b>	100%
% of formal recommendations accepted	80%	<b>81%</b>	72%
<b>Output E – Improve state sector capability in areas relevant to our jurisdiction</b>			
Demand driven measures			
# of requests for advice or comment by state sector agencies responded to	150	<b>184</b>	199
# of training sessions provided to stakeholders	25	<b>30</b> <sup>77</sup>	38
Proactive measures			
# of guidance materials produced or updated	25	<b>26</b>	37
% of participants in Ombudsman external training sessions who report that the training will assist them in their work	95%	<b>99%</b> <sup>78</sup>	99%
% of overseas stakeholders who report value in the guidance and training received from our office	95%	<b>100%</b>	100%
<b>Output F – Improve public awareness and accessibility of our services</b>			
Demand driven measure			
# of external speeches and presentations given	25	<b>40</b> <sup>79</sup>	51
Proactive Measures			
% of members of the public who have heard of the Ombudsman	65%	<b>73%</b>	68%

77 Training sessions are currently provided on request from our stakeholders. Four training sessions were provided to Pacific Ombudsmen.

78 The percentage calculation is based on those participants who completed an online feedback form.

79 Three speeches were given overseas.

# Statement of comprehensive revenue and expense for the year ended 30 June 2017

30/06/16 Actual \$(000)		Notes	30/06/17 Actual \$(000)	30/06/17 Main Estimates \$(000)	30/06/17 Supp. Estimates \$(000)	30/06/18 Unaudited Forecast IPSAS \$(000)
	<b>Revenue</b>					
12,101	Revenue Crown		<b>14,259</b>	14,380	14,266	16,725
90	Other revenue	2	<b>7</b>	-	-	-
12,191	<b>Total revenue</b>		<b>14,266</b>	<u>14,380</u>	<u>14,266</u>	<u>16,725</u>
	<b>Expenses</b>					
8,280	Personnel costs	3	<b>8,727</b>	9,851	9,124	10,841
3,425	Other operating costs	4	<b>4,962</b>	3,751	4,558	4,860
344	Depreciation and amortisation	5	<b>436</b>	595	438	801
142	Capital charge	6	<b>135</b>	183	146	223
<u>12,191</u>	<b>TOTAL EXPENSES</b>		<b>14,260</b>	<u>14,380</u>	<u>14,266</u>	<u>16,725</u>
-	<b>Surplus/(deficit)</b>		<b>6</b>	-	-	-
-	Other comprehensive revenue and expense		-	-	-	-
-	<b>TOTAL COMPREHENSIVE REVENUE AND EXPENSE</b>		<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

Explanations of major variances against the original 2016/17 budget are provided in Note 17. The accompanying notes form an integrated part of these financial statements.

# Statement of financial position as at 30 June 2017

30/06/16 Actual \$(000)		Notes	30/06/17 Actual \$(000)	30/06/17 Main Estimates \$(000)	30/06/17 Supp. Estimates \$(000)	30/06/18 Unaudited Forecast IPSAS \$(000)
	<b>Assets</b>					
	<i>Current assets</i>					
2,437	Cash and cash equivalents		<b>3,195</b>	2,301	2,456	2,630
<u>71</u>	Other current assets	7	<b>43</b>	<u>24</u>	<u>24</u>	<u>24</u>
<u>2,508</u>	Total current assets		<b>3,238</b>	<u>2,325</u>	<u>2,480</u>	<u>2,654</u>
	<i>Non-current assets</i>					
1,771	Property, plant and equipment	8	<b>2,086</b>	1,839	2,237	1,717
153	Intangible assets – Software	9	<b>300</b>	232	202	1,747
<u>1,924</u>	Total non-current assets		<b>2,386</b>	<u>2,071</u>	<u>2,439</u>	<u>3,464</u>
<u>4,432</u>	<b>Total assets</b>		<b>5,624</b>	<u>4,396</u>	<u>4,919</u>	<u>6,118</u>
	<b>Liabilities</b>					
	<i>Current liabilities</i>					
634	Creditors and other payables	10	<b>1,026</b>	369	369	372
-	Leasehold incentive – current portion*		<b>98</b>	-	-	-
-	Return of operating surplus	11	<b>6</b>	-	-	-
683	Employee entitlements	12	<b>503</b>	470	470	470
1,317	Total current liabilities		<b>1,633</b>	<u>839</u>	<u>839</u>	<u>842</u>

The accompanying notes form part of these financial statements

30/06/16 Actual \$(000)		Notes	30/06/17 Actual \$(000)	30/06/17 Main Estimates \$(000)	30/06/17 Supp. Estimates \$(000)	30/06/18 Unaudited Forecast IPSAS \$(000)
	Non-current liabilities					
27	Employee entitlements	12	<b>27</b>	18	18	18
1,012	Leasehold Incentives		<b>816</b>	914	914	816
1,039	Total non-current liabilities		<b>843</b>	<u>932</u>	<u>932</u>	<u>834</u>
<u>2,356</u>	<b>Total liabilities</b>		<b>2,476</b>	<u>1,771</u>	<u>1,771</u>	<u>1676</u>
<b>2,076</b>	<b>Net assets</b>		<b>3,148</b>	2,625	3,148	4,442
	<b>Equity</b>					
2,076	General funds	13	<b>3,148</b>	2,625	3,148	4,442
<u>2,076</u>	Total Equity		<b>3,148</b>	<u>2,625</u>	<u>3,148</u>	<u>4,442</u>

\* This current liability has no liquidity impact.

Explanations of major variances against the original 2016/17 budget are provided in Note 17. The accompanying notes form an integrated part of these financial statements.

The accompanying notes form part of these financial statements

# Statement of changes in equity for the year ended 30 June 2017

30/06/16 Actual \$(000)		Notes	30/06/17 Actual \$(000)	30/06/17 Main Estimates \$(000)	30/06/17 Supp. Estimates \$(000)	30/06/18 Unaudited Forecast IPSAS \$(000)
1816	<b>Balance at 1 July</b>		<b><u>2,076</u></b>	2,076	2,076	3,148
-	Total comprehensive revenue and expense for the year		-	-	-	-
	<b>Owner transactions</b>					
260	Capital injections		<b><u>1,072</u></b>	549	1,072	1,294
-	Return of operating surplus to the Crown		-	-	-	-
2,076	<b>Balance at 30 June</b>	13	<b><u>3,148</u></b>	2,625	3,148	<u>4,442</u>

Explanations of major variances against the original 2016/17 budget are provided in Note 17. The accompanying notes form an integrated part of these financial statements.

The accompanying notes form part of these financial statements

# Statement of cash flows for the year ended 30 June 2017

30/06/16 Actual \$(000)		Notes	30/06/17 Actual \$(000)	30/06/17 Main Estimates \$(000)	30/06/17 Supp. Estimates \$(000)	30/06/18 Unaudited Forecast IPSAS \$(000)
<b>Cash flows from operating activities</b>						
12,101	Receipts from Crown		<b>14,259</b>	14,380	14,258	16,725
90	Receipts from other revenue		<b>7</b>	-	8	-
(8,034)	Payments to employees		<b>(8,872)</b>	(9,834)	(9,374)	(10,872)
(3,400)	Payments to suppliers		<b>(4,672)</b>	(3,727)	(4,848)	(4,924)
(142)	Payment for capital charge		<b>(135)</b>	(183)	(146)	(223)
-	Goods and services tax (net)		-	-	-	-
615	<i>Net cash from operating activities</i>		<b><u>587</u></b>	<u>636</u>	<u>(102)</u>	<u>706</u>
<b>Cash flows from investing activities</b>						
(259)	Purchase of property, plant and equipment	8	<b>(700)</b>	(677)	(850)	(179)
(36)	Purchase of intangible assets – software	9	<b>(200)</b>	(72)	(100)	(1,647)

The accompanying notes form part of these financial statements



30/06/16 Actual \$(000)		Notes	30/06/17 Actual \$(000)	30/06/17 Main Estimates \$(000)	30/06/17 Supp. Estimates \$(000)	30/06/18 Unaudited Forecast IPSAS \$(000)
<u>(295)</u>	<i>Net cash from investing activities</i>		<b><u>(900)</u></b>	<u>(749)</u>	<u>(950)</u>	<u>(1,826)</u>
<b>Cash flows from financing activities</b>						
260	Capital injection		<b>1,072</b>	549	1,072	1,294
-	Return of operating surplus		-	-	-	-
<u>260</u>	Net cash from financing activities		<b><u>1,072</u></b>	<u>549</u>	<u>1,072</u>	<u>1,294</u>
580	Net increase /(decrease) in cash		<b>759</b>	436	20	174
1,856	Cash at beginning of the year		<b>2,436</b>	1,865	2,436	2,456
<u>2,436</u>	<b>Cash at end of the year</b>		<b><u>3,195</u></b>	<u>2,301</u>	<u>2,456</u>	<u>2,630</u>

Explanations of major variances against the original 2016/17 budget are provided in Note 17. The accompanying notes form an integrated part of these financial statements.

The accompanying notes form part of these financial statements

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# Statement of commitments as at 30 June 2017

## Non-cancellable operating lease commitments

The Office leases accommodation space and photocopiers as a normal part of its business in Auckland, Christchurch and Wellington. There are no operating or unusual restrictions placed on the Office by any of its leasing arrangements.

The agreements for the photocopiers have a non-cancellable period generally of five years. The accommodation leases are long-term and non-cancellable until expiry except if the premises become untenable under the terms of the lease agreement. The annual lease payments are subject to three-yearly reviews. The amounts disclosed below as future commitments are based on the current rental rate for each of the leased premises.

