





Mr Speaker

We submit to you our report for the year 1 July 2011 to 30 June 2012.

**Dame Beverley Wakem DNZM, CBE**  
Chief Ombudsman

**Dr David McGee CNZM, QC**  
Ombudsman

2011/12

Report of the Ombudsman

Tari o te Kaitiaki Mana Tangata

for the year ended 30 June 2012

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

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# Part 1

## 2011/12 at a glance

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## Overview

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- Received 10,636 complaints and other contacts, an increase of 22 per cent on 2010/11 numbers
- Received 443 complaints and other contacts about the Earthquake Commission, up from 12 in 2009/10 and 77 in 2010/11
- Completed 10,250 complaints and other contacts, an increase of 13 per cent on 2010/11 numbers
- Finished the year with 1,746 complaints and other contacts on hand, up from 1,359 the previous year
- Struggled to meet some timeliness targets, given the volume of work on hand
- 55% of complainants satisfied with our standard of service
- 73% of agencies satisfied the Ombudsmen's views are fair

## Ombudsmen Act (OA)

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- Received 8,950 OA complaints and other contacts
- Completed 8,784 OA complaints and other contacts, an increase of 19 per cent from the previous year
- Resolved 508 cases
- Provided advice and assistance in 2,896 cases
- Formally investigated 452 cases, and formed final opinions in 221 cases
- Identified administrative deficiency in 58 cases, or 13 per cent of all complaints formally investigated
- Obtained remedies for the benefit of the individual concerned in 481 cases
- Obtained remedies for the benefit of public administration in 24 cases
- Made recommendations in 7 cases
- Visited each of the 19 prisons 5 times
- Monitored investigations into 27 deaths in custody
- Assessed 58 serious incidents in prisons for further investigation, commencing investigations in 10 cases, and concluding investigations in 15 cases.

## Official information (OIA and LGOIMA)

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- Received 1,236 OIA complaints, an increase of 25 per cent on 2010/11 numbers, and the highest number since 2000/01
- Received 268 LGOIMA complaints
- Significant increase in delay complaints
- Completed 1,293 cases
- Resolved 410 cases
- Investigated 797 cases, and formed final opinions in 362 cases
- Identified administrative deficiency in 146 cases, or 18 per cent of all cases formally investigated
- Obtained remedies for the benefit of the individual concerned in 438 cases
- Obtained remedies for the benefit of public administration in 10 cases
- Made recommendations in 17 cases



## Crimes of Torture Act

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- Visited 70 places of detention, including 24 formal inspections
- Made 36 recommendations for improvement, 33 of which were accepted
- Reported back to all places of detention within 3 months of conducting a visit, exceeding our target of doing so in 95 per cent of all cases

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

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- Developed a joint monitoring framework with the New Zealand Convention Coalition and the Human Rights Commission
- Received 30 complaints and other contacts which raised issues relevant to the Disabilities Convention
- Scoped an investigation into prison mental health services

## Policy and professional practice

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- Advised on 31 legislative, policy and administrative proposals relevant to the Ombudsmen's jurisdiction
- Made and published submissions on the Mixed Ownership Model Bill and the Corrections Amendment Bill
- Provided informal advice on approximately 100 occasions to state sector agencies, mainly in relation to the processing of official information requests
- Advised on 24 applications to the Secretary of Transport for authorised access to personal information on the motor vehicle register
- Conducted 12 workshops and training seminars for state sector agencies, and delivered 23 presentations, on the role of the Ombudsmen and the operation of the official information legislation
- Began publishing topic guides and Ombudsman opinions on our website



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# Part 2

## Introduction

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## Introduction

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Dame Beverley Wakem DNZM, CBE  
Chief Ombudsman



Dr David McGee CNZM, QC  
Ombudsman

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In many ways, 2011/12 was a watershed year for us.

We received and completed the highest ever number of complaints and other contacts concerning state sector agencies. In particular, we managed a significant increase in official information complaints and complaints relating to the Earthquake Commission.

We also finalised a major review of our purpose and strategic direction, establishing a strong outcomes framework to direct and focus our work towards the outcomes and impacts we are seeking to achieve. The results of this work can be seen in our 2012/15 *Statement of Intent*.

We have defined our purpose as the following:

*"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".*

The overall outcome we are seeking to achieve is that *"A high level of public trust in government is maintained"*. The impacts we want to have are:

- improved administration and decision making in state 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.

In 2011/12, we completed our second survey of the complainants and agencies that we interact with, enabling us for the first time to compare feedback over time on the service we provide. We also undertook our first nationwide public awareness survey, to gauge the level of awareness of our service in the community. Pleasingly, this survey found 69 per cent of the New Zealand public had heard of the Ombudsman.

Our work monitoring and inspecting places of detention under the Crimes of Torture Act fully matured this year, with scoping visits to some of the 161 aged care facilities with dementia units that we have identified as possibly coming within our jurisdiction, and the international community increasingly looking to benefit from our experience in this area as a whole. We also completed scoping our role as an independent mechanism protecting and monitoring implementation of the *United Nations Convention on the Rights of Persons with Disabilities*, establishing a joint monitoring and reporting framework with the other independent mechanisms (the New Zealand Convention Coalition and the Human Rights Commission).





We have reviewed our work processes in light of the pressures we are facing, and we have developed better and smarter ways to manage our work in a process of *continuous practice improvement*. We have identified ways to make our complaints handling process more effective and efficient, which will enable us to:

- cope better with the complaints we have on hand; and
- identify and address wider systemic issues in the state sector in a more focused and systematic way.

We also continued work on a major consolidation of our human resources policies and procedures, and progressive implementation of a revised performance review and professional development system for staff.

We have improved our data collection this year. We treat matters as formal “*complaints*” once they have been put in writing. However, we also deal with a large number of oral complaints and enquiries from members of the public, mainly over the telephone or by prison visit, 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. For the first time in the 2011/12 year, we have:

- recorded data about complaints and other contacts separately; and
- collected more detailed data as to the nature and outcome of the complaints and other contacts we have dealt with.

This has enabled us to better demonstrate the types of administrative deficiencies we are identifying in the state sector, as well as the outcomes we are achieving for the benefit of both individual complainants and public administration as a whole. By contributing to wider administrative improvement in the state sector, we can help to reduce downstream costs overall, caused by poor decision making and ineffective administrative processes.

Following the review of our purpose and strategic direction, we also worked over the reporting year on repositioning the Ombudsman as a “*modern, independent New Zealand authority, that is agile, proactive and approachable*”. We began publishing topic guides and Ombudsman opinions on our website, which articulate principles of general application in relation to frequently recurring or significant issues. We also developed a new Ombudsman identity and website, with the launch in August 2012. Our work in this area reflects the fact that the way complainants find out about and interact with us is changing, with increasing use of new technology, including internet and email. Fifty-nine per cent of complainants we surveyed in 2011/12 had visited our website. This accords with our nationwide public awareness survey which showed that 77 per cent of people would use the internet to find out what we do.

Our new website has been designed to both:

- inform the public about our role, when we can help and to make it easy to approach us; and
- provide a platform to build resources and guidance for both the public and state sector agencies.

We completed or continued work this year on a number of major investigations targeted at significant or systemic issues, including:

- prisoner health services;
- school bullying;
- decision making by Immigration New Zealand around Pacific residence quotas;
- requests for information concerning the mixed ownership model; and
- requests for lists of reports sent by agencies to Ministers.



In addition, a number of cases we considered raised issues around effective complaints handling in the first instance by state sector agencies. We have worked to provide guidance to agencies in this area. We have also explored new ways of handling complaints ourselves, particularly where a large number of complaints received in a particular area meant that we needed to develop structured and systematic ways to resolve complaints quickly and in a way that meets the needs of complainants, but with the least impact on both our own and agency resources.

We have spent 2011/12 setting up new workflow structures that will allow us to more easily move staff resource to an area of identified need. We are establishing formal early assistance and early resolution processes within dedicated teams, with a view to dealing with complaints more effectively and efficiently. This approach is already paying off, allowing us to cope better with the unprecedented levels of complaints and other contacts received this year. However, the pressure on staff remains intense and is unsustainable in the long run.

We are also taking a planned, strategic approach in particular sectors, in order to identify issues and areas for development and to ensure a consistent and well-managed approach by staff working in each area. In addition, we are examining ways in which we can more effectively contribute to wider administrative improvement in the state sector. In 2011/12, we continued our well-regarded training programme for state sector agencies and we provided advice and comment on legislative, policy and procedural matters. We also reviewed our structure to allow for the appointment of a Senior Advisor with a specific focus on investigations of significant or systemic issues to promote wider administrative improvement.

Overall, this year has been one of growth and change, leaving us better placed to meet the challenges of the future and provide effective interventions to improve public administration and ensure people are treated fairly in New Zealand.

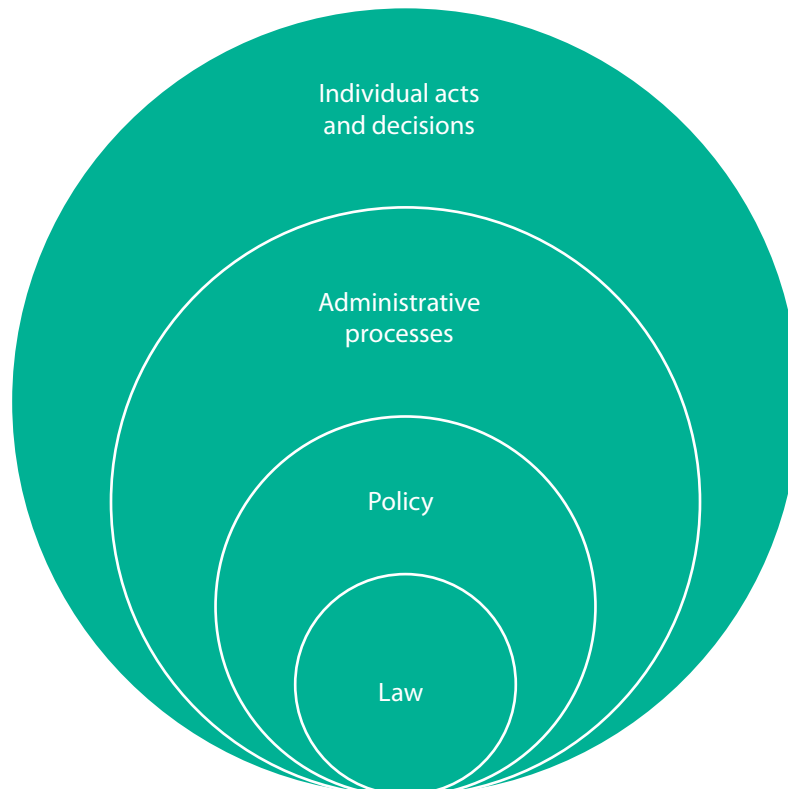
However, we are still significantly under resourced. Whilst we have managed to increase our throughput to deal with the increasing number of complaints and other contacts we are receiving, we are struggling to meet some of our timeliness targets and there has been an impact in terms of the work we have on hand at any one time. This has risen from around 1,000 complaints and other contacts in 2008/09 to around 1,700 today. We currently have approximately 300 complaints on hand that we do not have the resources to immediately progress. We do keep these matters under review so that anything that becomes urgent can be given priority.

The current work pressure we are facing has led to a declining satisfaction with our service in survey results. Expectations of our service are also changing. Complainants expecting a good standard of service before they approached us rose from 88 per cent in 2008/09 to 92 per cent in 2011/12. We have been able to meet many of these expectations in terms of the quality of our communication, with 70 per cent of complainants agreeing in 2011/12 that we are easy to understand. However, there is less satisfaction with our timeliness in responding, with only 53 per cent of complainants agreeing in 2011/12 that we are timely. Overall satisfaction with our standard of service has dropped, from 66 per cent in 2008/09 to 55 per cent in 2011/12.

Complainant's concerns are reflected in the responses from state sector agencies, with 88 per cent of agencies surveyed in 2011/12 satisfied with our communication overall, but only 37 per cent of agencies agreeing that we provide timely responses. However, the proportion of agencies satisfied the Ombudsmen's views are fair has remained relatively steady, moving from 76 per cent in 2008/09 to 73 per cent in 2011/12.



In spite of the challenges we face, we believe we have nonetheless continued to make a real difference in maintaining a high level of public trust in government. There is no doubt that we could do even better with adequate resources. This annual report illustrates some of the cases where the intervention of the Ombudsman has resulted in changes for the better or improvement in the fair, just and transparent delivery of services to the public. This is undoubtedly the area where we can make our best contribution.



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*Figure 1: What can our interventions influence in the state sector?*



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# Part 3

## Background

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## Nature and scope of the Ombudsman's functions

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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 state sector agencies, and provide advice and guidance, in order to ensure people are treated fairly in New Zealand.

### Legislative functions

Our main functions under legislation are to:

- investigate state sector administration and decision making under the Ombudsmen Act 1975;
- investigate and review decisions made on requests to access official information under the Official Information Act 1982 and the Local Government Official Information and Meetings Act 1987;
- deal with requests for advice and guidance about alleged serious wrongdoing under the Protected Disclosures Act 2000;
- monitor and inspect places of detention for cruel and inhumane treatment under the Crimes of Torture Act 1989; and
- provide comment to the Ministry of Transport on applications for authorised access to personal information on the motor vehicle register under section 241 of the Land Transport Act 1998.

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

#### **What is the state sector?**

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

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



## International responsibilities

Two of our functions have international responsibilities. We carry out our function to monitor and inspect places of detention under the Crimes of Torture Act as a *National Preventive Mechanism*. The Crimes of Torture Act fulfils New Zealand's responsibilities under the *United Nations Optional Protocol to the Convention Against Torture*.

We are also an *Independent Mechanism* protecting and monitoring the implementation of the *United Nations Convention on the Rights of Persons with Disabilities* (the Disabilities Convention). We carry out this role by investigating relevant state sector administrative conduct.

## Other functions

To complement and support our main functions under legislation, we are increasingly taking steps to:

- provide advice and guidance to state sector agencies in order to improve state sector capability in areas relevant to our role; and
- improve public awareness and accessibility of our services.

## Outcomes and impacts sought by the Ombudsman

Our strategic direction is:

- guided by the legislative functions assigned to us by Parliament; and
- informed by the current environment and the Government's strategic direction.

In essence, our functions cover a range of key democratic 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.



Figure 2: The overall impact of our work

Our Outcomes Framework on page 16 demonstrates the linkages between the services we deliver through our outputs, and the outcomes and impacts we are seeking to achieve. In essence, there are 6 areas of work that we carry out in order to achieve these outcomes and impacts.

## Deal effectively and efficiently with concerns about state sector administrative and decision making processes

We seek to improve administrative and decision making practices in state sector agencies, primarily by undertaking investigations under the Ombudsmen Act. This may be on complaint or on the Ombudsman's own motion, particularly where systemic or wider public interest issues are raised.



We have particular responsibilities in the corrections sector and in relation to people with disabilities. In the corrections sector, we monitor all death in custody investigations conducted by the Department of Corrections and we investigate selected serious incidents in prisons. In relation to people with disabilities, we investigate issues relating to the implementation of the Disabilities Convention.

### **Deal effectively and efficiently with official information complaints**

We seek to increase transparency, accountability and public participation in government decision making, primarily by undertaking investigations and reviews to ensure compliance with the official information legislation.

### **Deal effectively and efficiently with requests for advice and guidance about serious wrongdoing**

We perform advisory, referral and investigative functions under the Protected Disclosures Act 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.

### **Effective monitoring of places of detention**

We seek to ensure humane treatment of people in detention 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 the Ombudsman's jurisdiction**

Although investigation is one way of driving improvement in state 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:

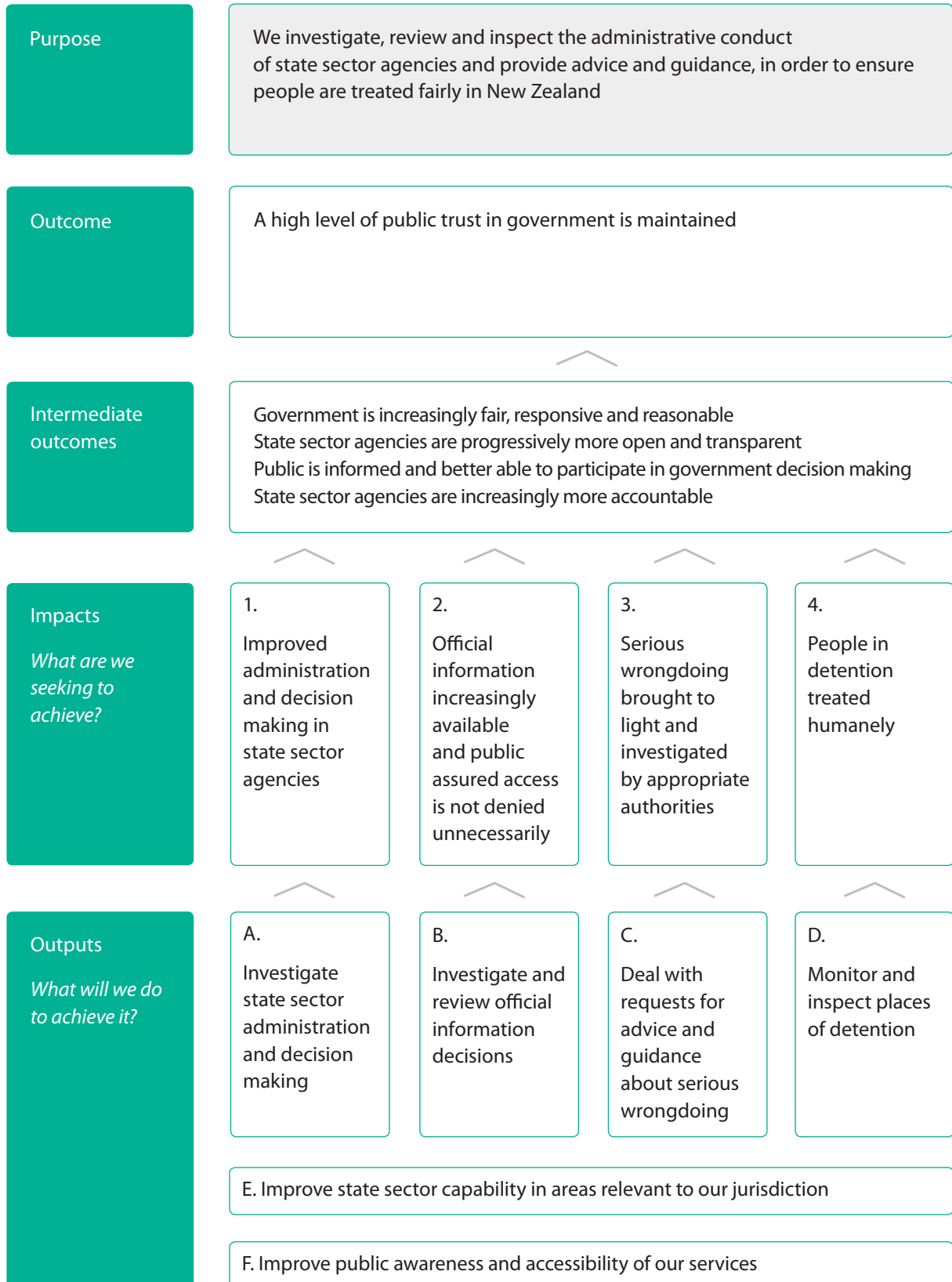
- reviewing and commenting on legislative, policy and procedural matters to ensure they:
  - › reflect good administrative practice;
  - › promote good decision making; and
  - › are consistent with the principles of open and transparent government; and
- providing advice, guidance and training to state sector agencies to help them:
  - › develop and implement good administrative and complaints handling practices; and
  - › comply with their obligations under the official information legislation.

### **Improve public awareness and accessibility of the Ombudsman's services**

We aim to improve public awareness of our role, and make access to our service 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 information and resources electronically.



## Ombudsman outcomes framework







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## Part 4

# Report on operations

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# Ombudsmen Act

In this section we give an overview of our complaints handling work under the Ombudsmen Act (OA), including responding to other contacts,<sup>1</sup> and discuss the following issues:

- ACC functional capacity evaluations
- Work in the Corrections sector
- Complaints against the Earthquake Commission
- Work in the education sector
- A change to District Inspector of Mental Health complaint handling guidelines
- Complaints against Immigration New Zealand
- Workplace accident investigation
- Local government development contributions
- Changes to the age for driver licence testing
- Veterans' Affairs claim handling process

## Overview

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### The numbers

We received 8,950 OA complaints and other contacts in 2011/12. This is more than in previous years, with:

- 7,118 OA complaints and enquiries received in 2010/11;
- 8,488 received in 2009/10; and
- 7,615 received in 2008/09.

The increase can be explained in part by the significant increase in OA complaints and other contacts received against the Earthquake Commission, which rose to 389 in 2011/12, from only 10 in 2009/10 and 72 in 2010/11. The remaining increase of 1,443 complaints and other contacts was spread over multiple agencies and a diverse range of issues.

We completed 8,784 OA complaints and other contacts in 2011/12, an increase of 19 per cent over the previous year. This enabled us to finish the reporting year with 904 OA complaints and other contacts on hand, compared with 741 the previous year. Detailed statistics can be found at page 115.

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<sup>1</sup> We treat matters as formal “complaints” once they have been put in writing. However, we also deal with a large number of “other contacts”, including oral complaints and enquiries from members of the public, mainly over the telephone or by prison visit, prior to a complaint being made to us in writing. For the first time in the 2011/12 year, we have recorded data about complaints and other contacts separately. We no longer record separate data about enquiries, as these are a sub-set of other contacts. For the 2011/12 year, we discuss other contacts received in conjunction with OA complaints, as this provides the best basis for comparison with previous reporting years.



## The complainants

The OA is overwhelmingly used by individual members of the public, even though corporate entities are equally entitled to do so. This reflects the intent of the legislation, which is to provide recourse for people personally affected by the administrative conduct of state sector agencies. In 2011/12, 96 per cent of OA complaints came from individual members of the public. Thirty-four per cent of OA complaints were from prisoners or prisoner advocates,<sup>2</sup> and 63 per cent were from other members of the public. Only 3 per cent of OA complaints were made by corporate entities and special interest groups.

In terms of other contacts, 95 per cent came from individual members of the public. Fifty-three per cent of other contacts were from prisoners or prisoner advocates,<sup>3</sup> and 42 per cent were from other members of the public. The higher proportion of other contacts received from prisoners reflects the fact that many matters of concern to prisoners are raised with us and resolved immediately by telephone or prison visit.

## The agencies

Most OA complaints (58 per cent) were made against central government departments. Twenty-seven per cent of OA complaints were made against other state sector agencies, and 14 per cent were made against local organisations.

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 Department of Labour<sup>4</sup> (Immigration New Zealand), the Earthquake Commission, the Ministry of Social Development, the Inland Revenue Department and the Accident Compensation Corporation.

Most other contacts (68 per cent) also concerned central government departments. Fifty-six per cent of other contacts concerned the Department of Corrections. This shows that dealing with prisoner matters is a large part of the work we do in responding to and resolving matters by telephone. Fourteen per cent of other contacts concerned other state sector agencies, and 6 per cent concerned local organisations. Dealing with other contacts is less resource intensive than dealing with the complaints we receive, but we are still able to provide effective assistance and resolution of concerns.

## The outcomes

Not all OA complaints we receive are formally investigated. In 757 cases (24 per cent of the total under action during 2011/12) our role was to provide an explanation, advice or assistance to complainants about the most appropriate way of addressing their concerns. We advised complainants in 504 cases<sup>5</sup> to raise their complaint with the state sector agency of concern in the first instance. We also declined to investigate in 189 cases<sup>6</sup> where there was another remedy or right of appeal available to the complainant. A further 81 complaints were not within our jurisdiction.

We were able to resolve 261 complaints;<sup>7</sup> in 155 cases before investigation and in 106 cases during an investigation.

<sup>2</sup> Not all against the Department of Corrections.

<sup>3</sup> Not all against the Department of Corrections.

<sup>4</sup> Now part of the Ministry of Business, Innovation and Employment.

<sup>5</sup> 16 per cent.

<sup>6</sup> 6 per cent.

<sup>7</sup> 8 per cent.



We commenced formal investigations in 452 cases,<sup>8</sup> and we formed final opinions in 221 cases. In 159 of the cases where we formed a final opinion, we identified no administrative deficiency. In another 4 cases we were not able to identify sufficient evidence to form an opinion one way or another. In only 58 cases (13 per cent of all those formally investigated), did we identify administrative deficiency by the state sector agency that was the subject of complaint. We made formal recommendations in 7 cases. Six recommendations were accepted, and in 1 case we are awaiting a response from the agency concerned as to whether the recommendation is accepted.

In terms of other contacts, we provided an explanation, advice or assistance in 2,139 cases (33 per cent of the total under action during 2010/11). We advised individuals in 2,106 cases<sup>9</sup> to raise their complaint with the state sector agency of concern in the first instance. We referred individuals to other complaint agencies in 704 cases,<sup>10</sup> including the Privacy Commissioner, Health and Disability Commissioner and Independent Police Conduct Authority. We referred 398 cases<sup>11</sup> directly to a state sector agency for consideration by that agency, and we invited 486 individuals<sup>12</sup> to make a complaint to us in writing. We were able to resolve 247 cases<sup>13</sup> as a result of direct informal inquiries with the state sector agencies concerned.

### The administrative deficiencies identified

As noted above in the Introduction (see page 9), for the first time this reporting year we recorded the nature of the administrative deficiencies we identified, as well as the remedies that we obtained. In relation to the OA complaints where we formed a final opinion, we identified:

- 25 cases where there were procedural deficiencies;
- 14 unreasonable, unjust, oppressive or discriminatory acts, omissions or decisions;
- 9 instances of inadequate advice, explanation or reasons;
- 5 cases where there were flawed agency processes or systems;
- 3 cases of unreasonable delay;
- 2 cases of legal error;
- 2 cases of unprofessional behaviour or misconduct by an official; and
- 4 cases where the act or decision was just plain “*wrong*”.

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8 14 per cent.

9 32 per cent.

10 11 per cent.

11 6 per cent.

12 7 per cent.

13 4 per cent.



## The remedies obtained

The remedies we obtained for complainants in cases that were both investigated, and resolved informally without investigation, included:

- 93 cases where an omission was rectified;
- 74 cases where a decision was changed;
- 46 cases where reasons or an explanation for a decision was given;
- 31 cases where a decision was reconsidered;
- 30 cases where a financial remedy was provided; and
- 12 cases where an apology was given.

We also obtained a public administration benefit in 21 cases, with:

- a change in practice or procedure in 11 cases;
- a change in law or policy in 2 cases;
- agency agreement to review a law, policy, practice or procedure in 6 cases; and
- the provision of guidance or training to agency staff in 2 cases.

The remedies we obtained for individuals in relation to other contacts included:

- 84 cases where an omission was rectified;
- 49 cases where reasons or an explanation for a decision was given;
- 44 cases where a decision was changed;
- 10 cases where a decision was reconsidered;
- 6 cases where a financial remedy was provided; and
- 2 cases where an apology was given.

We also obtained a public administration benefit in 3 other contacts, with:

- a change in practice or procedure in 1 case; and
- the provision of guidance or training to staff in 2 cases.

The data supports our experience that state 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.



## Timeliness

This was our second year reporting against new and more meaningful timeliness targets. Given the large volume of work received in the reporting year, we struggled to meet some of our timeliness targets for OA complaints, closing or completing:

- 49 per cent of complaints outside our jurisdiction within 1 month of receipt (*target 90 per cent*);
- 86 per cent of complaints that we declined to investigate or resolved informally within 3 months of receipt (*target 90 per cent*); and
- 64 per cent of all other investigations within 12 months of receipt (*target 70 per cent*).

However, we exceeded our targets in other areas, completing:

- 93 per cent of urgent investigations within 4 months of receipt (*target 70 per cent*); and
- 100 per cent of non-urgent but high public interest investigations within 6 months of receipt (*target 70 per cent*).

## Issues arising

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### ACC functional capacity evaluations

During the reporting year the Ombudsman completed an investigation into a request by the Accident Compensation Corporation (ACC) for a complainant to undergo a “*functional capacity evaluation*” (FCE). A FCE is a structured process of observing and measuring an individual performing tasks in order to identify performance deficits and safety issues, functional abilities, strengths, skills and capacity.

The complainant was concerned that she had been required to undergo a FCE in order to assess her capacity to work, contrary to a recommendation made in 2003 by former Ombudsman Mel Smith, that ACC should not require claimants to undergo FCEs as part of an assessment of capacity to work. Following investigation, the Ombudsman formed the opinion that ACC had not acted unreasonably, accepting ACC’s assurance that in accordance with Mr Smith’s earlier recommendation, ACC only asks claimants to undergo FCEs to assist with their rehabilitation.

The complainant also raised concerns that it was medically unsafe for her to undergo the FCE and ACC had failed to put in place adequate measures to ensure her safety. In this respect, as a result of the Ombudsman’s investigation, ACC advised it had taken the following measures to improve its processes in this respect:

- ACC discusses with a claimant any proposal that they undergo a FCE;
- ACC ensures in every case that the claimant’s GP or health professional is consulted prior to ACC requesting a FCE;
- if the claimant’s GP or health professional considers they should not undergo a FCE, ACC will not require this;
- ACC requires FCE providers to advise claimants they may stop a FCE at any time, to contact claimants 2 or 3 days after a FCE to ensure the claimant has not been adversely affected, and to report to ACC if the claimant has sustained increased pain levels following a FCE; and
- ACC provides a copy of the FCE report to the claimant as a matter of course.



In light of this advice from ACC, the Ombudsman concluded that ACC was not acting unreasonably in requesting claimants to undergo FCEs.

ACC also advised that it would be reviewing the reliability and validity of FCEs. However, ACC has since advised that the review did not take place as it was not included in the ongoing review of Vocational Rehabilitation Services.

## Work in the Corrections sector

### Complaints and other contacts

OA complaints and other contacts concerning the Department of Corrections (Corrections) continued to account for a significant proportion of our overall workload, in terms of numbers. In the 2011/12 year we:

- received 848 and closed 885 OA complaints concerning Corrections; and
- received 3,634 and closed 3,595 other contacts concerning Corrections.

The complaints and other contacts were predominantly from or on behalf of prisoners.

Nearly all OA complaints concerning Corrections (830), were dealt with by our Prison Investigators. The majority of other contacts concerning Corrections (2,529), were quickly dealt with by our Early Assistance Team over the telephone. Another 1,047 other contacts were dealt with by our Prison Investigators, mainly on the spot during prison visits.

Each prison was visited 5 times during the reporting year, giving prisoners the opportunity to discuss matters face-to-face with Prison Investigators. The most common concerns related to:

- prisoner property (15 per cent);
- prisoner health services (10 per cent);
- prisoner transfers and movements (10 per cent);
- communications (8 per cent);
- staff conduct and attitudes (7 per cent);
- discipline and misconduct (6 per cent);
- prisoner welfare (5 per cent); and
- prison conditions (5 per cent).

### Own motion investigations

Because of the number of complaints we receive about Corrections, there is often real value to be gained by investigating significant and systemic issues of our *“own motion”*.

#### PRISONER HEALTH SERVICES

In 2011/12 the Ombudsmen jointly completed a major investigation concerning the *Provision, Access and Availability of Prisoner Health Services*.

The investigation did not arise from specific incidents within the prison system, nor from the number of complaints we receive from prisoners. Rather, we considered that health services are so fundamental to the general welfare of prisoners that they merited examination as part of our general oversight of prison administration.



Many prisoners come from deprived backgrounds and have had less exposure and access to healthcare than the rest of the population, despite having a significantly higher incidence of mental health and drug and alcohol problems. Thus, we felt it was important, in the public interest, to identify whether or not prisoners receive medical treatment that is reasonably necessary, and whether or not the standard of healthcare provided is reasonably equivalent to the standard of healthcare members of the public can expect.

The main focus of Corrections is the “*safe and humane containment*” of prisoners. We felt that it was important to examine how effective the delivery of health services to prisoners is within a restrictive environment where security concerns and risk management, rather than individual health needs, take priority.

Corrections is funded to provide a primary healthcare service to prisoners that is reasonably equivalent to that provided to members of the wider community. Services are primarily delivered by departmental nurses with additional services being contracted. Contracted services may include Medical Officers and dentists.

