





Mr Speaker

We submit to you our report for the year 1 July 2014 to 30 June 2015.

Dame Beverley Wakem DNZM, CBE
Chief Ombudsman

Professor Ron Paterson
Ombudsman

2014/2015
Report of the Ombudsman
Tari o te Kaitiaki Mana Tangata
for the year ended 30 June 2015

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



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Part 1

2014/15 at a glance

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Overview

- Received 12,151 complaints and other work,¹ the second highest amount ever received, and 10% higher than the work received in the 2013/14 reporting year
- Completed 11,964 complaints and other work, 4% more than the work completed in the 2013/14 reporting year
- Finished the year with 1,787 complaints and other work on hand
- Obtained remedies for the benefit of individuals and public administration in 504 cases
- Unable to meet current timeliness targets for completed complaints, given the volume of work on hand
- Improved the age profile of work completed, with 92% of complaints and other contacts completed within 6 months or less, compared with 88% the previous year

Ombudsmen Act (OA)

- Received 2,304 OA complaints and 7,216 other contacts concerning OA matters
- Completed 2,226 OA complaints and 7,231 other contacts concerning OA matters
- Resolved 161 cases²
- Provided advice and assistance in 2,888 cases
- Formally investigated 215 complaints, and formed 106 final opinions
- Identified administrative deficiency in 23 complaints, or 22% of all complaints where a final opinion was formed
- Made 11 recommendations
- Obtained remedies for the benefit of the individual concerned in 164 cases
- Obtained remedies for the benefit of public administration in 14 cases

Official information (OIA and LGOIMA)

- Received 1,090 OIA complaints and 240 LGOIMA complaints
- Completed 960 OIA complaints and 253 LGOIMA complaints
- Resolved 301 complaints, or 23% of all complaints completed
- Investigated 571 complaints, and formed 247 final opinions
- Identified administrative deficiency in 98 complaints, or 40% of all complaints where a final opinion was formed
- Obtained remedies for the benefit of the individual concerned in 324 cases

Crimes of Torture Act

- Visited 40 places of detention, including 22 full inspections
- 73% of visits to places of detention were unannounced
- Made 63 recommendations for improvement, 52 of which were accepted or partially accepted

¹ Including complaints, other contacts, deaths in custody and other work.

² "Cases" refers to OA complaints and other contacts concerning OA matters.



United Nations Convention on the Rights of Persons with Disabilities

- Published the second report of the Independent Monitoring Mechanism, *Making Disability Rights Real*, making 38 specific recommendations and outlining 9 key areas to monitor over the next reporting year
- Participated in New Zealand's examination before the *United Nations Committee on the Rights of Persons with Disabilities* in Geneva

Policy and professional practice

- Advised on 21 legislative, policy and administrative proposals relevant to our jurisdiction
- Provided informal advice on 168 occasions to state sector agencies, mainly in relation to the processing of official information requests, 63% more than in 2013/14
- Advised the Secretary of Transport on 7 applications for authorised access to personal information on the motor vehicle register
- Conducted 20 workshops and training seminars, and delivered 24 presentations, on the role of the Ombudsman and the operation of the official information legislation
- Published 19 new or updated guidance materials, including Ombudsman opinions
- Nationwide survey showed 67% awareness of the Ombudsman by the New Zealand public





Part 2
Introduction

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Introduction



Dame Beverley Wakem DNZM, CBE
Chief Ombudsman



Professor Ron Paterson
Ombudsman

A personal message from the Chief Ombudsman

This is the last Annual Report I will present as the Chief Ombudsman. When I joined the Office in 2005, I did so with some familiarity with its work since as a Chief Executive of a state sector agency I was from time to time on the other side of a complaint or request made under the various Acts which govern the work of the Ombudsmen. But I could not have imagined the challenges the Office confronts daily. This is not a job for the faint hearted. We deal with people who have exhausted themselves trying to access information or seek justice, or need our services to put something right so that what happened to them is remedied if appropriate and will not happen again to someone else. They are often angry and distressed. But we must never forget that we are here to assist them and to try to improve good administrative conduct and decision making capabilities across the wider state sector. On days when we've got it right, it feels like the most satisfying job in the world.

I want to thank all the staff past and present who contributed so willingly to meeting the challenges of the past 10 years. They have been a constant source of inspiration and confidence to me as we went forward.

I leave the Office with a considerable degree of satisfaction at what has been achieved since 2005 when I entered it. The Office is, I believe, well positioned for the future. It is stronger and more resilient and its systems and practices stand in comparison with the best the rest of the world has to offer.

It has been a privilege to have been entrusted with the role of Ombudsman and latterly with leading the Office successfully through a period of renewal and growth as Chief Ombudsman.