30/6/16 Actual \$(000)		30/6/17 Actual \$(000)
	Non-cancellable operating lease commitments	
1,002	Less than one year	1,121
1,002	One to two years	1,121
3,007	Two to five years	3,364
4,848*	More than five years	3,864
9,859*	<b>Total non-cancellable operating lease commitments</b>	<b>9,470</b>

\* A change to comparatives has been made to be consistent with the current calculation of lease commitments

The Office is not a party to any other lease agreements.

The accompanying notes form an integrated part of these financial statements.

## Capital commitments

The Office has a capital commitment of \$0.639 million for the implementation of a new Enterprise Content Management System to enhance and replace the existing share drive and Case Management System (2016 Nil).

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The accompanying notes form part of these financial statements

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# Statement of contingent liabilities and contingent assets as at 30 June 2017

## Unquantifiable contingent liabilities

As at 30 June 2017 the Office has one unquantifiable contingent liability (2016 Nil). The nature of the item is the costs associated with proceedings that are being appealed. Future costs are unquantifiable but should be determined in the next 12 months.

## Quantifiable contingent liabilities

As at 30 June 2017 the Office does not have any quantifiable contingent liabilities (2016 Nil).

## Unquantifiable contingent assets

As at 30 June 2017 the Office does not have any unquantifiable contingent assets (2016 Nil).

## Quantifiable contingent assets

As at 30 June 2017 the Office does not have any quantifiable contingent assets (2016 Nil).

The accompanying notes form an integrated part of these financial statements.

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The accompanying notes form part of these financial statements

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# Notes to the financial statements

## 1. Statement of accounting policies for the year ended 30 June 2017

### Reporting entity

The Office of the Ombudsman is an Office of Parliament pursuant to the Public Finance Act 1989 and is domiciled in New Zealand.

The primary purpose, functions and outcomes of the Office are discussed at Part 3 of this report. The Office provides services to the public rather than making a financial return. Accordingly, the Office has designated itself a public benefit entity (PBE) for financial reporting purposes.

The financial statements of the Office are for the year ended 30 June 2017. The financial statements were authorised for distribution by the Chief Ombudsman on 2 October 2017.

### Basis of preparation

The financial statements have been prepared on a going concern basis, and the accounting policies have been applied consistently throughout the period.

### STATEMENT OF COMPLIANCE

The financial statements of the Office have been prepared in accordance with the requirements of the Public Finance Act 1989, which include the requirement to comply with New Zealand generally accepted accounting practices (NZ GAAP), and Treasury Instructions.

These financial statements have been prepared in accordance with Tier 2 PBE accounting standards. The Office has elected to report in Tier 2 PBE accounting standards as the Office does not

have public accountability as defined by the IASB, is not an FMC reporting entity or an issuer under the transitional provisions of the Financial Reporting Act 2013 and is not large. These financial statements comply with PBE accounting standards.

### MEASUREMENT BASE

The financial statements have been prepared on an historical cost basis.

### FUNCTIONAL AND PRESENTATION CURRENCY

The financial statements are presented in New Zealand dollars and all values are rounded to the nearest thousand dollars (\$000). The functional currency of the Office is New Zealand dollars.

### Summary of significant accounting policies

#### REVENUE

The specific accounting policies for significant revenue items are explained below:

#### *Funding from the Crown*

The Office of the Ombudsman is funded from the Crown. This funding is restricted in its use for the purpose of the Office meeting its objectives and scope of the relevant appropriations of the funder.

The Office considers there are no conditions attached to the funding and it is recognised as revenue at the point of entitlement.

The fair value of revenue from the Crown has been determined to be equivalent to the amounts due in the funding arrangements.

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The accompanying notes form part of these financial statements

### *Other revenue*

During the year the Office has received other revenue. This revenue was a contribution from Ministry of Foreign Affairs and Trade for the Pacific Ombudsman Workshop hosted by the Chief Ombudsman.

## **Leases**

### **OPERATING LEASES**

An operating lease is a lease that does not transfer substantially all the risks and rewards incidental to ownership of an asset. Lease payments under an operating lease are recognised as an expense on a straight-line basis over the lease term.

Lease incentives received are recognised in the surplus or deficit as a reduction of rental expense over the lease term.

## **Cash and cash equivalents**

The Office is only permitted to expend its cash and cash equivalents within the scope and limits of its appropriations.

### **OTHER CURRENT ASSETS**

Other current assets are short-term debtors and prepayments which are recorded at their face value less any provision for impairment.

A receivable is considered impaired when there is evidence that the Office will not be able to collect the amount due. The amount of the impairment is the difference between the asset's carrying amount of the receivable and the present value of the amounts expected to be collected.

## **Property, plant and equipment**

Property, plant and equipment consists of leasehold improvements, furniture and office equipment. The Office does not own any vehicles, buildings or land.

Property, plant and equipment are shown at cost, less accumulated depreciation and impairment.

All fixed assets with a unit cost of more than \$1,000, or if the unit cost is \$1,000 or less but the aggregate cost of the purchase exceeds \$3,000, are capitalised.

### **ADDITIONS**

The cost of an item of property, plant and equipment is recognised as an asset only when it is probable that future economic benefits or service potential associated with the item will flow to the Office and the cost of the item can be measured reliably.

In most instances an item of property, plant and equipment is initially recognised at its cost. Where an asset is acquired through a non-exchange transaction, it is recognised at fair value as at the date of acquisition.

### **DISPOSALS**

Gains and losses on disposals are determined by comparing the proceeds with the carrying amount of the asset. Gains and losses on disposals are reported net in the surplus or deficit. When revalued assets are sold, the amounts included in revaluation reserves in respect of those assets are transferred to general funds.

### **SUBSEQUENT COSTS**

Costs incurred subsequent to initial acquisition are capitalised only when it is probable that future economic benefits or service potential associated with the item will flow to the Office and the cost of the item can be measured reliably.

The costs of day-to-day servicing of property, plant and equipment are recognised in the surplus or deficit as they are incurred.

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The accompanying notes form part of these financial statements

## DEPRECIATION

Depreciation is provided on a straight-line basis on all property, plant and equipment, at rates that will write-off the cost (or valuation) of the assets to their estimated residual values over their useful lives. The useful lives and associated depreciation rates of classes of assets held by the Office are set out below.

Computer equipment	4 years	25%
Plant and other equipment	5 years	20%
Furniture and fittings	5-10 years	10%-20%

From February 2015 furniture and fittings have been depreciated at 10 percent as the estimated useful life of these items is ten years rather than five years. Leasehold improvements are depreciated over the unexpired period of the lease or the estimated remaining useful lives of the improvements, whichever is the shorter.

The residual value and useful life of an asset is reviewed, and adjusted if applicable, at each financial year-end.

## Intangible assets

### SOFTWARE ACQUISITION AND DEVELOPMENT

Acquired computer software licences are capitalised on the basis of the costs incurred to acquire and bring to use the specific software.

Costs that are directly associated with the development of software for internal use by the Office, are recognised as an intangible asset. Direct costs include software development employee costs and as appropriate a portion of relevant overheads.

Staff training costs are recognised as an expense when incurred.

Costs associated with maintaining computer software are recognised as an expense when incurred.

Costs associated with development and maintenance of the Office's website are recognised as an expense when incurred.

### AMORTISATION

The carrying value of an intangible asset with a finite life is amortised on a straight-line basis over its useful life. Amortisation begins when the asset is available for use and ceases at the date that the asset is derecognised. The amortisation charge for each period is recognised in the surplus or deficit.

The useful lives and associated amortisation rates of major classes of intangible assets have been estimated as set out below.

Acquired computer software	4 years	25%
Developed computer software	10 years	10%

### Impairment of property, plant and equipment, and intangible assets

The Office does not hold any cash-generating assets. Assets are considered cash-generating where their primary objective is to generate a commercial return.

Property, plant and equipment and intangible assets held at cost that have a finite useful life are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds

The accompanying notes form part of these financial statements

its recoverable service amount. The recoverable service amount is the higher of an asset's fair value less costs to sell and value in use.

Value in use is the present value of the asset's remaining service potential. Value in use is determined using an approach based on either a depreciated replacement cost approach, restoration cost approach, or a service units approach. The most appropriate approach used to measure value in use depends on the nature of the impairment and availability of information.

If an asset's carrying amount exceeds its recoverable service amount, the asset is regarded as impaired and the carrying amount is written down to the recoverable amount. The total impairment loss is recognised in the surplus or deficit.

The reversal of an impairment loss is recognised in the surplus or deficit.

## Payables

### Employee entitlements

#### SHORT-TERM EMPLOYEE ENTITLEMENTS

Employee entitlements that are due to be settled within 12 months after the end of the period in which the employee renders the related service are measured based on accrued entitlements at current rates of pay. These include salaries and wages accrued up to balance date, annual leave earned but not yet taken at balance date, and long service leave gratuities expected to be settled within 12 months.

The Office recognises a liability and an expense for performance pay where there is a contractual obligation, or where there is a past practice that has created a constructive obligation and a reliable estimate of the obligation can be made.

The Office employment agreement provides for an 'open ended' sick leave entitlement, accordingly there is no sick leave liability for accounting purposes.

#### LONG-TERM EMPLOYEE ENTITLEMENTS

Employee benefits that are due to be settled beyond 12 months after the end of period in which the employee renders that related service, such as long service leave, have been calculated on an actuarial basis. The calculations are based on:

- likely future entitlements based on years of service, years to entitlement, the likelihood that staff will reach the point of entitlement and contractual entitlements information; and
- the present value of the estimated future cash flows.