The investigation identified that prisoners have reasonable access to health services and generally receive healthcare equivalent to members of the wider community. However, the service is not without its problems and in the future it may not be able to meet effectively the healthcare needs of the diverse prison population.

The primary issues that the Ombudsmen identified in the investigation related to:

- no requirement for external accreditation of prison health services;
- inadequate recording of requests to access health services, waiting times and health related complaints;
- wastage of medication and inconsistency in arrangements for prisoners who self-administer medication;
- funding issues for training of nurses and the unnecessary use of nurses’ time for some matters;
- a need for training in the use of Automated External Defibrillators;
- inadequate resourcing of dental services compared to need;
- a need for consultation with health services staff regarding the transfer of prisoners;
- a need for refurbishment or replacement of some prison health centres;
- a need for some prison health services to be better equipped;
- deficiencies in the management of mentally unwell prisoners;
- concerns with the management of at risk prisoners;
- concerns with the current policy regarding placement of transgender prisoners; and
- consideration of future options for the funding and delivery of health services by an agency whose primary focus is health and therapeutic support.

Following the investigation, the Ombudsmen made 21 suggestions for Corrections to consider, together with 31 recommendations for improvement.

Corrections is working through the recommendations and will be reporting to us by the end of September 2012 on the progress made.

Our discussion with Corrections regarding the treatment of transgender prisoners is of particular note. Corrections considers that unless a prisoner has completed gender reassignment surgery, the prisoner, if born male, must be placed in a male prison. Similarly, if a prisoner is born female they must be placed in a female prison.





The Ombudsmen recommended that for transgender prisoners who have not completed sexual reassignment, consideration should be given to their placement in a women's prison, if it is their wish to do so.<sup>14</sup>

Initially, Corrections did not accept this recommendation. We advised Corrections that we did not consider the current policy adequately reflected the expectation that transgender prisoners should be treated with dignity, or acknowledged prisoner's gender identity.

After our report was tabled in Parliament, a meeting was held between the Chief Executive of Corrections and the Ombudsmen. At that time Corrections agreed to review its policy regarding transgender prisoners.

The full report of our investigation can be found at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

As a result of our investigation, and the deficiencies identified in the management of mentally unwell prisoners, we intend to commence a further investigation of prison mental health services. We are currently in the process of scoping that investigation, as discussed below in further detail at page 59.

#### DISPOSABLE SAFETY RAZORS

In our previous annual report for the 2010/11 year, we reported the outcome of an investigation by the Ombudsman into Corrections' disposable safety razors policy. Following that investigation, the Ombudsman found inconsistencies in how the policy had been implemented across prisons, and considered that insufficient practical guidance had been provided to staff. He recommended a review of best practice regarding the issue and collection of razors, and the provision of further advice and guidance to staff. Corrections advised us that it had reviewed the implementation of the disposable safety razors policy and established new effective audit processes. A subsequent reduction in incidents involving razor blades suggested the review was having a positive impact.

However, 4 months after the conclusion of the Ombudsman's investigation, we were notified of a serious incident at New Plymouth prison involving a prisoner self-harming with a razor blade. In light of this, the Ombudsman decided to commence an investigation of the incident to ascertain what steps were taken by Corrections in response to his previous recommendations. Corrections advised that an Operational Review had been carried out in relation to the latest incident, and the Review had identified ineffective procedures and practices at New Plymouth Prison in relation to disposable safety razors. Corrections also advised that following the Operational Review, a number of practical changes were undertaken and New Plymouth Prison issued notices to staff in terms of the requirements of the disposable safety razor policy. The Ombudsman discontinued his investigation as he was satisfied Corrections had considered the issues involved and taken appropriate steps in that regard.

### Deaths in custody

Our role under the protocol agreed with Corrections is to monitor the investigation of deaths in custody by the Inspectors of Corrections, including deaths by natural causes. We are entitled to be present at all stages of the investigation, to participate in any interviews by the Inspectors, and to access all information held by the Department.

We play an active monitoring role in every investigation, contributing to the effectiveness of the final outcome. That said, the investigation is at all times the responsibility and function of the Inspector, and the Inspector forms his or her own personal conclusions. Once the Inspector has issued his or her final report,

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<sup>14</sup> We were not aware of any cases of female to male gender reassignment, so we only considered male to female transgender prisoners in our recommendation.



we will comment on the investigation and the Inspector's conclusions to the Chief Executive, but we do not direct or instruct the Inspector during the investigation process.

In 2011/12 we monitored investigations into 27 deaths in custody. This compares with 23 investigations being monitored the previous year, and 15 the year before. We completed monitoring 18 investigations relating to deaths in custody, 5 pertaining to deaths that occurred in 2011/12 and 13 pertaining to deaths that occurred in 2010/11.

In 11 concluded cases we found the Corrections investigation to be fully satisfactory, and it was unnecessary for us to make any further comments additional to the Inspectors' reports. In 7 concluded cases we found the Corrections investigation to be fully or substantially satisfactory, but made comments additional to the Inspectors' reports.

#### DIRECTED SEGREGATION – INTERNAL CONCEALMENT OF DRUGS

In one case, a prisoner had been held in an "At Risk Round Room" at the time of his death, due to suspicions that he was concealing drugs internally. After monitoring the Corrections investigation, the Chief Ombudsman noted that Corrections placed prisoners suspected of internally concealing unauthorised items on directed segregation, in accordance with section 58(1)(a) of the Corrections Act 2004. The focus of section 58(1)(a) is on the good order and security of the prison. While unauthorised items present a risk to the good order and security of the prison, the Chief Ombudsman advised Corrections that she considered when a prisoner may be concealing drugs, the health and well-being of the prisoner concerned should be the primary focus.

The Corrections Act provides for directed segregation for the purposes of medical oversight under section 60. This section appears more appropriate for the purposes of segregating a prisoner who is suspected of concealing an unauthorised item, particularly drugs. Section 60 requires a greater involvement by the Medical Officer in assessing such situations. Further, under section 60 the Prison Manager is not able to revoke the segregation order unless the Medical Officer has advised that there has ceased to be any justification for it to continue. In situations where the risk to the prisoner's health and well-being is high, the Chief Ombudsman suggested that the greater involvement and oversight of the Medical Officer would be appropriate.

In response, Corrections acknowledged that using section 60 for directed segregation under medical oversight is more appropriate for such situations and changed its policy accordingly. In addition, Corrections advised it is looking at the overall management of such prisoners to ensure that Corrections takes appropriate action to prevent accidental overdose.

#### PRISONER CELL AND LOCATION CHECKS

In another case, a deceased prisoner was found by Corrections staff at the time of the morning unlock. After monitoring the Corrections investigation, the Chief Ombudsman noted concerns about the policy for Prisoner Cell and Location Checks (PCLCs).

At the time of the death in custody, PCLCs were defined by Corrections as:<sup>15</sup>

*"a check of an occupied locked cell to ensure that the door and window are secure; there is nothing unusual or out of place in the cell, the correct number of prisoners are in the cell and that the prisoner appears to be ok and in general nothing is obviously wrong".*



From this wording, it is apparent that one of the elements of these checks is to ensure the wellbeing of the prisoner. However, the Chief Ombudsman was concerned about the extent to which these checks, made by peering through cell windows into darkened cells with torches, could enable staff to be satisfied the prisoner *"appears to be ok and in general nothing is obviously wrong"*.

Since the death of the prisoner in question, the Corrections policy and procedure in relation to PCLCs was changed, to reduce the number of checks being completed during the night shift. There was no longer a requirement for PCLCs to be conducted every 2 hours after lock up. Instead, they were to be carried out a maximum of 2 times, one between general lock up and 10.30pm and the other randomly between the hours of 11.00pm and 6.00am. In addition, there appeared to be no changes to the policy to improve the effectiveness of these checks in terms of prisoner welfare.

The Chief Ombudsman raised concerns with Corrections that the reduction in checks may lead to deaths in custody that might previously have been prevented. Under sections 8, 12 and 14 of the Corrections Act there is a clear responsibility on Corrections to ensure the welfare of prisoners in its custody. This must include the period of time that the prisoners are locked during the night. Accordingly, the checks undertaken by officers during the night shift should be sufficient to ensure the welfare of prisoners as far as that is practicable.

We analysed death in custody investigations during the 2010/11 year, and these show that the majority of prisoners died during the night shift. As such, we considered the focus in terms of ensuring the safe custody and welfare of prisoners should be during the night shift hours where the risk is the highest. With the reduction of PCLCs during the night when prisoners are locked, we were concerned that that there may be a loss of opportunity for early intervention in cases of self-harm or medical emergency.

In response, Corrections agreed that the safe custody and welfare of prisoners is a very important part of an officer's role, however this should not be confused with security functions. Corrections advised the PCLCs are a security process, not a welfare process. During night-time PCLCs, prisoners' physical status is determined by the prisoner being confirmed as present in the cell and in general, nothing is obviously wrong. A more comprehensive wellbeing check could not be made during the night, as it would require disturbing prisoners' sleep and lighting the cell. To do this regularly throughout the night would be inhumane.

Corrections did not believe the changes to PCLCs would result in a loss of opportunity for early intervention in cases of self-harm or medical emergency. Corrections examined the rate of unnatural deaths in custody for the 6 months prior to and the 6 months since implementation of the new PCLC process, and advised there had been no change in the rate of unnatural deaths since the new process was implemented. Corrections had no evidence to suggest that more frequent checking of prisoners would deter or prevent a person from taking their own life where they are determined to do so. If staff are concerned for a prisoner's health and well being, this is actively managed. Prisoners who are deemed at-risk are checked in accordance with their management plan. While Corrections agreed that most deaths in custody occur during lock down hours, it considered the focus should remain on the early identification of vulnerable prisoners through active management.

The Chief Ombudsman's concerns about PCLCs were placed before the Coroner in relation to the relevant prisoner. The Coroner noted the Chief Ombudsman's concerns. The Coroner's recommendations included that the PCLC policy and procedures should be reviewed to better ensure the welfare of prisoners.

In another case recently considered by the Coroner concerning the death of another prisoner, the Coroner also made the following recommendations:

- a total of 3 or 4 PCLCs should be undertaken overnight; and
- PCLCs should be undertaken not only for the purposes of establishing the location and security of



prisoners, but also their wellbeing to the extent desirable by prison staff based on their knowledge of the prisoner and his or her circumstances.

The Chief Ombudsman asked Corrections how it intended to proceed in respect of these recommendations. Corrections has now amended its policy to require 3 PCLCs to be undertaken overnight, between general lock up and morning unlock.

### **Serious incidents**

Under the protocol with Corrections, we investigate selected serious incidents that occur in prisons. Serious incidents are ones which affect, or potentially affect, the fair, safe, secure and humane treatment of prisoners, including incidents of self-harm, assaults and use of force.

In 2011/12, 58 serious incidents received preliminary assessment as to whether further enquiries were warranted. In most cases this involved reviewing all incident and follow-up reports, and making informal enquiries. We commenced formal investigations in 10 cases. We concluded 15 investigations after receiving further information from Corrections that satisfied us no further investigation was necessary (including 7 investigations commenced in the previous reporting year). Two investigations remain ongoing.

### **Heat in cells – supply of fans to prisoners**

The Chief Ombudsman investigated a complaint from a prisoner about the decision of Corrections not to issue him with an electric fan, when he had complained about unbearable heat conditions in his cell. The prisoner's request for a fan was refused on the basis that only a limited number of prison fans were available, and he was able to obtain his own fan through the property request procedures. The prisoner had tried to obtain his own fan using the property request procedures, but this had not been actioned due to the Receiving Office being closed over the Christmas and New Year period.

The Chief Ombudsman formed the opinion that Corrections had acted unreasonably in this case. She noted a 2005 recommendation made by former Chief Ombudsman John Belgrave and former Ombudsman Mel Smith, that *"where temperatures exceed relevant policy guidelines, [Corrections] provides fans for prisoners who do not have their own (subject to safety considerations)"*. In this case, the Chief Ombudsman noted that it seemed the expectation was for the prisoner to continue to suffer from any unbearable heat that he was personally experiencing in his cell, with no fan to alleviate any extremes of high temperature. She considered Corrections had an absolute responsibility to ensure that prisoners are kept in humane conditions. Her opinion was that despite prisoners being advised by prior notice that the Receiving Office would be closed, Corrections should have taken into account the prisoner's individual sensitivities to heat, and exercised reasonable judgment by issuing a fan to him until his property request could be considered.

The Chief Ombudsman recommended that:

- an apology be provided to the prisoner;
- a fan be provided to any prisoner who does not have his or her own when temperatures exceed relevant policy guidelines or it appears that a prisoner may be in distress or suffering from excess heat (subject to safety considerations); and
- temperatures be monitored in cells when prisoners complain about excess heat, or when seasonal factors are likely to result in high temperatures that may exceed policy guidelines.



### Access to drinking water

The Ombudsman investigated a complaint that a prisoner placed in an “*At Risk Round Room*” was denied access to drinking water. Corrections advised that on a number of occasions, staff were unable to provide the prisoner with water as he pushed his arms out through the food slot when being delivered water. On another occasion the prisoner requested water in the middle of the night, but was denied this due to only 1 officer being present. Prison management had instructed officers that they were not to open the food slot when only 1 officer was present.

The Ombudsman noted that the prisoner’s behaviour of pushing his arms out through the food slot precluded him from being delivered water offered by the officers. The Ombudsman also noted that the prisoner’s behaviour while in the “*At Risk Round Room*” was such that officers had to ensure their safety was protected when interacting with him. Hence the instruction from prison management that more than 1 officer was required to be present when opening the food slot. However, the Ombudsman formed the opinion that Corrections acted unreasonably by failing to ensure a plan was in place to manage any requests by the prisoner for basic necessities during the nightshift hours, when only 1 officer was on duty. The Ombudsman considered that safety measures should not result in any person being denied access to water.

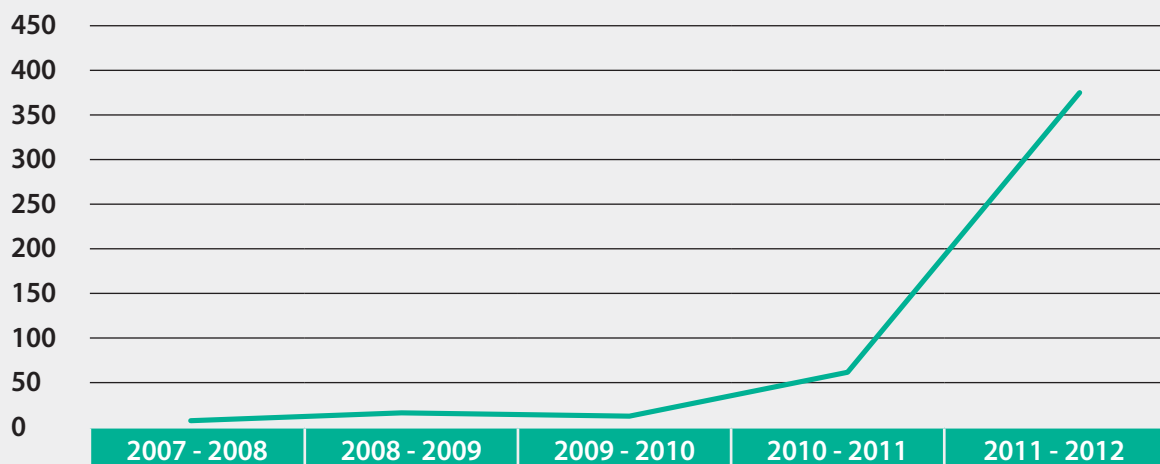
The Ombudsman recommended that in situations where prisoners have been placed on an unlock regime requiring more than 1 officer, and only 1 officer is available to assist those prisoners for a period of time (such as during the nightshift), measures should be put in place to ensure requests can be met for basic necessities such as water.

In response, Corrections accepted the recommendation, and advised the provision of basic necessities to prisoners would be presented to Prison Managers for their attention.

### Complaints against the Earthquake Commission

During the 2011/12 year, complaints against the Earthquake Commission (EQC) have become a significant area of our work. Traditionally, we have received around 10 - 15 complaints per year concerning EQC. Last year we reported that the Canterbury earthquakes had not yet had a significant impact on complaint numbers, with 72 OA complaints and other contacts received against EQC. However, this year there was a significant increase, with 389 OA complaints and other contacts received.

Number of OA complaints and other contacts received against EQC





### **Our complaint handling approach**

Many of the complaints received about EQC have concerned delay and communication issues. Given the volume of work in this area, the complex and difficult situation facing many complainants, and the predominant desire by complainants to at least receive information about the progress of their EQC claim, we have taken steps to engage with EQC in a proactive manner. We held a number of meetings with EQC at an early stage to become informed of EQC's processes and the issues it is facing. As a result of those meetings, we established a flexible process for dealing with complaints, which involves:

- a designated contact person at EQC, who we deal with informally on a daily basis to seek early resolution of complaints;
- regular reporting and discussion with EQC on complaints and other contacts we have received;
- a focus on clarifying with EQC the current status of a claim so that we can inform the complainant of the options open to them, rather than an intensive investigation of EQC's past handling of the claim; and
- retaining the discretion to formally investigate a complaint where we consider that appropriate.

### **Assistance provided to EQC**

We have also worked with EQC to provide training to its staff (particularly in terms of EQC's obligations under the Official Information Act), and assistance in the development of an internal complaint handling process. Complaints should, as a first step, be considered by an agency itself, as this provides an immediate opportunity for the agency to review the matter and provide a remedy where necessary. Complaints can always be made to the head of the agency concerned. However, we encourage agencies to set up an appropriate complaint handling process and communicate that to the public. Having a complaint handling process in place can help to encourage good decision making in the first place, reassure the public that the agency is committed to resolving problems, and improve public satisfaction with the services provided.

The EQC complaint handling process is now in effect, with:

- initial recourse to an EQC complaints line (0800 652 333);
- escalation to an EQC complaint resolution team, if the matter cannot be resolved; and
- access to independent mediation in particular cases.

We are hopeful that the EQC complaint handling process will be able to address many complaints in the first instance, and we intend to monitor developments in that respect.

### **Delay**

As mentioned above, we are aware of a general issue regarding EQC delays. This relates to the inevitable pressure of work on EQC as a consequence of the Canterbury earthquakes. We have also been affected by delays in EQC responding to us in relation to the formal investigations we are undertaking. This has impacted on our ability to progress these investigations. However, it is encouraging that EQC has recently diverted extra resources to responding to us, which at this early stage appears to be having some effect.

In terms of delays by EQC in processing claims, we have raised concerns with EQC when we have noted delays in particular cases under investigation. We are also keeping a watching brief in this area to determine whether it would be appropriate to take wider action in respect of EQC delays in general. However, in terms of individual complaints of delay, there is little we can do unless exceptional circumstances are involved. We cannot follow the progress of individual claims as they go through the various phases of assessment and settlement. Nor can we insist that one claim be given priority over all others in the queue just because a complaint has been made to us.



### 3 month time limit for reporting claims

During the 2011/12 year, the Chief Ombudsman investigated a complaint about a refusal by EQC to accept a claim as it had been reported outside the 3 month time limit set in the Earthquake Commission Act 1993 and Earthquake Commission Regulations 1993. The Chief Ombudsman formed the opinion that EQC had not acted unreasonably in this case by refusing to accept the claim in accordance with the law, as it was 11 or 12 days late.

However, we note with concern the strict time limit set out in law for reporting claims. This matter first came to our attention in 2004, when we investigated several complaints about the application of the 3 month time limit. In one case investigated by former Ombudsman Mel Smith, the complainant suffered from a medical condition affecting her vision that prevented her from noticing damage to her house following an earthquake. It was only when her parents visited that she became aware of the damage, more than 3 months later. Mr Smith formed the opinion that EQC's decision to decline the claim was made in accordance with a law that is unreasonable and improperly discriminatory. Mr Smith recommended that the legislation be amended to extend the time limit for lodging a claim, and to allow for claims to be accepted out of time in exceptional circumstances.

In response, EQC suggested a statutory amendment to allow a two-year timeframe for reporting earthquake damage. However, to date this has not been enacted. We noted our concerns about the lack of progress on this matter in our annual reports for the 2004/05, 2005/06 and 2006/07 years. We were advised in 2006/07 that *"the latest informal advice from Treasury is that an amendment to the Act is unlikely to be promoted by them as being critical enough to be justified"*. Given recent events in Canterbury, we consider further attention needs to be paid to this area. We have raised our concerns about this with the Minister for Canterbury Earthquake Recovery. The response was not encouraging.

## Work in the education sector

Education continues to provide a steady flow of issues, with 106 OA complaints received about school Boards of Trustees and tertiary education institutions.

### Bullying at Hutt Valley High School

The Ombudsman completed a significant investigation during 2011/12: *Complaints arising out of bullying at Hutt Valley High School in December 2007*.

The investigation concerned a series of violent incidents that occurred at the School in December 2007. The investigation was triggered by a number of complaints from a group of parents at the School, and covered how the incidents were handled by the School, Child Youth and Family (part of the Ministry of Social Development), the Education Review Office, and the Ministry of Education.

Following his investigation, the Ombudsman formed the opinion that the serious assaults that occurred were not one off incidents. They were part of a systemic problem of violence which, although recognised by the School, was not being addressed satisfactorily. Serious incidents of bullying were not being fully investigated or punished appropriately. The School's discipline policies were not being applied consistently, resulting in systemic under punishment of violent incidents. Anti-social children were being retained within the school system, without a viable wider strategy for addressing the resulting safety issues. Teachers were not performing scheduled duty, some for fear of their own safety.

The School had not adopted the recommended Child Abuse policies, meaning that situations amounting to child abuse were not being reported to Police or Child, Youth and Family, and the needs of victims were not being met.



The Ombudsman considered the School was not alone in its knowledge of the situation. Violence at the School had come to the attention of the Ministry of Education, through the Eliminating Violence survey, and the Education Review Office in the course of its 2006 review.

The Ombudsman made 3 overarching suggestions to assist in avoiding similar situations in the future:

- the national framework for anti-bullying policies should be strengthened, and it should be compulsory for all schools to implement an anti-bullying programme;
- schools should be given more specific guidance on the levels of punishment to be given for various infringements; and
- principals and Boards of Trustees should be required to consider the views of victims when making decisions on discipline, when the infringement at issue is bullying or violence.

Bullying is not something that can be tackled by a single action. A change of culture can only be addressed through comprehensive engagement at every level of an agency. The incidents at Hutt Valley High School in 2007 prompted a change of culture at the School, which has since made a comprehensive effort to address the issues concerned.

A full report of the investigation can be found at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

### **Complaints handling by schools**

Complaints handling can be a challenging area for schools. It requires commitment to deal effectively with concerns that might be raised by parents alongside all the other work required by Boards of Trustees and principals to run a school.

However, there is value in having an effective complaint handling process. It promotes good relations with parents and other community members and can help a school to resolve problems before they become worse. Complaints can also be a window into what is going on. Complaints provide information about any problems that might be occurring within the school, and an opportunity to sort those problems out before they escalate and cause widespread concern.

In the 2011/12 reporting year, the Ombudsman investigated a complaint that a Board of Trustees (BOT) failed to process and address a complaint made by a family about a teacher in a fair, reasonable and timely manner. The Ombudsman formed the opinion that the BOT had acted unreasonably, noting that the reporting lines between the Principal and BOT were in some instances deficient, the family who lodged the complaint were not kept sufficiently aware of the BOT's progress, and the BOT failed to address all the issues raised.

The Ombudsman noted that despite the deficiencies in the complaint handling process, the substantive concerns raised by the family were being addressed by the Principal, senior management and the BOT Chair. The Ombudsman also noted that the school was placed under substantial pressure by the volume of email correspondence sent by the family. However, the Ombudsman considered that the BOT still had an obligation to satisfactorily oversee the management and eventual outcome of the complaint. The BOT passed this management role back to the Principal and then did not appear to have overseen progress being made, made no reporting demands of the Principal, and did not appear to have reported to the family formally at any stage on the outcome of its deliberations.

Following the Ombudsman's investigation, the BOT revised its complaints process and undertook to apologise to the family for the way it handled the complaints.





Given the importance of having effective, well managed complaint handling processes in schools, we have recently published a guide on *Good complaints handling by school boards of trustees*. The guide sets out key information for schools on the elements of an effective complaint handling process, including tips on designing the process, steps to ensure complaints are progressed, and the essential requirements needed to ensure fairness. The guide also includes a case study of a real-life example of a school's complaints process. The guide is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

### Hearing procedure

An essential element of good decision making is following a fair procedure. This includes acting independently and having an open mind, and ensuring the person affected by the decision is given an opportunity to provide all relevant information before the decision is made.

In 2011/12, the Ombudsman investigated a decision by the Christchurch Polytechnic Institute of Technology to disallow a student's appeal against a fail grade. Following his investigation, the Ombudsman formed the opinion that the Academic Appeal Committee hearing the appeal had acted unreasonably in that:

- the process for hearing the appeal was tainted by predetermination, as an external member who sat on the hearing had already provided a written report setting out the view that there was no case to answer; and
- the Committee did not properly manage the student's oral evidence at the hearing, as her husband's oral submissions interfered with the Committee's ability to establish the student's technical knowledge required for her course of study.

The Polytechnic accepted the Ombudsman's opinion and agreed to remedy the matter by:

- amending its procedures for the conduct of academic appeals to avoid the problem of predetermination arising from an external member's written report; and
- rehearing the student's appeal under the amended provisions.

We recognise that a focus on good decision making can help to avoid some complaints being made at all. It is also likely to result in fewer of the complaints that are made being upheld and requiring remedial action. We are currently preparing guidance and training on good decision making in general, which we intend to make available to agencies in the near future.



## A change to District Inspector of Mental Health complaint handling guidelines

The Ombudsman undertook an investigation this reporting year into the way in which the Ministry of Health dealt with a complaint about a District Inspector of Mental Health. As a result of his investigation, the Ombudsman noted concerns about the Ministry's procedures for handling complaints about District Inspectors. The Ombudsman suggested it would be helpful if the Ministry's procedures were consolidated into a central document, and amended to include the following requirements:

- complaints that raise procedural concerns about District Inspector investigations are fully examined;
- natural justice is afforded to all parties to the complaint;
- the outcome of the complaint is fully explained to the complainant, subject to any privacy interests on the part of the District Inspector concerned; and
- investigations into complaints are fully documented.

The Ministry was very proactive in addressing the Ombudsman's proposal, drafting complaint procedures for District Inspectors that addressed the matters the Ombudsman had raised, and including these in the *Guidelines for District Inspectors under the Mental Health (Compulsory Assessment and Treatment) Act 1992*.

## Complaints against Immigration New Zealand

### Spike in complaints

Complaints against Immigration New Zealand (INZ) spiked in the 2009/10 reporting year. In that year we received 285 OA complaints against INZ, compared to an average of around 200 per year. Combined with the often complex nature of these complaints, this inevitably gave rise to work pressures in the immigration area. By April 2011, these work pressures had resulted in a large backlog of immigration complaints. At that time, we instituted a process of careful review of the complaints on hand. We also diverted extra staff resource to deal with complaints against INZ. Over the last reporting year, we have been systematically working through and reducing the number of OA complaints against INZ that cannot be immediately progressed. This process of eliminating the historic backlog of INZ complaints is nearly complete.

Approximately 20 per cent of our total operational capacity for processing OA complaints is currently dedicated to handling complaints against INZ. In overall management terms, this is not sustainable. The immigration sector is taking a disproportionate share of our total resources. Accordingly, we are working closely with INZ to reduce the incidence of complaints about their decisions by improving their processes and practices at the outset.

### Recording reasons for the exercise of absolute discretion under section 61

Concern has recently arisen about the impact of the current INZ Internal Administration Circular (IAC) concerning decision making on requests for visas under section 61 of the Immigration Act 2009.

INZ has an "*absolute discretion*" under section 61 to grant a visa to a person who is in New Zealand unlawfully. As a matter of "*absolute discretion*", there is no right to apply for such a visa, and there is no obligation on INZ to consider any purported application or to give reasons for any decision that is made. Given the very wide discretion conferred by section 61, there would need to be something demonstrably unfair about the manner in which the power was exercised before it could be described as administratively unreasonable. However, the essential elements of fairness and natural justice do still apply.



In the current IAC, INZ staff are advised not to record their reasons for any decision made under section 61. The Chief Ombudsman raised concerns about this with the former Department of Labour, of which INZ was part. Discussions have continued with the Ministry of Business, Innovation and Employment, which is now the parent agency for INZ. In essence, while reasons for a decision under section 61 do not have to be made available to external requesters, we consider not recording reasons for section 61 decisions at all is contrary to sound administrative practice. Records of decisions need to be made for the purposes of accountability, to promote public trust and confidence in the integrity of the decision making process, and to enable verification of what was done. In this regard, we would generally consider a record of a decision under section 61 to be sufficient if it includes:

- brief reasons for the decision made;
- relevant factors taken into account in making the decision; and
- an indication as to whether the reasons are to be made available to a requester.

The Chief Ombudsman has suggested changes to the current IAC and is currently awaiting the Ministry's response on this matter.

### **Systemic issue – residual places to fill Pacific residence quotas**

During 2011/12 the Chief Ombudsman also held ongoing discussions with the Department about the remedies that should be offered to those who were affected by systemic deficiencies she had identified in decision making around Pacific residence quotas.

In the 2009/10 reporting year, The Chief Ombudsman completed investigation this year of a complaint about the way in which the implementation by INZ of residual places policies in 2004 and 2005, to enable Pacific residence quotas to be filled. After receiving a number of complaints about this matter, the Chief Ombudsman decided to investigate the wider systemic issues involved. Following her investigation, the Chief Ombudsman formed the opinion that the Department had acted unreasonably, as the Department acknowledged there had been systemic failings. The Department had accepted the Auditor-General's findings (in a related investigation) that there had been systemic failings in the manner in which certain processes relating to the residual places policies were implemented. These failings included the provision of guidance for departmental officers that was late and unclear, and inconsistent advice consequently given to some people. The Department also accepted that there had been the creation of, and failure to manage, erroneous expectations that the policies represented an opportunity for "overstayers" to change their immigration status.

Since the conclusion of the investigation, the Chief Ombudsman has held ongoing discussions with the Department (and now the Ministry) on the remedies that should be offered to those who were affected by the identified deficiencies.

In respect of the complainants who were included in the investigation, the Department agreed at an early stage to consider the grant of permits under section 35A of the Immigration Act 1987, based on a consideration of the complainants' current circumstances.

In 2011, the Department also agreed to consider the grant of visas under section 61 to those who had complained at a later date and whose complaints were therefore not included in the investigation (subject to certain criteria being met).

However, we have also noted that there may be other people in the relevant Pacific communities who were affected by the identified deficiencies, but who did not make a complaint. During 2011/12, the Chief



Ombudsman has held discussions with the Department as to how to address the concerns of those people, and so achieve “*fairness for all*”. We expect to conclude those discussions with the Ministry shortly.

## Workplace accident investigation

The Chief Ombudsman completed investigation this year of a complaint about the way in which the Department of Labour managed a notification of a workplace accident.

The complainant lodged her notification online and did not submit any supporting documentation such as relevant medical records. The online form was the only information the Department considered from the complainant. The Department received written comments and investigation reports from the employer, and then decided to take no further action in respect of the accident.

The information provided by the employer conflicted with that provided by the complainant, and the employer made adverse comments about the complainant and the nature of her injuries. The Department did invite the nature of her injuries. The complainant was invited to contact the Department within 14 days if she had any concerns with the decision to take no further action. However, the Department did not consult with the complainant about the adverse information provided by the employer.

Following her investigation, the Chief Ombudsman formed the opinion that the Department had acted unreasonably. The complainant was not given an adequate opportunity to make representations prior to the final decision to take no further action. The complainant was not invited to comment on the adverse information provided by the employer. She was also not provided with adequate reasons as to why the Department would not be taking her complaint further. Had the complainant been provided with an appropriately detailed explanation, she would have been in a much better position to query the basis for the decision, and/or to provide additional information that may have clarified certain issues.

The Department accepted that it should have given full reasons for the decision and an apology was offered by way of remedy. The Department also advised that the Chief Ombudsman’s findings in this case would be taken into account in an ongoing review of its processes relating to the consideration of workplace accidents.

## Local government development contributions

We have received an increasing number of complaints about development contribution charges.

Complainants are concerned that additional development contribution charges imposed by Councils (generally at the time the building consent is issued) are unreasonable because the developer of the subdivision has already paid contribution charges when resource consent was granted.