Growth and change over the last 10 years

People are attracted to work in the public sector because – in some respects – they see it as a vocation rather than a job. They want to make a difference for the better in people's lives. So too with us – our latest staff survey confirms that, with 90% of our staff saying *"my work has meaning"*, 84% saying *"I am proud of the work we do"* and 86% saying *"I am strongly committed to the Office of the Ombudsman"*.

By 2006 it was becoming clear that we could not sustain the business model we were then operating and the late John Belgrave, then Chief Ombudsman, challenged us to reflect on the theme *"Where is the Office Going?"* We needed to examine every aspect of what we did, assess what was still relevant to our primary role of holding the state sector to account for excellence in service delivery, and help the agencies that come within our jurisdiction to improve their service to the people of New Zealand. We also needed to get closer to those agencies to understand their challenges, make our recommendations relevant and proportionate, and ensure that the transaction costs of doing business with us were not oppressive.

So we began what has seemed like a long journey to modernise the Office.

We looked at benchmark offices in Australia and beyond and adopted, adapted, and often enhanced the

best practices we found. We want to thank all those generous Ombudsmen and their staff for the insights they gave us and their practical help along the way.

Change has been a constant factor as we tried to reposition ourselves to meet the challenges of a growing workload and there has been considerable development of the Office and an exponential growth in the number of complaints and requests we handle, and in their variety and complexity.

We have been through a fairly turbulent period over the last 4 years as we reorganised and renewed the Office, redefined our purpose, and modernised our investigative practices.

The growth of the Office is clearly illustrated by the following. In the year 2000 we:

- had 2 jurisdictions (the Ombudsmen Act and the official information legislation);
- had 38 staff;
- received no more than 6,000 complaints and other contacts a year; and
- had an average of 800 complaints open at any one time.

Since 2000 our role has progressively expanded and by 2013/14 when Professor Paterson joined the Office, 68 staff received 13,684 complaints and other contacts – the highest number the Office has ever recorded.

We now have between 1,800 to 2,000 complaints open at any one time and are required to deliver work within multiple jurisdictions:

- the Ombudsmen Act;
- the official information legislation;
- the Protected Disclosures Act;
- the Crimes of Torture Act;
- the Land Transport Act; and
- the United Nations Convention on the Rights of Persons with Disabilities.

We have been provided with more resources to manage the growing workload and in the 2015/16 reporting year we will increase our staff numbers to 81. We are grateful to the Speaker and the Officers of Parliament Committee for their support and to Parliament for acknowledging the worth of the work we do.

There are still more challenges in front of us. In particular, the Ombudsmen Act, whilst still serviceable, needs updating and we have proposed a redraft for consideration.

In addition, the day to day operation of the official information legislation has given us cause for concern. It is for this reason we have a systemic review of official information leadership, policies, practices and systems underway. We hope it will lead to better adherence to the legislation's core principle of making official information available within mandated timeframes unless there is good reason not to. We are also continuing to encourage agencies to be more proactive in releasing information they hold so that it is useful, relevant and timely for the public, and reduces the transaction costs associated with responding to individual requests for access to such information.

Welcome to Judge Peter Boshier

In the coming year, we welcome Judge Peter Boshier as our new Chief Ombudsman. It is a demanding job, and requires qualities of humility, humanity, compassion, a passion for justice and equity, a lively sense of the variety of humankind and the need to always have the complainant central to your thinking. We wish him well as he takes up the challenge.





Part 3 Background

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Nature and scope of the Ombudsman's functions

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

Our purpose

Our overall purpose is to investigate, review and inspect the administrative conduct of 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;³
- investigate and review decisions made on requests to access official information;⁴
- deal with requests for advice and guidance about alleged serious wrongdoing;⁵
- monitor and inspect places of detention for cruel and inhuman treatment;⁶ and
- provide comment to the Ministry of Transport on applications for authorised access to personal information on the motor vehicle register.⁷

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 overall downstream costs, caused by poor decision making and ineffective administrative processes.

What is the state sector?

We have authority to investigate approximately 4,000 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).

³ Under the Ombudsmen Act 1975.

⁴ Under the Official Information Act 1982 and the Local Government Official Information and Meetings Act 1987.

⁵ Under the Protected Disclosures Act 2000.

⁶ Under the Crimes of Torture Act 1989.

⁷ Under section 241 of the Land Transport Act 1998.

International responsibilities

Two of our functions have international responsibilities.

We carry out our function to monitor and inspect certain places of detention under the Crimes of Torture Act 1989 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 part of an *Independent Monitoring 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:

- 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.

Our *Outcomes Framework* on page 19 demonstrates the linkages between the services we deliver through our outputs, and the outcomes and impacts we are seeking to achieve.



Figure 1: The overall impact of our work

Impacts

The impacts we seek to achieve are:

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

We have 2 high level measures of our impacts. These relate to the overall status of New Zealand society and the state sector, to which we are but one contributing factor.