The Office's terms and conditions of employment do not include a provision for retirement leave. Long service leave is available to two long-serving staff under 'grandparent' employment terms. Long service leave is not otherwise available to staff of the Office.

#### PRESENTATION OF EMPLOYEE ENTITLEMENTS

Annual leave, vested long service leave and non-vested long service leave expected to be settled within 12 months of balance date are classified as a current liability. All other employee entitlements are classified as a non-current liability.

### Superannuation schemes

#### DEFINED CONTRIBUTION SCHEMES

Obligations for contributions to KiwiSaver and other cash accumulation schemes are recognised as an expense in the surplus or deficit as incurred.

### Equity

Equity is the Crown's investment in the Office and is measured as the difference between total assets and total liabilities. Equity is disaggregated and classified as taxpayers' funds

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The accompanying notes form part of these financial statements

## Commitments

Commitments are future expenses and liabilities to be incurred on contracts that have been entered into at balance date. Information on non-cancellable capital and lease commitments are reported in the statements of commitments.

Cancellable commitments that have penalty or exit costs explicit in the agreement on exercising that option to cancel are reported in the statement of commitments at the value of that penalty or exit cost.

## Goods and services tax (GST)

All items in the financial statements and appropriation statements are stated exclusive of GST, except for receivables and payables, which are stated on a GST inclusive basis. Where GST is not recoverable as input tax, then it is recognised as part of the related asset or expense.

The net amount of GST recoverable from, or payable to, the Inland Revenue Department (IRD) is included as part of receivables or payables in the statement of financial position.

The net GST paid to, or received from the IRD, including the GST relating to investing and financing activities, is classified as an operating cash flow in the statement of cash flows.

Commitments and contingencies are disclosed exclusive of GST.

Remuneration paid to Ombudsmen is exempt from GST pursuant to Part 1 section 6(3)(c) of the Goods and Services Tax Act 1985.

## Income tax

The Office of the Ombudsman is a public authority and consequently is exempt from the payment of income tax. Accordingly, no provision has been made for income tax.

## Statement of cost accounting policies

The Office has one output expense appropriation. All the Office's costs with the exception of the remuneration of the Ombudsmen are charged to this output.

There have been no changes in cost accounting policies since the date of the last audited financial statements.

## Critical accounting estimates and assumptions

In preparing these financial statements the Office has made estimates and assumptions concerning the future.

These estimates and assumptions may differ from the subsequent actual results. Estimates and assumptions are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances. The estimates and assumptions that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year are discussed below.

### ESTIMATING USEFUL LIVES AND RESIDUAL VALUES OF PROPERTY, PLANT AND EQUIPMENT

At each balance date, the useful lives and residual values of property, plant and equipment are reviewed. Assessing the appropriateness of useful life and residual value estimates of property, plant and equipment requires a number of factors to be considered, such as the physical condition of the asset, expected period of the use of the asset by the Office, and expected disposal proceeds from the future sale of the asset.

An incorrect estimate of the useful life or residual value will affect the depreciation expense recognised in the surplus or deficit, and carrying amount of the asset in the statement of financial

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The accompanying notes form part of these financial statements



position. The Office minimises the risk of this estimation uncertainty by:

- physical inspection of assets;
- asset replacement programmes;
- review of second hand market prices for similar assets; and
- analysis of prior asset sales.

The Office has not made significant changes to past assumptions concerning useful lives and residual values.

### LONG SERVICE LEAVE

Note (12) provides an analysis of the exposure in relation to estimates and uncertainties surrounding the long service leave liability.

### Critical judgements in applying accounting policies

Management has exercised the following critical judgements in applying accounting policies for the year ended 30 June 2017.

### LEASES CLASSIFICATION

Determining whether a lease agreement is a finance lease or an operating lease requires judgement as to whether the agreement transfers substantially all the risks and rewards of ownership to the Office.

Judgement is required on various aspects that include, but are not limited to, the fair value of the leased asset, the economic life of the leased asset, whether or not to include renewal options in the lease term, and determining an appropriate discount rate to calculate the present value of the minimum lease payments. Classification as a finance lease means the asset is recognised in the statement of financial position as property, plant and equipment, whereas for an operating lease no such value is recognised.

The Office has exercised its judgement on the appropriate classification of equipment leases and has determined these are operating leases.

### BUDGET AND FORECAST FIGURES

The budget figures are those presented in the Information Supporting the Estimates of Appropriations for the Government of New Zealand for the year ended 30 June 2016 (Main Estimates) and those amended by the Supplementary Estimates and any transfer made by Order in Council under the Public Finance Act 1989.

The budget figures have been prepared in accordance with NZ GAAP, using accounting policies that are consistent with those adopted in preparing these financial statements.

The financial forecasts are based on Budget Economic Forecast Update (BEFU) and have been prepared on the basis of assumptions as to future events that the Office reasonably expects to occur, associated with the actions it reasonably expects to take.

These forecast financial statements have been compiled on the basis of existing government policies and ministerial expectations at the time the statements were finalised.

These forecast financial statements were compiled on the basis of existing parliamentary outcomes at the time the statements were finalised.

The main assumptions are as follows:

- Estimated year end information for 2016/17 is used as the opening position for the 2017/18 forecasts.
- There are no significant events or changes that would have a material impact on the BEFU forecast.
- Factors that could lead to material differences between the forecast financial statements and the 2016/17 actual financial statements include changes to the baseline budget through new initiatives, or technical adjustments.

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The accompanying notes form part of these financial statements

## **AUTHORISATION STATEMENT**

The forecast figures reported are those for the year ending 30 June 2018 included in BEFU 2017. These were authorised for issue on 21 April 2017 by the Chief Ombudsman, who is responsible for the forecast financial statements as presented. The preparation of these financial statements requires judgements, estimations, and assumptions that affect the application of policies and reported amounts of assets and liabilities, and income and expenses. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances. Actual financial results achieved for the period covered are likely to vary from the information presented, and the variations may be material.

It is not intended that the prospective financial statements will be updated subsequent to presentation.

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The accompanying notes form part of these financial statements

## 2. Other revenue

30/06/16 Actual \$(000)		30/06/17 Actual \$(000)	30/06/17 Main Estimates \$(000)	30/06/17 Supp. Estimates \$(000)	30/06/18 Unaudited Forecast IPSAS \$(000)
36	ACC recovery	-	-	-	-
25	Secondment recovery	-	-	-	-
29	Other revenue	<b>7</b>	-	8	-
90	Total other revenue	<b>7</b>	-	<b>8</b>	-

## 3. Personnel costs

30/06/16 Actual \$(000)		30/06/17 Actual \$(000)	30/06/17 Main Estimates \$(000)	30/06/17 Supp. Estimates \$(000)	30/06/18 Unaudited Forecast IPSAS \$(000)
7,648	Salaries and wages	<b>8,122</b>	9,428	8,701	10,350
356	Employer contributions to staff superannuation	<b>416</b>	423	423	491
276	Other personnel costs	<b>189</b>	-	-	-
<u>8,280</u>	Total personnel costs	<u><b>8,727</b></u>	<u>9,851</u>	<u>9,124</u>	<u>10,841</u>

Employer contributions to superannuation plans include contributions to KiwiSaver and other cash accumulation plans registered under the Superannuation Schemes Act 1989.

The accompanying notes form part of these financial statements

\* Financial forecast figures are from the Budget Economic Forecast Update (BEFU) forecasts which have not been audited.

## 4. Other operating costs

30/06/16 Actual \$(000)		30/06/17 Actual \$(000)	30/06/17 Main Estimates \$(000)	30/06/17 Supp. Estimates \$(000)	30/06/18 Unaudited Forecast IPSAS \$(000)
872	Operating accommodation lease expenses	<b>1,036</b>	914	1,039	1,064
90	Accommodation costs – other	<b>95</b>	-	-	-
34	Audit fees – for audit of financial statements	<b>36</b>	33	35	35
71	Publications, books and statutes	<b>59</b>	93	93	93
307	Travel	<b>301</b>	226	226	402
120	Communication costs	<b>138</b>	200	200	200
1,931	Other costs	<b>3,297</b>	2,285	2,965	3,066
<u>3,425</u>	Total other operating costs	<u><b>4,962</b></u>	<u>3,751</u>	<u>4,558</u>	<u>4,860</u>

Other operating costs exclude depreciation and capital charges.

## 5. Depreciation and amortisation

30/06/16 Actual \$(000)		30/06/17 Actual \$(000)	30/06/17 Main Estimates \$(000)	30/06/17 Supp. Estimates \$(000)	30/06/18 Unaudited Forecast IPSAS \$(000)
50	Furniture and fittings	<b>56</b>	63	54	76
104	Plant and equipment and other	<b>142</b>	92	142	151
143	Computer equipment	<b>185</b>	400	185	472
47	Intangible assets – software	<b>53</b>	40	57	102
<u>344</u>	Total depreciation and amortisation	<u><b>436</b></u>	<u>595</u>	<u>438</u>	<u>801</u>

## 6. Capital charge

The Office of the Ombudsman pays a capital charge to the Crown on its taxpayers' funds as at 30 June and 31 December each year. The capital charge rate was 7% for the period ended 31 December 2016 and 6% for the period ended 30 June 2017 (2016, 8.0%).

The accompanying notes form part of these financial statements

\* Financial forecast figures are from the Budget Economic Forecast Update (BEFU) forecasts which have not been audited.