We are unable to investigate development contribution policies themselves, as they are adopted by Council resolution.<sup>16</sup> However, we can investigate a complaint about the application of a development contribution policy in a particular case. We are currently investigating a number of complaints in this area, which raise issues such as:

- inadequate notice (including wrong advice) given about impending liability to pay a development contribution charge;
- double dipping (that is, charging for costs already recovered);

<sup>16</sup> Section 13(1) of the OA provides that it is not an Ombudsman’s function to investigate any decision of a local government agency made by “*a committee of the Whole*”.



- failure to justify an extra infrastructural cost caused by a development; and
- other failures to comply with the relevant policy.

Because of the increase in complaints in this area we contributed submissions to the Productivity Commission on its draft report, *Housing affordability inquiry*, which included a chapter on issues arising from infrastructure costs. We also note the proposed review of Councils' use of development contributions by the Auditor-General, as part of her standard review of the 2012-2022 long term government plans.<sup>17</sup>

### Changes to the age for driver licence testing

During the reporting year the Ombudsman investigated a complaint against the New Zealand Transport Agency (NZTA) from a Hamilton resident, concerning the inability of her son to apply for and obtain a learner's driver licence.

The background to her son's difficulty was a change to the law due to take effect on Monday 1 August 2011. Under the existing law a person could obtain a learner's driver licence on turning 15 years of age. From 1 August persons would have to be 16 years of age to apply for and obtain a licence. In this case the complainant's son, born on 31 July 1996, would turn 15 on Sunday 31 July 2011.

On that day he would become eligible to apply for and (if successful in the theory test) obtain a licence. If he did not obtain a licence on 31 July 2011, he would not be eligible to apply for one again until he was 16 in a year's time. The difficulty was that 31 July being a Sunday there was no NZTA agency open in Hamilton that day to process his application.

In fact, NZTA confirmed that only 2 NZTA agencies would be open in the entire country that day, both in Auckland. The conjunction of a law change being age specific and taking effect on a day following a non-working day threatened to frustrate the right to apply for a licence of persons turning 15 on 31 July 2011. Although only 1 person had raised this issue with us, there were estimated to be about 130 people potentially affected.

In responding to the Ombudsman, NZTA advised that it would allow applicants to book their theory test that day through the NZTA Contact Centre, provided that payment and proper proof of identity was made. This would enable any person turning 15 on Sunday 31 July 2011 to obtain a licence as at that day. Given the action NZTA had taken to address the issue, the Ombudsman discontinued his investigation on the basis that the matter was resolved.

### Veterans' Affairs claims handling process

The Ombudsman completed an investigation this reporting year under the OA and Official Information Act, which concerned the claims handling process of Veterans' Affairs New Zealand (VANZ). The complainant, acting on behalf of her husband, requested information from VANZ about its policies and procedures for claims handling, including all forms. After some information was refused by VANZ, the complainant raised her concerns with the Ombudsman, including concerns about delays by VANZ in processing her husband's war pension disablement claim.

<sup>17</sup> Reform 8 'Better Local Government' – March 2012.



Following investigation, the Ombudsman formed the opinion that it was open to VANZ to withhold some limited information. The Ombudsman considered the remainder of the information at issue should be released to the complainant, including information that VANZ had initially considered to be outside the scope of the request.

The Ombudsman also considered VANZ had acted unreasonably in relation to the request for all relevant VANZ forms. In response to this request, VANZ had initially advised the complainant that all forms were available on its website. However, VANZ subsequently provided the complainant with 14 forms that were not on its website. VANZ advised the Ombudsman that these forms were not made available on its website as they cannot be used in isolation and instead are only given to eligible veterans when a VANZ official considers the circumstances appropriate. VANZ was concerned about the potential for misunderstanding about entitlements if these forms were readily available.

The Ombudsman accepted there was a valid concern about the wide dissemination of misinformation amongst a vulnerable community. However, he was not persuaded that veterans would be protected by withholding accurate information, and certainly did not consider it acceptable, when faced with an explicit request, not to release the forms. The Ombudsman therefore formed the opinion that both the failure to inform the complainant of the true position with regard to the forms, and their unavailability from the outset, were unreasonable. However, the Ombudsman did not consider there was any evidence of bad faith or intention to mislead the complainant or others in the veteran community.

The Ombudsman also considered that, in the absence of an explanation on the website that other forms and entitlements were available on application or in discussion with case managers, it was unreasonable not to provide access to all forms through the website.

In terms of the complainant's concerns about delays by VANZ in processing her husband's war pension disablement claim, the Ombudsman formed the opinion that VANZ had acted unreasonably. The Ombudsman considered that there had been an excessive delay in processing the claim, and that VANZ had not kept the complainant's husband updated as to progress with the claim or the reasons for the delay.

The Ombudsman recommended that VANZ:

- release the outstanding information without delay;
- provide the complainant with an apology and explanation for the inconsistent advice about the availability of the forms; and
- provide the complainant with an explanation for the delay in reaching a decision on her husband's claim and the steps taken to improve processes in the future.

VANZ accepted the Ombudsman's recommendations and wrote to the complainant as requested. VANZ also advised that claim reviews are now being processed within its targeted time frame of 3 months.



## Where significant numbers of OA complaints arose

	Year ended 30/06/11	Year ended 30/06/12
<b>Central Government - greater than or equal to 30 complaints</b>		
Department of Corrections <sup>18</sup>	-	<b>848</b>
Department of Labour	243	<b>206<sup>19</sup></b>
Ministry of Social Development	375	<b>125<sup>20</sup></b>
Inland Revenue Department	121	<b>89<sup>21</sup></b>
Ministry of Justice	56	<b>51<sup>22</sup></b>
<b>Local Government - greater than or equal to 15 complaints</b>		
District Councils – all	208	<b>175</b>
City Councils – all <sup>23</sup>	129	<b>139</b>
Auckland	60	<b>56</b>
Wellington	27	<b>18</b>
Christchurch	19	<b>18</b>
Regional Councils – all	46	<b>27</b>
<b>Other Organisations - greater than or equal to 15 complaints</b>		
Earthquake Commission	72	<b>201<sup>24</sup></b>
Accident Compensation Corporation	171	<b>81</b>
Boards of Trustees - schools	75	<b>62</b>
Police	79	<b>45</b>
District Health Boards	56	<b>36</b>
Housing New Zealand Corporation	37	<b>26</b>
New Zealand Transport Agency	36	<b>24</b>
Polytechnics	29	<b>22</b>
Universities	42	<b>22</b>
Health and Disability Commissioner	25	<b>22</b>

18 The number of complaints received in 2010/11 is not shown, because of a change in 2011/12 to separately record complaints and other contacts.

19 Includes 200 complaints concerning Immigration New Zealand.

20 Comprises 37 Child, Youth and Family matters, 68 Work and Income, 8 Studylink and 12 other matters.

21 Comprises 32 child support matters, 8 student loan and 49 other matters.

22 Comprises 24 courts matters, 9 legal services, 5 tribunals and 13 other matters.

23 Total for all Councils is inclusive of those detailed.

24 A further 188 other contacts were received concerning the Earthquake Commission.



## Official information

In this section we give an overview of our work under the Official Information Act (OIA) and the Local Government Official Information and Meetings Act (LGOIMA), and discuss the following issues arising:

- Proposals to exclude application of the official information legislation
- Information concerning mixed ownership programme
- Lists of titles and dates of reports received by Ministers
- Official information requests and Coroners' hearings
- Police use of tasers
- Providing a statement of reasons for a decision – New Zealand Vice-Chancellors' Committee
- Handling multiple official information complaints about school Boards of Trustees
- Change to annual reporting by QEII Trust

## Overview

### The numbers

There was a considerable increase in the number of official information complaints received this year. We received 1,236 complaints under the OIA, an increase of 25 per cent on 2010/11 numbers and the highest number received since 2000/01. We also received 268 complaints under LGOIMA, which is comparable with previous years.



We completed 1,076 OIA complaints. For the second year in a row, this is significantly more than in recent years – 35 per cent more than in 2009/10. It is also the highest number of OIA complaints completed since 1999/00. We also completed 217 LGOIMA complaints, down from 271 in 2010/11. We finished the year with 664 OIA complaints and 137 LGOIMA complaints on hand. Detailed statistics can be found at page 115.

It appears that some agencies have no centralised system for recording the number of official information requests received, so it has been difficult for us to identify the “burden” some allege is imposed by the requirement to comply with the legislation.





We are anecdotally aware that some agencies are struggling with the number and/or complexity of requests received. We consider that the legislation does contain the administrative mechanisms to enable agencies to manage official information requests more effectively, but experience demonstrates that staff may be unaware of how these mechanisms can be used. We also observe that internal record keeping of relevant transactions and correspondence in some cases does not facilitate easy retrieval, scrutiny or consultations with other agencies involved, thus adding to the time and cost of compliance.

We are happy to provide advice and assistance to agencies who are dealing with complex requests. We also provide training on request, and we are further developing our information resources to assist agencies in this area.

## The complainants

This year's statistics concerning the type of complainants who raise concerns about official information decisions are consistent with the previous reporting year. They continue to suggest that members of the public are making good use of their rights to request information under the OIA and LGOIMA, and to complain to the Ombudsman if dissatisfied. Individuals accounted for well over half of all OIA complaints (65 per cent), and three-quarters of all LGOIMA complaints (76 per cent). The next highest users were the media, who made 16 per cent of all OIA complaints, and 15 per cent of all LGOIMA complaints. MPs and political party research units accounted for 7 per cent of OIA complaints received.

## The agencies

There has been a shift in the type of agencies complained against. This year 376 official information complaints were made against government departments, making up 25 per cent of all official information complaints received. This can be compared with last year's figures of 483 complaints, making up 39 per cent of all official information complaints received.

In contrast, 684 official information complaints were made against other state sector agencies this year, compared with 370 last year. As will be discussed below (at page 48), 201 of these complaints were made by a single complainant concerning various school Boards of Trustees. Nevertheless, this represents a significant change in the types of agencies complained against, with 45 per cent of all official information complaints being made against other state sector agencies this year, as opposed to 30 per cent last year.

The proportion of official information complaints against local government agencies subject to LGOIMA (18 per cent) and Ministers of the Crown (12 per cent) remained relatively steady.

## The complaints

This year, 55 per cent of all official information complaints concerned the partial or outright refusal of requests for official information. While the number of complaints received about refusals has remained relatively steady at 825, the proportion of such complaints has decreased significantly. Last year, 70 per cent of official information complaints concerned refusals.

This change is due to a significant increase in the number of complaints received about delays by agencies in making decisions on official information requests. We received 571 '*delay deemed refusal*'<sup>25</sup> complaints this year, compared with 278 received last year. This represents an increase of 105 per cent. However, as will

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25 These are referred to as '*delay deemed refusal*' complaints, because the delay is deemed by section 28(4) of the OIA and section 27(4) of LGOIMA to be a refusal of the request.



be discussed below (at page 48), 199 of these complaints were made by a single complainant concerning various school Boards of Trustees. If these complaints are removed from calculations, there was a 34 per cent increase in delay deemed refusal complaints this year, as opposed to last year. This is a worrying trend, and we are currently considering what further action we may need to take in the area of delays, including the possibility of a general review and administrative audit of agencies' official information request handling procedures.

## The outcomes

Most official information complaints are formally investigated, however 108 complaints were informally resolved without investigation in the reporting year. We commenced formal investigations in 62 per cent of all completed official information cases (797 out of 1293). We managed to resolve 302 of these without needing to form a final opinion.

We formed final opinions in 362 official information cases. In most cases (216) no administrative deficiency was identified. In the remaining 146 cases,<sup>26</sup> we identified an administrative deficiency by the agency concerned in its official information decision making. We made 16 recommendations under the OIA and 1 recommendation under LGOIMA. Fifteen recommendations were accepted, 1 recommendation was partially accepted, and in 1 case we are awaiting a response from the agency concerned as to whether the recommendation is accepted.

## The administrative deficiencies identified

As mentioned earlier (see page 20), for the first time this reporting year we recorded the nature of the administrative deficiencies we identified, as well as the remedies that we obtained in relation to official information complaints.

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

- 45 cases where the refusal of official information was not justified;
- a delay deemed refusal in 96 cases;
- an unreasonable charge in 2 cases;
- an unreasonable extension in 2 cases; and
- an inadequate statement of reasons in 1 case.

## The remedies obtained

The remedies we obtained for complainants in cases that we both investigated, and resolved informally without investigation, included:

- 219 cases where an omission was rectified;
- 124 cases where a decision was changed;
- 88 cases where reasons or an explanation for a decision was given;
- 4 cases where an apology was given; and
- 3 cases where a decision was reconsidered.

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26 18 per cent of all cases formally investigated.



We also obtained a public administration benefit in 10 cases, with:

- a change in practice or procedure in 4 cases;
- agency agreement to review a law, policy, practice or procedure in 3 cases;
- the provision of guidance or training to agency staff in 2 cases; and
- the provision of additional resources in 1 case.

## Timeliness

As noted previously (see page 22), this was our second year reporting against new and more meaningful timeliness targets. Given the large volume of work received in the reporting year, we struggled to meet some of our timeliness targets for official information complaints, closing or completing:

- under our OIA jurisdiction:
  - › 57 per cent of complaints outside our jurisdiction within 1 month of receipt (*target 90 per cent*);
  - › 82 per cent of complaints that we declined to investigate or resolved informally within 3 months of receipt (*target 90 per cent*);
  - › 44 per cent of non-urgent but high public interest investigations within 6 months of receipt (*target 70 per cent*); and
- under our LGOIMA jurisdiction:
  - › 70 per cent of complaints outside our jurisdiction within 1 month of receipt (*target 90 per cent*);
  - › 88 per cent of complaints that we declined to investigate or resolved informally within 3 months of receipt (*target 90 per cent*); and
  - › 57 per cent of non-urgent but high public interest investigations within 6 months of receipt (*target 70 per cent*).

However, we exceeded our targets in other areas, completing:

- under our OIA jurisdiction:
  - › 92 per cent of urgent investigations within 4 months of receipt (*target 70 per cent*); and
  - › 84 per cent of all other investigations within 12 months of receipt (*target 70 per cent*).
- under our LGOIMA jurisdiction:
  - › 100 per cent of urgent investigations within 4 months of receipt (*target 70 per cent*); and
  - › 89 per cent of all other investigations within 12 months of receipt (*target 70 per cent*).



## Issues arising

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### Proposals to exclude application of the official information legislation

In previous years we have reported on a number of legislative proposals affecting the availability of information under the official information legislation. In particular, we have noted a worrying trend in agencies seeking to exclude the application of the OIA to certain types of information, ostensibly because the OIA does not provide sufficient protection.

One of the purposes of the OIA set out in section 4(c) is to protect official information consistent with the public interest. It is somewhat bizarre to hear agencies argue that certain information is so sensitive that the only way to protect it is for the OIA not to apply. If there is a concern that the withholding provisions of the OIA do not provide adequate protection the appropriate step is to seek amendment of the Act. That allows open and transparent debate and proper accountability to be taken before withholding provisions are strengthened. In this regard, the following words of then President of the Court of Appeal, Cooke P, are relevant:<sup>27</sup>

*“the permeating importance of the Act is such that it is entitled to be ranked as a constitutional measure”.*

The OIA contributes to transparency, accountability and ultimately good governance in the public sector. Proposals to exclude the OIA on the basis of a need for greater protection are inconsistent with one of the stated policy purposes of the legislation and should always be regarded with a healthy degree of suspicion.

### Information concerning proposed mixed ownership programme

One of our most high profile cases in 2011/12 stemmed from complaints by the media and opposition MPs and researchers seeking information on the Government’s proposed mixed ownership programme.

The Government had announced its intention to pursue a policy of partial privatisation of certain state assets should it be returned to power in the 2011 General Election. It had released a range of background information, but requesters sought the more detailed policy advice supplied by the Treasury.

The Chief Ombudsman agreed to conduct an urgent investigation in light of the complainants’ concern to access the information at issue prior to the General Election.

The Chief Ombudsman accepted that disclosure of the information at issue would prejudice the “good government” interests protected by sections 9(2)(f)(iv) and 9(2)(g)(i) of the OIA, and the argument turned on the weight to be accorded to the public interest in disclosure.

The significant public interest factor in this case was the forthcoming General Election, in light of the fact that the Government was effectively seeking a mandate from the electorate for pursuing the mixed ownership policy. The Chief Ombudsman agreed with views expressed by earlier Ombudsmen, that “a general election is the central event in a constitutional democracy”, and acknowledged “the constitutional importance of ensuring that the electorate [is] well informed before it commit[s] itself to selecting the parliamentarians from whom a government would be formed”.

Whilst acknowledging the “exceptionally strong public interest in disclosure of information that may help voters to decide how to exercise their vote”, the Chief Ombudsman was not persuaded that the information requested in this case raised this public interest consideration. Having regard to the specific information at issue, the

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27 *Commissioner of Police v Ombudsman* [1988] 1 NZLR 385 at 391.



stage reached in the advisory and decision making process, and the information that was already publicly available, the Chief Ombudsman formed the opinion that the applicable withholding grounds were not outweighed by the public interest in disclosure, and so there was good reason to withhold the information.

Because of the high public interest in the case, the Chief Ombudsman published her full opinion, which is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

### Lists of titles and dates of reports received by Ministers

The Ombudsmen completed investigations this reporting year into complaints by opposition MPs and researchers seeking lists of titles and dates of reports received by Ministers from their agencies. Following the investigations, the Chief Ombudsman formed an opinion on the lead complaint against the Minister of Finance. This opinion also had implications for all the complaints under consideration.

In essence, the Chief Ombudsman considered that there is no reason, in principle, why reasonably targeted requests for lists of titles of reports received by Ministers from their agencies cannot be made and met under the OIA. The Chief Ombudsman considered in detail the meaning of phrases such as “*due particularity*” (section 12(2) OIA), and “*substantial collation or research*” (section 18(f) OIA).

However, at the same time the Chief Ombudsman acknowledged that the ability to collate the requested lists will often depend on the sophistication of the systems in place for tracking ministerial reports. She also accepted that, once the information is collated, it can be time-consuming to reach a decision on whether or not the relevant titles can be released (although this was not a reason for refusing the request).

The Chief Ombudsman therefore provided guidance to the requesters to help them make their requests in a responsible and reasonable way that accords with the intent of the official information legislation, and does not impose an undue administrative burden on the agencies that have to process the requests. We have continued to receive a small number of similar complaints.

The Chief Ombudsman’s opinion in this case is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

### Official information requests and Coroner’s hearings

During the reporting year, the Ombudsman completed an investigation of Police decisions to withhold information relating to a Police shooting. The Police refused 2 separate requests on the basis that information about the shooting was relevant to a Coroner’s inquiry. The Police relied on section 18(c)(ii) of the OIA, which applies when “*the making available of the information requested would...constitute contempt of court*”. The Police also relied on section 6(c) of the OIA, which applies when “*the making available of... information would be likely...to prejudice the maintenance of the law*”.

In his investigation, the Ombudsman considered the application of sections 18(c)(ii) and 6(c), as well as the questions of whether the information was “*held*” by the Police and whether release of information under the OIA could breach a Coroner’s order as to publication made under the Coroners Act 2006.

Following his investigation, the Ombudsman formed the opinion that:

- information collected as part of an investigation carried out on behalf of the Coroner is held by the Police, as investigating on behalf of the Coroner is part of the role of the Police;
- releasing information under the OIA could never breach an order under section 74 of the Coroners Act 2006, as the release, in and of itself, does not “*make public*” the information;



- accordingly, releasing information under the OIA, where the Coroner has told an agency not to make that information public, cannot be considered contempt of court;
- however, section 6(c) of the OIA may provide good reason to withhold information where release would be likely to prejudice the proper carrying out of a Coroner's inquiry; although
- there can be no prejudice once the inquest has been completed, and so section 6(c) of the OIA will not apply at that stage.

The Ombudsman also formed the opinion that the Police should not have refused the requests for information in the present case. The requesters had sought a copy of a Police report on whether the Police officers who fired the shots should be prosecuted, and a yes/no answer as to whether Police conducted an investigation into the Police weapon used in the shooting. The Ombudsman did not consider that the release of this information at the time of the request or during the inquest would have prejudiced the Coroner's functions of determining the circumstances of the person's death.

The Police accepted the Ombudsman's recommendation to release the information.

### Police use of tasers

The Ombudsman also completed an investigation into a Police decision on a request by TVNZ for taser camera footage of 2 individuals who had been tasered by the Police.

TVNZ had provided the Police with written confirmation from these individuals that they were content for TVNZ to have copies of the footage.

The Police refused TVNZ's request for copies of the footage on privacy grounds. However, TVNZ was invited to view the footage at Police premises. TVNZ wanted copies of the footage and therefore complained to the Ombudsman about the Police decision.

The Police advised that the written permission provided by TVNZ was not considered adequate to satisfy them as to the identity of the individuals concerned or that the individuals were aware of the potential consequences of release of this footage to the media. The Police also considered that the footage should be withheld to protect the privacy of the police officers involved.

After consulting with the Privacy Commissioner on the privacy issues, the Ombudsman formed the opinion that privacy could not be a reason for withholding copies of the footage if the tasered subject genuinely consented to its release to a third party and that consent was informed.

Consent would also be required from any other civilian appearing in the footage who could be independently identified through their association with the incident or the tasered subject. If the footage merely captures a bystander or someone who has no connection with the tasered individual and the images are fairly fleeting, then the Ombudsman considered that pixellation or smudging would likely be sufficient to address any privacy concerns.

Generally it will not be necessary to withhold taser camera footage for the sole purpose of protecting the privacy of the officers involved. But, in some circumstances an officer's privacy interests might be heightened depending on the nature of the incident. In that case, withholding under section 9(2)(a) might be justified.

The question of how the Police can be satisfied that consent has been obtained and a person's capacity to consent were also canvassed with Police and the Privacy Commissioner. In the event, these matters were left for the Police to address as part of reviewing their internal policies on managing future requests for taser camera footage.



To resolve the case at hand, the Ombudsman consulted independently with the individuals in the footage and confirmed that they consented to release of the footage to TVNZ subject to certain conditions.

The Ombudsman formed the opinion that section 9(2)(a) did not justify a refusal of the request, and the Police agreed to release the footage to TVNZ.

Full details of the Ombudsman's opinion in this case are available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

## Providing a statement of reasons for a decision – New Zealand Vice Chancellors' Committee

Section 23 of the OIA<sup>28</sup> provides a person with the right to request from a state sector agency:

*"within a reasonable time of the making of [a] decision... a written statement of [reasons which contains]:*

*(a) the findings on material issues of fact; and*

*(b) [subject to certain exceptions] a reference to the information on which the findings were based; and*

*(c) the reasons for the decision or recommendation".*

Section 23 is undoubtedly a significant provision. While there may be no general public duty on a decision maker to give reasons for a decision, section 23 confers a statutory right for a person to request reasons for decisions made about them. The application of section 23 of the OIA arose in a case investigated by the Ombudsman this year, concerning the New Zealand Vice-Chancellors' Committee (NZVCC).

The NZVCC is a body established by the Education Act 1989. It consists of the Vice-Chancellor of every university in New Zealand, and has a number of functions in relation to the overall governance of universities. In the case before the Ombudsman, the complainant had been nominated for appointment to a review body of the NZVCC. The complainant's nomination was rejected, and he sought a statement of reasons for the decision. The complainant was not satisfied with the adequacy of the statement of reasons that he received from the NZVCC, and complained to the Ombudsman.

The statement of reasons provided by the NZVCC referred to the information considered in making the decision, and then stated:

*"The Committee declined to appoint you... as it did not consider you suitable for appointment. That decision was based upon the judgement of the members of the Committee".*

The Ombudsman formed the opinion that this statement of reasons did not comply with section 23 of the OIA. He considered the statement manifestly inadequate as it did not set out the findings on material issues of fact. The Ombudsman noted that the NZVCC had provided more information to other parties about its decision than it had provided to the complainant, and this was entirely unsatisfactory. The Ombudsman also considered that the complainant had not been given any meaningful reason for the decision. The complainant was not only entitled to know that he had been considered unsuitable for appointment – he was entitled to know **why** he was considered unsuitable, with reference to any relevant factors that may have arisen in his case such as qualifications, experience, or a comparison with other candidates.

28 Section 22 of LGOIMA.



The Ombudsman recommended that the NZVCC provide a statement of reasons to the complainant that complies with section 23 of the OIA. In particular, the Ombudsman considered the statement should:

- set out the findings of fact relating to the decision based on the information and knowledge held by members of the NZVCC; and
- give the NZVCC's reasons why it considered the complainant unsuitable for appointment.

The NZVCC responded by providing a further statement of reasons to the complainant, although questions as to its adequacy still remained.

### Handling multiple official information complaints about school Boards of Trustees

In 2011/12 the Chief Ombudsman investigated complaints by a single individual against 201 school Boards of Trustees. These complaints stemmed from official information requests made to Boards of Trustees of all state and state integrated high schools in New Zealand. As a proportion of our overall official information workload in 2011/12, these 201 complaints represented a very significant 13 per cent.

Fortunately, the complaints related to a quite straightforward request for copies of school policies, and the vast majority of the complaints concerned the Boards' failure to make and communicate a decision on the request within the maximum statutory time limit. However, it became evident early on that there was a general lack of understanding amongst school Boards of Trustees of their obligations under the OIA. The Chief Ombudsman also needed to consider an approach that would enable her to deal in the most efficient and effective way with the large number of complaints that had been made against so many Boards.

Accordingly, a short guide was prepared for school Boards of Trustees on their obligations under the OIA. The Chief Ombudsman provided the guide to every Board that was the subject of an investigation, and she invited each Board to determine if it had received the request for school policies, and if so to reconsider the request and provide the information to the requester (if it existed). As a result of this approach, all of the complaints were able to be resolved.

With the assistance of the New Zealand School Trustees Association, we were also able to disseminate the guide on the OIA to the Board of every state and state integrated school in New Zealand. This guide is also available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

### Change to annual reporting by QEII Trust

During the reporting year, the Ombudsman completed an investigation which led to a change in reporting by the Queen Elizabeth II National Trust.

The Royal Forest and Bird Protection Society of New Zealand (Forest and Bird) had requested from the Trust copies of all South Island high country covenants, the management plans attached to those covenants, inspection reports, and information about any cases of poor adherence to covenants. Forest and Bird complained to the Ombudsman about the way in which the Trust handled the request.

During the Ombudsman's investigation of the complaint, the Trust released copies of the requested covenants and the management plans where they were registered on the title of the covenanted land. However, the Trust continued to withhold the non-registered management plans, inspection reports and information about any cases of poor adherence to covenants.





The Ombudsman formed the opinion that there was good reason for the Trust to withhold this information under section 9(2)(ba)(ii) of the OIA. He also considered that the way in which the Trust had responded to the request was not unreasonable in the circumstances.

Subject to any countervailing public interest in release, section 9(2)(ba)(ii) provides good reason for withholding official information where it is necessary to:

*“protect information which is subject to an obligation of confidence...where the making available of the information .. would be likely otherwise to damage the public interest.”*

The Ombudsman considered that the nature of the relationship between the Trust and landholders of covenanted land gives rise to an obligation of confidence by the Trust, in respect of non-registered management plans, inspection reports, and instances of poor adherence. There is a public interest in maintaining that relationship to ensure the ongoing good management of the covenants, and the creation of new covenants. Release of the requested information would be likely to damage the relationship between the Trust and landholders to the extent that it would adversely impact on the Trust’s ability to effectively monitor the current covenants, and the willingness of private landholders to enter into covenants in the future.

The Ombudsman acknowledged a public interest in the release of information about the effectiveness of Trust covenants. However, he considered this must be balanced against the ongoing effectiveness of the management and monitoring of the existing covenants, and the ability to form new covenants. The Ombudsman therefore discussed with the Trust the sort of information that could be made available without prejudicing the Trust’s relationship with landowners and lessees of covenanted land. Following these discussions, for the first time the Trust released a table outlining the number of covenants in poor adherence, the nature and scale of the poor adherence, and the actions taken by the Trust.

The Ombudsman formed the opinion that release of this information met the public interest in making available information about the effectiveness of the covenants, and there was good reason to withhold the remaining information at issue.

The Trust has advised that it intends to incorporate this table into its future annual reports. We see this as a valuable ongoing process whereby the Trust will continue to consider what information it can make publicly available to ensure increased transparency and accountability.



## Where significant numbers of OIA complaints arose

	Year ended 30/06/11	Year ended 30/06/12
<b>Departments and organisations - greater than or equal to 20 complaints</b>		
Boards of trustees – Schools	19	<b>239</b>
Police	122	<b>130</b>
Earthquake Commission	5	<b>54</b>
Accident Compensation Corporation	39	<b>53</b>
Department of Corrections	91	<b>48</b>
Ministry of Social Development	70	<b>40</b>
District Health Boards	42	<b>38</b>
Ministry of Justice	30	<b>38</b>
Department of Labour	48	<b>34</b>
Ministry of Education	22	<b>24</b>
Ministry of Health	19	<b>20</b>
<b>Ministers of the Crown - greater than or equal to 15 complaints</b>		
Prime Minister	21	<b>20</b>
Minister for Canterbury Earthquake Recovery	-	<b>22</b>

## Where significant numbers of LGOIMA complaints arose

	Year ended 30/06/11	Year ended 30/06/12
<b>Greater than or equal to 10 complaints</b>		
City Councils – all <sup>29</sup>	87	<b>150</b>
Auckland	37	<b>60</b>
Wellington	20	<b>20</b>
Christchurch	6	<b>22</b>
Dunedin	14	<b>14</b>
District Councils – all	88	<b>86</b>
Regional Councils – all	34	<b>14</b>
Council controlled organisations	16	<b>14</b>

<sup>29</sup> Total for all Councils is inclusive of those detailed.



## Protected Disclosures Act

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.

Since the PDA came into force, we have received an average of 10 requests per year for guidance and assistance in relation to possible protected disclosures.

In 2011/12, we received 9 and completed 6 requests for guidance and assistance. We exceeded our timeliness target of completing 95 per cent of all requests for guidance and assistance within 6 months of receipt, completing 100 per cent within that time. We commenced 1 investigation under the PDA this reporting year, which is ongoing.

A common trend in enquiries received 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.

Despite the high threshold, it is not clear why the PDA is not used more often. It could be due to a lack of awareness of the Act,<sup>30</sup> or a perception that the protections it provides are inadequate. It may also be a reflection of the fact that New Zealand enjoys such low levels of corruption.<sup>31</sup>

However, even if an issue raised under the PDA does not reach the threshold of serious wrongdoing, it may relate to a matter of administration capable of investigation under the Ombudsmen Act (OA). In 2011/12, the Ombudsman completed an investigation under the OA of a matter raised under the PDA.

30 The State Services Commission’s Integrity and Conduct Survey 2010 found “*a serious lack of awareness about the [PDA]*”. Available at [www.ssc.govt.nz](http://www.ssc.govt.nz).

31 In 2011, New Zealand was ranked first in the annual Transparency International Corruption Perception Index, meaning perceived levels of public sector corruption are the lowest of the 183 countries surveyed.



The investigation concerned New Zealand Qualifications Authority (NZQA) procedures for auditing training institutions. In undertaking his investigation, the Ombudsman considered concerns that had been raised under the PDA about:

- failure to conduct follow up audits of a number of private training organisations that had been identified as requiring subsequent audits;
- failure to finalise certain audits;
- delays in finalising audits when there were disagreements between quality auditors and appeals against audit cycle decisions; and
- action taken to close off audits before they had been finalised.

In responding to the Ombudsman, NZQA confirmed there were delays in the processes undertaken at the time (2007-2009), but that all the delays had since been remedied. NZQA also advised that it had been reporting to Parliament on the delays. With the change from quality audit to external evaluation and review (EER) in 2009, NZQA had also taken steps to resolve the issues that were causing the workflow difficulties.

The Ombudsman formed the opinion that NZQA was transparent in its acknowledgement of the problems at the time and had addressed the difficulties. The administrative procedures underpinning EER combined with NZQA's Statement of Service Performance targets now ensured a transparent, more efficient and robust system. Importantly, the Ombudsman noted that NZQA was meeting the timeliness targets it had set under the new procedures.

In the circumstances, the Ombudsman was satisfied the key concerns that gave rise to the investigation had been addressed internally by NZQA, and decided to take no further action.

## Crimes of Torture Act

In this section we give an overview of our work under the Crimes of Torture Act (COTA), and discuss issues arising in prisons and health and disability places of detention.