Our first impact measure is that the overall quality of public services improves over time. We measure this through the Kiwis Count Survey which is administered by the State Services Commission. Our target is for the public services to achieve an overall quality score higher than 70 points. The quality score in September 2014 was 73 points, increasing from the the March 2014 score of 72 points.

Our second impact measure is that New Zealand is rated as one of the leading countries in public service probity as measured by the Transparency International Corruption Perceptions Index. Our target is for New Zealand to be in the top 3 ranked countries over the next 5 years. In 2014, New Zealand ranked second.

Outputs

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

Investigate state sector administration and decision making

We seek to improve administration and decision making in state sector agencies, primarily by undertaking investigations under the Ombudsmen Act 1975. This may be in response to complaints or on the Ombudsman's own motion, particularly where systemic or wider public interest issues are raised. In relation to people with disabilities, we investigate issues relating to the implementation of the Disabilities Convention.

Investigate and review official information decisions

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 with requests for advice and guidance about serious wrongdoing

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

- people who are concerned about serious wrongdoing can seek advice;
- people feel confident enough to raise their concerns through the appropriate channels; and
- legitimate concerns are investigated by appropriate authorities.

Monitor and inspect places of detention

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

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

Improve state sector capability in areas relevant to our jurisdiction

Although investigation is one way of contributing to improvements in 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;



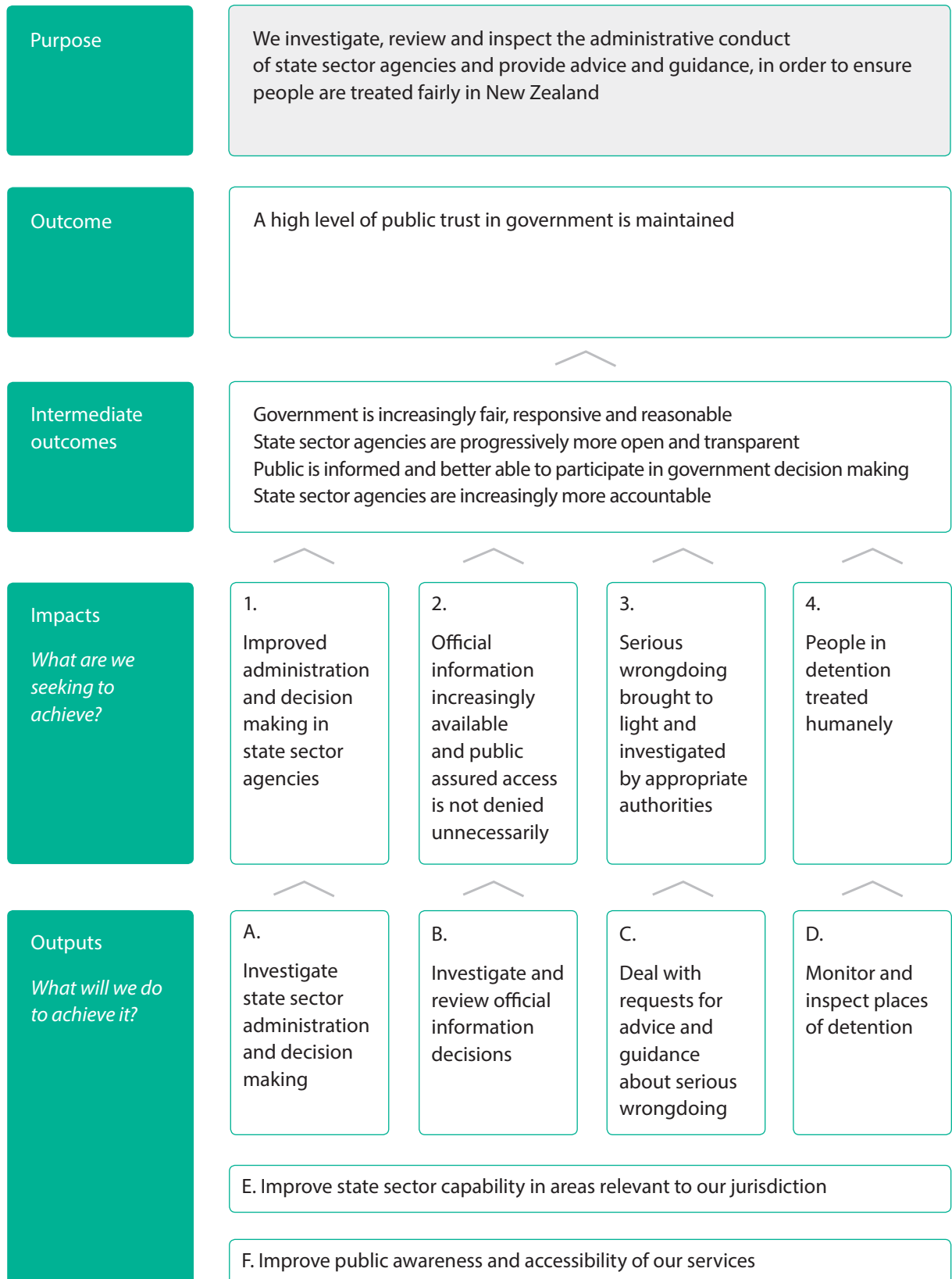
- providing advice, guidance and training to state sector agencies to help them:
 - develop and implement good administrative and complaints handling practices;
 - comply with their obligations under the official information legislation; and
 - consider the proactive disclosure of official information where appropriate to reduce the administrative burden and transaction costs of reacting to individual requests for similar information.