## 7. Other current assets

30/06/16 Actual \$(000)		30/06/17 Actual \$(000)	30/06/17 Main Estimates \$(000)	30/06/17 Supp. Estimates \$(000)	30/06/18 Unaudited Forecast* IPSAS \$(000)
26	Receivables	-	-	-	-
45	Prepayments	<b>43</b>	24	24	24
<u>71</u>	Total receivables	<u><b>43</b></u>	<u>24</u>	<u>24</u>	<u>24</u>

## 8. Property, plant and equipment

Movements for each class of property, plant and equipment are set out below.

2017	Plant & Equipment \$(000)	Leasehold improvements \$(000)	IT Equipment \$(000)	Furniture & Fittings \$(000)	Total \$(000)
<b>Cost</b>					
Balance at 30 June 2016	169	1,229	868	498	2,764
Additions	28	281	288	103	700
Disposals	-	-	-	-	-
<b>Balance at 30 June 2017</b>	<b>197</b>	<b>1,510</b>	<b>1,156</b>	<b>601</b>	<b>3,464</b>
<b>Accumulated depreciation and impairment losses</b>					
Balance at 30 June 2016	159	212	468	154	993
Depreciation	7	136	186	56	385
Accumulated depreciation on disposals	-	-	-	-	-
<b>Balance at 30 June 2017</b>	<b>166</b>	<b>348</b>	<b>654</b>	<b>210</b>	<b>1,378</b>
Carrying amounts:					
At 30 June 2016	10	1,017	400	344	1,771
<b>At 30 June 2017</b>	<b>31</b>	<b>1,162</b>	<b>502</b>	<b>391</b>	<b>2,086</b>

The accompanying notes form part of these financial statements

\* Financial forecast figures are from the Budget Economic Forecast Update (BEFU) forecasts which have not been audited.

2016	Plant & Equipment \$(000)	Leasehold Improvements \$(000)	IT Equipment \$(000)	Furniture & Fittings \$(000)	Total \$(000)
<b>Cost</b>					
Balance at 30 June 2015	167	1,229	639	470	2,505
Additions	2	-	229	28	259
Disposals	-	-	-	-	-
<b>Balance at 30 June 2016</b>	<b>169</b>	<b>1,229</b>	<b>868</b>	<b>498</b>	<b>2,764</b>
<b>Accumulated depreciation and impairment losses</b>					
Balance at 30 June 2015	154	113	325	104	696
Depreciation	5	99	143	50	297
<b>Balance at 30 June 2016</b>	<b>159</b>	<b>212</b>	<b>468</b>	<b>154</b>	<b>993</b>
Carrying amounts					
At 30 June 2015	13	1,116	314	366	1,809
<b>At 30 June 2016</b>	<b>10</b>	<b>1,017</b>	<b>400</b>	<b>344</b>	<b>1,771</b>

## 9. Intangible assets

Movements for each class of intangible asset are set out below.

2017	Acquired Software \$(000)	Internally generated Software \$(000)	Total \$(000)
<b>Cost</b>			
Balance at 30 June 2016	191	165	356
Additions*	200	-	200
<b>Balance at 30 June 2017</b>	<b>391</b>	<b>165</b>	<b>556</b>
<b>Accumulated depreciation and impairment losses</b>			
Balance at 30 June 2016	112	91	203
Amortisation	37	16	53

The accompanying notes form part of these financial statements

\* Financial forecast figures are from the Budget Economic Forecast Update (BEFU) forecasts which have not been audited.

2017	Acquired Software \$(000)	Internally generated Software \$(000)	Total \$(000)
<b>Balance at 30 June 2017</b>	<b>149</b>	<b>107</b>	<b>256</b>
Carrying amounts			
At 30 June 2016	79	74	153
<b>At 30 June 2017</b>	<b>242</b>	<b>58</b>	<b>300</b>

\*Additions include work-in-progress of \$182,000 not yet depreciated

2016	Acquired Software \$(000)	Internally generated Software \$(000)	Total \$(000)
<b>Cost</b>			
Balance at 30 June 2015	155	165	320
Additions	36	0	36
<b>Balance at 30 June 2016</b>	<b>191</b>	<b>165</b>	<b>356</b>
<b>Accumulated amortisation and impairment losses</b>			
Balance at 30 June 2015	81	75	156
Amortisation	31	16	47
<b>Balance at 30 June 2016</b>	<b>112</b>	<b>91</b>	<b>203</b>
Carrying amounts			
At 30 June 2015	74	90	164
<b>At 30 June 2016</b>	<b>79</b>	<b>74</b>	<b>153</b>

There are no restrictions over the title of the Office's intangible assets, nor are any intangible assets pledged as security for liabilities.

The accompanying notes form part of these financial statements

\* Financial forecast figures are from the Budget Economic Forecast Update (BEFU) forecasts which have not been audited.

## 10. Creditors and other payables

Creditors and other payables are non-interest bearing and are normally settled on 30-day terms. Therefore, the carrying value of creditors and other payables approximates their fair value.

30/06/16 Actual \$(000)		30/06/17 Actual \$(000)	30/06/18 Unaudited Forecast IPSAS \$(000)
294	Trade creditors	611	202
340	GST Payable and accruals	415	470
<u>634</u>	<b>Total creditors and other payables</b>	<b>1,026</b>	672

## 11. Return of operating surplus

There is a surplus of \$6,000 to be repaid for the 2017 financial year (2016 Nil).

## 12. Employee entitlements

30/06/16 Actual \$(000)		30/06/17 Actual \$(000)	30/06/17 Main Estimates \$(000)	30/06/17 Supp. Estimates \$(000)	30/06/18 Unaudited Forecast IPSAS \$(000)
	<b>Current liabilities</b>				
407	Annual leave	432	340	340	340
-	Long service leave	-	-	-	-
276	Superannuation, Superannuation Contribution Withholding Tax and salaries	71	130	130	130
683	Total current liabilities	503	470	470	470
	<b>Non current liabilities</b>				
27	Long service leave	27	18	18	18
<u>710</u>	Total for employee entitlements	<u>530</u>	<u>488</u>	<u>488</u>	<u>488</u>

The accompanying notes form part of these financial statements

\* Financial forecast figures are from the Budget Economic Forecast Update (BEFU) forecasts which have not been audited.



### 13. Equity (Taxpayers' funds)

30/6/16 Actual \$(000)		30/06/17 Actual \$(000)	30/06/18 Unaudited Forecast IPSAS \$(000)
	<b>General Funds</b>		
1,816	Balance at 1 July	<b>2,076</b>	3,148
-	Net operating surplus	-	-
260	Capital injections	<b>1,072</b>	1,294
-	Provision for repayment of surplus to the Crown	-	-
<u>2,076</u>	<b>Total Equity at 30 June</b>	<b>3,148</b>	4,442

The accompanying notes form part of these financial statements

\* Financial forecast figures are from the Budget Economic Forecast Update (BEFU) forecasts which have not been audited.

## 14. Financial instruments

### Categories of financial instruments

Actual 2016 \$(000)		Actual 2017 \$(000)
	<b>Loans and receivables</b>	
2,437	Cash and cash equivalents	<b>3,195</b>
71	Debtors and other receivables (note 7)	<b>43</b>
2,508	<b>Total</b>	<b>3,238</b>
	<b>Financial liabilities measured at amortised cost</b>	
634	Creditors and other payables (note 10)	<b>1,026</b>
710	Employee entitlements (note 12)	<b>530</b>
<u>1,344</u>	<b>Total</b>	<b>1,556</b>

The carrying value of cash and cash equivalents approximates their fair value.

## 15. Related party information

The Office is a wholly-owned entity of the Crown. The Ombudsmen act independently. Parliament is the Office's main source of revenue.

Related party disclosures have not been made for transactions with related parties that are within a normal supplier/recipient relationship on terms and conditions no more or less favourable than those that it is reasonable to expect the Office would have adopted in dealing with the party at arm's length in the same circumstances. Further, transactions with government agencies (for example, government departments and Crown Entities) are not disclosed as related party transactions when they are consistent with the normal operating arrangements between government agencies and undertaken on the normal terms and conditions for such transactions.

All related party transactions have been entered into on an arm's length basis.

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The accompanying notes form part of these financial statements

\* Financial forecast figures are from the Budget Economic Forecast Update (BEFU) forecasts which have not been audited.

## Key management personnel compensation

Remuneration and benefits of the senior management staff of the Office amounted to the following.

Actual 2016 \$(000)		Actual 2017 \$(000)
	<b>Leadership Team, including the Chief Ombudsman</b>	
1,223	Remuneration and other benefits	<b>768</b>
4	Full-time equivalent staff	<b>3</b>
–	Termination benefit	<b>248</b>

## 16. Events after the balance sheet date

There were no post-balance sheet date events in regard to the Office's financial statements for the year ended 30 June 2017.

## 17. Significant variances from budgeted financial performance

The only significant variance from budgeted financial performance is the cash figure and the purchase of assets. In the new financial year, the Office will purchase the remaining assets for which funding has been given.

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The accompanying notes form part of these financial statements

\* Financial forecast figures are from the Budget Economic Forecast Update (BEFU) forecasts which have not been audited.

# Appropriation statements

The following statements report information about the expenses and capital expenditure incurred against each appropriation administered by the Office for the year ended 30 June 2017.