### Overview

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Under COTA, the Ombudsmen are a designated National Preventive Mechanism (NPM) with responsibility for monitoring and making recommendations to improve the conditions and treatment of detainees in:

- 17 prisons;
- 75 health and disability places of detention;
- 1 immigration detention facility;
- 4 child care and protection residences; and
- 5 youth justice residences.

There are also an additional 161 aged care facilities with dementia units that may fall within our designation in respect of health and disability places of detention. If so, we would need to seek additional funding in order to conduct regular inspections of these facilities.



The designation in respect of child care and protection and youth justice residences is jointly shared with the Children's Commissioner.

We are assisted in carrying out our NPM functions under COTA by 2 Inspectors. In 2011/12 we planned to carry out 50 visits to places of detention. We actually carried out a total of 70 visits, including 24 formal inspections.

The 24 formal inspections were at the following sites:

Name of facility	Type of facility	Recommendations made
Purehurehu, Ratonga Rua-o-Porirua, Capital & Coast DHB	Forensic unit	Yes
Rangipapa, Ratonga Rua-o-Porirua, Capital & Coast DHB	Forensic unit	Yes
Tawhirimatea, Ratonga Rua-o-Porirua, Capital & Coast DHB	Forensic unit	Yes
Auckland East (follow-up inspection)	Prison	Yes
Auckland East (follow-up inspection)	Prison	Yes
Waikeria (follow-up inspection)	Prison	Yes
Whitinga, Te Whetu Tawera, Auckland DHB	Adult Mental Health	No
Kakenga, Te Whetu Tawera, Auckland DHB	Adult Mental Health	No
Tumanako, Te Whetu Tawera, Auckland DHB	Adult Mental Health	No
Kuaka, Tiaho Mai, Counties Manukau DHB	Adult Mental Health	No
Huia, Tiaho Mai, Counties Manukau DHB	Adult Mental Health	No
Tui, Tiaho Mai, Counties Manukau DHB	Adult Mental Health	No
Arohata	Prison (women)	Yes
Hawkes Bay	Prison	Yes
Rolleston	Prison	No
Te Puna Waiora, Taranaki DHB	Adult Mental Health	Yes
Pohutukawa, Waitemata DHB	Adult Forensic Intellectual Disability	No
Te Whare Ahuru, Hutt Valley DHB	Adult Mental Health	Yes
Ward 21, MidCentral DHB	Adult Mental Health	Yes
STAR 1, MidCentral DHB	Aged care	Yes
Te Aruhe, Ratonga Rua-o-Porirua, Capital & Coast DHB	Forensic Youth - Intellectual Disability	No
Purehurehu, Ratonga Rua-o-Porirua, Capital & Coast DHB (follow-up inspection)	Forensic unit	No
Rangipapa, Ratonga Rua-o-Porirua, Capital & Coast DHB (follow-up inspection)	Forensic unit	No
Tawhirimatea, Ratonga Rua-o-Porirua, Capital & Coast DHB (follow-up inspection)	Forensic unit	No



We reported back to all places of detention within 3 months of conducting an inspection, exceeding our target of doing so in 95 per cent of all cases. We made 36 recommendations, 33 of which were accepted. This can be broken down as follows:

Recommendations	Accepted	Not accepted
Prisons	18	2
Health and disability places of detention	15	1

This brings the total number of visits conducted over the 5 year period of our operation as an NPM to 217, including 71 formal inspections.

	2007/08	2008/09	2009/10	2010/11	2011/12
Formal inspections announced	0	17	10	7	6
Formal inspections unannounced	0	0	0	13	18
Informal visits announced	43	46	6	2	12
Informal visits unannounced	0	1	1	1	34
<b>Total</b>	<b>43</b>	<b>64</b>	<b>17</b>	<b>23</b>	<b>70</b>

On a number of occasions we have also participated in or accompanied other NPMs on their visits to places of detention they are responsible for (e.g. Police cells). Likewise they accompany us on some of our inspections. These collaborative working arrangements, which will continue for the foreseeable future, help to ensure that all the NPMs benefit from each others' experiences and broaden the knowledge / skill base across all the NPMs.

## Measuring prevention

Because we measure prevention by the uptake of our recommendations, we have modified the way in which we report issues of concern to the various agencies. We now only make recommendations where remedial action is clearly required. We distinguish these from '*housekeeping points*', in respect of which action is desirable but not essential, and needs to be considered in light of available implementation funds and competing priorities. We also separately record '*good practices*', not only to commend the relevant agency and its staff, but to establish a record of learnings that can be disseminated more widely across the sector. In 2011/12 we identified 12 housekeeping matters; 11 in mental health and 1 in prisons. We also identified 10 areas of good practice, all in mental health.



## Issues arising

### Prisons

#### Segregation

At 2 sites the Inspectors identified variances within the regimes being applied to prisoners placed on directed segregation pursuant to section 58(1)(a) or (b) of the Corrections Act. The amount of time prisoners were allowed out of their cells, particularly in the open air, varied significantly. However, once the issue was drawn to the managers' attention, measures were put in place to rectify the problem. The Inspectors did an unannounced follow-up visit 6 months later to 1 of the 2 sites and were pleased to see that prisoners placed on directed segregation were receiving more than their minimum entitlements.

#### Smoking ban

The Inspectors have not identified any serious concerns arising from the ban on smoking in prisons, which has now been in place for over 12 months.

#### Prison closures

During 2011/12 the Chief Executive of Corrections announced that a number of facilities would be closed and some would be upgraded as they were no longer fit for purpose. We had previously visited the affected sites, and identified a number of areas of concern. The closures and upgrades will significantly improve the quality and suitability of New Zealand's prison facilities, and will eliminate many of our earlier concerns. The Department of Corrections (Corrections) is to be commended for this initiative.

#### Questionnaires

This year we introduced a questionnaire for prisoners, which was carried out at 4 sites. As it is impossible for the Inspectors to interview all prisoners, the questions contained in the questionnaire provide a good indication as to how the prisoners consider they are being treated. The Inspectors hand out the questionnaires to the prisoners individually or in groups, explain the purpose of it, and then collect the responses back before the end of their visit. Prisoners are encouraged to elaborate on any of their responses or make additional comments at the end of the questionnaire. Those prisoners who are not able to complete the questionnaire in time are able to post their responses back in a confidential envelope. To date, the response rate has been good.

Places of detention	Muster on the day of the visit	Number of questionnaires given out	Number of questionnaires returned
Christchurch Women's prison	82	82	53 (65%)
Rolleston Men's prison	310	310	141 (45%)
Christchurch Men's prison	818	770	347 (45%)
Hawke's Bay prison	651	538	363 (67%)
<b>Total</b>	<b>1,861</b>	<b>1,700</b>	<b>904 (53%)</b>

We are currently analysing the results of the survey and we intend to continue using the questionnaire in 2012/13.



## Health and disability places of detention

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

We made informal visits to secure, community care facilities in 14 Regional Intellectual Disability Supported Accommodation Services. All 14 visits were unannounced. The Inspectors had no concerns with the standard of care being given and were pleased to see such positive interactions between care recipients and support workers during the visits.

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

Involving patients in their care is a key factor in promoting their recovery. In this reporting year, the Inspectors saw some good examples of patients having significant input into planning their care, as well as patients being actively involved in how their unit is run. But equally, a lack of patient involvement continues to be an area of concern for the Inspectors.

We have also seen examples of good practice in relation to patients' consent to treatment forms being completed, but there is still room for improvement.

### Good practices

We are pleased to report a number of good practices around the country in health and disability places of detention, especially in the areas of seclusion reduction and restraint minimisation. Many units have introduced, or are in the process of introducing, sensory modulation rooms, which are utilised by patients/ care recipients exhibiting signs of agitation and stress, with a view to calming and relaxing them without the need for physical intervention (restraint), and seclusion.

Auckland District Health Board's Te Whetu Tawera Mental Health Unit has introduced a system called '*Releasing Time to Care*', which contributes to the ward team improving processes that allow staff to spend more time with service users and their families. Furthermore, upon entering the ward, notice boards display a range of reports, such as use of restraint and seclusion data, which demonstrates a commitment to operating an open and transparent facility which keeps service users, staff and visitors informed.

### Other activities

In July 2011, the Chief Inspector was invited to speak on the implementation of the *Optional Protocol to the Convention against Torture* (OPCAT) at a seminar entitled '*Oversight of Correctional Facilities*' hosted by the Queensland Ombudsman.

The Chief Inspector was also invited to make a presentation at the 5th Anniversary Global Forum on the OPCAT, in Geneva in November 2011. The presentation was entitled '*Particularities of the Preventive Approach*' and was based on our method of operating in New Zealand. The Chief Inspector was 1 of 32 invited speakers at the Forum, which included over 350 delegates from around the world.

We continue to meet with civil society groups to raise awareness of COTA, and also meet regularly with officials from the Ministry of Health, Ministry of Justice and Corrections.





## Looking forward

In 2012/13, the Inspectors are committed to carrying out 32 visits to places of detention, at least a third of which will be unannounced. They will continue to send finalised reports out to places of detention within 3 months of the visit.

Representatives from the Association for the Prevention of Torture will be visiting New Zealand in November 2012 to attend the 10th World Conference of the International Ombudsman Institute. While here, they are planning to meet with the New Zealand NPMs and relevant detaining agencies.

# United Nations Convention on the Rights of Persons with Disabilities

In this section we give an overview and discuss issues arising in the context of our work under the *United Nations Convention on the Rights of Persons with Disabilities* (the Disabilities Convention).

## Overview

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New Zealand signed the Disabilities Convention on 30 March 2007 and ratified it on 26 September 2008. The purpose of the Disabilities 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 says that states should establish a framework, including 1 or more independent mechanisms, to “*promote, protect and monitor*” progress in implementation of the Disabilities Convention.

In 2010 we took on the role of an independent mechanism, with responsibility for protecting and monitoring implementation of the Disabilities Convention. We share our role as an independent mechanism with the the Human Rights Commission and the New Zealand Convention Coalition, a a group of national disabled people’s organisations. On 13 October 2011, the 3 independent mechanisms were formally designated by the Minister for Disability Issues as New Zealand’s Independent Monitoring Mechanism, by notice in the New Zealand Gazette.

Our role 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 state sector agencies which relate to implementation of the Disabilities Convention; and
- conduct own motion investigations in relation to the administrative conduct of state sector agencies in implementing the Disabilities Convention.

We also note issues as they arise in relation to the inspections we carry out under our Crimes of Torture Act jurisdiction.



## Issues arising

### Developing our role

In 2011/12 we completed scoping what our role as an independent mechanism entails.

Together with the New Zealand Convention Coalition and the Human Rights Commission, we have developed a joint monitoring framework. This framework sets out the areas we have agreed to initially focus on in carrying out our role as independent mechanisms. These areas represent issues that have been immediately identified as a matter for analysis and comment by the independent mechanisms, where relevant data is presently available.

The areas set out in the monitoring framework will form the basis for reporting on our activities. However, other issues may arise during the course of the work carried out by the independent mechanisms, and these may also be incorporated in reporting as appropriate.

Under the framework, the Ombudsmen have initially agreed to focus on the areas set out in the following table.

Disabilities Convention Article(s)	Ombudsman focus
11. Humanitarian emergencies	State sector agencies involved in Canterbury recovery carry out functions in a reasonable and fair way that provides for the needs of disabled people
12, 13, 14. Equal recognition before the law, access to justice, liberty & security of the person	Disabled people in detention receive treatment in accordance with international law, including reasonable accommodation Protection of the rights of intellectually disabled and mentally disordered offenders
15. Freedom from torture or cruel, inhuman or degrading treatment or punishment	Disabled people in detention receive treatment in accordance with international law, including the Convention against Torture
21. Freedom of expression and opinion, and access to information	State sector agencies take appropriate action to communicate with and make information accessible to people with disabilities
24. Education	State sector education providers and agencies act reasonably and fairly in respect of disabled students
26. Habilitation & rehabilitation	State sector agencies act reasonably and fairly in providing habilitation and rehabilitation for disabled people
33. National implementation and monitoring	All parties to the monitoring mechanism are able to carry out their roles independent of the government and with adequate resourcing



We have also worked with the New Zealand Convention Coalition and the Human Rights Commission this year to:

- produce a pamphlet promoting the monitoring work of the independent mechanisms (available on our website and also available in printed form and Braille from our office);
- develop the format for our first joint Annual Report to Parliament due in December 2012;
- participate in workshops to develop shared outcomes in order to focus the Government's disability action plan for 2012/14; and
- provide comments to Government on the consideration of priorities for disabled people in the Canterbury earthquake recovery.

## Complaints and investigations

In 2011/12 we received 30 complaints and other contacts which raised issues relevant to the Disabilities Convention. The issues concerned many different state sector agencies, with 2 common themes of:

- the appropriateness of communication methods used by state sector agencies in the disability context; and
- access to the services and funding available for disabled people in the health and education areas.

Our concerns expressed in previous annual reports about the placement and care of mentally unwell prisoners are being examined in an investigation into prison mental health services, which we began scoping in 2011/12. We identified a number of deficiencies in the management of mentally unwell prisoners during our investigation of the *Provision, Access and Availability of Prisoner Health Services* (as noted above, at page 23), and we remain concerned that mentally unwell prisoners may not be receiving adequate health care.

The identification and treatment of mentally unwell prisoners has historically posed difficulties for both the Department of Corrections (Corrections) and the Ministry of Health. Six Regional Forensic Psychiatry Services currently provide inpatient psychiatric care, community follow-up, liaison and secondary consultation to general mental health services, prisons and court liaison services. However, concerns continue about the identification, management and treatment of mentally unwell prisoners.

Many such prisoners are likely to have long-term mental or intellectual impairments which affect their ability to participate equally in society (including in a prison setting). Accordingly, the extent to which the relevant government agencies are providing appropriate recognition and implementation of the rights set out in the Disabilities Convention will be a central focus of our investigation.

In our scoping work for this investigation, we have consulted with the New Zealand Convention Coalition and the Human Rights Commission, as well as Corrections and a number of independent experts in the area.



## Policy and professional practice

In support of our legislative functions, we aim to:

- build state 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 3 areas, together with discussion of a request for the Chief Ombudsman's consent to use the name *Ombudsman*.

### State sector capability

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In order to build state sector capability we provide advice and training to state sector agencies, comment on legislative, policy and administrative proposals, and produce information resources.

#### Advice and comment

In 2010/11 we commented on 31 legislative, policy and administrative proposals relevant to our jurisdiction. In particular, we commented on Cabinet papers, Bills and administrative policies and procedures. We contributed to the Law Commission's review of the official information legislation, and we made comments on discussion papers by other review agencies, including the Human Rights Commission, the Productivity Commission and the Office of the Auditor General.

While some agencies consult with us on proposals which are relevant to our jurisdiction, as in past years we continue to note occasions where we are either not consulted at all, or consulted late in the piece with very little time to provide meaningful input. The Cabinet Manual specifically provides that the Ombudsman should be consulted when Bills are under development:<sup>32</sup>

*"7.39 Offices of Parliament should be consulted in their areas of interest as appropriate; for example, the Office of the Ombudsmen over the application of the Ombudsmen Act 1975 to a new agency".*

In addition to the question of whether an agency should be subject to our jurisdiction, there are other matters on which we can provide useful comment. For instance, we can provide comments on good administration, decision making and complaints handling, as well as the impacts of particular proposals on the application of the official information legislation.

When we identify such matters, it is open to us to make a submission to the relevant select committee considering a bill before Parliament. We will continue to do this where appropriate. However, we would encourage agencies to consult with us on such matters at an early stage of policy development. In that way, so far as possible, a solution to any problem that is identified can be discussed before a bill is introduced to Parliament.

In addition to commenting on legislative, policy and administrative proposals, we also provided informal advice this year on approximately 100 occasions to state sector agencies, mainly in relation to enquiries

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32 See <http://cabinetmanual.cabinetoffice.govt.nz/7.19>



about the processing of official information requests. Agencies often request our advice on 'live' requests for official information and how best they can comply with the legislation. We do not tell agencies what to do in relation to 'live' requests. This would be inappropriate given that 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.

We also provided advice to the Secretary of Transport on 24 applications for authorised access to the motor vehicle register, under section 241 of the Land Transport Act.

Some examples of the advice and comments we provided are set out below.

### **Mixed Ownership Model Bill**

We made a submission to the Finance and Expenditure Select Committee on the Mixed Ownership Model (MOM) Bill. The submission concerned clauses 6 and 7 of the Bill, which remove the MOM companies from being subject to the OA and OIA. These Acts are important accountability mechanisms that currently apply to the MOM companies and we consider no sufficient grounds have been advanced for changing the status quo while the companies remain in majority Crown ownership.

We consider that the MOM companies should remain subject to the OA and OIA for the following reasons:

- The Crown will retain majority shareholding on behalf of the public, which demonstrates the importance of the MOM companies to New Zealand's interests and their role in the state sector. The sale of a minority shareholding does not affect the reasoning for their being currently subject to the OA and OIA.
- The companies will carry on the same operations as they do presently, which have significant scope to impact on individuals, communities and the environment.
- Continued coverage will ensure a measure of accountability in a context where existing control and accountability measures are proposed to be reduced or removed.
- There is a precedent for continued coverage in that "*council-controlled organisations*"<sup>33</sup> are, with some specified exceptions, subject to the OA and LGOIMA.
- Competition of itself is insufficient to provide adequate protection to consumers. Nor can the competitive environment provide a remedy for non-consumers who may nevertheless be affected by the operations of the MOM companies.
- There is no evidence that continued coverage would place the MOM companies at a competitive disadvantage. The establishment of industry Ombudsmen here and overseas demonstrates that the advantages of having an independent review mechanism are recognised by the private sector.

Our full submission on the Bill is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

### **Corrections Amendment Bill**

The Chief Ombudsman also provided comments this reporting year to the Department of Corrections (Corrections) on proposals for amendments to the Corrections Act. The Chief Ombudsman's comments resulted in a number of matters of concern being addressed by Corrections, prior to introduction of the Corrections Amendment Bill. Following introduction of the Bill, the Chief Ombudsman also made a

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33 Defined in terms of over 50 per cent local authority ownership.



submission to the Law and Order Select Committee on certain outstanding issues in the Bill. The Chief Ombudsman advised that she considered the Bill:

- should not remove the requirement for a Visiting Justice to approve the use of mechanical restraints for longer than 24 hours;
- should provide for a second opinion to be sought from a medical officer in relation to a health centre manager's assessment or treatment of a health need;
- should not remove minimum entitlements to physical exercise for prisoners removed from prison for judicial purposes;
- should not amend the Act to allow intrusive strip searching by officers without approval by the prison manager; and
- should not introduce an offence for water loading.

Of particular concern was the proposed amendment to allow all strip searches to:

- be conducted by an officer without any authorisation from the prison manager; and
- require the prisoner to squat fully to the ground and have all orifices examined.

Such strip searches are highly degrading and open to abuse. We are concerned that they may become a matter of routine, on any occasion when a strip search is conducted following the movement of a prisoner or a visit. At present these more intrusive strip searches may only be conducted when there are reasonable grounds to believe a prisoner has an unauthorised item.

In addition, we are very concerned that removing the requirement for a prison manager to approve an intrusive strip search makes it much easier for systematic abuse to occur and go undetected.

The Chief Ombudsman's full submission on the Bill is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz)

### **Law Commission review of the official information legislation**

In 2011/12 the Law Commission continued its review of the official information legislation. After receiving submissions in response to its issues paper, the Commission worked closely with us in the drafting and development of its final report and recommendations. We appreciated the open and cooperative approach of the Commission and its staff. We agree with the Commission that the fundamental principles on which the legislation is based remain sound, but that some things can be done to improve the operation and efficiency of the legislation. We look forward to working through the Commission's recommendations with the relevant agencies.

### **Training**

We offer training on request to agencies seeking to improve their understanding of our role and functions, and the requirements of the OA and official information legislation. In 2011/12, we conducted 12 workshops and training seminars around New Zealand, down from 29 the previous year. This decrease in agencies seeking training from us may be attributed to their attention being focused elsewhere this year, particularly on public sector reforms. However, we continued to receive overwhelmingly positive feedback from those agencies who did access our training services, with 100 per cent of participants reporting that our training would assist them in their work. The agencies requesting training included Corrections, the Ministry for the Environment, the Earthquake Commission, the Health Quality and Safety Commission, Invercargill Airport, Horowhenua District Council and Palmerston North City Council.



## Information resources

Our primary resource to assist agencies in complying with their obligations under the official information legislation is the Ombudsman's Practice Guidelines. These are supplemented by fully searchable case notes available on our website.

Our information resources are well received, with 95 per cent of agencies surveyed in 2011/12 reporting that they use one or more of our information resources.

We began an initiative this year to publish more information resources. We produced and updated 10 guidance materials, including topic guides and Ombudsman opinions.

In our 2010 submission to the Law Commission's review of the official information legislation, we advocated for increased publication of Ombudsman opinions on requests for official information. The Commission agreed, saying "*as many as possible of the Ombudsmen's case determinations should be publicly accessible*".<sup>34</sup> The Commission recommended conferring on the Ombudsman an express statutory function of publishing opinions on the official information legislation. In 2011/12 we published 4 opinions on key cases, namely:

- Request for list of titles and dates of reports and briefings received by the Minister of Finance from specified government agencies;
- Request for building consent information;
- Request for documents concerning the Government's mixed ownership programme; and
- Request for taser camera footage.

We intend to publish more opinions more frequently in the coming year, including opinions formed on OA complaints.

In our submission to the Law Commission we also discussed the publication of thematic or topic-specific guides, articulating principles of general application in relation to frequently recurring issues. In 2011/12, we published 4 subject guides, on:

- Chief executive expenses;
- Address information for the purposes of civil court proceedings;
- Good complaints handling by school boards of trustees; and
- The OIA and school boards of trustees.

## Consent to use of the name 'Ombudsman'

In 2011/12, the Chief Ombudsman gave limited consent to use of the name '*Ombudsman*' in New Zealand, by the Internet Corporation for Assigned Names and Numbers (ICANN) Ombudsman.

Mr Chris La Hatte, based in New Zealand, was appointed ICANN Ombudsman, a post previously held by a person based in Canada. While most of his work related to overseas issues, there was the possibility that a complaint may be made to the ICANN Ombudsman by a New Zealander. In the circumstances, Mr La Hatte sought the Chief Ombudsman's consent to use of the name in New Zealand, pursuant to section 28A of the OA.

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<sup>34</sup> Paragraph 2.35 *The Public's Right to Know: Review of the Official Information Legislation*, NZLC E31(125).



The Chief Ombudsman noted that we have taken a restrictive view of use of the name '*Ombudsman*', since the requirement for the Chief Ombudsman to consent to its use was enacted in 1991. While we are supportive of the objectives of other grievance mechanisms, their role is not that of an Ombudsman appointed by Parliament. If use of the name '*Ombudsman*' were to become widespread, this would inevitably lead to confusion in the minds of the public as to what an Ombudsman is and does. We consider this has the potential to undermine the effectiveness and integrity of the existing constitutional process.

However, the Chief Ombudsman noted that the circumstances in Mr La Hatte's case were unusual. His proposed use of the name '*Ombudsman*' in New Zealand was entirely fortuitous in that while he is located here, the entity that has conferred the name, and for whom he works, is not. In these circumstances, the Chief Ombudsman consented to his use of the name in New Zealand for the purposes of his work, subject to the following conditions:

- that he does not hold himself out to be a New Zealand Ombudsman; and
- that any public reference by him to his position of ICANN Ombudsman is qualified to make it clear that the term is used in reference to his employment by an international organisation as its Ombudsman.

## Public awareness and accessibility

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One of our priorities is to improve public awareness of our role and to make access to our service 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 service electronically.

In 2011/12 we undertook our first nationwide public awareness survey, to gauge the level of awareness of the Ombudsman in the community. Pleasingly, this survey found 69 per cent of the New Zealand public had heard of us.

More older respondents had heard of the Ombudsman, with awareness levels at:

- 90 per cent for those aged 60 years or older;
- 86 per cent for those aged 45-59 years;
- 70 per cent for those aged 30-44 years; and
- 22 per cent for those aged under 30 years.

Occupational differences were also recorded, with awareness levels at:

- 89 per cent for Retirees;
- 87 per cent for those not employed;
- 78 per cent for Professionals and Managers;
- 73 per cent for Technicians and Associates;
- 60 per cent for Blue Collar workers and also the Self Employed;
- 57 per cent for Clerks and Salespersons;
- 43 per cent for Homemakers; and
- 32 per cent for Students.





Levels of awareness amongst different ethnic groups was relatively similar, with awareness levels at:

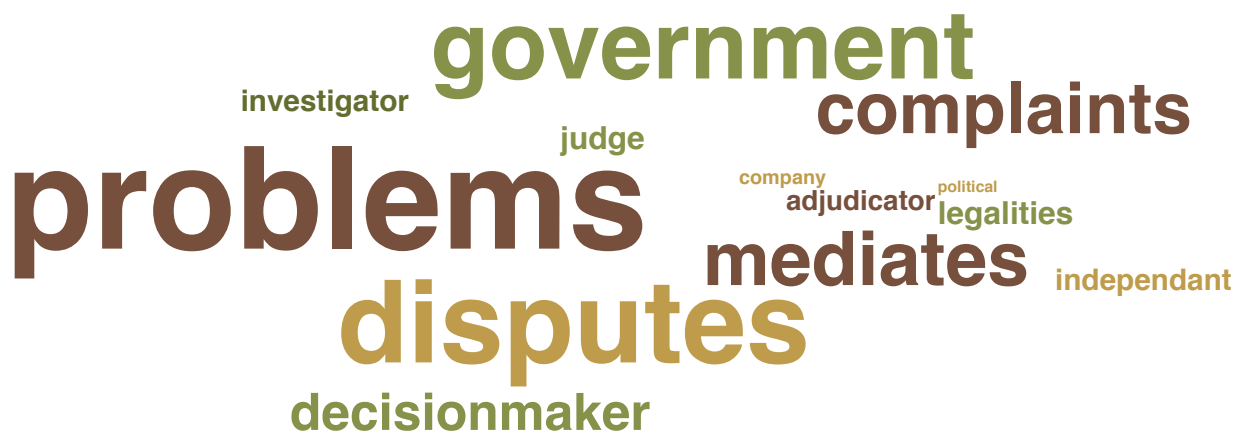
- 70 per cent of non-Maori and non-Pacific Islanders;
- 62 per cent of Maori; and
- 59 per cent of Pacific Islanders.

Clearly, younger New Zealanders and students will need to be a target area for our public awareness activities in the future.

Most respondents who had heard of the Ombudsman had a good idea of what we do, with:

- 49 per cent aware that we handle complaints and disputes; and
- a further 10 per cent aware that we consider complaints about central and local government services.

From responses to the question “*What does the Ombudsman do?*”, we identified a number of key words. A graphical display of these key words, with the more frequently used words featuring more prominently in the display, is set out below.



We also commenced a project this year to reposition the Ombudsman as a “*modern, independent New Zealand authority, that is agile, proactive and approachable*”. We worked on developing a new Ombudsman identity and website, with the launch in August 2012. Our work in this area reflects the fact that the way complainants find out about and interact with us is changing, with increasing use of new technology, including internet and email. Fifty-nine per cent of complainants we surveyed in 2011/12 had visited our website. This accords with our nationwide public awareness survey, which showed that 77 per cent of the public (and 89 per cent of those aged under 30) would use the internet to find out what we do.



Our new website has been designed to both:

- inform the public about our role, when we can help and to make it easy to approach us; and
- provide a platform to build resources and guidance for both the public and state sector.

As noted above, at page 59, we worked with the New Zealand Convention Coalition and the Human Rights Commission to produce a pamphlet promoting our role in monitoring implementation of the Disabilities Convention. We also continued to publish pamphlets on:

- Making complaints about government agencies;
- Making requests for official information;
- A guide to the Protected Disclosures Act;
- Making complaints about the prison service; and
- Making complaints about tertiary education.

These 5 pamphlets are available in English, Maori, Samoan and traditional and simple Mandarin.

We continued our push to be more visible, active and engaged in community events this year. We delivered 23 presentations and workshops on the role of the Ombudsman. Audiences included Ministers, Members of Parliament, Mayors, media organisations, central and local government agencies, university students, the NZ School Trustees Association, the Human Rights Commission Diversity Forum and community groups. Particular initiatives included an ongoing presence at regional Consumer Rights Days in Auckland, Wanganui, Upper Hutt, Nelson, Taupo and Christchurch.

## International relations and development

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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 2011/12, we received delegations from China, India, the Korea Republic and Niue. 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 maintain awareness of international developments and trends through membership of the:

- Australasian and Pacific Ombudsman Region of the International Ombudsman Institute;
- Australia and New Zealand Ombudsman Association;
- Pacific Ombudsman Alliance; and
- Association of Information and Access Commissioners.



During the reporting year, the Chief Ombudsman continued in her role as President of the International Ombudsman Institute. As well as fulfilling her ongoing duties in this respect, the Chief Ombudsman has spent some time in 2011/12 preparing to host the 10<sup>th</sup> World Conference of the International Ombudsman Institute, which will be held in Wellington in November 2012.

We continued to receive particular assistance in 2011/12 from the Victorian Ombudsman and the Energy and Water Ombudsman Victoria. Ongoing insight into their systems and processes has been invaluable in developing our initiative of *continuous practice improvement*.

### Training and assistance

We continue to provide training and development assistance when possible, primarily to countries in the Pacific region. This is generally done through the Pacific Ombudsman Alliance, which exists to strengthen Pacific Ombudsman Offices in their ongoing professional development, and support the building of integrity institutions in the wider Pacific.

In 2011/12, we provided ongoing support to the *Complaint Handling Ombudsman-backed Scheme* in Niue and to the Cook Islands Ombudsman office. We provided comments on request to Samoa and the Cook Islands on legislative initiatives. One of our senior advisors travelled to Timor-Leste in response to a request from the United Nations Development Programme for assistance in carrying out a capacity/needs assessment for the Good Governance Directorate of the Provedoria for Human Rights and Justice. We also provided advice on legislative issues to the Ombudsman of Bermuda.

In November 2011, the Chief Ombudsman participated in the Commonwealth Secretariat's Seminar on Integrity in Public Life, which was hosted by the New Zealand Government. The purpose of the meeting was to discuss:

- a draft model law on Integrity in Public Life specifically aimed at the needs of small jurisdictions;
- guidelines on codes of conduct and conflicts of interest for small states; and
- a training programme on conflicts of interest and codes of conduct for public officials in small states.



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## Part 5

# Organisational health and capability

# 5

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## Overview

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Our work in 2011/12 was informed by a revised Statement of Intent for 2011/14, which improved our description of the linkages between what we do and how our work contributes to the overall outcome sought for Vote Ombudsmen – that “*a high level of public trust in government is maintained*”.

Following the review of our Statement of Intent, we applied an expanded and more meaningful range of performance measures during the reporting year, to gauge our progress towards achieving the primary outcome of the Ombudsman. The measures are both quantitative and qualitative and include results from surveys of agencies and complainants. We also undertook a nationwide public awareness survey to gauge the level of awareness of our service in the community. Details of the performance measures applied during 2011/12 and our actual performance relative to those measures may be found at pages 86-89.

It is important to us that the performance measures we use and report against have real meaning. They are used as an integral part of our daily management and decision making processes, rather than being simply a year end summation of what has been achieved. The measures now being applied have been further reviewed and refined in our 2012/15 Statement of Intent, to ensure that they remain relevant and realistic.

With the outcomes for the Vote well defined and a comprehensive and meaningful set of performance measures described, it was possible during 2011/12 to continue work to underpin our purpose and strategic direction, including the development of a comprehensive risk assessment and management framework aimed at maintaining capability to carry out our operating intentions for the foreseeable future. Our work in this area included:

- Progressing our *continuous practice improvement* initiative. This significant body of work included a detailed review and analysis of all policies, processes and resource allocations to identify opportunities for greater effectiveness and efficiency through more streamlined workflows, an improved delegation structure, improved internal guidance and resources, improvements to systems used to manage our workload, and improved quality assurance.
- An examination and redevelopment of the Ombudsman identity and website, improving the usefulness of our website as a resource and as a means of conducting business over the internet.
- Changes to our human resource policies to ensure that they support the *continuous practice improvement* initiative.
- Changes required to be made to our Case Management System, to support the information needs of the *continuous practice improvement* initiative.