## Statement of expenses and capital expenditure against appropriations for the year ended 30 June 2017

30/06/16 Actual \$(000)		30/06/17 Actual \$(000)	30/06/17 Main Estimates \$(000)	30/06/17 Supp. Estimates \$(000)	30/06/18 Unaudited Forecast IPSAS \$(000)
	<b>Vote Ombudsmen</b>				
	<b>Appropriation for output expenses</b>				
11,495	Investigation and resolution of complaints about government administration	<b>13,598</b>	13,712	13,598	16,057
696	Remuneration of Ombudsmen (Permanent Legislative Authority)	<b>662</b>	668	668	668
12,191	Sub total	<b>14,260</b>	14,380	14,266	16,725
295	Office of the Ombudsmen appropriation for capital expenditure (Permanent Legislative Authority)	<b>900</b>	749	1,272	1,294
<u>12,486</u>	<b>Total</b>	<b>15,160</b>	<u>15,129</u>	<u>15,538</u>	<u>18,019</u>

End of year performance information is reported in the statement of objectives and service performance on pages 62-65.

The accompanying notes form part of these financial statements

\* Financial forecast figures are from the Budget Economic Forecast Update (BEFU) forecasts which have not been audited.

## Statement of expenses and capital expenditure incurred without, or in excess of, appropriation or authority for the year ended 30 June 2017

There was no unappropriated expenditure for 2016/17 (2015/16 Nil).

## Statement of the Office's capital injections for the year ended 30 June 2017

30/06/16 Actual \$(000)		30/06/17 Actual \$(000)	30/06/17 Main Estimates \$(000)	30/06/17 Supp. Estimates \$(000)	30/06/18 Unaudited Forecast IPSAS \$(000)
260	Office of the Ombudsmen appropriation for capital expenditure (Permanent Legislative Authority)	<b>1,072</b>	<b>549</b>	<b>1,072</b>	1,294

## Statement of the Office's capital injections without, or in excess of, authority for the year ended 30 June 2017

The Office has not received any capital injections during the year without, or in excess of, authority.

The accompanying notes form part of these financial statements

\* Financial forecast figures are from the Budget Economic Forecast Update (BEFU) forecasts which have not been audited.



**PART 7**

# Analysis, statistics and directory

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# Throughput of complaints, other contacts and monitoring activities

Matters received and under consideration for reported year and previous four years

	2012/13	2013/14	2014/15	2015/16	2016/17
On hand as at 1 July	1,746	2,072	1,602	1,787	1,591
Adjustment <sup>80</sup>	-	9	-2	-5	-2
Received during the year	13,684	11,044	12,151	12,595	11,846
Total under consideration	15,430	13,116	13,753	14,382	13,437
Completed during the year	(13,358)	(11,505)	(11,964)	(12,786)	(12,141)
On hand at 30 June	2,072	1,602	1,787	1,591	1,294

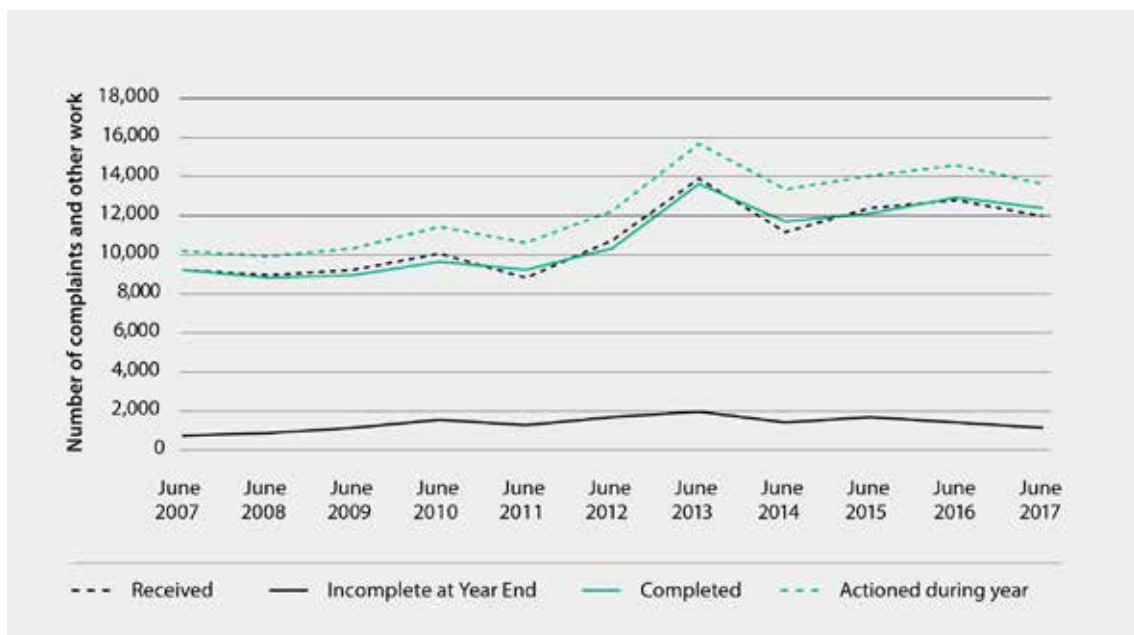


Figure 3: Overall throughput of work over the past 10 years

80 Adjustments are changes made to reported statistics post completion of a reporting year.

## Breakdown of matters received and under consideration for reported year and previous four years

	2012/13	2013/14	2014/15	2015/16	2016/17
<b>On hand at 1 July</b>					
Ombudsmen Act	821	690	649	729	555
Official Information Act	667	1,131	708	833	856
Local Government Official Information and Meetings Act	136	162	174	160	159
Protected Disclosures Act	5	2	7	5	2
Other Contacts	100	75	51	34	15
Other work	17	14	11	21	48
<b>Total</b>	<b>1,746</b>	<b>2,074</b>	<b>1,600</b>	<b>1,782</b>	<b>1,635</b>
<b>Received during the year</b>					
Ombudsmen Act	2,745	2,478	2,304	2,054	2,191
Official Information Act	2,374	1,207	1,090	1,100	1,174
Local Government Official Information and Meetings Act	271	246	240	240	248
Protected Disclosures Act	7	14	14	6	10
Other Contacts	8,263	7,081	8,480	9,166	8,198
Other work	24	18	23	29	25
<b>Total</b>	<b>13,684</b>	<b>11,044</b>	<b>12,151</b>	<b>12,595</b>	<b>11,846</b>
<b>Disposed of during the year</b>					
Ombudsmen Act	2,878	2,510	2,226	2,241	2,285
Official Information Act	1,913	1,623	960	1,084	1,375
Local Government Official Information and Meetings Act	245	233	253	247	258
Protected Disclosures Act	11	7	16	9	10
Other Contacts	8,283	7,112	8,497	9,185	8,168



	2012/13	2013/14	2014/15	2015/16	2016/17
Other work	28	20	12	20	45
<b>Total</b>	<b>13,358</b>	<b>11,505</b>	<b>11,964</b>	<b>12,786</b>	<b>12,141</b>
<b>On hand at 30 June</b>					
Ombudsmen Act	687	647	727	542	430
Official Information Act	1,129	712	838	849	647
Local Government Official Information and Meetings Act	162	174	161	153	142
Protected Disclosures Act	1	8	5	2	2
Other Contacts	80	50	34	15	45
Other work	13	11	22	30	28
<b>Total</b>	<b>2,072</b>	<b>1,602</b>	<b>1,787</b>	<b>1,591</b>	<b>1,294</b>

## Contact type—who matters were received from

Contact type	2015/16	2016/17
General public – individuals	7,192	7,517
Prisoners and prisoner advocates	4,611	3,370
Media	244	353
Departments, government organisations and local authorities	225	229
Companies, associations and incorporated societies	179	150
Political party research units	55	85
Special interest groups	5	51
Members of Parliament	48	22
Review agency (Privacy Commissioner, Independent Police Conduct Authority, Health and Disability Commissioner)	- <sup>81</sup>	22
Trade Union	-	18
Researchers	20	11
Ombudsman self-initiated	- <sup>82</sup>	7
Minister	-	2
Other	16	9
<b>Total</b>	<b>12,595</b>	<b>11,846</b>

81 Not separately reported in previous years.

82 Above, n 81.

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# Age profile of open and closed complaints and other contacts

## Age profile—all complaints and other contacts closed in 2016/17

	Year ended			
	30/06/14	30/06/15	30/06/16	30/06/17
Aged 6 months or less from date of receipt	88%	92%	91%	92%
Aged between 7 and 12 months from date of receipt	5%	4%	4%	3%
Aged more than 12 months from date of receipt	7%	4%	4%	5%

## Age profile—all complaints and other contacts remaining open at 30 June 2017

	Year ended			
	30/06/14	30/06/15	30/06/16	30/06/17
Aged 6 months or less from date of receipt	51%	47%	39%	51%
Aged between 7 and 12 months from date of receipt	18%	30%	24%	31%
Aged more than 12 months from date of receipt	31%	23%	36%	18%

# Detailed analysis of complaints and other contacts

## Ombudsmen Act (OA)

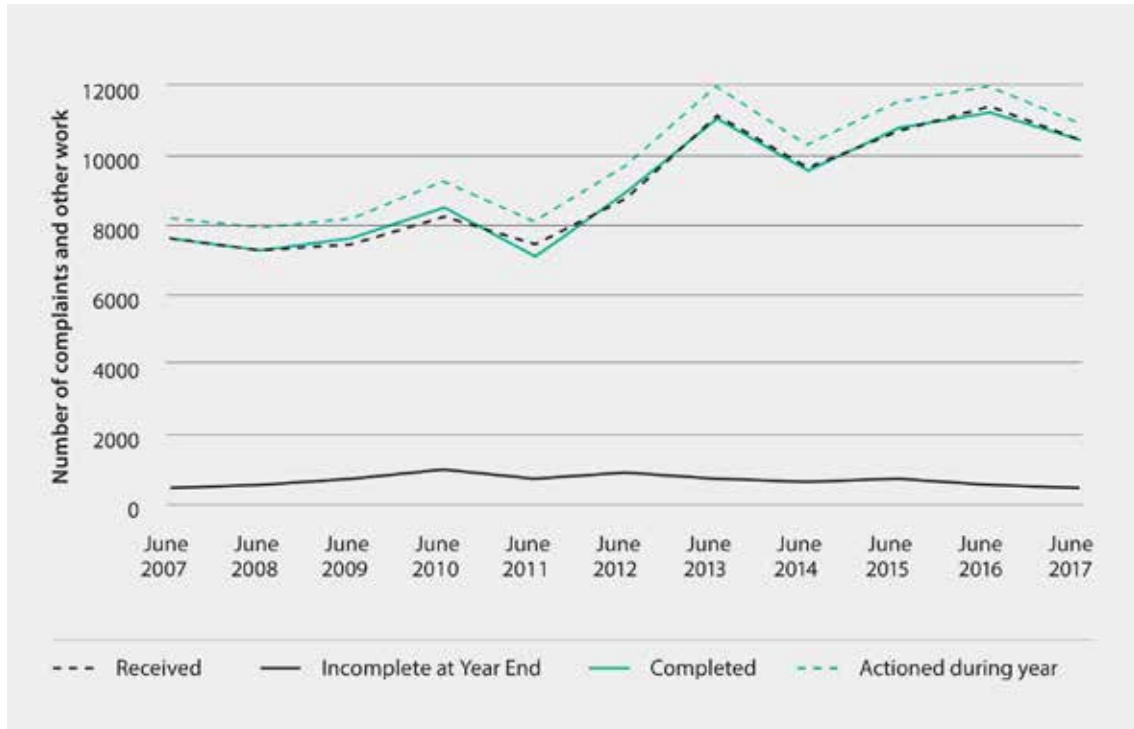


Figure 4: OA complaints and other contacts received and actioned over the past 10 years

OA complaints received from	2015/16	2016/17
General public – individuals	1,725	1,844
Prisoners and prisoner advocates	275	260
Companies, associations and incorporated societies	41	61
Media	7	16
Departments, government organisations and local authorities	2	5
Special interest groups	-	3
Political party research units	3	1
Members of Parliament	1	1
<b>Total</b>	<b>2,054</b>	<b>2,191</b>

OA complaints received against	2015/16	2016/17
Government departments	998	1,068
Local authorities (all)	274	308
<i>District Councils</i>	127	125
<i>City Councils (including Auckland Council)</i>	102	134
<i>Council controlled organisations (including Auckland Transport)</i>	19	27
<i>Regional Councils</i>	24	22
Other organisations state sector (all)	579	605
<i>Boards of Trustees (schools)</i>	48	82
<i>District Health Boards</i>	28	44
<i>Universities</i>	20	20
<i>Polytechnics</i>	22	40
Ministers	16	20
Not specified	187	190
<b>Total</b>	<b>2,054</b>	<b>2,191</b>

OA complaints received – greater than or equal to 15 complaints <sup>83</sup>	2015/16	2016/17
<b>Government departments</b>		
Department of Corrections	319	322
Ministry of Business, Innovation and Employment	226	306 <sup>84</sup>
Ministry of Social Development	182	155 <sup>85</sup>
Inland Revenue Department	118	118 <sup>86</sup>
Oranga Tamariki, Ministry for Vulnerable Children	3	22
Ministry of Justice <sup>87</sup>	23	18
Ministry of Education	10	18
Department of Conservation	5	17
<b>Local authorities</b>		
Auckland Council	46	69
Auckland Transport	5	19
Christchurch City Council	14	15
<b>Other organisations state sector</b>		
Accident Compensation Corporation	72	77
Earthquake Commission	91	60
New Zealand Police	47	48
Health and Disability Commissioner	36	39
New Zealand Transport Agency	49	34
New Zealand Post Limited	18	25
Privacy Commissioner	19	24
Housing New Zealand Corporation	27	21

83 Totals are not included in some tables, where they are not relevant.

84 Includes 282 complaints concerning the Labour Group and Immigration New Zealand

85 Includes 76 Work and Income, 30 Child, Youth and Family and 7 StudyLink matters.

86 Includes 35 child support and 19 student loan matters.

87 Not including courts and tribunals.

How OA complaints were dealt with	2015/16	2016/17
Outside jurisdiction		
Agency not listed in schedule	219	211
Scheduled agency otherwise outside jurisdiction	94	43
<b>Subtotal</b>	<b>313</b>	<b>254</b>
Referred		
Referred to Health and Disability Commissioner	5	11
Referred to Independent Police Conduct Authority	27	36
Referred to Privacy Commissioner	26	14
<b>Subtotal</b>	<b>58</b>	<b>61</b>
No investigation undertaken		
Withdrawn by complainant or no response from complainant	106	77
Right of appeal to Court or Tribunal	124	88
Adequate alternative remedy – complain to agency first	748	940
Adequate alternative remedy – complaint referred to agency by Ombudsman	3	4
Adequate alternative remedy – recourse to other agency	32	20
Investigation unnecessary <sup>88</sup>	34	315
Out of time	5	6
Trivial, frivolous, vexatious or not in good faith	1	3
Insufficient personal interest	17	2
Explanation, advice or assistance provided	492	245
<b>Subtotal</b>	<b>1,562</b>	<b>1,700</b>
Resolved without investigation		
Remedial action to benefit complainant	67	67
Remedial action to improve state sector administration	-	3

88 The discretion to decline to investigate a complaint, on the basis that it is considered unnecessary, was added in March 2015.

How OA complaints were dealt with	2015/16	2016/17
Remedial action to benefit complainant and improve state sector administration	2	-
Provision of advice/explanation by agency or Ombudsman that satisfies complainant	17	13
<b>Subtotal</b>	<b>86</b>	<b>83</b>
Investigation discontinued		
Withdrawn by complainant or no response from complainant	22	6
Further investigation unnecessary	47	32
Agency to review	-	4
<b>Subtotal</b>	<b>69</b>	<b>42</b>
Resolved during investigation		
Remedial action to benefit complainant	29	38
Remedial action to improve state sector administration	-	2
Remedial action to benefit complainant and improve state sector administration	1	2
Provision of advice/explanation by agency or Ombudsman that satisfies complainant	1	2
<b>Subtotal</b>	<b>31</b>	<b>44</b>
Investigation finalised (final opinion formed)		
Administrative deficiency identified – recommendation/s	17	16
Administrative deficiency identified – no recommendation	11	32
No administrative deficiency identified	91	48
Issues cannot be determined	2	1
<b>Subtotal</b>	<b>121</b>	<b>97</b>
<b>Administration – adjustment</b>	<b>1</b>	<b>-</b>
<b>Under consideration at 30 June</b>	<b>542</b>	<b>430</b>
<b>Total</b>	<b>2,783</b>	<b>2,715</b>



Nature of deficiency identified where final opinion formed on OA complaints		2015/16	2016/17
Administrative deficiency in an individual case	Procedural deficiency	10	24
	Unreasonable, unjust, oppressive or discriminatory act, omission or decision	10	13
	Unreasonable delay	3	5
	Legal error	3	4
	Wrong action or decision	-	4
	Inadequate advice, explanation or reasons	7	1
	Factual error or mistake	2	1
	Unreasonable charge	-	1
Administrative deficiency in the agency or system of government	Flawed agency processes or systems	-	2
	Legislation: unreasonable or harsh impact or unintended consequences	-	2
	Government or agency policy: unreasonable or harsh impact	-	1
	Inadequate knowledge/training of staff	-	1

Nature of remedy obtained for OA complaints		2015/16	2016/17
Individual benefit	Decision changed	35	37
	Decision to be reconsidered	37	30
	Omission rectified	19	29
	Apology	19	20
	Reasons/explanation given	19	19
	Financial remedy	14	13
Public administration benefit	Change in practice/procedure	6	13
	Law/policy/practice/procedure to be reviewed	3	6
	Provision of guidance or training to staff	2	5
	Change in law/policy	1	1
	Provision of additional resources	-	1