A series of consultation meetings were held with staff to discuss the detail of the *continuous practice improvement* initiative, its implementation and associated implications for the organisational structure of the Office and supporting human resource policies. The meetings were held in a constructive environment with staff contributing useful refinements prior to implementation. We also requested assistance in the form of a peer review of the *continuous practice improvement* initiative from our sister jurisdictions in Australia. The consultation phase in respect of human resource matters is ongoing.

In the coming 2012/13 year we will complete implementation of the *continuous practice improvement* initiative, with any refinements necessary to achieve a more effective and efficient complaint handling process overall.



In our annual report last year we commented that the Office was underfunded on an ongoing basis by approximately 12 per cent or \$1 million per year. The publishing of our 2010/11 annual report in September 2011 was too late in the budget setting cycle for Parliament to address our funding concerns for the 2011/12 year. In the event we completed the year with a surplus of \$100,476, of which \$100,000 was a partial insurance recovery post the February 2011 Canterbury earthquake.

Subsequently, Parliament has approved a budget increase of \$300,000 for 2012/13 and the ongoing provision of \$370,000 that had previously been provided on a temporary basis. Together these sums go some distance towards alleviating our immediate concern about being able to pay the bills, but while appreciated, the sum is not sufficient to enable recruitment of the additional staff required to address our burgeoning workload or secure the ongoing longer term financial sustainability of Vote Ombudsmen.

We have always operated in a fiscally responsible manner. When budgetary increases have been sought, our approach has been to request only the minimum sum required. However, this approach has come with a cost. Put bluntly, our Office is vulnerable to any changes in cost structure and we have little flexibility to absorb changes in our workload.

The current social and economic climate, with increased public reliance on state assistance coupled with an ongoing drive by the Government to improve and rationalise service delivery, has increased demand for our assistance to the highest level recorded since the role of the Ombudsman was established in 1962. We believe the level of work now being received will not diminish significantly even when the economy has strengthened and there is less demand for state assistance. The increase in work is broadly based across many agencies and deals with many diverse issues.

Where historically we were funded on the basis of approximately 1,000 complaints and other contacts being active at any one time, the number of matters open as at 30 June 2012 was 1,746, a 57 per cent increase in our workload on hand. We still have approximately 300 complaints on hand that we cannot immediately assign to an investigator. Our investigators are already fully committed. However, we keep those wait-listed complaints under review so anything that becomes urgent can be prioritised. Our budget is not sufficient to enable the recruitment of the additional staff required to undertake this work immediately. Any delay in the timeliness of our complaint handling process is understandably important to the complainant, and can also impact on our ability to identify and take action to address administrative deficiencies in the state sector overall. Our Office needs to be adequately resourced to reduce this risk and to enable us to contribute to improved and more efficient public sector administration.

We have rent reviews due this year for our 3 tenancies and will incur additional costs associated with recruiting a successor to Ombudsman David McGee following completion of his term of appointment in November 2012. The Office budget will not be able to meet these costs without again being reliant on ad hoc savings that may or may not occur in the personnel budget. We will therefore be requesting Supplementary Funding in the 2012/13 year. The margin between our budgetary provision and our ability to sustain operations to an acceptable professional standard even on a fiscally prudent and conservative basis is now simply too fine.

We also have concerns about our ability to properly fulfil our obligations as National Preventive Mechanism under the Crimes of Torture Act within existing resource constraints. We had been operating in the belief that just over 100 detention facilities fell within our remit, including approximately 75 health and disability places of detention. However, our designation in respect of *'health and disability places of detention'* is potentially very wide, and having explored the issue further this reporting year we consider that it may encompass private sector aged care facilities in which people have been detained. This includes 161 aged



care facilities with dementia units, which would bring the total number of health and disability places of detention within our remit to approximately 263. With only 2 inspectors, our ability to conduct “regular” inspections of these places of detention as required by the Crimes of Torture Act, and in accordance with international expectations, would be compromised. We would need to seek additional funding to address these concerns.

In our Statement of Intent for 2011/14 we commented that scoping work would be done in respect of the resource requirement associated with our role as an independent mechanism protecting and monitoring implementation of the *United Nations Convention on the Rights of Persons with Disabilities*. We completed our scoping work this reporting year, establishing a joint monitoring and reporting framework with the other independent mechanisms (the New Zealand Convention Coalition and the Human Rights Commission). The funding we have available for our work in this area is currently sufficient, although we will still need to carefully target our interventions in this area to make the best use of the resource we have available.

## Managing performance

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This year we introduced the *continuous practice improvement* initiative, which improves how we assess, allocate and process new work. Together with the use of more meaningful performance measures, this is proving very helpful in managing our work flow. We are already seeing the benefit of new and more useful information being available that helps us to better understand our business.

Further improvements to managing performance are anticipated during the 2012/13 year. These will include a particular focus on developing key performance indicators at individual and team level that reflect our overall Office performance measures. We will also work on improving our information management and record keeping facilities and the ‘mining’ of information that we hold to identify opportunities for further improvement both internal to our Office and externally within the state sector.

## Financial and asset management

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Vote Ombudsmen is small, amounting to \$8.768 million (excluding GST) for the year ended 30 June 2012. Personnel, accommodation and communication costs account for more than 85 per cent of the annual budget. Most of the remaining budget is committed to smaller service contracts such as library resources, cleaning, electricity, courier services, computer network support and similar.

Consistently both the Treasury and our auditors have advised that they consider the Office is not wasteful of the resources provided. There is very little expenditure of a discretionary kind and as a proportion of the total budget the sum is trivial. What discretionary financial resources do exist are allocated in a contestable manner. Generally the allocation of every dollar is closely scrutinised to ensure the investment is the best use we can make with the resources provided. Discretionary funding may be spent on staff training or assigned to a specific project.

The run up to the end of a financial year should theoretically be much the same as for any other month end. However, with Office resources so restricted, the reality is otherwise. For the last 6 months of the reporting year it is necessary to apply disproportionate effort to ensure the annual appropriation is not overspent at 30 June.



We have a statutory responsibility to carry out our functions, including the consideration of complaints made to us by the public. We do not have adequate financial resources to do this in a timely manner. As stated previously we have a significant number of complaints on hand that we do not have the resources to immediately progress. We do not have sufficient financial resources to recruit the additional investigators that would be required to undertake this sustained increase in our workload in a timely manner.

Also as stated previously, we will be seeking additional funds in 2013/14 to enable us to fulfil our function under the Crimes of Torture Act as the designated National Preventive Mechanism responsible for inspecting aged care facilities where people are detained.

We continue to use GreenTree accounting and reporting software as our primary accounting tool. While an older computer application, the software is expected to continue to meet our needs for the foreseeable future. The financial reports generated by the system deliver detailed information on a business unit basis and are reported to the Office Management Advisory committee on a monthly basis. 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 the financial, human and other physical assets provided to our Office and in identifying any potential problems at an early stage.

Government procurement agreements flowing from the former Ministry of Economic Development and SupplyCorp's range of service and supply contracts are used to gain benefit from group bulk purchase discounts wherever possible. When goods or services cannot be procured using a government contract, 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. A narrow range of products and services are used by our Office with most expenditure committed to personnel, accommodation, communications and GST.

The 2011/12 Departmental Internal Control Evaluation of our Office undertaken by Audit New Zealand on behalf of the Treasury resulted in the Office scoring 4.79 from a possible 5 and an overall grading of "excellent". This was a small improvement on last year's score of 4.66 which still rated as "excellent". The improvement largely results from the ongoing work done to improve our Statement of Intent. We expect 2012/13 to record further improvement as a consequence of refinements published in the 2012/15 Statement of Intent and our work to complete implementation of the *continuous practice improvement* initiative.

The audit of our financial and non financial performance for the year ended 30 June 2012 did not identify any area of activity requiring significant improvement. We are aware opportunities for improvement always exist and where practical we work to achieve these. In that regard Audit New Zealand's preparedness to engage with us and assist in improving our financial and non financial reporting systems continues to be greatly appreciated.

We work closely with The Treasury and Audit New Zealand to ensure a "no surprises" policy. We believe the better they understand our business and purpose the better they will understand the contribution that we can make to maintaining a high level of public trust in government. 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 the Ombudsman's working environment and issues confronting us.





## Human resource management

As of 30 June 2012, our Office comprised 70 individuals or 64.4 Full Time Equivalents (FTEs), including the 2 Ombudsmen. The distribution of staff on a gender basis is set out in the table below.

Staff	Auckland		Wellington		Christchurch		Totals	
	M	F	M	F	M	F	M	F
Corporate roles	-	1	2	8	-	1	2	10
Front line support roles	-	2	-	5		1	-	8
Operational roles – investigation, inspection, policy and professional practice	<u>3</u>	<u>5</u>	<u>15</u>	<u>22</u>	<u>3</u>	<u>2</u>	<u>21</u>	<u>29</u>
<b>Total staff by gender and location</b>	<b>3</b>	<b>8</b>	<b>17</b>	<b>35</b>	<b>3</b>	<b>4</b>	<b>23</b>	<b>47</b>
<b>Total (not FTEs)</b>	<b>11</b>		<b>52</b>		<b>7</b>		<b>70</b>	

We have commented previously about a review of our corporate and human resource policies. The purpose of the review is threefold:

- to ensure application of best practice in human resource management;
- to ensure human resource policies and delegations are harmonised with the Office management structure and contribute to and support our operational aims; and
- to consolidate in 1 manual or set of documentation, policies and guidance previously distributed in many memoranda.

We are currently in consultation with staff regarding the draft policies.

In our 2010/11 annual report we commented that a lack of funding to enable the fair remuneration of staff was a significant concern and growing risk to our operations. There had been no specific funding provided for remuneration increases for the last 5 years as at 30 June 2012, while over much the same period the cost of living had increased by 14.7 per cent (at January 2012)<sup>35</sup> and public sector wage rates increased by only marginally less. In the event, Parliament approved as part of a \$300,000 budget increase from 1 July 2012, sufficient funds to allow a 3.5 per cent adjustment to staff remuneration. Our request to provide the balance of remuneration funding required (\$540,000) by instalments over the 2 following financial years was declined.

Our staff are relatively long serving with 51 per cent (last year 46 per cent) having completed 5 or more years service.

	<=1 year	>1 and <=2 years	>2 and <=5 years	>5 and <=10 years	>10 years	Total
Number of staff (Not FTE's)	5	7	22	16	20	70

35 Consumers Price Index June 2011 quarter – Statistics New Zealand.



Longevity in serving staff has a significant benefit in that our staff know the business extremely well, and are able to apply sound and experienced judgment to conclude a matter with minimal delay. However, this does give rise to a potential vulnerability if we are unable to retain these staff.

Fortunately, we were able to retain almost all of our skilled and experienced staff during the 2011/12 year. We believe the current state of the economy and significant restructuring of public sector service delivery initiated by the Government have been major contributors to the stability experienced. Only 1 member of staff departed during the year.

Approximately 24 per cent, or 16 of our 68 staff (excluding the Ombudsmen), participate in job sharing or reduced hours of employment arrangements. Flexible working arrangements are one of the ways that we seek to retain our workforce. Most requests are to allow a better balance between work and personal life. Wherever possible these requests have been agreed to, providing our performance objectives can continue to be met. Some staff have requested approval to work from home. Agreeing to these requests is more difficult because of the security obligations associated with our work under section 21 of the Ombudsmen Act.

The employment agreement with our staff provides for an “open ended” sick leave entitlement. To aid our management of the entitlement we separate extended sick leave from leave for normal short term illness. Extended sick leave is used when a member of the staff suffers major illness or injury requiring ongoing treatment or an extended period of recuperation. The provision is generous and is subject to the Chief Ombudsman’s review if the illness is one where the employee is unlikely to be able to return to work in the medium to long term future. During 2012/13 we will amend our formal monthly work management reporting systems to include a requirement that managers discuss with staff concerned any absences because of illness. We want to ensure as much as reasonably possible the good health and well being of our staff. The formal requirement to discuss absences will provide a mechanism to identify any issues that may be having a detrimental impact on our staff, such as stress related issues or ongoing health issues and where a managed work arrangement may be beneficial.

The following table records sick and family leave taken during each of the past 6 calendar years.

	1 July to 30 June					
	2007	2008	2009	2010	2011	2012
Total leave days taken	204	257	309	405	437	<b>471</b>
Employees in period (FTE’s)	52	60	63	63	61	<b>70</b>
Average days/employee	3.93	4.1	4.99	6.43	7.16	<b>6.73</b>

The total sick leave days taken in 2011/12 includes 100.5 days of extended sick leave where staff have suffered serious illness or injury and 67.5 days when family leave has been taken to care for sick dependents. Removing the periods of extended sick leave would reduce the average number of days absent per employee to 5.29 days per year (last year 5.43 days per year). Last year’s average absence on sick leave represents a slight improvement over the previous year but the overall trend since 2007 is of increased absence through illness and potentially work related stress.

For the 12 months ended 30 June 2012 the absentee rate for staff was:

$$\begin{aligned}
 & \mathbf{471} \text{ actual days sick leave} \\
 & 230 \text{ working days} \times 64.4 \text{ FTE staff} = 14,812 \text{ possible working days} \\
 & = \mathbf{3.2} \text{ per cent (last year 2.7 per cent).}
 \end{aligned}$$



Health and well being issues in a staff member's private life can carry over in some form into their work life. Having our staff maintain good health and well being is important to us. We encourage staff to be proactive in caring for themselves through initiatives including a "good health" policy, offering annual influenza inoculations, access to professional counselling services and eyesight and "wellness checkups". Our "good health" policy encourages staff participation in sporting and other activities requiring energetic physical exercise. The "wellness checkup" focuses on general health and assists staff to identify lifestyle changes that may be beneficial to them. We also encourage staff to take at least 1 period of 10 consecutive days leave for rest and revitalisation.

The annual review of staff performance is as at 1 July each year. Over the past 2 years we have worked to develop a performance management and professional development planning system that flows from the outputs and outcomes sought from Vote Ombudsmen. The clear definition of our outcomes framework and the review of key performance measures at organisational level have been major milestones. These have been supported by the implementation of the *continuous practice improvement* initiative and changes to our Case Management System designed to improve workflow and work management, and enable more focused reporting on the contribution that each staff member makes to achieving our planned performance standards. In the 2012/13 year, we intend to complete development of key performance indicators for staff at both individual and team level.

## Information management

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Implementation of our information management strategy has not advanced significantly since last year. Our primary focus during 2011/12 has been on the development of the *continuous practice improvement* initiative and its associated supporting requirements. The information management strategy will be reviewed to ensure it meets the needs of our Office as informed by the *continuous practice improvement* initiative. The strategy includes projects in support of achieving best practice in record keeping and information management and retrieval.

During late 2011/12 we redeveloped our website as part of a review of our external communications platform.

Late in the reporting year Archives New Zealand audited our Office in respect of the standards identified in the Public Records Act 2005. The audit findings indicated areas where we can further improve record keeping policies and practices. We intend making this an area of work focus in the 2012/13 year.

Our primary work and record management tool, the Case Management System, had updates applied to allow more useful information to be recorded about the complaints and other contacts we receive. For the first time in the 2011/12 year, we have:

- recorded data about complaints and other contacts separately; and
- collected more detailed data as to the nature and outcome of the complaints and other contacts we have dealt with.

This has enabled us to better demonstrate the types of administrative deficiencies we are identifying in the state sector, as well as the outcomes we are achieving for the benefit of both individual complainants and public administration as a whole.

Other changes will be made over time to ensure that the Case Management System remains relevant and contributes usefully to the overall management of our workload.



We updated our Microsoft Office suite of applications from Office 2003 to Office 2007. We engaged professional trainers to advise staff of changes made to the user interface and of new facilities provided. The implementation was without incident.

Information technology systems within our Office are reasonably current. We generally maintain system software at the next most current version. This methodology allows time for other users to identify problems and vendors time to correct bugs and similar faults that are routinely present in new software releases. Virus and system security updates are the exception. System security must be maintained at the most current level possible. Computer hardware and other auxiliary equipment is generally replaced on a 4 yearly cycle. There was no system down time recorded throughout the year.

## Risk management

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Risk management or mitigation is multi faceted. We have identified below the major risks we face, together with our key strategies to mitigate these risks.

### Damage to our credibility or reputation

The Ombudsman must be seen by both complainants and agencies to be fair and independent. We must be trusted to safely and securely manage sensitive and confidential information provided for the purpose of our investigations and inspections.

There is a risk that poor processes, flawed or inconsistent decisions, or insecure management of information will damage our credibility and reputation. This would limit the effectiveness of our oversight of state sector administrative conduct and our ability to effect improvements in that respect.

Our key strategies to manage this risk include:

- all staff take an oath of secrecy and adhere to a code of conduct;
- formal induction and training for staff;
- mentoring and peer review by senior staff;
- guidance and resource material for staff; and
- strategic direction by senior staff in identified areas of our work.

During the reporting year, we also developed:

- our ongoing programme of *continuous practice improvement*, to identify any professional practice issues that need to be addressed; and
- Office quality standards and quality assurance.

We are not aware of any incidents that occurred during the reporting year that would affect our credibility or reputation. The very significant work done in support of the *continuous practice improvement* initiative is expected to reduce this risk to a minimal level.



## Loss of relevance

The Ombudsman must be seen by Parliament, the public and agencies to provide relevant, timely and appropriate responses to complaints, and to conduct effective inspections and investigations of significant and systemic issues. There is a potential risk that we may be seen as too remote from every day realities, leading to inappropriate or irrelevant responses and guidance. We may also miss significant issues that arise, where more general interventions may be appropriate in addition to taking specific action to resolve a particular complaint.

Our key strategies to manage this risk include:

- environmental scanning, to ensure that we remain connected to, and aware of, emerging trends and issues; and
- strategic direction by senior staff in identified areas of our work.

During the reporting year, we also developed a formalised scoping process when significant and systemic issues arise, to ensure that we can identify and take appropriate action to address wider administrative improvement opportunities.

## Escalating complaint numbers and finite resources

As noted previously, the increase in complaints and other contacts we are receiving is an ongoing concern. More detail of our concerns about complaint numbers and resourcing levels may be found at page 70.

While we will not compromise the quality of our complaint handling process, there is a risk we will not be able to meet stakeholder expectations of the time taken to complete the complaints and other contacts we receive.

Timeliness is often critical to complainants and significant failures in this regard carry the risk that people will choose not to turn to us or, if they do, the outcomes we can achieve will not be relevant, useful or appropriate.

There is also a risk that a need to focus on individual complaints due to the sustained pressures we have in this area will limit our ability to address significant and systemic issues through more general interventions.

Our key strategies to manage this risk include:

- up-front assessment on receipt of complaints to determine priority, approach and resource allocation;
- managed allocation of work;
- a team dedicated to providing timely responses to straightforward matters;
- delegation of certain work that does not involve forming opinions on complaints; and
- formal reporting and oversight of complaints on hand.



During the reporting year, we also:

- developed and piloted a revised operating model as part of our *continuous practice improvement* initiative, which realigns our practices to ensure they meet current business needs; and
- continued our increasing focus on more general interventions to help state sector agencies improve their administrative, decision making and complaints handling processes before complaints arise.

However, the resources presently available to us are insufficient to fully manage escalating complaint numbers. More resources are required for us to meet the timeliness expectations of complainants and agencies.

### Retention of staff

We are fortunate in having a number of long serving, experienced and able staff, many of whom have developed significant expertise in areas of our work. The primary risk is loss of intellectual capital when any of these staff leave and the consequent need to replace them with less experienced staff who will take time to be operating at the same level.

Our key strategies to manage the risk include:

- effective induction, training and professional development programmes for staff;
- guidance and resource material for staff;
- development of a knowledge management strategy designed to enhance the capture and retrieval of key business information;
- measures to attract and retain staff, including a range of employment terms and conditions that are fair and reasonable and that are sufficiently flexible to meet the changing and variable needs of staff and the business needs of our Office; and
- a survey of staff to gauge satisfaction with the Office as an employer and to identify any issues of concern that we may be able to address.

### International risks

Operating in the international environment is becoming an increasing area of our work. This is especially so given our responsibilities under 2 international conventions, and the ongoing international interest in the New Zealand Ombudsman model.

There is a risk to New Zealand's international credibility and reputation if we fail in any respect in our inspection and monitoring roles under international conventions.

In relation to our inspection role, the international community has identified a risk inherent in having "*a single institution...to serve both as [National Preventive Mechanism] and as a forum for individual complaints*".<sup>36</sup>

Our key strategies to manage these risks include:

- maintaining effective networks and working closely with the other New Zealand and international agencies involved; and
- a strong internal separation between our inspection and general complaint handling roles.

<sup>36</sup> *Guide to the Establishment and Designation of National Preventive Mechanisms*, Association for the Prevention of Torture, pp 28-29.



## Other strategies used to assist with risk management

Our other key strategies to manage risk include reviewing and improving the physical security of our work premises and staff, to ensure as much as reasonably possible that a safe working environment is provided.

We maintain a range of insurances to cover operational risks of various kinds, such as loss or damage of equipment or furnishings, public liability and business interruption. Our business interruption insurance significantly reduced the direct cost to the Office of re-establishing operations from our Christchurch office post the 22 February 2011 Canterbury earthquake. Our claim for business interruption costs post the 22 February 2011 earthquake has been partially settled. A further and final settlement is awaited.

We have established a disaster recovery capability outside of Wellington able to support computer and other electronic services to surviving offices following a major disruption arising from fire, tsunami, earthquake or other significant event. Measures have been implemented to provide for the continuation of services in most circumstances should systems or facilities in 1 of our offices fail. For example, we have:

- an integrated telephone system where calls directed to any 1 of our 3 offices may be answered by any other office, and the call redirected anywhere within the Office as a whole;
- electronic systems and databases held in virtual environments that allow speedy recovery of Office electronic information systems in the event of hardware failure; and
- backup external data connectivity.

We maintain standard computer database security through use of RAID 5 level redundancy for all computer network servers. We have daily and weekly backup tapes, daily NAS electronic backup of data, and incremental daily backups to our disaster recovery server in Auckland, as well as monthly backup tapes sent "off site" and "out of centre". The weekly tapes are recycled at 4 weekly intervals and the monthly tapes on a 6 monthly cycle. Daily backups are recycled once each week.

Our computer source code associated with the Case Management System is held in escrow. Computer hardware is replaced on a 4 yearly cycle. This reduces the risk of hardware failure and ensures the main elements of our computer network have supplier backup and support services available.

Emergency first aid and civil defence equipment and supplies are provided for each office and to all staff. We also maintain a pool of staff holding current First Aid qualifications at each of our offices.

Regardless of these precautions, a major seismic or similar event could potentially disrupt power and communication capabilities in the Wellington, Auckland or Christchurch regions to such an extent that our Office could only operate on a partial basis until full services were restored.

Handwritten signature of Dame Beverley Wakem in black ink.

**Dame Beverley Wakem DNZM, CBE**  
Chief Ombudsman

Handwritten signature of Dr David McGee in black ink.

**Dr David McGee CNZM, QC**  
Ombudsman



## Part 6

# Financial and performance information

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# Financial and performance information

## Statement of responsibility

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In terms of the Public Finance Act 1989, I am responsible, as Chief Executive of the Office of the Ombudsman, for the preparation of the Office's financial statements and the statement of objectives and service performance and for the judgments made in them.

I have the responsibility of establishing, and have established and maintained, a system of internal control procedures that provide a reasonable assurance as to the integrity and reliability of financial reporting.

In my opinion, these financial statements fairly reflect the financial position and operations of the Office of the Ombudsman for the year ended 30 June 2012.

**Dame Beverley Wakem DNZM, CBE**  
Chief Executive  
27 September 2012

**Peter Brocklehurst**  
General Manager Corporate  
27 September 2012



## Independent Auditor's Report

### To the readers of the Office of the Ombudsmen's financial statements and statement of objectives and service performance for the year ended 30 June 2012

The Auditor-General is the auditor of Office of the Ombudsmen (the Office). The Auditor-General has appointed me, Karen Young, using the staff and resources of Audit New Zealand, to carry out the audit of the financial statements and the statement of objectives and service performance of the Office on her behalf.

We have audited:

- the financial statements of the Office on pages 96 to 119, that comprise the statement of financial position, statement of commitments and statement of contingent liabilities and contingent assets as at 30 June 2012, and the statement of cost of service, statement of comprehensive income, statement of cash flows, statement of expenses and capital expenditure against appropriations, statement of unappropriated expenditure and capital expenditure for the year ended on that date and the notes to the financial statements that include accounting policies and other explanatory information; and
- the statement of objectives and service performance of the Office on pages 92 to 96.

## Opinion

In our opinion:

- the financial statements of the Office on pages 96 to 119:
  - comply with generally accepted accounting practice in New Zealand; and
  - fairly reflect the Office's:
    - financial position as at 30 June 2012;
    - financial performance and cash flows for the year ended on that date;
    - expenses and capital expenditure incurred against each appropriation administered by the Office and each class of outputs included in each output expense appropriation for the year ended 30 June 2012; and
    - unappropriated expenses and capital expenditure for the year ended 30 June 2012.
- the statement of objectives and service performance of the Office on pages 92 to 96:
  - complies with generally accepted accounting practice in New Zealand; and



- fairly reflects for each class of outputs for the year ended 30 June 2012 the Office's:
  - service performance compared with the forecasts in the statement of forecast service performance at the start of the financial year; and
  - actual revenue and output expenses compared with the forecasts in the statement of forecast service performance at the start of the financial year.

Our audit was completed on 27 September 2012. 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, and we explain our independence.

### **Basis of opinion**

We carried out our audit in accordance with the Auditor-General's Auditing Standards, which incorporate the International Standards on Auditing (New Zealand). Those standards require that we comply with ethical requirements and plan and carry out our audit to obtain reasonable assurance about whether the financial statements and the statement of objectives and service performance are free from material misstatement.

Material misstatements are differences or omissions of amounts and disclosures that would affect a reader's overall understanding of the financial statements and the statement of objectives and service performance. If we had found material misstatements that were not corrected, we would have referred to them in our opinion.

An audit involves carrying out procedures to obtain audit evidence about the amounts and disclosures in the financial statements and the statement of objectives and service performance. The procedures selected depend on our judgement, including our assessment of risks of material misstatement of the financial statements and the statement of objectives and service performance, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the Office's preparation of the financial statements and the statement of objectives and service performance that fairly reflect the matters to which they relate. We consider internal control 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.

An audit also involves evaluating:

- the appropriateness of accounting policies used and whether they have been consistently applied;
- the reasonableness of the significant accounting estimates and judgements made by the Chief Ombudsman;
- the adequacy of all disclosures in the financial statements and the statement of objectives and service performance; and
- the overall presentation of the financial statements and the statement of objectives and service performance.



We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements and the statement of objectives and service performance. We have obtained all the information and explanations we have required and we believe we have obtained sufficient and appropriate audit evidence to provide a basis for our audit opinion.

### **Responsibilities of the Chief Ombudsman**

The Chief Ombudsman is responsible for preparing:

- financial statements and a statement of objectives and service performance that:
  - comply with generally accepted accounting practice in New Zealand;
  - fairly reflect the Office's financial position, financial performance, cash flows, expenses and capital expenditure incurred against each appropriation and its unappropriated expenses and capital expenditure; and
  - fairly reflects its service performance.

The Chief Ombudsman is also responsible for such internal control as is determined is necessary to enable the preparation of financial statements and a statement of objectives and service performance that are free from material misstatement, whether due to fraud or error.

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

### **Responsibilities of the Auditor**

We are responsible for expressing an independent opinion on the financial statements and the statement of objectives and service performance and reporting that opinion to you based on our audit. Our responsibility arises from section 15 of the Public Audit Act 2001, the Ombudsmen Act 1975 and the Public Finance Act 1989.

### **Independence**

When carrying out the audit, we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the New Zealand Institute of Chartered Accountants.

Other than the audit, we have no relationship with or interests in the Office.

Karen Young  
Audit New Zealand  
On behalf of the Auditor-General  
Wellington, New Zealand



## Audit New Zealand statement

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### ***“Matters relating to the electronic presentation of the audited financial statements.***

*This audit report relates to the financial statements of the Office of the Ombudsman for the year ended 30 June 2012 included on the Office’s website. The Chief Ombudsman is responsible for the maintenance and integrity of the Office’s website. We have not been engaged to report on the integrity of the Office’s website. We accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the website.*

*The audit report refers to only the financial statements named above. It does not provide an opinion on any other information that may have been hyperlinked to/from these financial statements. If readers of this report are concerned with the inherent risk arising from electronic data communication they should refer to the published hard copy of the audited financial statements and related audit report dated 30 September 2012 to confirm the information included in the audited financial statements presented on this website.*

*Legislation in New Zealand governing the preparation and dissemination of financial statements may differ from legislation in other jurisdictions.”*



## Statement of objectives and service performance for the year ended 30 June 2012

### Quantity, quality and the cost of the investigation and resolution of complaints about government administration

The following table is a summary of complaints and other contacts received and under consideration during the 12 months ended 30 June 2012, together with comparative statistics for the past 4 years.

	2007/08	2008/09	2009/10	2010/11	2011/12
On hand as at 1 July	918	1,040	1,330	1,720	<b>1,359</b>
Adjustment <sup>37</sup>	105	(5)	14	10	<b>1</b>
Received during the year	<u>8,808</u>	<u>9,150</u>	<u>9,950</u>	<u>8,706</u>	<b>10,636</b>
Total under consideration	9,831	10,185	11,294	10,436	<b>11,996</b>
Completed during the year	<u>(8,791)</u>	<u>(8,855)</u>	<u>(9,574)</u>	<u>(9,077)</u>	<b>(10,250)</b>
On hand at 30 June	<u>1,040</u>	<u>1,330</u>	<u>1,720</u>	<u>1,359</u>	<b>1,746</b>

Of the 10,636 matters received in the year ended 30 June 2012:

- 6,491 were recorded as “other contacts”, where we dealt with oral complaints and enquiries from members of the public, providing advice and assistance mainly over the telephone or by prison visit; and
- 4,145 were formal complaints made in writing.

The following table sets out who complaints and other contacts were received from.

Contact type	Number
Prisoners and prisoner advocates	<b>4,412</b>
General public	<b>5,436</b>
Media	<b>294</b>
Companies and associations	<b>168</b>
Departments/ organisations and local authorities	<b>121</b>
Special interest groups	<b>62</b>
Political party research unit	<b>61</b>
Member of Parliament	<b>51</b>
Trade union	<b>11</b>
Other	<b>11</b>
Researcher	<b>9</b>
<b>Total</b>	<b>10,636</b>

Last year we reported a temporary reduction in the complaints and other contacts received relative to past periods, but noted that the decrease was expected to be only temporary. We indicated that many new complaints and other contacts were expected to be received during the 2011/12 year as a consequence of

<sup>37</sup> Adjustments are changes made to reported statistics post completion of a reporting year that arise from the incorrect counting or classification of work.



the Canterbury earthquakes and government agencies responding to high public expectations following the events. This has proven to be the case with 526 complaints and other contacts received in respect of issues arising out of the Canterbury earthquakes. These concerned:

- the Canterbury Earthquake Recovery Authority (29);
- the Minister for Canterbury Earthquake Recovery (26);
- the Earthquake Commission (443); and
- other agencies (28).

There was also a considerable increase in the number of official information complaints received this year. We received 1,236 complaints under the Official Information Act, an increase of 25 per cent on 2010/11 numbers.

The bulk of our financial and staff resources were committed to undertaking investigations under the Ombudsmen Act and official information legislation, that require significant time and effort to complete. We completed 1,249 investigations this reporting year.

The quality of our complaint handling process is maintained through training and oversight of all work by senior staff members, together with the personal involvement of an Ombudsman in every investigation that requires a provisional or final opinion.

The performance measures applicable throughout the 2011/12 year are set out in the following table

Performance Measures	2011/12		2010/11
	Budget Standard	Actual	Actual
Concerns about state sector administrative and decision making processes dealt with effectively (Ombudsmen Act 1975)			
% of complainants satisfied with standard of service	70%	<b>55%</b> <sup>38</sup>	Deferred earthquake
% of agencies satisfied the Ombudsmen's views are fair	New measure 70%	<b>73%</b>	-
All complaints and correspondence will be considered	Meet	<b>Met</b>	Met
# of complaints closed during the reporting year	Demand driven approximately 8,500	<b>8,784</b> <sup>39</sup>	6,411
Monitor all death in custody investigations by the Department of Corrections	Incidence driven - approximately 12-15	<b>27</b>	23
Priority D - Discretion whether to investigate - % completed within 3 months from date of receipt	90%	<b>86%</b>	95%
Priority J - Outside jurisdiction - % completed within 1 month from date of receipt	90%	<b>49%</b> <sup>40</sup>	80%
Priority 1 - Urgent - % completed within 4 months from date of receipt	90%	<b>93%</b>	93%
Priority 2 – Priority investigation - % completed within 6 months from date of receipt	70%	<b>100%</b>	78%

38 As noted at page 10, complainants are mainly dissatisfied with our timeliness in responding, due to pressure of work and limited resources.

39 Includes 2,382 complaints, with 452 formally investigated, and 6,401 other contacts.

40 Our ability to meet some timeliness targets this year was affected by pressure of work and limited resources.



Performance Measures	2011/12		2010/11
	Budget Standard	Actual	Actual
Priority 3 – All other investigations - % completed within 12 months from date of receipt	70%	<b>64%</b>	77%
<b>Official information complaints dealt with effectively</b>			
% of complainants satisfied with standard of service regarding Official Information Act 1982.	70%	<b>55%</b>	Deferred earthquake
% of agencies satisfied the Ombudsmen's views are fair regarding Official Information Act 1982.	New measure 70%	<b>73%</b>	-
% of complainants satisfied with standard of service regarding Local Government Official Information and Meetings Act 1987	70%	<b>55%</b>	Deferred earthquake
% of agencies satisfied the Ombudsmen's views are fair regarding Local Government Official Information and Meetings Act 1987	New measure 70%	<b>73%</b>	-
All complaints and correspondence will be considered	Meet	<b>Met</b>	Met
# of complaints closed during the reporting year - Official Information Act 1982	Demand driven approximately 800	<b>1,076</b>	1,038
# of complaints closed during the reporting year - Local Government Official Information and Meetings Act 1987	Demand driven approximately 250	<b>217</b>	271
<b>Official Information Act 1982</b>			
Priority D - Discretion whether to investigate - % completed within 3 months from date of receipt	90%	<b>82%</b>	73%
Priority J - Outside jurisdiction - % completed within 1 month from date of receipt	90%	<b>57%<sup>40</sup></b>	66%
Priority 1 - Urgent - % completed within 4 months from date of receipt	90%	<b>92%</b>	73%
Priority 2 – Priority investigation - % completed within 6 months from date of receipt	70%	<b>44%<sup>40</sup></b>	51%
Priority 3 – All other investigations - % completed within 12 months from date of receipt	70%	<b>84%</b>	71%
<b>Local Government Official Information and Meetings Act 1987</b>			
Priority D - Discretion whether to investigate - % completed within 3 months from date of receipt	90%	<b>88%</b>	91%
Priority J - Outside jurisdiction - % completed within 1 month from date of receipt	90%	<b>70%</b>	67%
Priority 1 - Urgent - % completed within 4 months from date of receipt	90%	<b>100%</b>	86%
Priority 2 – Priority investigation - % completed within 6 months from date of receipt	70%	<b>57%<sup>40</sup></b>	73%
Priority 3 – All other investigations - % completed within 12 months from date of receipt	70%	<b>89%</b>	88%





Performance Measures	2011/12		2010/11
	Budget Standard	Actual	Actual
Places of detention monitored effectively (Crimes of Torture Act 1989)			
# of announced visits to places of detention under the National Preventive Mechanism designation	22	<b>18</b>	11
# of unannounced visits to places of detention under the National Preventive Mechanism designation	11	<b>52<sup>41</sup></b>	12
% of reports sent to places of detention with 3 months of visit	95%	<b>100%</b>	100%
Requests for advice and guidance about serious wrongdoing dealt with effectively (Protected Disclosures Act 2000 (Whistleblowers))			
% of requests for guidance and assistance completed within 6 months from date of receipt	95%	<b>100%</b>	100%
State sector capability in areas relevant to the Ombudsmen's jurisdiction improved			
% of participants in Ombudsmen training who report that the training will assist them in their work	95%	<b>100%</b>	100%
% of agencies which report they use one or more of the Ombudsmen's information resources currently available	New measure 80%	<b>95%</b>	-
# of training sessions provided to agencies during the reporting year <sup>43</sup>	Demand driven approximately 30-40	<b>12<sup>42</sup></b>	29
# of guidance materials produced or updated during the year	Demand driven approximately 10-15	<b>10</b>	12
Public awareness and accessibility of Ombudsmen's services improved			
# of speeches and presentations given by the Office <sup>44</sup>	Demand driven 25	<b>23</b>	29
# of non-English languages pamphlets made available	4	<b>4</b>	4
# of general enquiries (non grievance based)	400	<b>Not applied during 2011/12<sup>45</sup></b>	-
# of general enquiries (grievance based)	500	<b>Not applied during 2011/12<sup>46</sup></b>	-

The cost of investigation and resolution of complaints concerning government agencies for the period under review was approximately \$8.768 million excluding GST, and includes Ombudsmen remuneration of \$629,000

41 We undertook more unannounced visits than the budget standard in an effort to visit as many places of detention within our designation as we could within the first 5 years of our operation.

42 As noted at page 62, the decrease in agencies seeking training from us may be attributed to their attention being focused elsewhere this year, particularly on public sector reforms.

43 Relates only to training sessions provided to agencies within New Zealand.

44 Relates only to speeches and presentations within New Zealand.

45 System not in place to record this information.

46 Above, n 45.



## Statement of cost of service for the year ended 30 June 2012

30/6/11 Actual \$(000)		30/6/12 Actual \$(000)	30/6/12 Main Estimates \$(000)	30/6/12 Supp. Estimates \$(000)
8,591	Revenue Crown <sup>47</sup>	<b>8,768</b>	8,698	8,768
-	Other revenue	<b>100</b>	-	-
<u>8,591</u>	<b>Total revenue</b>	<b>8,868</b>	<u>8,698</u>	<u>8,768</u>
<u>(8,578)</u>	<b>Total expenses</b>	<b>(8,768)</b>	<u>(8,698)</u>	<u>(8,768)</u>
<u>13</u>	<b>Net surplus</b>	<u>100</u>	-	-

Figures are GST exclusive.

## Statement of comprehensive income for the year ended 30 June 2012

30/06/11 Actual \$(000)		Notes	30/06/12 Actual \$(000)	30/06/12 Main Estimates \$(000)	30/06/12 Supp. Estimates \$(000)
	<b>Income</b>				
8,591	Revenue Crown		<b>8,768</b>	8,698	8,768
-	Other revenue	9	<b>100</b>	-	-
<u>160</u>	Recovery from February 2011 Christchurch earthquake		-	-	-
<u>8,751</u>	<b>Total income</b>		<b>8,868</b>	<u>8,698</u>	<u>8,768</u>
	<b>Expenditure</b>				
6,467	Personnel costs	2	<b>6,623</b>	6,471	6,476
1,910	Other operating costs	3	<b>1,850</b>	1,987	1,931
133	Recovery from February 2011 Christchurch earthquake		-	-	-
176	Depreciation and amortisation	4	<b>269</b>	214	335
<u>25</u>	Capital charge	5	<b>26</b>	<u>26</u>	<u>26</u>
<u>8,711</u>	<b>Total expenditure</b>		<b>8,768</b>	<u>8,698</u>	<u>8,768</u>
<u>40</u>	<b>Net operating surplus</b>		<u>100</u>	-	-
-	Other comprehensive income		-	-	-
<u>40</u>	<b>Total comprehensive income</b>		<u>100</u>	-	-

47 Includes Ombudsmen remuneration of \$629,000. (Last year \$630,000.)



## Statement of financial position as at 30 June 2012

30/06/11 Actual \$(000)		Notes	30/06/12 Actual \$(000)	30/06/12 Main Estimates \$(000)	30/06/12 Supp. Estimates \$(000)
<b>Assets</b>					
<i>Current assets</i>					
677	Cash and cash equivalents		<b>969</b>	529	584
73	Prepayments		<b>52</b>	18	18
<u>4</u>	Debtors and other receivables		-	-	-
<u>754</u>	<b>Total current assets</b>		<b>1,021</b>	<u>547</u>	<u>602</u>
<i>Non-current assets</i>					
378	Property, plant and equipment	6	<b>261</b>	204	176
<u>138</u>	Intangible assets - Software	7	<b>172</b>	<u>197</u>	<u>170</u>
<u>516</u>	<b>Total non-current assets</b>		<b>433</b>	<u>401</u>	<u>346</u>
<u>1,270</u>	<b>Total assets</b>		<b>1,454</b>	<u>948</u>	<u>948</u>
<b>Liabilities</b>					
<i>Current liabilities</i>					
340	Creditors and other payables	8	<b>349</b>	159	159
40	Return of operating surplus	9	<b>100</b>	-	-
<u>536</u>	Employee entitlements	10	<b>664</b>	<u>410</u>	<u>410</u>
<u>916</u>	<b>Total current liabilities</b>		<b>1,113</b>	<u>569</u>	<u>569</u>
<i>Non-current liabilities</i>					
<u>25</u>	Employee entitlements	10	<b>12</b>	<u>50</u>	<u>50</u>
<u>25</u>	<b>Total non-current liabilities</b>		<b>12</b>	<u>50</u>	<u>50</u>
<u>941</u>	<b>Total liabilities</b>		<b>1,125</b>	<u>619</u>	<u>619</u>
<u>329</u>	<b>Net assets</b>		<b>329</b>	<u>329</u>	<u>329</u>
<i>Taxpayers' funds</i>					
<u>329</u>	General funds	11	<b>329</b>	<u>329</u>	<u>329</u>
<u>329</u>	<b>Total taxpayers' funds</b>		<b>329</b>	<u>329</u>	<u>329</u>



## Statement of changes in taxpayers' funds for the year ended 30 June 2012

30/06/11 Actual \$(000)		Note	30/06/12 Actual \$(000)	30/06/12 Main Estimates \$(000)	30/06/12 Supp. Estimates \$(000)
<u>329</u>	<b>Balance at 1 July</b>		<b>329</b>	<u>329</u>	<u>329</u>
40	Net operating surplus		<b>100</b>	-	-
<u>(40)</u>	Return of operating surplus to the Crown		<b>(100)</b>	-	-
<u>329</u>	<b>Balance at 30 June</b>	11	<b>329</b>	<u>329</u>	<u>329</u>

## Statement of cash flows for the year ended 30 June 2012

30/06/11 Actual \$(000)		Notes	30/06/12 Actual \$(000)	30/06/12 Main Estimates \$(000)	30/06/12 Supp. Estimates \$(000)
	<b>Cash flows from operating activities</b>				
8,751	Receipts from Crown		<b>8,768</b>	8,698	8,768
-	Receipts from other revenue	9	<b>100</b>	-	-
(6,407)	Payments to employees		<b>(6,508)</b>	(6,471)	(6,577)
(1,919)	Payments to suppliers		<b>(1,846)</b>	(1,987)	(2,053)
(25)	Payment for capital charge		<b>(26)</b>	(26)	(26)
<u>(22)</u>	Goods and services tax (net)		<b>32</b>	-	-
<u>(8,373)</u>			<b>8,348</b>	<u>(8,484)</u>	<u>(8,656)</u>
<u>378</u>	<i>Net cash from operating activities</i>	12	<b>520</b>	<u>214</u>	<u>112</u>
	<b>Cash flows from investing activities</b>				
(157)	Purchase of property, plant and equipment	6	<b>(122)</b>	(93)	(103)
<u>(65)</u>	Purchase of intangible assets - software	7	<b>(66)</b>	<u>(72)</u>	<u>(62)</u>
<u>(222)</u>	<i>Net cash from investing activities</i>		<b>(188)</b>	<u>(165)</u>	<u>(165)</u>
	<b>Cash flows from financing activities</b>				
-	Capital injections		-	-	-
-	Return of operating surplus		<b>(40)</b>	-	(40)
-	<i>Net cash from financing activities</i>		<b>(40)</b>	-	(40)
156	Net increase /(decrease) in cash		<b>292</b>	49	(93)
<u>521</u>	Cash at beginning of the year		<b>677</b>	<u>480</u>	<u>677</u>
<u>677</u>	<b>Cash at end of the year</b>		<b>969</b>	<u>529</u>	<u>584</u>



## Statement of commitments as at 30 June 2012

### 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. Two leases will expire within the coming 12 months and 1 lease will expire within 3 years.

The agreements for the photocopiers have a non-cancellable period generally of 3 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.

30/6/11 Actual \$(000)		30/6/12 Actual \$(000)
	Non-cancellable operating lease commitments	
668	Less than one year	<b>640</b>
141	One to two years	<b>616</b>
-	Two to five years	<b>732</b>
-	More than five years	-
<u>809</u>	<b>Total non-cancellable operating lease commitments</b>	<b><u>1,988</u></b>

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

### Capital commitments

NIL (2011 \$75,000).



## Statement of contingent liabilities and contingent assets as at 30 June 2012

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### Unquantifiable contingent liabilities

As at 30 June 2012 the Office does not have any unquantifiable contingent liabilities. (In respect of the year ended 30 June 2011, the Office terminated its lease in the Forsyth Barr building in Christchurch on 23 March 2011, as a consequence of the 22 February 2011 Canterbury earthquake rendering the building untenable. The Office's former landlord wrote advising it had reserved its position. The landlord has since advised the Office that it accepts the termination of the lease).

### Quantifiable contingent liabilities

As at 30 June 2012 the Office does not have any quantifiable contingent liabilities. (2011 Nil)

### Unquantifiable contingent assets

The Office's tenancy within the Forsyth Barr building in Christchurch was made untenable when the building stairwells collapsed during the 22 February 2011 Canterbury earthquake. A claim was lodged with the Office insurers for material loss and damage and business interruption. A settlement in the region of \$160,000 to \$230,000 is anticipated of which \$100,000 has been received.

### Quantifiable contingent assets

As at 30 June 2012 the Office does not have any quantifiable contingent assets (2011 - Nil).



## Statement of expenses and capital expenditure against appropriations for the year ended 30 June 2012

30/6/11 Actual \$(000)		30/06/12 Actual \$(000)	Appropriation		
			30/06/12 Final Voted \$(000)	Supp. Estimates Changes \$(000)	Budget Night Voted \$(000)
<b>Vote Ombudsmen</b>					
<b>Appropriation for output expenses</b>					
7,948	Investigation and resolution of complaints about government administration	<b>8,139</b>	8,140	65	8,075
<b>Other expenses to be incurred by the Office</b>					
630	Remuneration of Ombudsmen (Permanent Legislative Authority)	<b>629</b>	628	5	623
<u>133</u>	Recovery from February 2011 Christchurch earthquake	-	-	-	-
<u>8,711</u>	<b>Sub total</b>	<b>8,768</b>	<u>8,768</u>	<u>70</u>	<u>8,698</u>
<u>222</u>	Office of the Ombudsmen appropriation for capital expenditure (Permanent Legislative Authority)	<b>189</b>	<u>165</u>	-	<u>165</u>
<u>8,933</u>	<b>Total</b>	<b>8,957</b>	<u>8,933</u>	<u>70</u>	<u>8,863</u>

This includes adjustments made during Supplementary Estimates and transfers under section 26A of the Public Finance Act 1989.



## Statement of unappropriated expenditure and capital expenditure for the year ended 30 June 2012

30/06/11 Actual \$(000)		30/06/12 Actual \$(000)	30/06/12 Appropriation Voted \$(000)	30/06/12 Unappropriated Expenditure Actual \$(000)
	<b>Appropriation for output expenses</b>			
-	Investigation and resolution of complaints about government administration	<b>8,139</b>	8,140	-
	<b>Other expenses to be incurred by the Office</b>			
-	Remuneration of Ombudsmen (Permanent Legislative Authority)	<b>629</b>	628	-
-	Recovery from February 2011 Christchurch earthquake	-	-	-
-	<b>Sub total</b>	<b>8,768</b>	<b>8,768</b>	-
-	Office of the Ombudsmen appropriation for capital expenditure (Permanent Legislative Authority)	<b>189</b>	165	-
-	<b>Total</b>	<b>8,957</b>	<b>8,933</b>	-

The appropriation Voted includes adjustments made in the Supplementary Estimates. Supplementary Estimates totalling \$70,000 were requested and approved for the 2011/12 financial year (2011, \$184,000). Capital expenditure is funded by Permanent Legislative Authority and therefore is not unappropriated expenditure.

## Expenses and capital expenditure approved under section 26B of the Public Finance Act 1989

Nil. (2011 Nil).

## Expenses and capital expenditure incurred in excess of appropriation

Nil. (2011 Nil.)





## Expenses and capital expenditure incurred without appropriation or other authority, or outside scope of appropriation

Nil. (2011 Nil.)

## Breaches of projected net assets schedules

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Nil. (2011 Nil.)

## Notes to the financial statements

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### 1. Statement of accounting policies for the year ended 30 June 2012

#### 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 pages 13-16 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 for the purposes of applying New Zealand equivalents to International Financial Reporting Standards (NZ IFRS).

The financial statements of the Office are for the year ended 30 June 2012. The financial statements were authorised for distribution by the Chief Executive on 27 September 2012.

#### Basis of preparation

##### 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 NZ GAAP. They comply with NZ IFRS, and other applicable financial reporting standards, as appropriate for public benefit entities.

##### 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.



### Changes in accounting policies

There have been no changes in accounting policies during the financial year.

The Office has adopted the following revisions to accounting standards during the financial year, which have had only a presentational or disclosure effect:

- Amendments to NZ IAS 1 *Presentation of Financial Statements*. The amendments introduce a requirement to present, either in the statement of changes in equity or the notes, for each component of equity, an analysis of other comprehensive income by item. The Office has decided to present this analysis in note 11.
- FRS-44 *New Zealand Additional Disclosures and Amendments to NZ IFRS to harmonise with IFRS and Australian Accounting Standards (Harmonisation Amendments)* – The purpose of the new standard and amendments is to harmonise Australian and New Zealand accounting standards with source IFRS and to eliminate many of the differences between the accounting standards in each jurisdiction. The main effect of the amendments to the Office is that certain information about property valuations is no longer required to be disclosed. Note 6 has been updated for these changes.

#### STANDARDS, AMENDMENTS, AND INTERPRETATIONS ISSUED THAT ARE NOT YET EFFECTIVE AND HAVE NOT BEEN EARLY ADOPTED

Standards, amendments, and interpretations issued but not yet effective that have not been early adopted, and which are relevant to the Office, are:

- NZ IFRS 9 *Financial Instruments* will eventually replace NZ IAS 39 *Financial Instruments: Recognition and Measurement*. NZ IAS 39 is being replaced through the following 3 main phases: Phase 1 Classification and Measurement, Phase 2 Impairment Methodology, and Phase 3 Hedge Accounting. Phase 1 has been completed and has been published in the new financial instrument standard NZ IFRS 9. NZ IFRS 9 uses a single approach to determine whether a financial asset is measured at amortised cost or fair value, replacing the many different rules in NZ IAS 39. The approach in NZ IFRS 9 is based on how an entity manages its financial assets (its business model) and the contractual cash flow characteristics of the financial assets. The financial liability requirements are the same as those of NZ IAS 39, except for when an entity elects to designate a financial liability at fair value through the surplus or deficit. The new standard is required to be adopted for the year ended 30 June 2016. However, as a new Accounting Standards Framework will apply before this date, there is no certainty when an equivalent standard to NZ IFRS 9 will be applied by public benefit entities.

The Minister of Commerce has approved a new Accounting Standards Framework (incorporating a Tier Strategy) developed by the External Reporting Board (XRB). Under this Accounting Standards Framework, the Office is classified as a Tier 1 reporting entity and it will be required to apply full Public Benefit Entity Accounting Standards (PAS). These standards are being developed by the XRB based on current International Public Sector Accounting Standards. The effective date for the new standards for public sector entities is expected to be for reporting periods beginning on or after 1 July 2014. This means the Office expects to transition to the new standards in preparing its 30 June 2015 financial statements. As the PAS are still under development, the Office is unable to assess the implications of the new Accounting Standards Framework at this time.

Due to the change in the Accounting Standards Framework for public benefit entities, it is expected that all new NZ IFRS and amendments to existing NZ IFRS will not be applicable to public benefit entities. Therefore, the XRB has effectively frozen the financial reporting requirements for public benefit entities up until the new Accounting Standard Framework is effective. Accordingly, no disclosure has been made about new or amended NZ IFRS that exclude public benefit entities from their scope.



## Significant accounting policies

### Revenue

The Office derives revenue through the provision of outputs to the Crown for services to third parties. Revenue is measured at the fair value of the consideration received or receivable. Such revenue is recognised when earned and is reported in the financial period to which it relates.

#### SALE OF PUBLICATIONS

Sales of publications are recognised when the product is sold to the customer. The recorded revenue is the gross amount of the sale.

### Capital charge

The capital charge is recognised as an expense in the period to which the charge relates.

### 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.

Premises are leased for office accommodation at Auckland, Wellington and Christchurch. As all the risks and ownership are retained by the lessors, these leases are classified as operating leases and charged as expenses in the period in which they are incurred.

#### FINANCE LEASES

The Office is not party to any finance leases.

### Financial instruments

Financial assets and financial liabilities are initially measured at fair value plus transaction costs, unless they are carried at fair value through surplus or deficit, in which case the transaction costs are recognised in the surplus or deficit.

The Office is party to financial instruments as part of its normal operations. These financial instruments include bank accounts and debtors and creditors. The Office does not enter into derivative contracts.

A letter of credit exists between the Office and ASB Management Services Limited, a division of ASB Bank, to allow the bank to recover payroll costs from the Office's Westpac bank account.

### Cash and cash equivalents

Cash and cash equivalents includes cash on hand and deposits held on call with banks and other short term highly liquid investments with original maturities of 3 months or less.

### Debtors and other receivables

Short term debtors and other receivables are recorded at their face value less any provision for impairment.



Impairment of a receivable is established when there is objective evidence that the Office will not be able to collect amounts due according to the original terms of a receivable. Significant financial difficulties of the debtor, probability that the debtor will enter bankruptcy, receivership or liquidation, and default in payments are considered indicators that the debtor is impaired. The amount of the impairment is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted using the original effective interest rate. The carrying amount of the asset is reduced through the use of a provision for impairment account, and the amount of the loss is recognised in the statement of financial performance. Overdue receivables that are renegotiated are reclassified as current (i.e. not past due).

### 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 recorded as an asset if, and only if, 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 recognised at its cost. Where an asset is acquired at no cost, or at nominal cost, it is recognised at fair value as at the date of acquisition.

#### DISPOSALS

Gains and losses on disposal are determined by comparing the proceeds with the carrying amount of the asset. Gains and losses on disposals are included in the surplus or deficit. When revalued assets are sold, the amounts included in property, plant and equipment revaluation reserves in respect of those assets are transferred to taxpayers' 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.

#### DEPRECIATION

Depreciation is provided on a straight-line basis on all property, plant and equipment, at rates that will write-off the cost 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.

Leasehold improvements	Balance of lease term	
Computer equipment	4 years	25%
Plant and other equipment	5 years	20%
Furniture and fittings	5 years	20%



The cost of leasehold improvements is capitalised and amortised 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 licenses are capitalised on the basis of the costs incurred to acquire and bring to use the specific software.

Costs directly associated with maintaining computer software are recognised as an expense when incurred. Costs that are directly associated with the development of software for internal use by the Office, are recognised as an intangible asset.

### 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

An intangible asset that is not yet available for use at the balance sheet date is tested for impairment annually.

Property, plant and equipment and intangible assets 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 its recoverable amount. The recoverable amount is the higher of an asset's fair value less costs to sell and value in use.

Value in use is depreciated replacement cost for an asset where the future economic benefits or service potential of the asset are not primarily dependent on the asset's ability to generate net cash inflows and where the entity would, if deprived of the asset, replace its remaining future economic benefits or service potential.

If an asset's carrying amount exceeds its recoverable amount, the asset is impaired and the carrying amount is written down to the recoverable amount.

The total impairment loss is recognised in the surplus or deficit.

## Creditors and other payables

Creditors and other payables are initially measured at face value.



## Employee entitlements

### SHORT-TERM EMPLOYEE ENTITLEMENTS

Employee entitlements that the Office expects to be settled within 12 months of balance date are measured at nominal values 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 entitlements expected to be settled within 12 months.

The Office recognises a liability and an expense for bonuses where it is contractually obliged to pay them, or where there is a past practice that has created a constructive obligation.

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

Entitlements that are payable beyond 12 months, 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;
- the present value of the estimated future cash flows using the current economic assumptions; and
- the demographic assumptions used are based on New Zealand population mortality and the experience of superannuation arrangements in New Zealand and Australia.

The Office’s terms and conditions of employment do not include a provision for retirement leave. Long service leave is available to 8 long serving staff under “grandfather” 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.

## Taxpayers’ funds

Taxpayers’ funds are the Crown’s investment in the Office and are measured as the difference between total assets and total liabilities.

## Commitments

Expenses yet to be incurred on non-cancellable contracts that have been entered into on or before balance date are disclosed as commitments to the extent that there are equally unperformed obligations.



Cancellable commitments that have penalty or exit costs explicit in the agreement on exercising that option to cancel are included 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, including 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 GST pursuant to Part 1 section 6(3)(c) of the Goods and Services Tax Act 1985.

### **Income tax**

Public authorities are exempt from the payment of income tax in terms of the Income Tax Act 1994. Accordingly, no charge for income tax has been provided for.

### **Budget figures**

The budget figures are those included in the Information Supporting the Estimates of Appropriations for the Government of New Zealand for the year ended 30 June 2012, which are consistent with the financial information in the Main Estimates. In addition, the financial statements also present the updated budget information from the Supplementary Estimates. 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.

### **Statement of cost accounting policies**

The Office has determined the cost of outputs using the cost allocation system outlined below.

Direct costs are those costs directly attributed to an output. Indirect costs are those costs that cannot be identified in an economically feasible manner, with a specific output.

Direct costs are charged directly to outputs. Indirect costs are charged to outputs based on cost drivers and related activity or usage information. Depreciation and capital charge are charged on the basis of asset utilisation. Personnel costs are charged on the basis of actual time incurred. Property and other premises costs, such as maintenance, are charged on the basis of floor area occupied for the production of each output. Other indirect costs are assigned to outputs based on the proportion of direct staff costs for each 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 judgments 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.

#### LONG SERVICE LEAVE

Note (10) provides an analysis of the exposure in relation to estimates and uncertainties surrounding the long service leave liability.

#### ANNUAL LEAVE

The cost of annual leave is based on accumulated accrued annual leave due to staff as at 30 June 2012 and is calculated using expected salaries payable at that date. The Office terms of employment do not provide for anticipated annual leave.

### Critical judgments in applying accounting policies

Management has not exercised any critical judgments in applying the Office's accounting policies for the period ended 30 June 2012.

## 2. Personnel costs

30/06/11 Actual \$(000)		30/06/12 Actual \$(000)	30/06/12 Main Estimates \$(000)	30/06/12 Supp. Estimates \$(000)
6,064	Salaries and wages	<b>6,235</b>	6,081	6,086
249	Employer contributions to staff superannuation	<b>272</b>	300	300
(7)	Accrued long service leave	<b>(17)</b>	-	-
43	Accrued annual leave	<b>1</b>	-	-
32	ACC levy	<b>26</b>	28	28
86	Other personnel costs	<b>106</b>	62	62
<u>6,467</u>	<b>Total personnel costs</b>	<b>6,623</b>	<u>6,471</u>	<u>6,476</u>

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





### 3. Other operating costs

30/06/11 Actual \$(000)		30/06/12 Actual \$(000)	30/06/12 Main Estimates \$(000)	30/06/12 Supp. Estimates \$(000)
693	Operating accommodation lease expenses	<b>666</b>	684	684
50	Accommodation costs - other	<b>57</b>	72	72
25	Audit fees	<b>28</b>	28	28
99	Publications, books and statutes	<b>93</b>	98	98
175	Travel	<b>211</b>	241	194
152	Communication costs	<b>150</b>	156	166
<u>716</u>	Other operating costs	<b><u>645</u></b>	<u>708</u>	<u>689</u>
<u>1,910</u>	<b>Total operating expenses</b>	<b><u>1,850</u></b>	<u>1,987</u>	<u>1,931</u>

### 4. Depreciation and amortisation

30/06/11 Actual \$(000)		30/06/12 Actual \$(000)	30/06/12 Main Estimates \$(000)	30/06/12 Supp. Estimates \$(000)
19	Furniture and fittings	<b>20</b>	20	20
97	Plant and equipment and other	<b>170</b>	125	224
38	Computer equipment	<b>52</b>	45	60
<u>22</u>	Intangible assets – software	<b><u>27</u></b>	<u>24</u>	<u>31</u>
<u>176</u>	<b>Total depreciation and amortisation</b>	<b><u>269</u></b>	<u>214</u>	<u>335</u>

### 5. Capital charge

The Office pays a capital charge to the Crown on its average taxpayers' funds as at 31 December and 30 June each year. The capital charge rate for the year ended 30 June 2012 was 8.0 per cent (2011: 7.5 per cent).



## 6. Property, plant and equipment

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

### 2012

	Plant and Equipment \$(000)	Leasehold improvements \$(000)	IT Equipment \$(000)	Furniture and Fittings \$(000)	Total \$(000)
<b>Cost or valuation</b>					
Balance at 30 June 2011	129	406	333	167	1,035
Reclassification	23	(20)	(3)	-	-
Additions	-	62	60	-	122
Disposals	-	-	(94)	-	(94)
<b>Balance at 30 June 2012</b>	<b>152</b>	<b>448</b>	<b>296</b>	<b>167</b>	<b>1,063</b>
<b>Accumulated depreciation and impairment losses</b>					
Balance at 30 June 2011	57	276	209	115	657
Reclassification	20	(20)	(1)	(3)	(4)
Depreciation	26	143	52	20	241
Accumulated depn on disposals	-	-	(92)	-	(92)
<b>Balance at 30 June 2012</b>	<b>103</b>	<b>399</b>	<b>168</b>	<b>132</b>	<b>802</b>
Carrying amounts					
At 30 June 2011	72	130	124	52	378
<b>At 30 June 2012</b>	<b>49</b>	<b>49</b>	<b>128</b>	<b>35</b>	<b>261</b>

### 2011

	Plant and Equipment \$(000)	Leasehold improvements \$(000)	IT Equipment \$(000)	Furniture and Fittings \$(000)	Total \$(000)
<b>Cost or valuation</b>					
Balance at 30 June 2010	184	399	260	151	994
Additions	10	14	113	20	157
Disposals	(65)	(7)	(40)	(4)	(116)
<b>Balance at 30 June 2011</b>	<b>129</b>	<b>406</b>	<b>333</b>	<b>167</b>	<b>1,035</b>
<b>Accumulated depreciation and impairment losses</b>					
Balance at 30 June 2010	70	211	205	96	582
Depreciation	24	73	38	19	154
Accumulated depn on disposals	(37)	(8)	(34)	-	(79)
<b>Balance at 30 June 2011</b>	<b>57</b>	<b>276</b>	<b>209</b>	<b>115</b>	<b>657</b>
Carrying amounts					
At 30 June 2010	114	188	55	55	412
<b>At 30 June 2011</b>	<b>72</b>	<b>130</b>	<b>124</b>	<b>52</b>	<b>378</b>



## 7. Intangible assets

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

### 2012

	Acquired Software \$(000)	Internally generated Software \$(000)	Total \$(000)
<b>Cost or valuation</b>			
Balance at 30 June 2011	79	123	202
Additions	9	57	66
Disposals	(26)	-	(26)
<b>Balance at 30 June 2012</b>	<b>62</b>	<b>180</b>	<b>242</b>
<b>Accumulated amortisation and impairment losses</b>			
Balance at 30 June 2011	50	14	64
Reclassification	4	-	4
Amortisation	13	14	27
Disposals	(25)	-	(25)
<b>Balance at 30 June 2012</b>	<b>42</b>	<b>28</b>	<b>70</b>
Carrying amounts			
At 30 June 2011	29	109	138
<b>At 30 June 2012</b>	<b>20</b>	<b>152</b>	<b>172</b>

### 2011

	Acquired Software \$(000)	Internally generated Software \$(000)	Total \$(000)
<b>Cost or valuation</b>			
Balance at 30 June 2010	86	72	158
Additions	14	51	65
Disposals	(21)	-	(21)
<b>Balance at 30 June 2011</b>	<b>79</b>	<b>123</b>	<b>202</b>
<b>Accumulated amortisation and impairment losses</b>			
Balance at 30 June 2010	59	4	63
Amortisation	12	10	22
Disposals	(21)	-	(21)
<b>Balance at 30 June 2011</b>	<b>50</b>	<b>14</b>	<b>64</b>
Carrying amounts			
At 30 June 2010	27	68	95
<b>At 30 June 2011</b>	<b>29</b>	<b>109</b>	<b>138</b>



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

## 8. 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.

30/06/11 Actual \$(000)		30/06/12 Actual \$(000)
94	Trade creditors	<b>107</b>
149	GST payable	<b>181</b>
<u>97</u>	Other short-term liabilities	<b>61</b>
<u>340</u>	<b>Total creditors and other payables</b>	<b>349</b>

## 9. Return of operating surplus

Repayment of surplus is required by 31 October each year.