## Official Information Act (OIA)

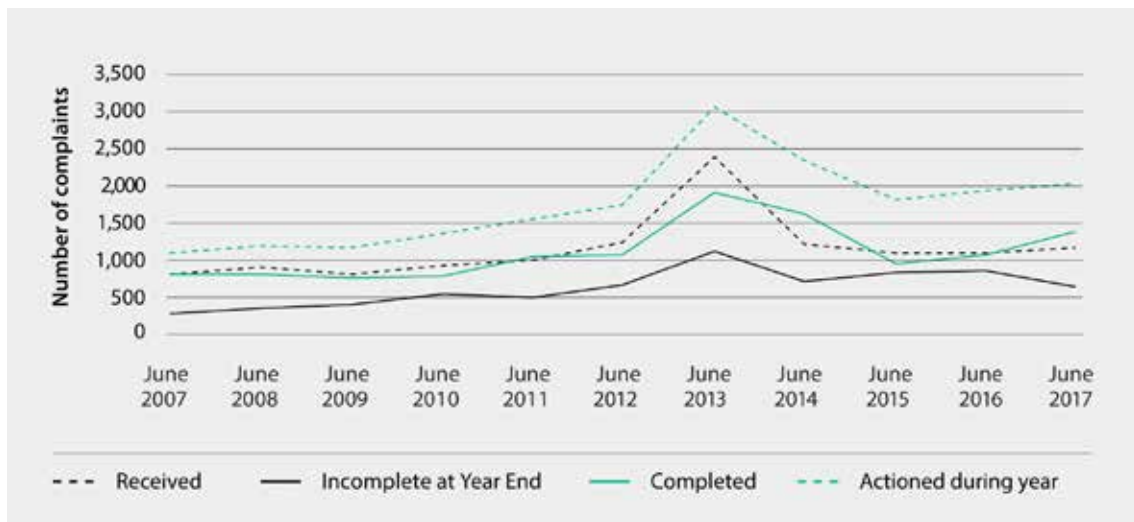


Figure 5: OIA complaints received and actioned over the past 10 years

Nature of OIA complaints made	2015/16	2016/17
Refusal – general information request	616	629
Delay in making decision	239	216
Incomplete or inadequate response	63	98
Refusal – personal information about individual	61	84
Extension	56	60
Delay in releasing information	10	19
Charge	13	14
Decision not made as soon as reasonably practicable	8	13
Manner or form of release	4	11
Refusal – statement of reasons	1	5
Neither confirm nor deny existence of information	-	5
Refusal – personal information about body corporate	4	2
Other	25	18
<b>Total</b>	<b>1,100</b>	<b>1,174</b>

OIA complaints received from	2015/16	2016/17
General public – individuals	676	721
Media	183	221
Political party research units	49	76
Prisoners and prisoner advocates	42	48
Special interest groups	2	39
Companies, associations and incorporated societies	81	35
Members of Parliament	40	16
Trade unions	-	12
Departments, government organisations and local authorities	7	4
Researchers	18	2
Other	2	-
<b>Total</b>	<b>1,100</b>	<b>1,174</b>

OIA complaints received against	2015/16	2016/17
Government departments	538	522
Other organisations state sector (all)	446	521
<i>District Health Boards</i>	48	64
<i>Boards of Trustees (schools)</i>	28	43
<i>Universities</i>	20	18
Ministers	98	117
Agencies not subject to jurisdiction	7	13
Not specified	11	1
<b>Total</b>	<b>1,100</b>	<b>1,174</b>

OIA complaints received – greater than or equal to 15 complaints	2015/16	2016/17
<b>Government departments</b>		
Department of Corrections	76	82
Ministry of Social Development	105	68
Ministry of Business, Innovation and Employment	37	61
Ministry for Primary Industries	39	46
Ministry of Justice	42	34
Ministry of Health	26	29
Oranga Tamariki, Ministry for Vulnerable Children	1	26
Ministry of Foreign Affairs and Trade	40	25
Department of Conservation	12	24
Ministry of Education	39	23
New Zealand Defence Force	22	22
Department of Internal Affairs	12	16
Inland Revenue Department	12	16
<b>Other organisations state sector</b>		
New Zealand Police	165	186
Accident Compensation Corporation	32	24
Earthquake Commission	19	24
Housing New Zealand Corporation	12	16

How OIA complaints were dealt with	2015/16	2016/17
<b>Outside jurisdiction</b>		
Agency not listed in schedule	20	16
Scheduled agency otherwise outside jurisdiction	45	58
<b>Subtotal</b>	<b>65</b>	<b>74</b>

How OIA complaints were dealt with	2015/16	2016/17
<b>Referred</b>		
Referred to Privacy Commissioner	75	92
<b>Subtotal</b>	<b>75</b>	<b>92</b>
<b>No investigation undertaken</b>		
Withdrawn by complainant or no response from complainant	148	158
Right of appeal to Court or Tribunal	1	-
Adequate alternative remedy – complain to agency first	5	5
Adequate alternative remedy – complaint referred to agency by Ombudsman	2	-
Adequate alternative remedy – recourse to other agency	2	7
Investigation unnecessary <sup>33</sup>	16	79
Out of time	3	1
Trivial, frivolous, vexatious or not in good faith	-	2
Explanation, advice or assistance provided	125	102
<b>Subtotal</b>	<b>302</b>	<b>354</b>
<b>Resolved without investigation</b>		
Remedial action to benefit complainant	94	124
Remedial action to improve state sector administration	1	-
Remedial action to benefit complainant and improve state sector administration	6	1
Provision of advice/explanation by agency or Ombudsman that satisfies complainant	31	42
<b>Subtotal</b>	<b>132</b>	<b>167</b>
<b>Investigation discontinued</b>		
Withdrawn by complainant or no response from complainant	39	61
Further investigation unnecessary	59	68
Agency to review	14	7
<b>Subtotal</b>	<b>112</b>	<b>136</b>

How OIA complaints were dealt with	2015/16	2016/17
<b>Resolved during investigation</b>		
Remedial action to benefit complainant	118	155
Remedial action to improve state sector administration	1	-
Remedial action to benefit complainant and improve state sector administration	11	1
Provision of advice/explanation by agency or Ombudsman that satisfies complainant	18	25
<b>Subtotal</b>	<b>148</b>	<b>181</b>
<b>Investigation finalised (final opinion formed)</b>		
Administrative deficiency identified – recommendation/s	17	21
Administrative deficiency identified – no recommendation	114	137
No administrative deficiency identified	118	208
<b>Subtotal</b>	<b>249</b>	<b>366</b>
<b>Other</b>	<b>1</b>	<b>5</b>
<b>Under consideration at 30 June</b>	<b>849</b>	<b>647</b>
<b>Total</b>	<b>1,933</b>	<b>2,022</b>

Nature of deficiency identified where final opinion formed on OIA complaints		2015/16	2016/17
Administrative deficiency in an individual case	Delay deemed refusal	87	113
	Refusal not justified – in part	24	23
	Refusal not justified – in whole	14	10
	Unreasonable extension	1	8
	Factual error or mistake	1	2
	Unreasonable charge	-	1
	Undue delay in releasing information	-	1
	Unreasonable delay	3	-
	Inadequate advice, explanation or reasons	1	-
	Procedural deficiency	1	-

Nature of remedy obtained for OIA complaints		2015/16	2016/17
Individual benefit	Decision changed	189	221
	Reasons/explanation given	58	96
	Decision to be reconsidered	40	51
	Omission rectified	28	35
	Apology	1	8
Public administration benefit	Change in practice/procedure	18	6
	Provision of guidance or training to staff	1	3
	Law/policy/practice/procedure to be reviewed	-	1

## Local Government Official Information and Meetings Act (LGOIMA)

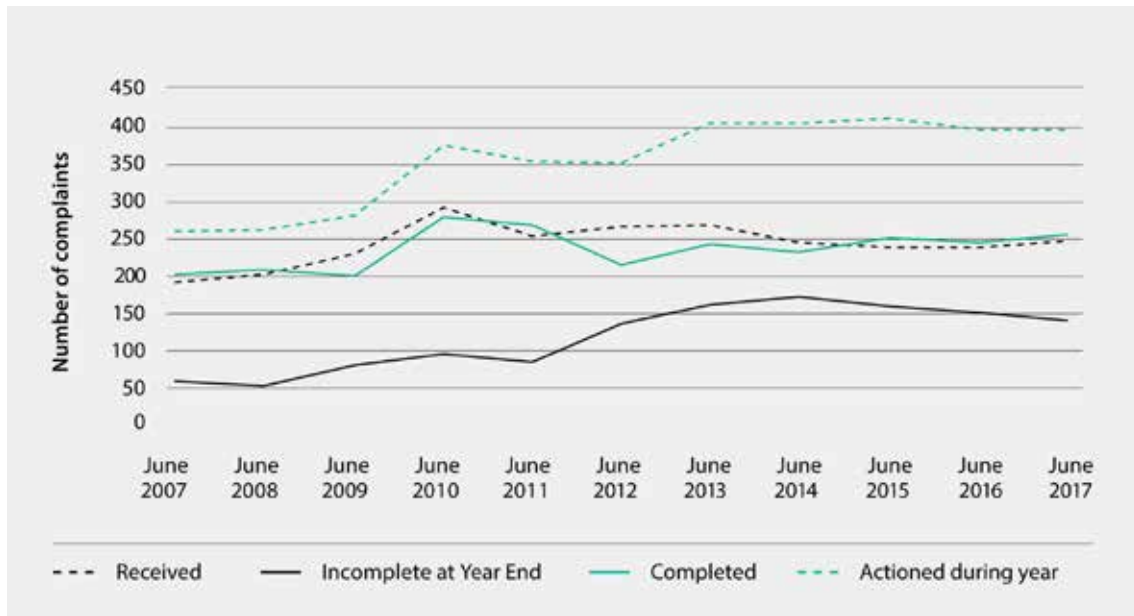


Figure 6: LGOIMA complaints received and actioned over the past 10 years

Nature of LGOIMA complaints made	2015/16	2016/17
Refusal – general information request	137	123
Delay in making decision	44	62
Incomplete or inadequate response	23	29
Charge	16	13
Delay in releasing information	5	7
Extension	5	6
Refusal – personal information about individual	2	4
Decision not made as soon as reasonably practicable	4	2
Manner or form of release	2	1
Refusal – statement of reasons	-	1
Other	2	-
<b>Total</b>	<b>240</b>	<b>248</b>