30/06/11 Actual \$(000)		30/06/12 Actual \$(000)
40	Net operating surplus	<b>100</b>
<u>133</u>	Add Other Expenses – Recovery from February 2011 Christchurch earthquake	-
173	Net surplus including Other Expenses	<b>100</b>
<u>(133)</u>	Approval to retain net operating surplus	-
<u>40</u>	<b>Net operating surplus to be returned</b>	<b>100</b>

## 10. Employee entitlements

30/6/11 Actual \$(000)		30/06/12 Actual \$(000)
	<i>Current liabilities</i>	
381	Annual leave	<b>382</b>
17	Long service leave	<b>13</b>
<u>138</u>	Superannuation, Superannuation Contribution Withholding Tax and salaries	<b>269</b>
536	Total current liabilities	<b>664</b>
	<i>Non current liabilities</i>	
<u>25</u>	Long service leave	<b>12</b>
<u>561</u>	<b>Total for employee entitlements</b>	<b>676</b>



Every 2 years the Office engages AON consulting actuaries to determine the present value of the long service leave obligations for a group of 8 staff who retain the entitlement as a "grandfather" provision. These figures are based on the 2011 revaluation and will be recalculated in 2013. Key assumptions used in calculating this liability include the discount rate and the salary inflation factor. Any changes in these assumptions will impact on the carrying amount of the liability. Key assumptions are set out in the table below.

Projection Year	Discount Rate	Salary Growth
1	3.04%	3.00%
2	3.67%	3.00%
3	5.38%	3.00%
4	5.42%	3.00%
5	6.41%	3.00%
6	6.41%	3.00%
7	6.55%	3.00%
8	6.72%	3.00%
9	6.25%	3.00%
10+	6.25%	3.00%

- The discount rate is based on NZ government bond data at 30 April 2011.
- The salary inflation factor has been determined after considering historical salary inflation patterns and after obtaining advice from an independent actuary.

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

## 11. Taxpayers' funds (General funds)

30/6/11 Actual \$(000)		30/06/12 Actual \$(000)
	<b>General Funds</b>	
329	Balance at 1 July	<b>329</b>
40	Net operating surplus	<b>100</b>
(40)	Provision for repayment of surplus to the Crown	<b>(100)</b>
<u>329</u>	<b>General Funds at 30 June</b>	<b><u>329</u></b>



## 12. Reconciliation of net surplus to net cash flow from operating activities for the year ended 30 June 2012

30/6/11 Actual \$(000)		30/6/12 Actual \$(000)	30/06/12 Main Estimates \$(000)	30/06/12 Supp. Estimates \$(000)
<u>40</u>	Net surplus/(deficit)	<b>100</b>	-	-
	<i>Add/(less) non-cash items</i>			
37	Write off of assets	<b>2</b>	-	-
<u>216</u>	Depreciation and amortisation expense	<b>269</b>	<u>214</u>	<u>335</u>
<u>253</u>	Total non-cash items	<b>371</b>	<u>214</u>	<u>335</u>
	<i>Add/(less) movements in working capital items</i>			
(31)	(Inc)/dec prepayments	<b>21</b>	-	55
(3)	(Inc)/dec debtors	<b>4</b>	-	4
41	Inc/(dec) creditors and payables	<b>13</b>	-	(92)
60	Inc/(dec) employee entitlements	<b>115</b>	-	(101)
36	Inc/(dec) short term liabilities	<b>(36)</b>	-	-
<u>22</u>	Inc/(dec) GST	<b>32</b>	-	(89)
<u>125</u>	Net movement in working capital items	<b>149</b>	-	<u>(223)</u>
<u>378</u>	<b>Net cash flows from operating activities</b>	<b>520</b>	<u>214</u>	<u>112</u>

## 13. Financial instruments

The Office's activities expose it to a variety of financial instrument risks, including market risk, credit risk and liquidity risk. The Office has a series of policies to manage the risks associated with financial instruments and seeks to minimise exposure from financial instruments. These policies do not allow any transactions that are speculative in nature to be entered into.

### Currency risk

Currency risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in foreign exchange rates.

The Office is not exposed to currency risk.

### Interest rate risk

Interest rate risk is the risk that the fair value of a financial instrument will fluctuate, or the cash flows from a financial instrument will fluctuate, due to changes in market interest rates.

The Office has no interest bearing financial instruments and, accordingly, has no exposure to interest rate risk.

### Credit risk

Credit risk is the risk that a third party will default on its obligation to the Office, causing the Office to incur a loss.

In the normal course of its business, credit risk arises from debtors and deposits with banks and derivative financial instrument assets.



The Office is only permitted to deposit funds with Westpac Government Business Branch, a registered bank. This entity has a Standard and Poor's credit rating of AA. For its other financial instruments, the Office does not have significant concentrations of credit risk.

The Office's maximum credit exposure for each class of financial instrument is represented by the total carrying amount of cash and cash equivalents, and net debtors.

There is no collateral held as security against these financial instruments. None of these instruments are overdue or impaired.

### Liquidity risk

Liquidity risk is the risk that the Office will encounter difficulty raising liquid funds to meet commitments as they fall due.

In meeting its liquidity requirements, the Office closely monitors its forecast cash requirements with expected cash draw-downs from the New Zealand Debt Management Office. The Office maintains a target level of available cash to meet liquidity requirements.

The table below analyses the Office's financial liabilities that will be settled based on the remaining period at the balance sheet date to the contractual maturity date. The amounts disclosed are the contractual undiscounted cash flows.

#### 2012

	6 months or less \$(000)	6-12 months \$(000)	1-5 years \$(000)	more than 5 years \$(000)	Total \$(000)
Creditors and other payables	349	-	-	-	<b>349</b>
Return of operating surplus to Crown	100	-	-	-	<b>100</b>
Employee entitlements	664	-	12	-	<b>676</b>

#### 2011

	6 months or less \$(000)	6-12 months \$(000)	1-5 years \$(000)	more than 5 years \$(000)	Total \$(000)
Creditors and other payables	340	-	-	-	<b>340</b>
Return of operating surplus to Crown	40	-	-	-	<b>40</b>
Employee entitlements	536	-	25	-	<b>561</b>



### Categories of financial instruments

Actual 2011 \$(000)		Actual 2012 \$(000)
	<b>Loans and receivables</b>	
677	Cash and cash equivalents	<b>969</b>
<u>4</u>	Debtors and other receivables	-
<u>681</u>		<b>969</b>
	<b>Financial liabilities measured at amortised cost</b>	
340	Creditors and other payables (note 8)	<b>349</b>
<u>561</u>	Employee entitlements (note 10)	<b>676</b>
<u>901</u>		<b>1,025</b>

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

## 14. Capital management

The Office's capital is its equity (or taxpayers' funds) which comprise general funds. Equity is represented by net assets. The Office manages its revenues, expenses, assets, liabilities, and general financial dealings prudently. The Office's equity is largely managed as a by-product of managing income, expenses, assets and liabilities, and the Budget process agreed with Parliament's Speaker, Treasury Instructions and the Public Finance Act 1989.

The objective of managing the Office's equity is to ensure the Office effectively achieves its goals and objectives for which it has been established, whilst remaining a going concern.

## 15. Related party information

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

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

### Significant transactions with government-related entities

The Office has been provided with funding from the Crown of \$8.768m (2011 \$8.752m) for specific purposes as set out in its founding legislation and the scope of the relevant government appropriations.

### Collectively, but not individually, significant, transactions with government-related entities

In conducting its activities, the Office is required to pay various taxes and levies (such as GST, FBT, PAYE, and ACC levies) to the Crown and entities related to the Crown. The payment of these taxes and levies, other than income tax, is based on the standard terms and conditions that apply to all tax and levy payers. The Office is exempt from paying income tax.

The Office also purchases goods and services from entities controlled, significantly influenced, or jointly controlled by the Crown. Purchases from these government-related entities for the year ended 30 June 2012 totalled \$161,000 (2011 \$153,000). These purchases included air travel from Air New Zealand (\$125,000) (2011 \$117,000), Audit New Zealand (\$28,000) (2011 \$25,000) and postal services from New Zealand Post (\$8,000) (2011 \$11,000).





All other transactions entered into are with private suppliers on an arm's length basis on a normal supplier and client relationship and on terms no more or less favourable than it is reasonable to expect the Office would have adopted if dealing with that entity at arm's length in the same circumstance are not disclosed.

### Key management personnel compensation

Salaries and benefits of the 4 senior management staff of the Office amounted to the following.

Actual 2011 \$(000)		Actual 2012 \$(000)
951	Salaries and other short-term employee benefits	<b>1,019</b>
-	Post-employment benefits	-
18	Other long-term benefits	<b>9</b>
-	Termination benefits	-
<u>969</u>	<b>Key management personnel compensation</b>	<b><u>1,028</u></b>

### 16. Events after the balance sheet date

There were no post balance sheet date events in regard to the Office financial statements for the year ended 30 June 2012.

### 17. Significant variances from forecast financial performance

There were no significant variances from forecast financial performance.



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## Part 7

# Analysis, statistics and directory

# 7

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## The throughput of complaints, other contacts and monitoring activities

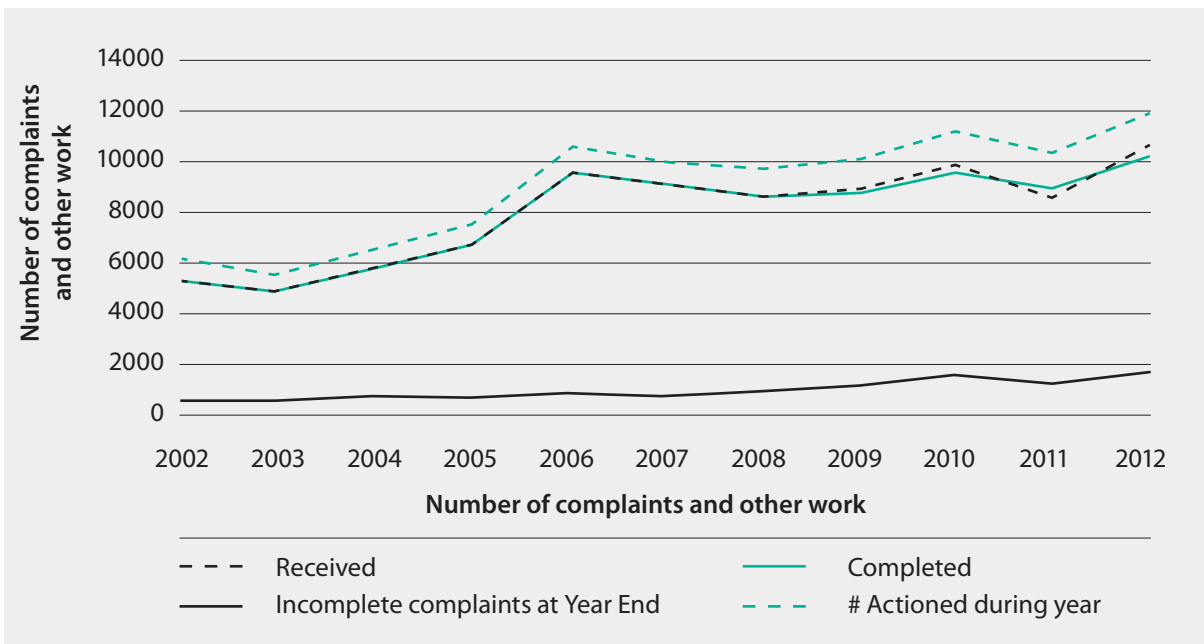
The following chart shows the overall throughput of work over the past 10 years.

	2007/08	2008/09	2009/10	2010/11	2011/12
<b>On hand at 1 July</b>					
Ombudsmen Act	536	576	794	983	<b>727</b>
Official Information Act	289	364	428	550	<b>504</b>
Local Government Official Information and Meetings Act	59	51	83	101	<b>86</b>
Protected Disclosures Act	-	1	3	1	<b>2</b>
Monitoring Death in Custody investigation	-	-	-	-	<b>15</b>
Other Contacts	-	-	-	50	<b>11</b>
Other work for which files were opened	34	42	36	45	<b>14</b>
Adjustment	<u>100</u>	<u>1</u>	<u>-</u>	<u>-</u>	<b>1</b>
<b>Total</b>	<b>1,018</b>	<b>1,035</b>	<b>1,344</b>	<b>1,730</b>	<b>1,360</b>
<b>Received during the year</b>					
Ombudsmen Act	7,257	7,615	8,488	6,163	<b>2,459<sup>48</sup></b>
Official Information Act	897	809	920	992	<b>1,236</b>
Local Government Official Information and Meetings Act	204	231	294	256	<b>268</b>
Protected Disclosures Act	14	8	6	7	<b>9</b>
Monitoring Death in Custody	-	-	-	22	<b>12</b>
Other Contacts	-	-	-	955	<b>6,491</b>
Other work for which files were opened	<u>436</u>	<u>487</u>	<u>242</u>	<u>311</u>	<b>161</b>
<b>Total</b>	<b>8,080</b>	<b>9,150</b>	<b>9,950</b>	<b>8,706</b>	<b>10,636</b>
<b>Disposed of during the year</b>					
Ombudsmen Act	7,317	7,435	8,250	6,411	<b>2,383<sup>49</sup></b>
Official Information Act	822	754	800	1,038	<b>1,076</b>
Local Government Official Information and Meetings Act	211	202	282	271	<b>217</b>
Protected Disclosures Act	13	6	8	6	<b>6</b>
Monitoring Death in Custody Investigation	-	-	-	7	<b>18</b>
Other Contacts	-	-	-	999	<b>6,401</b>
Other work for which files were opened	<u>428</u>	<u>458</u>	<u>234</u>	<u>345</u>	<b>149</b>
<b>Total</b>	<b>8,791</b>	<b>8,855</b>	<b>9,574</b>	<b>9,077</b>	<b>10,250</b>
<b>On hand at 30 June</b>					



	2007/08	2008/09	2009/10	2010/11	2011/12
Ombudsmen Act	576	757	1,032	735	<b>803</b>
Official Information Act	364	419	548	504	<b>664</b>
Local Government Official Information and Meetings Act	52	80	95	86	<b>137</b>
Protected Disclosures Act	1	3	1	2	<b>5</b>
Monitoring Death in Custody	-	-	-	15	<b>9</b>
Other Contacts	-	-	-	6	<b>101</b>
Other Work for which files were opened	<u>42</u>	<u>71</u>	<u>44</u>	<u>11</u>	<u>27</u>
<b>Total</b>	<u>1,035</u>	<u>1,330</u>	<u>1,720</u>	<u>1,359</u>	<u>1,746</u>

The following chart shows the overall throughput of work over the past 10 years.



48 The apparent reduction in the number of Ombudsmen Act complaints received and completed results from a change in recording practice. Previously Ombudsmen Act complaints and other contacts were aggregated. For comparative purposes, if the 2 categories were aggregated the total Ombudsmen Act complaints received would be 8,950 and 8,784 completed.

49 As above, note 48.



## Cost of completing complaints, other contacts and monitoring activities

We have not instituted accounting systems to record the actual cost of completing each complaint or other contact referred to us. But information held on our Case Management System does allow a generalised costing to be developed for each activity based on the total cost of operations and the accumulated number of working days for complaints and other contacts received and actioned as well as other work undertaken.

	Estimated cost Year ended 30 June 2011	Estimated cost Year ended 30 June 2012
<b>Ombudsmen Act</b>		
Estimated average cost per completed complaint and other contact		
• rec'd from prisoners	\$163 ea	\$128 ea
• rec'd from non prison sources	\$1,001 ea	\$467 ea
Estimated average cost work in progress	\$2,288 ea	\$2,013 ea
Estimated cost of all matters complete and incomplete	\$4.693 million	\$4.404 million
<b>Official Information Act</b>		
Estimated average cost per complaint		
• completed work	\$1,656 ea	\$1,744 ea
• work in progress	\$2,735	\$2,621 ea
Estimated cost of all matters complete and incomplete	\$3.097 million	\$3.617 million
<b>Local Government Official Information and Meetings Act</b>		
Estimated average cost per complaint		
• completed work	\$1,895 ea	\$1,100 ea
• work in progress	\$1,878 ea	\$1,893 ea
Estimated cost of all matters complete and incomplete	\$0.675 million	\$0.498 million
<b>Protected Disclosures Act</b>		
Estimated average cost per request for advice and guidance		
• completed work	\$166 ea	\$183 ea
• work in progress	\$5,380 ea	\$3,996 ea
Estimated cost of all matters complete and incomplete	\$0.012 million	\$0.021 million
<b>Monitoring of death in custody investigations undertaken by the Department of Corrections</b>		
Estimated average cost per monitoring of a death in custody investigation		
• completed work	\$1,375 ea	\$1,973 ea
• work in progress	\$1,137 ea	\$1,777 ea
Estimated cost of monitoring all death in custody investigations complete and incomplete	\$0.027 million	\$0.051 million
<b>Other work where the matter is found to be outside the Ombudsmen's jurisdiction but information and assistance is given</b>		
• completed work	\$294 ea	\$334 ea
• work in progress	\$9,704 ea	\$4,692 ea
Estimated cost of all matters complete and incomplete	\$0.208 million	\$0.177 million



	Estimated cost Year ended 30 June 2011	Estimated cost Year ended 30 June 2012
Average estimated cost of 6,502 other contacts		
• completed work (6,401 complaints)	-	\$45 ea
• work in progress (101 complaints)	-	\$389 ea
Average estimated cost of 5,494 complaints		
• completed work (3,849 complaints)	-	\$1,168 ea
• work in progress (1,645 complaints)	-	\$2,397 ea

## Age profiles of open and closed complaints and other contacts

The following tables show the age profile of all complaints and other contacts that were under action during the reported year.

### Age profile – all complaints and other contacts closed in the period

	Year ended			
	30/6/09	30/6/10	30/6/11	30/06/12
Aged 6 months or less from date of receipt	95%	94%	89%	92%
Aged between 7 and 12 months from date of receipt	3%	5%	6%	5%
Aged more than 12 months from date of receipt	2%	3%	5%	3%

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

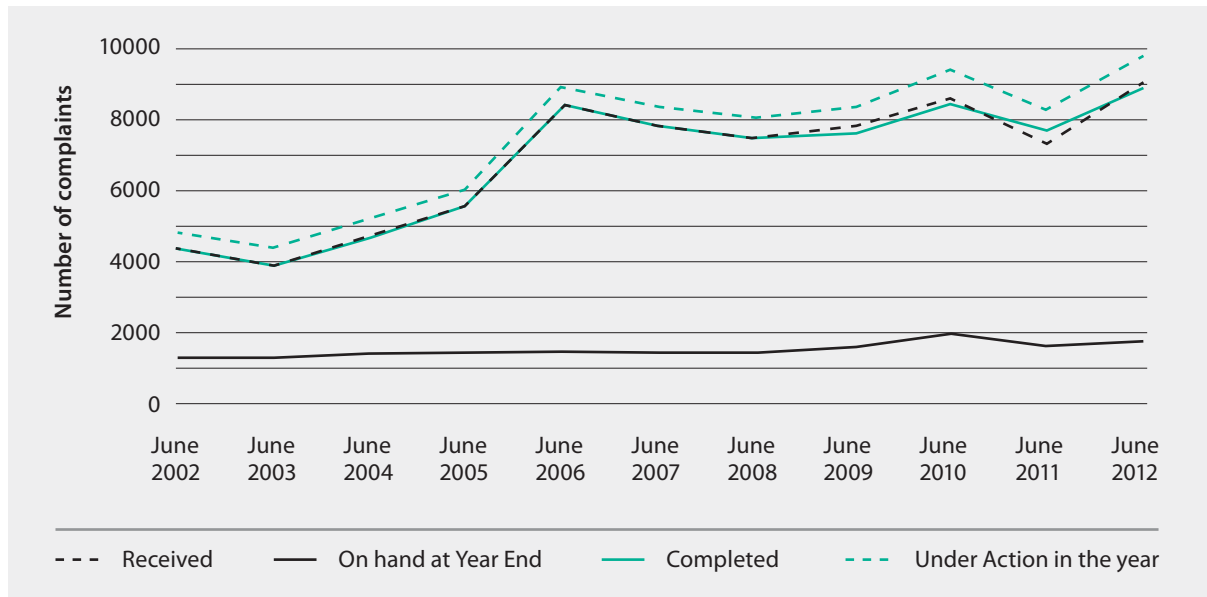
	Year ended			
	30/6/09	30/6/10	30/6/11	30/06/12
Aged 6 months or less from date of receipt	69%	52%	49%	62%
Aged between 7 and 12 months from date of receipt	16%	26%	24%	17%
Aged more than 12 months from date of receipt	15%	22%	26%	21%



## Analysis of complaints and other contacts by Act

### Ombudsmen Act (OA)

The following chart provides an overview of OA complaints and other contacts received and actioned over the past 10 years.



How OA complaints were dealt with:	Brought forward from last year	Rec'd year ended 30/6/12	Total under action year ended 30/6/12
<b>Outside jurisdiction</b>			
• agency not listed in schedule	2	24	26
• scheduled agency otherwise outside jurisdiction	5	50	55
	7	74	81
<b>Referred</b>			
• referred to Health and Disability Commissioner	-	5	5
• referred to Privacy Commissioner	1	17	18
• referred to Independent Police Conduct Authority	2	8	10
• referred to Inspector-General of Intelligence and Security	-	3	3
	3	33	36
<b>No investigation undertaken</b>			
• withdrawn by complainant or no response from complainant	40	122	162
• right of appeal to Court or Tribunal	11	94	105
• adequate alternative remedy – complain to agency first	64	440	504
• adequate alternative remedy – complaint referred to agency by Ombudsman	2	36	38



How OA complaints were dealt with:	Brought forward from last year	Rec'd year ended 30/6/12	Total under action year ended 30/6/12
• adequate alternative remedy – recourse to other to agency	4	42	46
• out of time	2	10	12
• trivial	-	2	2
• frivolous, vexatious or not in good faith	1	4	5
• insufficient personal interest	2	20	22
• explanation, advice or assistance provided	<u>83</u>	<u>674</u>	<u>757</u>
	209	1,444	1,653
<b>Resolved without investigation</b>			
• remedial action to benefit complainant	18	116	134
• remedial action to improve state sector administration	-	1	1
• remedial action to benefit complainant and improve state sector administration	-	4	4
• provision of advice/ explanation by agency or Ombudsman which satisfies complainant	<u>2</u>	<u>14</u>	<u>16</u>
	20	135	155
<b>Investigation discontinued</b>			
• withdrawn by complainant or no response from complainant	29	24	53
• further investigation unnecessary	36	23	59
• agency to review	7	3	10
• trivial	-	1	1
• frivolous or vexatious or not in good faith	<u>2</u>	-	<u>2</u>
	74	51	125
<b>Resolved during investigation</b>			
• remedial action to benefit complainant	46	45	91
• remedial action to improve state sector administration	2	-	2
• remedial action to benefit complainant and improve state sector administration	8	3	11
• provision of advice/ explanation by agency or Ombudsman which satisfies complainant	<u>1</u>	<u>1</u>	<u>2</u>
	57	49	106
<b>Investigation finalised (final opinion formed)</b>			
• administrative deficiency identified – recommendation/s	5	2	7
• administrative deficiency identified – no recommendation	39	12	51
• no administrative deficiency identified	107	52	159
• issues cannot be determined	<u>3</u>	<u>1</u>	<u>4</u>
	154	67	221
Administration – adjustment	3	2	5
Under consideration at 30 June	<u>199</u>	<u>604</u>	<u>803</u>
<b>Total</b>	<b><u>726</u></b>	<b><u>2,459</u></b>	<b><u>3,185</u></b>





OA Complaints were received from:	Year ended		
	30/6/10	30/6/11	30/6/12
Individuals	2,956	2,069	<b>1,341</b>
• Via legal practices	287	208	<b>205</b>
Media	45	8	<b>5</b>
Members of Parliament	-	-	<b>1</b>
Political party research units	7	1	<b>3</b>
Special interest groups	65	11	<b>19</b>
Companies, associations and incorporated societies	67	40	<b>39</b>
• Via legal practices	24	20	<b>12</b>
Government departments/ organisations/ local authorities	80	3	-
Researchers	1	1	-
Prisoners - community work	7	2	<b>1</b>
Prisoners - home detention	17	26	<b>2</b>
Prisoners - parolee	22	8	<b>4</b>
Prisoners - remand	491	465	<b>55</b>
Prisoners - sentenced	4,369	3,301	<b>742</b>
Prisoners - unspecified	1	-	<b>7</b>
Prison staff	10	19	<b>3</b>
Prisoner advocate	37	41	<b>14</b>
Trade unions	-	1	-
Own motion	<u>2</u>	<u>6</u>	<u><b>6</b></u>
<b>Total</b>	<b><u>8,488</u></b>	<b><u>6,230</u></b>	<b><u>2,459</u></b>

OA Complaints were directed at:	Year ended		
	30/6/10	30/6/11	30/6/12
Central government departments (Part I)	6,761	4,896	<b>1,424</b>
Organisations other than Local organisations (Part II)	1,024	799	<b>667</b>
Local organisations (Part III)	607	449	<b>356</b>
Not specified	<u>96</u>	<u>19</u>	<u><b>12</b></u>
<b>Total</b>	<b><u>8,488</u></b>	<b><u>6,163</u></b>	<b><u>2,459</u></b>



Nature of deficiency identified where final opinion formed on OA complaints:		Year ended 30/6/12
Administrative deficiency in an individual case	Unreasonable delay	3
	Inadequate advice, explanation or reasons	9
	Procedural deficiency	25
	Factual error or mistake	-
	Legal error	2
	Unprofessional behaviour or misconduct by an official	2
	Unreasonable, unjust, oppressive or discriminatory act, omission or decision	14
	Wrong act or decision	4
Administrative deficiency in the agency or system of government	Legislation: unreasonable or harsh impact or unintended consequence	-
	Government or agency policy: unreasonable or harsh impact	-
	Flawed agency processes or systems	5
	Resource deficiency in agency	-
	Inadequate knowledge/training of agency staff	-

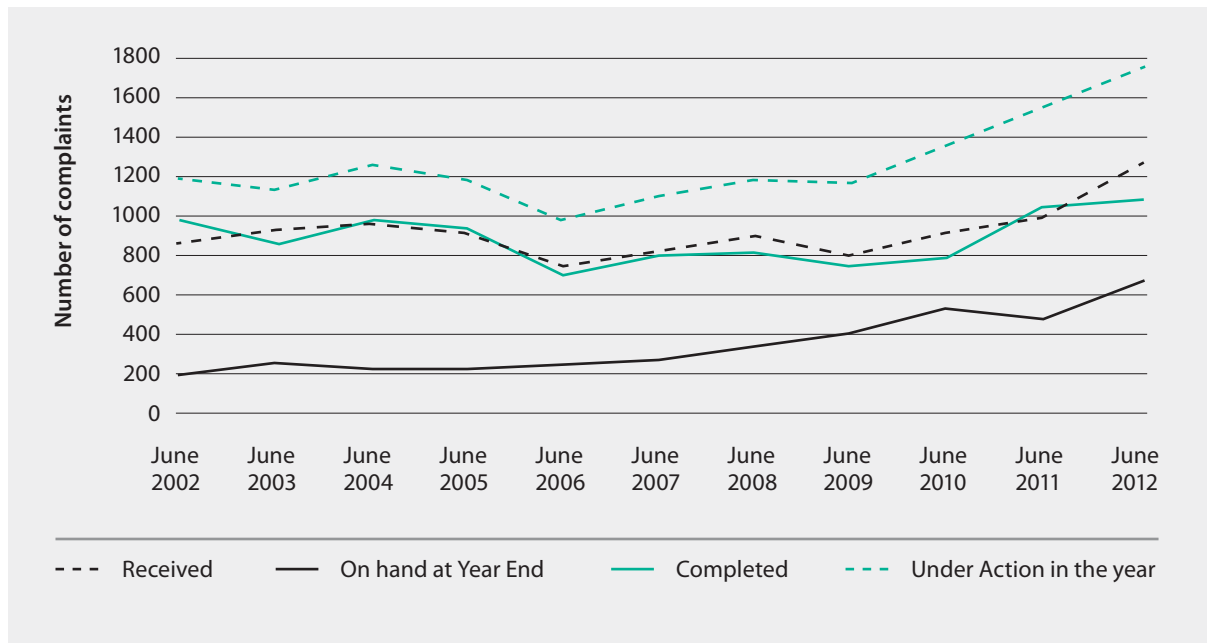
Nature of remedy obtained for OA complaints:		Year ended 30/6/12
Individual benefit	Reasons/explanation given	46
	Decision changed	74
	Decision to be reconsidered	31
	Omission rectified	93
	Financial remedy	30
	Apology	12
Public administration benefit	Change in law/policy	2
	Change in practice/procedure	11
	Law/policy/practice/procedure to be reviewed	6
	Provision of guidance or training to staff	2
	Provision of additional resources	-

Timeliness performance measures are detailed at pages 87-89.



## Official Information Act (OIA)

The following chart provides an overview of complaints received and actioned under the OIA over the past 10 years.



How OIA complaints were dealt with:	B/f from last year	Rec'd year ended 30/6/12	Total under action year ended 30/6/12
<b>Outside jurisdiction</b>			
• agency not listed in schedule	-	3	3
• scheduled agency otherwise outside jurisdiction	<u>2</u>	<u>11</u>	<u>13</u>
	2	14	16
<b>Referred</b>			
• referred to Privacy Commissioner		6	59
<b>No investigation undertaken</b>			
• withdrawn by complainant or no response from complainant	19	102	121
• right of appeal to Court or Tribunal	-	2	2
• adequate alternative remedy – complain to agency first	-	14	14
• adequate alternative remedy – recourse to other agency	2	3	5
• trivial	-	1	1
• frivolous, vexatious or not in good faith	3	1	4
• explanation, advice or assistance provided	<u>7</u>	<u>83</u>	<u>90</u>
	31	206	237



How OIA complaints were dealt with:	B/f from last year	Rec'd year ended 30/6/12	Total under action year ended 30/6/12
<b>Resolved without investigation</b>			
• remedial action to benefit complainant	5	60	65
• remedial action to benefit complainant and improve state sector administration	-	1	1
• provision of advice/ explanation by agency or Ombudsman which satisfies complainant	<u>1</u>	<u>20</u>	<u>21</u>
	6	81	87
<b>Investigation discontinued</b>			
• withdrawn by complainant or no response from complainant	46	34	80
• further investigation unnecessary	15	6	21
• agency to review	<u>1</u>	<u>3</u>	<u>4</u>
	62	43	105
<b>Resolved during investigation</b>			
• remedial action to benefit complainant	42	183	225
• remedial action to benefit complainant and improve state sector administration	1	-	1
• provision of advice/ explanation by agency or Ombudsman which satisfies complainant	<u>6</u>	<u>41</u>	<u>47</u>
	49	224	273
<b>Investigation finalised (final opinion formed)</b>			
• administrative deficiency identified – recommendation/s	13	3	16
• administrative deficiency identified – no recommendation	42	63	105
• no administrative deficiency identified	<u>103</u>	<u>68</u>	<u>171</u>
	158	134	292
Administration – adjustment	-	1	1
Under consideration at 30 June	<u>190</u>	<u>474</u>	<u>664</u>
<b>Total</b>	<b>504</b>	<b>1,236</b>	<b>1,740</b>



Nature of OIA complaints made:	Year ended		
	30/6/10	30/6/11	30/6/12
Refusals	675	698	<b>657</b>
Delay deemed refusals	164	219	<b>498</b>
Delays	13	7	<b>7</b>
Charges	19	18	<b>14</b>
Corrections	-	3	<b>3</b>
Deletions	18	9	<b>8</b>
Extensions	25	36	<b>44</b>
Conditions	2	-	<b>1</b>
Transfers	<u>4</u>	<u>2</u>	<b><u>4</u></b>
<b>Total</b>	<b><u>920</u></b>	<b><u>992</u></b>	<b><u>1,236</u></b>

OIA complaints concerned decisions by:	Year ended		
	30/6/10	30/6/11	30/6/12
Ministers of the Crown	170	139	<b>176</b>
Departments listed in Part I of schedule 1 of the Ombudsmen Act	301	483	<b>376</b>
Organisations listed in Part II of schedule 1 of the Ombudsmen Act and listed in Schedule 1 of the Official Information Act	<u>449</u>	<u>370</u>	<b><u>684</u></b>
<b>Total</b>	<b><u>920</u></b>	<b><u>992</u></b>	<b><u>1,236</u></b>



OIA complaints were received from:	Year ended		
	30/6/10	30/6/11	30/6/12
Individuals	448	543	<b>759</b>
• Via legal practices	51	43	<b>46</b>
Media	165	171	<b>202</b>
Members of Parliament	-	-	<b>40<sup>50</sup></b>
Political party research units	99	63	<b>45</b>
Special interest groups	24	16	<b>20</b>
Companies, associations and incorporated societies	56	58	<b>27</b>
• Via legal practices	20	19	<b>25</b>
Government departments/ organisations/ local authorities	6	-	<b>1</b>
Researchers	4	3	<b>1</b>
Prisoners – advocate	-	2	-
Prisoners – remand	7	2	<b>1</b>
Prisoners – sentenced	33	71	<b>58</b>
Prisoners - unspecified	-	-	<b>1</b>
Prison staff	-	3	-
Trade unions	7	10	<b>10</b>
<b>Total</b>	<b>920</b>	<b>1,004</b>	<b>1,236</b>

Nature of deficiency identified where final opinion formed on OIA complaints:		Year ended 30/6/12
Administrative deficiency in an individual case	Refusal not justified – in whole	24
	Refusal not justified – in part	15
	Unreasonable charge	2
	Unreasonable conditions	-
	Unreasonable extension	2
	Delay deemed refusal	78
	Undue delay in releasing information	-
	Inadequate statement of reasons	1
Administrative deficiency in the agency or system of government	Legislation: unreasonable or harsh impact or unintended consequence	-
	Government or agency policy: unreasonable or harsh impact	-
	Flawed agency processes or systems	-
	Resource deficiency in agency	-
	Inadequate knowledge/training of agency staff	-

50 Prior to the 2011/12 reporting year complaints received from Members of Parliament and political party research units were not separately identified.

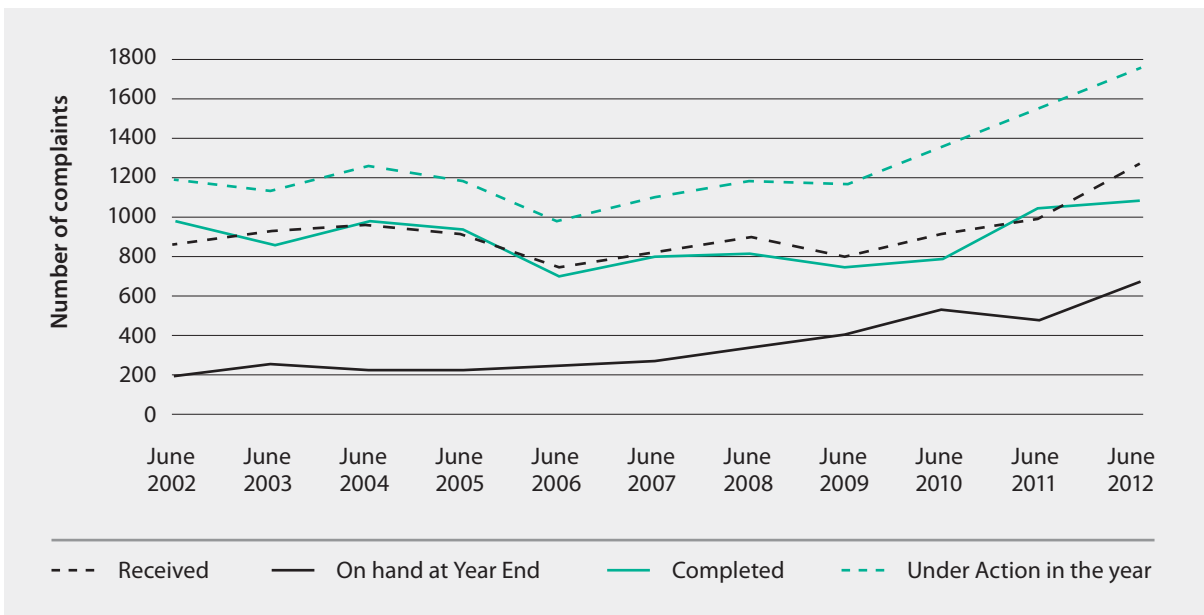


Nature of remedy obtained for OIA complaints:		Year ended 30/6/12
Individual benefit	Reasons/explanation given	80
	Decision changed	97
	Decision to be reconsidered	2
	Omission rectified	202
	Financial remedy	-
	Apology	4
Public administration benefit	Change in law/policy	-
	Change in practice/procedure	3
	Law/policy/practice/procedure to be reviewed	3
	Provision of guidance or training to staff	1
	Provision of additional resources	1

Timeliness performance measures are detailed at pages 87-89.

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

The following chart provides an overview of complaints received and actioned under the LGOIMA over the past 10 years.





How LGOIMA complaints were dealt with:	B/f from last year	Rec'd year ended 30/6/12	Total under action year ended 30/6/12
<b>Outside jurisdiction</b>			
• scheduled agency otherwise outside jurisdiction	2	-	2
<b>Referred</b>			
• referred to Privacy Commissioner	-	6	6
<b>No investigation undertaken</b>			
• withdrawn by complainant or no response from complainant	2	25	27
• adequate alternative remedy – complain to agency first	-	6	6
• adequate alternative remedy – complaint referred to agency by Ombudsman	-	2	2
• adequate alternative remedy – recourse to other agency	-	1	1
• insufficient personal interest	1	2	3
• explanation, advice or assistance provided	<u>2</u>	<u>20</u>	<u>22</u>
	5	56	61
<b>Resolved without investigation</b>			
• remedial action to benefit complainant	2	15	17
• remedial action to benefit complainant and improve state sector administration	1	1	2
• provision of advice/ explanation by agency or Ombudsman which satisfies complainant	-	<u>2</u>	<u>2</u>
	3	18	21
<b>Investigation discontinued</b>			
• withdrawn by complainant or no response from complainant	7	11	18
• further investigation unnecessary	2	6	8
• agency to review	-	<u>2</u>	<u>2</u>
	9	19	28
<b>Resolved during investigation</b>			
• remedial action to benefit complainant	12	14	26
• remedial action to benefit complainant and improve state sector administration	1	1	2
• provision of advice/ explanation by agency or Ombudsman which satisfies complainant	-	<u>1</u>	<u>1</u>
	13	16	29
<b>Investigation finalised (final opinion formed)</b>			
• administrative deficiency identified – recommendation/s	1	-	1
• administrative deficiency identified – no recommendation	7	17	24
• no administrative deficiency identified	<u>28</u>	<u>17</u>	<u>45</u>
	36	34	70
Under consideration at 30 June	<u>18</u>	<u>119</u>	<u>137</u>
<b>Total</b>	<b>86</b>	<b>268</b>	<b>354</b>





Nature of LGOIMA complaints made:	Year ended		
	30/6/10	30/6/11	30/6/12
Refusals	219	175	<b>168</b>
Delay deemed refusals	49	59	<b>73</b>
Delays	3	3	<b>6</b>
Charges	21	17	<b>15</b>
Corrections	-	1	-
Transfer	-	-	<b>1</b>
Extensions	<u>2</u>	<u>1</u>	<b>5</b>
<b>Total</b>	<b><u>294</u></b>	<b><u>256</u></b>	<b><u>268</u></b>

LGOIMA complaints were received from:	Year ended		
	30/6/10	30/6/11	30/6/12
Individuals	188	192	<b>197</b>
• Via legal practices	8	5	<b>7</b>
Media	44	36	<b>39</b>
Special interest groups	25	5	<b>5</b>
Companies, associations	14	13	<b>8</b>
• Via legal practices	14	3	<b>7</b>
Government departments/ organisations/ local authorities	1	-	-
Members of Parliament	-	-	<b>2</b>
Political party research units	-	<u>2</u>	<b>3</b>
<b>Total</b>	<b><u>294</u></b>	<b><u>256</u></b>	<b><u>268</u></b>

Nature of deficiency identified where final opinion formed on LGOIMA complaints:		Year ended 30/6/12
Administrative deficiency in an individual case	Refusal not justified – in whole	1
	Refusal not justified – in part	5
	Unreasonable charge	-
	Unreasonable conditions	-
	Unreasonable extension	-
	Delay deemed refusal	18
	Undue delay in releasing information	-
	Inadequate statement of reasons	-
Administrative deficiency in the agency or system of government	Legislation: unreasonable or harsh impact or unintended consequence	-
	Government or agency policy: unreasonable or harsh impact	-
	Flawed agency processes or systems	1
	Resource deficiency in agency	-
	Inadequate knowledge/training of agency staff	-



Nature of remedy obtained for LGOIMA complaints:		Year ended 30/6/12
Individual benefit	Reasons/explanation given	8
	Decision changed	27
	Decision to be reconsidered	1
	Omission rectified	17
	Financial remedy	-
	Apology	-
Public administration benefit	Change in law/policy	-
	Change in practice/procedure	1
	Law/policy/practice/procedure to be reviewed	-
	Provision of guidance or training to staff	1
	Provision of additional resources	-

Timeliness performance measures are detailed at pages 87-89.

## Other contacts

How other contacts were dealt with:	B/f from last year	Rec'd year ended 30/6/12	Total under action year ended 30/6/12
No response required – copy correspondence, FYI	1	239	240
Individual advised to complain in writing / send relevant papers	-	486	486
Complain to agency first	-	2,106	2,106
Matter referred to agency by Ombudsman	2	396	398
Complain to other agency - Privacy Commissioner	-	104	104
Complain to other agency - Health and Disability Commissioner	-	105	105
Complain to other agency - Independent Police Conduct Authority	-	53	53
Complain to other agency - other	-	442	442
Explanation, advice or assistance provided	6	2,133	2,139
Resolved - remedial action to benefit individual	1	166	167
Resolved - remedial action to improve state sector administration	-	2	2
Resolved - provision of advice/ explanation which satisfies individual	-	78	78
Withdrawn	-	70	70
Protected disclosures enquiry	-	11	11
Under consideration at 30 June	1	100	101
<b>Total</b>	<b>11</b>	<b>6,491</b>	<b>6,502</b>



Other contacts concerned:	Year ended 30/6/12
Department of Corrections	3,634
Other central government departments	763
Organisations other than local organisations	933
Local organisations	375
Ministers	35
Non-scheduled agencies	514
Not specified/other	<u>237</u>
<b>Total</b>	<b>6,491</b>

Other contacts were received from:	Year ended 30/6/12
Individuals	2,700
• Via legal practices	37
Media	47
Special interest groups	16
Companies, associations	36
• Via legal practices	12
Government departments/ organisations/ local authorities	120
Members of Parliament	7
Political party research units	10
Prisoners - community work	3
Prisoners - home detention	9
Prisoners - parolee	12
Prisoners - remand	359
Prisoners - sentenced	2,778
Prisoners - unspecified	252
Prison staff	56
Prisoner advocate	28
Researcher	8
Trade unions	<u>1</u>
<b>Total</b>	<b>6,491</b>



Nature of remedy obtained for other contacts:		Year ended 30/6/12
Individual benefit	Reasons/explanation given	49
	Decision changed	44
	Decision to be reconsidered	10
	Omission rectified	84
	Financial remedy	6
	Apology	2
Public administration benefit	Change in law/policy	-
	Change in practice/procedure	1
	Law/policy/practice/procedure to be reviewed	-
	Provision of guidance or training to staff	2
	Provision of additional resources	-



## Prisoner complaints and other contacts

During the year ended 30 June 2012 complaints and other contacts concerning the Department of Corrections were received from the types of prisoners set out in the table below.

Prison	Prisoner Sentenced	Prisoner Community Work	Prisoner Home Detention	Prisoner Remand Accused	Prisoner Remand Convicted	Prisoner Parolee	Prisoner Advocate	Prisoner Status Unknown	Total	Total Last year
Arohata Women's	48	-	-	14	1	-	1	4	<b>68</b>	97
Auckland Prison	408	-	-	-	1	-	5	13	<b>427</b>	380
Auckland Region Women's	246	-	-	41	-	4	-	24	<b>315</b>	291
Christchurch	189	-	-	25	6	-	4	8	<b>232</b>	279
Christchurch Women's	10	-	-	2	1	-	-	3	<b>16</b>	17
CPPS	12	3	11	2	-	8	1	-	<b>37</b>	37
Dunedin	-	-	-	-	-	-	-	-	-	-
Hawke's Bay	207	-	-	13	1	-	2	7	<b>230</b>	241
Invercargill	22	-	-	3	2	-	-	1	<b>28</b>	49
Manawatu	92	-	-	13	10	1	1	12	<b>129</b>	79
Mt Eden	330	-	-	109	32	-	6	51	<b>528</b>	346
New Plymouth	36	-	-	7	-	-	-	4	<b>47</b>	28
Northland Region Corrections Facility	189	-	-	22	2	-	2	14	<b>229</b>	181
Otago Corrections Facility	151	-	-	7	4	1	4	8	<b>175</b>	178
Rimutaka	268	-	-	12	1	-	2	15	<b>298</b>	439
Rolleston	127	-	-	-	-	-	-	3	<b>130</b>	98
Spring Hill Corrections Facility	436	-	-	-	-	-	5	17	<b>458</b>	345
Tongariro/Rangipo	117	-	-	2	-	-	-	7	<b>126</b>	168
Waikeria	258	-	-	61	5	-	3	23	<b>350</b>	349
Whanganui	149	-	-	5	-	-	1	7	<b>162</b>	191
Wellington	13	-	-	-	-	-	-	-	<b>13</b>	47
Parole Board	-	-	-	-	-	-	-	-	-	2
Head Office	13	-	-	-	-	-	-	1	<b>14</b>	4
Not specified	162	-	-	2	1	2	-	27	<b>194</b>	30
<b>Total</b>	<b>3,483</b>	<b>3</b>	<b>11</b>	<b>340</b>	<b>67</b>	<b>16</b>	<b>37</b>	<b>249</b>	<b>4,206</b>	<b>3,876</b>



During the year ending 30 June 2012 complaints and other contacts received from and on behalf of prisoners concerning the Department of Corrections related to the matters in the table below.

Total	65	441	353	256	17	36	13	227	25	133	481	52	239		189	319	141	491	117	361	155	14	232	4,357	
Other	8	46	24	25	-	9	3	14	-	10	26	4	19		15	23	16	47	7	22	14	2	30	364	
Use of force	-	2	-	1	-	-	-	-	-	1	-	-	-		1	-	-	1	-	1	-	-	-	7	
Temporary releases / escort outings	-	1	4	1	-	2	1	-	2	2	3	1	2		1	2	1	13	-	6	1	-	2	45	
Staff conduct and attitudes	15	32	36	22	4	5	-	12	1	5	-	6	7		17	27	12	27	6	41	16	-	18	309	
Serious incident	-	2	-	-	-	-	-	3	-	1	1	-	1		-	1	-	1	-	-	1	-	1	12	
Sentencing	-	-	1	-	-	-	-	-	-	-	-	-	-		-	-	-	-	-	-	-	-	-	1	
Security classification	-	29	15	2	1	-	-	23	1	-	7	1	7		12	15	3	18	5	17	12	-	7	175	
Recreation, exercise and sport	-	5	4	-	-	-	-	-	-	1	1	1	1		1	3	-	5	-	2	-	-	-	24	
Prisoner welfare	3	19	21	12	-	1	-	10	-	6	27	-	23		12	20	2	27	2	29	4	-	2	225	
Prisoner trust accounts	1	3	4	1	-	-	-	2	-	1	12	-	1		-	1	3	9	1	5	2	-	1	36	
Prisoner supplies	1	5	19	2	-	-	-	3	-	1	10	2	1		6	4	8	16	7	7	1	-	-	65	
Prisoner transfers and movements	4	33	17	19	-	1	-	26	-	11	61	8	33		19	26	8	71	13	31	18	2	16	417	
Prisoner – work and pay	2	5	3	3	-	-	6	6	-	2	2	1	2		6	4	9	16	7	7	1	-	2	78	
Prison conditions	2	44	36	10	1	2	-	4	-	9	20	1	21		10	11	5	17	3	18	5	-	1	220	
Prisoner parole	1	5	7	3	-	9	-	6	-	3	7	-	5		3	5	7	9	4	2	2	-	2	76	
Prisoner food services	-	7	6	2	-	-	4	4	-	-	9	1	5		1	1	3	7	1	8	3	-	-	81	
Prisoner health services	5	44	20	41	5	1	-	20	5	23	53	7	29		15	22	14	30	20	40	9	1	14	418	
Property – lost or damaged	2	30	15	13	-	-	-	12	1	4	60	3	13		15	24	6	30	6	27	10	2	11	284	
Property – general	5	22	35	27	-	-	23	12	-	11	45	-	18		11	28	15	43	10	31	15	1	20	360	
Personal and official visits	1	14	6	2	-	-	3	2	2	11	29	4	10		5	9	4	21	3	16	11	-	7	158	
Inspector of Corrections	1	4	4	-	-	-	2	2	5	2	3	-	1		1	7	1	3	-	1	-	-	7	41	
Discipline and misconduct	4	29	23	19	2	3	13	2	5	11	24	2	14		18	29	11	30	10	19	1	1	-	271	
Death in custody	-	-	-	-	-	-	2	-	-	1	-	-	2		2	1	-	1	1	1	-	-	-	11	
Culture and religion	-	-	1	1	-	-	-	-	-	-	4	-	-		-	-	1	1	1	-	-	-	33	42	
Communications – telephone calls and written	7	32	34	36	3	1	22	2	4	7	51	8	12		9	34	2	35	4	22	15	-	23	362	
Case management and programmes	2	13	11	10	-	2	9	2	2	7	11	1	9		11	19	17	17	10	5	15	1	5	178	
Access to lawyers	1	15	7	4	-	-	8	-	-	3	15	-	7		3	6	-	12	2	5	-	2	7	97	
<b>Prison</b>																									
Arohata Women's																									
Auckland Prison																									
Auckland Region Women's																									
Christchurch																									
Christchurch Women's																									
CPPS																									
Head office																									
Hawke's Bay																									
Invercargill																									
Manawatu																									
Mt Eden																									
New Plymouth																									
Northland Region Corrections Facility																									
Otago Corrections Facility																									
Rimutaka																									
Rolleston																									
Spring Hill Corrections Facility																									
Tongariro/Rangipo																									
Waikeria																									
Wanganui																									
Wellington																									
Corrections – other																									
<b>Total</b>	<b>97</b>	<b>178</b>	<b>362</b>	<b>42</b>	<b>11</b>	<b>271</b>	<b>41</b>	<b>158</b>	<b>360</b>	<b>284</b>	<b>418</b>	<b>81</b>	<b>76</b>	<b>220</b>	<b>78</b>	<b>417</b>	<b>65</b>	<b>36</b>	<b>225</b>	<b>24</b>	<b>175</b>	<b>1</b>	<b>12</b>	<b>309</b>	<b>45</b>



During the year ended during 30 June 2012 complaints and other contacts made by and on behalf of prisoners concerning the Department of Corrections were resolved as set out below.

### Other contacts

	1(a)	1(b)	1(c)	1(d)	1(e)	1(f)	1(g)	1(h)	1(i)	1(j)	1(k)	1(m)	1(n)	Total
Arohata Women's	1	2	16	9	1	-	-	2	19	2	-	2	1	55
Auckland Prison	5	11	104	29	5	6	-	13	129	4	-	5	2	313
Auckland Regional Women's	2	-	111	35	3	4	-	4	82	28	1	3	2	275
Christchurch	3	7	76	24	3	9	-	7	57	9	-	2	1	198
Christchurch Women's	-	-	8	2	-	1	-	-	5	-	-	-	-	16
CPPS	-	2	19	2	-	1	-	2	7	1	-	-	-	34
Hawke's Bay	2	4	68	8	2	-	-	3	67	7	-	2	-	163
Invercargill	1	-	6	2	-	2	-	1	11	1	-	1	2	27
Manawatu	1	1	40	10	2	6	1	2	31	4	-	-	1	99
Mt Eden	4	6	131	76	2	14	2	10	162	36	-	4	6	453
New Plymouth	-	-	9	6	-	-	-	-	14	-	-	-	-	29
Northland Region Corrections Facility	2	5	64	18	1	6	-	2	69	13	-	3	2	185
Otago Corrections Facility	4	7	65	22	1	2	-	3	36	4	-	4	2	150
Rimutaka	1	10	100	24	4	3	-	4	85	3	-	3	7	244
Rolleston	2	4	35	3	2	1	-	1	50	2	-	2	5	107
Spring Hill Corrections Facility	6	13	123	28	1	6	-	3	120	10	-	5	3	318
Tongariro/Rangipo	2	2	27	6	-	1	-	1	43	5	-	-	1	88
Waikeria	2	11	90	34	-	5	-	9	93	8	-	2	5	259
Wanganui	1	1	40	7	1	4	-	1	33	2	-	-	-	90
Wellington	-	-	2	3	-	-	-	-	7	-	-	-	-	12
Corrections – other	2	4	119	2	4	4	-	6	46	-	-	-	3	190
<b>Total</b>	<b>41</b>	<b>90</b>	<b>1,253</b>	<b>350</b>	<b>32</b>	<b>75</b>	<b>3</b>	<b>74</b>	<b>1,166</b>	<b>139</b>	<b>1</b>	<b>38</b>	<b>43</b>	<b>3,305</b>

#### KEY:

**1(a)** No response required

**1(b)** Complain in writing

**1(c)** Complain to agency first

**1(d)** Matter referred to agency

**1(e)** Complain to Privacy Commissioner

**1(f)** Complain to Health and Disability Commissioner

**1(g)** Complain to Independent Police Conduct Authority

**1(h)** Complain to other agency

**1(i)** Explanation, advice or assistance provided

**1(j)** Resolved – remedial action to benefit individual

**1(k)** Resolved – remedial action to improve state sector administration

**1(m)** Resolved – provision of advice

**1(n)** Withdrawn



## Complaints not investigated

	4(a)	4(b)	4(c)	5(a)	5(b)	5(c)	5(d)	5(e)	5(h)	5(i)	5(j)	6(a)	6(b)	6(c)	6(d)	Total
Arohata Women's	-	-	-	-	-	-	2	-	1	-	8	2	-	-	-	<b>13</b>
Auckland Prison	2	-	-	8	1	11	2	3	-	-	43	4	-	-	1	<b>75</b>
Auckland Regional Women's	-	-	-	1	-	2	-	-	-	-	29	5	-	-	-	<b>30</b>
Christchurch	-	-	-	2	-	11	1	-	1	-	12	3	-	-	-	<b>30</b>
Christchurch Women's	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>0</b>
CPPS	-	-	1	-	-	-	1	-	-	-	4	-	-	-	-	<b>6</b>
Hawke's Bay	-	-	-	3	-	5	1	-	-	-	53	1	1	-	-	<b>64</b>
Invercargill	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>0</b>
Manawatu	-	-	1	3	-	1	7	1	-	-	11	1	-	-	1	<b>26</b>
Mt Eden	1	-	-	4	-	11	2	-	-	-	32	11	-	-	1	<b>62</b>
New Plymouth	-	-	-	-	-	1	-	-	-	-	17	-	-	-	-	<b>18</b>
Northland Region Corrections Facility	1	-	-	4	1	5	-	1	-	-	19	3	-	1	1	<b>36</b>
Otago Corrections Facility	-	-	-	-	-	7	-	1	-	-	9	3	-	-	1	<b>21</b>
Rimutaka	3	-	-	3	-	10	1	-	-	1	20	4	-	1	1	<b>44</b>
Rolleston	-	-	-	2	-	3	-	-	-	1	7	2	-	1	2	<b>18</b>
Spring Hill Corrections Facility	1	-	-	23	-	4	11	1	1	2	61	12	-	-	-	<b>116</b>
Tongariro/Rangipo	-	2	-	-	2	2	-	1	-	-	19	2	-	-	1	<b>29</b>
Waikeria	-	1	-	12	-	1	1	-	-	-	51	5	-	-	1	<b>72</b>
Wanganui	-	-	-	-	-	2	-	-	-	1	61	4	-	-	-	<b>68</b>
Wellington	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<b>0</b>
Corrections – other	-	-	-	1	-	-	-	-	-	-	2	1	-	-	-	<b>4</b>
<b>Total</b>	<b>8</b>	<b>3</b>	<b>2</b>	<b>66</b>	<b>4</b>	<b>76</b>	<b>29</b>	<b>8</b>	<b>3</b>	<b>5</b>	<b>458</b>	<b>63</b>	<b>1</b>	<b>3</b>	<b>10</b>	<b>739</b>

### KEY:

<b>4(a)</b> Referred to Privacy Commissioner	<b>5(e)</b> Adequate alternative remedy – recourse to other agency
<b>4(b)</b> Referred to Health and Disability Commissioner	<b>5(h)</b> Frivolous/vexatious/not in good faith
<b>4(c)</b> Referred to Independent Police Conduct Authority	<b>5(i)</b> Insufficient personal interest
<b>5(a)</b> Withdrawn, including no response to further enquiry	<b>5(j)</b> Explanation, advice or assistance provided
<b>5(b)</b> Right of review or appeal to court or tribunal	<b>6(a)</b> Resolved - remedial action to benefit complainant
<b>5(c)</b> Adequate alternative remedy – complain to agency first	<b>6(b)</b> Resolved - remedial action to improve state sector administration
<b>5(d)</b> Adequate alternative remedy – complaint referred to agency by Ombudsman	<b>6(c)</b> Resolved - remedial action to benefit complainant and state sector administration
	<b>6(d)</b> Resolved - provision of advice/explanation by agency or Ombudsman





## Complaints investigated

	7(a)	7(b)	7(c)	7(e)	8(a)	8(b)	8(d)	9(a)	9(b)	9(c)	11(a) (i)	11(a) (iii)	11(b)	Total
Arohata Women's	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Auckland Prison	4	2	-	-	5	-	-	2	6	12	1	-	-	32
Auckland Regional Women's	-	-	-	-	2	-	-	-	-	-	-	-	-	2
Christchurch	1	4	1	1	5	-	-	1	1	7	-	3	-	24
Christchurch Women's	-	-	-	-	-	-	-	-	-	-	-	-	-	0
CPPS	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Hawke's Bay	-	1	-	-	1	-	1	1	3	5	1	-	-	13
Invercargill	-	-	-	-	-	-	-	-	-	-	-	1	-	1
Manawatu	-	-	-	-	1	-	-	-	-	-	-	-	-	1
Mt Eden	-	1	-	-	-	-	-	-	1	-	-	-	-	2
New Plymouth	-	-	-	-	-	1	-	-	-	-	-	-	-	1
Northland Region Corrections Facility	1	-	-	-	1	-	-	-	-	1	-	-	1	4
Otago Corrections Facility	1	1	-	-	1	-	-	1	-	2	2	1	-	9
Rimutaka	4	1	-	-	5	-	-	-	1	2	3	1	-	17
Rolleston	-	-	-	-	1	-	-	-	-	2	-	-	-	3
Spring Hill Corrections Facility	-	2	-	-	2	-	-	1	1	5	1	-	-	12
Tongariro/Rangipo	-	-	-	-	1	-	-	2	-	2	1	-	-	6
Waikeria	1	-	-	-	1	-	-	-	1	5	1	-	-	9
Wanganui	-	1	-	-	1	-	-	-	-	1	1	-	-	4
Wellington	-	-	-	1	-	-	-	-	-	-	-	-	-	1
Corrections – other	-	-	-	-	-	-	-	-	-	-	-	-	-	0
<b>Total</b>	<b>12</b>	<b>13</b>	<b>1</b>	<b>2</b>	<b>27</b>	<b>1</b>	<b>1</b>	<b>8</b>	<b>14</b>	<b>44</b>	<b>11</b>	<b>6</b>	<b>1</b>	<b>141</b>

### KEY:

<b>7(a)</b>	Withdrawn, including no response to further enquiry	<b>9(a)</b>	Opinion formed - administrative deficiency identified – recommendation(s)
<b>7(b)</b>	Further investigation unnecessary	<b>9(b)</b>	Opinion formed - administrative deficiency identified – no recommendation
<b>7(c)</b>	Agency to review	<b>9(c)</b>	Opinion formed - no administrative deficiency identified
<b>7(e)</b>	Trivial	<b>11(a)(i)</b>	Death in custody Department investigation fully satisfactory – agree with conclusion(s)
<b>8(a)</b>	Remedial action to benefit complainant	<b>11(a)(iii)</b>	Death in custody Department investigation fully satisfactory – disagree with conclusion(s)
<b>8(b)</b>	Remedial action to improve state sector administration	<b>11(b)</b>	Death in custody Department investigation substantially satisfactory – comment made
<b>8(d)</b>	Provision of advice/explanation by agency or Ombudsman		



## Geographical distribution of complaints and other contacts received in year to 30 June 2012

	OA	Other contacts	OIA	LGOIMA	PDA	Other work	All	All Last Year
Auckland	736	1,363	228	70	2	26	<b>2,425</b>	2,405
Bay of Plenty	86	249	36	12	-	13	<b>396</b>	599
Northland	90	257	14	15	-	5	<b>381</b>	338
Waikato	311	594	66	12	-	17	<b>1,000</b>	755
Taranaki	46	53	8	4	-	5	<b>116</b>	79
Hawke's Bay	90	206	27	6	-	8	<b>337</b>	309
Manawatu/Wanganui	194	243	34	15	-	9	<b>495</b>	470
Wairarapa	17	16	12	-	-	5	<b>50</b>	54
East Cape	3	25	1	1	-	-	<b>30</b>	32
Wellington	297	631	339	54	2	18	<b>1,341</b>	1,460
<b>Total North Island</b>							<b>6,571</b>	<b>6,501</b>
Nelson/ Marlborough and Golden Bay	54	56	20	8	5	5	<b>148</b>	154
Dunedin	31	40	15	14	3	3	<b>106</b>	121
Otago	67	169	17	8	6	6	<b>273</b>	263
Southland	26	57	13	9	-	-	<b>105</b>	132
Canterbury	91	203	32	10	6	6	<b>348</b>	256
Christchurch	291	456	342	20	12	12	<b>1,133</b>	889
Westland	18	15	10	7	-	-	<b>50</b>	61
Chatham Islands	-	-	-	-	-	-	-	-
<b>Total South Island</b>							<b>2,163</b>	<b>1,876</b>
Location not known	73	1,844	32	6	4	20	<b>1,979</b>	279
Overseas	78	36	10	1	-	16	<b>141</b>	131
<b>Total</b>	<b>151</b>	<b>1,880</b>	<b>42</b>	<b>7</b>	<b>4</b>	<b>36</b>	<b>10,857<sup>51</sup></b>	<b>8,787</b>

51 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.



## Directory

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### **Legal authorities for establishing the Office of the Ombudsman**

The 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. The 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)

Post: PO Box 10152, Wellington 6143

Fax: 04 471 2254

### **Wellington**

Level 14, 70 The Terrace

### **Christchurch**

Level 1, 545 Wairakei Road, Harewood

### **Auckland**

Level 10, 55-65 Shortland Street

### **Auditor**

Audit New Zealand on behalf of the Auditor-General

Level 8, St Paul's Square, 45 Pipitea Street

PO Box 99, Wellington 6140

Telephone (04) 496 3099 or (0508) 283 486 (0508 AUDIT NZ)

Facsimile (04) 496 3095

Email: [enquiry@auditnz.govt.nz](mailto:enquiry@auditnz.govt.nz)

### **Banker**

Westpac Government Business a division of Westpac Banking Corporation

### **Insurance Broker**

Marsh Limite