LGOIMA complaints received from	2015/16	2016/17
General public – individuals	192	169
Companies, associations and incorporated societies	26	14
Media	19	51
Trade unions	-	6
Special interest groups	-	5
Departments, government organisations and local authorities	-	2
Political party research units	-	1
Members of Parliament	2	-
Researchers	1	-
<b>Total</b>	<b>240</b>	<b>248</b>

LGOIMA complaints received against	2015/16	2016/17
District Councils	84	62
City Councils (not including Auckland Council)	75	93
<i>Christchurch City Council</i>	14	31
<i>Wellington City Council</i>	16	24
Auckland Council	31	39
Regional Councils	33	28
Council Controlled Organisations (including Auckland Transport)	16	25
<i>Auckland Transport</i>	9	16
Other	1	1
<b>Total</b>	<b>240</b>	<b>248</b>

How LGOIMA complaints were dealt with	2015/16	2016/17
Outside jurisdiction		
Agency not listed in schedule	1	1
Scheduled agency otherwise outside jurisdiction	7	9
<b>Subtotal</b>	<b>8</b>	<b>10</b>
Referred		
Referred to Privacy Commissioner	6	3
<b>Subtotal</b>	<b>6</b>	<b>3</b>
No investigation undertaken		
Withdrawn by complainant or no response from complainant	38	46
Adequate alternative remedy – complain to agency first	4	3
Adequate alternative remedy – recourse to other agency	1	-
Investigation unnecessary <sup>90</sup>	10	16
Out of time	-	1
Insufficient personal interest	-	1
Explanation, advice or assistance provided	33	12
<b>Subtotal</b>	<b>86</b>	<b>79</b>
Resolved without investigation		
Remedial action to benefit complainant	27	45
Remedial action to improve state sector administration	1	-
Remedial action to benefit complainant and improve state sector administration	1	1
Provision of advice/explanation by agency or Ombudsman that satisfies complainant	4	3
<b>Subtotal</b>	<b>33</b>	<b>49</b>
Investigation discontinued		
Withdrawn by complainant or no response from complainant	6	6

90 Above, n 88.

How LGOIMA complaints were dealt with	2015/16	2016/17
Further investigation unnecessary	6	7
Agency to review	3	2
<b>Subtotal</b>	<b>15</b>	<b>15</b>
Resolved during investigation		
Remedial action to benefit complainant	21	24
Remedial action to benefit complainant and improve state sector administration	1	2
Provision of advice/explanation by agency or Ombudsman that satisfies complainant	3	1
<b>Subtotal</b>	<b>25</b>	<b>27</b>
Investigation finalised (final opinion formed)		
Administrative deficiency identified – recommendation/s	9	10
Administrative deficiency identified – no recommendation	27	27
No administrative deficiency identified	38	38
<b>Subtotal</b>	<b>74</b>	<b>75</b>
<b>Under consideration at 30 June</b>	<b>153</b>	<b>142</b>
<b>Total</b>	<b>400</b>	<b>400</b>

Nature of deficiency identified where final opinion formed on LGOIMA complaints		2015/16	2016/17
Administrative deficiency in an individual case	Delay deemed refusal	22	34
	Refusal not justified – in part	4	3
	Refusal not justified – in whole	6	-
	Unreasonable delay	1	-
Administrative deficiency in the agency or system of government	Flawed agency processes or systems	1	-

Nature of remedy obtained for LGOIMA complaints		2015/16	2016/17
Individual benefit	Decision changed	43	54
	Reasons/explanation given	15	13
	Omission rectified	5	11
	Decision to be reconsidered	7	7
	Apology	-	1
Public administration benefit	Law/policy/practice/procedure to be reviewed	2	3
	Change in practice/procedure	1	1
	Provision of guidance or training to staff	1	1
	Change in law/policy	-	1

## Other contacts

Other contacts received about	2015/16	2016/17
Ombudsmen Act matters	7,740	6,580
Official Information Act matters	457	405
Agency requests for advice	198	196
Copy correspondence, material sent for information only	185	188
Requests for information held by the Ombudsman	135	179
Local Government Official Information and Meetings Act matters	76	45
Protected Disclosures Act matters	35	35
Consultation by review agency (Privacy Commissioner, Independent Police Conduct Authority, Health and Disability Commissioner)	- <sup>91</sup>	22
Crimes of Torture Act matters	4	10
Other	336	538
<b>Total</b>	<b>9,166</b>	<b>8,198</b>

91 Above, n 81.

Other contacts received from	2015/16	2016/17
General public – individuals	4,591	4,761
Prisoners and prisoner advocates	4,269	3,049
Departments, government organisations and local authorities	216	226
Media	35	64
Companies, associations and incorporated societies	31	40
Members of Parliament	5	5
Political party research units	3	7
Special interest groups	3	4
Researchers	1	9
Review agencies (Privacy Commissioner, Independent Police Conduct Authority, Health and Disability Commissioner)	1	22
Other	11	9
Ministers	-	2
<b>Total</b>	<b>9,166</b>	<b>8,198</b>

Other contacts concerned	2015/16	2016/17
Department of Corrections	4,494	3,362
Other government departments	1,183	1,322
Other organisations (state sector)	1,147	1,138
Agencies not subject to jurisdiction	939	686
Local authorities	432	417
Ministers	31	26
Not specified	940	1,247
<b>Total</b>	<b>9,166</b>	<b>8,198</b>

How other contacts were dealt with	2015/16	2016/17
No response required (including copy correspondence, FYI)	632	545
Individual advised to complain in writing/send relevant papers	571	461
Complain to agency first	2,819	3,207
Matter referred to agency by Ombudsman	298	36
Complain to other agency – Privacy Commissioner	91	99
Complain to other agency – Health and Disability Commissioner	177	109
Complain to other agency – Independent Police Conduct Authority	83	64
Complain to other agency – other	260	262
Explanation, advice or assistance provided	4,189	3,293
Resolved – remedial action to benefit individual	4	4
Resolved – provision of advice/explanation which satisfies individual	7	11
Withdrawn	21	26
Protected disclosures enquiry	32	29
Matter to be transferred to Ombudsman by other review agency	1	22
Under consideration at 30 June	15	45
<b>Total</b>	<b>9,200</b>	<b>8,213</b>

Nature of remedy obtained for other contacts		2015/16	2016/17
Individual benefit	Reasons/explanation given	5	4
	Omission rectified	2	1
	Decision changed	-	1
	Decision to be reconsidered	-	1
	Apology	-	1

# Geographical distribution of complaints and other contacts received in year to 30 June 2017

	Other contacts	OA	OIA	LGOIMA	Other work	All	All Last Year
Auckland	476	625	240	50	2	<b>1,393</b>	<b>1,870</b>
Bay of Plenty	28	61	23	7	0	<b>119</b>	<b>137</b>
Northland	66	85	18	17	0	<b>186</b>	<b>214</b>
Waikato	128	164	64	13	1	<b>370</b>	<b>483</b>
Taranaki	22	40	11	1	0	<b>74</b>	<b>61</b>
Hawke's Bay	56	43	11	6	0	<b>116</b>	<b>167</b>
Manawatu/ Whanganui	94	64	34	3	0	<b>195</b>	<b>291</b>
Wairarapa	22	15	12	3	0	<b>52</b>	<b>53</b>
East Cape	9	15	9	4	0	<b>37</b>	<b>36</b>
Wellington	349	226	351	66	5	<b>997</b>	<b>1,068</b>
<b>Total North Island</b>	<b>1,250</b>	<b>1,338</b>	<b>773</b>	<b>170</b>	<b>8</b>	<b>3,539</b>	<b>4,380</b>
Nelson/Marlborough	44	55	17	12	0	<b>128</b>	<b>120</b>
Dunedin	27	36	23	4	0	<b>90</b>	<b>95</b>
Otago	26	48	14	5	0	<b>93</b>	<b>144</b>
Southland	15	30	9	4	0	<b>58</b>	<b>82</b>
Canterbury	60	61	25	8	0	<b>154</b>	<b>201</b>

	Other contacts	OA	OIA	LGOIMA	Other work	All	All Last Year
Christchurch	156	190	124	29	0	<b>499</b>	<b>580</b>
Westland	13	23	7	5	0	<b>48</b>	<b>65</b>
Chatham Islands	0	1	1	0	0	<b>2</b>	<b>1</b>
<b>Total South Island</b>	<b>341</b>	<b>444</b>	<b>220</b>	<b>67</b>	<b>0</b>	<b>1,072</b>	<b>1,288</b>
Location not known	6,525	424	192	21	2	<b>7,164</b>	<b>6,817</b>
Overseas	157	114	12	1	0	<b>284</b>	<b>269</b>
<b>Total</b>	<b>8,273</b>	<b>2,320</b>	<b>1,197</b>	<b>259</b>	<b>10</b>	<b>12,059<sup>90</sup></b>	<b>12,754</b>

92 Complaints and other contacts may be made jointly with other persons. As a consequence, the number of complaints and other contacts recorded on the basis of region exceeds the number of issues that were the subject of a complaint or other contact



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# Directory

## Legal authorities for establishing the Office of the Ombudsman

Ombudsmen are appointed pursuant to sections 8 and 13 of the Ombudsmen Act 1975 and report annually to Parliament pursuant to this Act and the Public Finance Act 1989. Ombudsmen are Officers of Parliament pursuant to section 3 of the Ombudsmen Act 1975 and the Public Finance Act 1989.

## Contacting the Ombudsman

Free phone: 0800 802 602

[www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

Email: [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz)

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Fax: 04 471 2254

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### **Christchurch**

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### **Auckland**

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# Ombudsman