Improve public awareness and accessibility of our services

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

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

Ombudsman outcomes framework







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. Detailed statistics can be found in Part 7.

The numbers

We treat matters as formal “*complaints*” once they have been put in writing.⁸ 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.

We received a total of 9,520 OA complaints and other contacts concerning OA matters in 2014/15, an increase of 12% on 2013/14 numbers. The total received is made up of:

- 2,304 complaints; and
- 7,216 other contacts.

We completed a total of 9,457 OA complaints and other contacts concerning OA matters in 2014/15. The total completed is made up of:

- 2,226 complaints; and
- 7,231 other contacts.

We finished the reporting year with 727 complaints and 14 other contacts on hand.

The complainants

The OA is primarily used by individual members of the public. This reflects the intent of the legislation, which is to provide recourse for people personally affected by the administrative conduct of state sector agencies. In 2014/15, 81% of OA complaints were from individual members of the public and 15% were from prisoners or prisoner advocates.⁹ Only 4% of OA complaints were made by corporate entities, media, government agencies, political party research units, special interest groups and trade unions.

In terms of other contacts concerning OA matters, 50% were from individual members of the public and 50% were from prisoners or prisoner advocates.¹⁰ The high 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.

⁸ See section 16(1A) OA.

⁹ Not all against the Department of Corrections.

¹⁰ Above, n 9.

The agencies

Half of the OA complaints received (47%) were made against central government departments. Other state sector agencies accounted for 32% of OA complaints, and 12% were made against local government agencies.

The agencies generating significant numbers of complaints tend to be ones that interact with, and impact upon, large numbers of people, such as the Department of Corrections, the Ministry of Business, Innovation and Employment (Immigration New Zealand), the Earthquake Commission, the Ministry of Social Development and the Inland Revenue Department.

Most other contacts (64%) concerned central government departments. The Department of Corrections alone accounted for 52% of other contacts. Dealing with prisoner matters is a large part of the work we do in responding to and resolving matters by telephone.

Other state sector agencies accounted for 14% of other contacts, and 5% concerned local government agencies. 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

Complaints

Not all OA complaints we receive require formal investigation. In 503 cases (23% of the total completed during 2014/15) 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 722 cases¹¹ to raise their complaint with the state sector agency of concern in the first instance. We also declined to investigate in 167 cases¹² where there was another remedy or right of appeal available to the complainant. A further 282 complaints¹³ were not within our jurisdiction.

We were able to resolve 137 complaints¹⁴ – in 86 cases before investigation and in 51 cases during an investigation.

We commenced formal investigations in 215 cases,¹⁵ and we formed final opinions in 106 cases.¹⁶ In only 23 cases (22% of all those cases where a final opinion was formed), did we identify administrative deficiency by the state sector agency that was the subject of complaint.

We made recommendations in 11 cases. Our recommendations have been accepted in 6 cases, and in 5 cases we are awaiting confirmation as to whether the recommendation is accepted.

¹¹ 32% of cases.

¹² 8% of cases.

¹³ 13% of cases.

¹⁴ 6% of cases.

¹⁵ 10% of cases.

¹⁶ 5% of cases.



Other contacts

In terms of other contacts concerning OA matters, we provided an explanation, advice or assistance in 2,385 cases (33% of the total completed during 2014/15).

We advised individuals in 2,646 cases¹⁷ to raise their complaint with the state sector agency of concern in the first instance. We referred individuals to other complaint agencies in 708 cases,¹⁸ including the Health and Disability Commissioner, the Independent Police Conduct Authority and the Privacy Commissioner. We referred 546 cases¹⁹ directly to a state sector agency for consideration by that agency, and we invited 603 individuals²⁰ to make a complaint to us in writing.

We were able to resolve 24 cases as a result of direct informal enquiries with the state sector agencies concerned.

Council's response to noise complaints

Chief Ombudsman Dame Beverley Wakem investigated a complaint about a lack of response by the Auckland Council to noise complaints. The complainant considered her noise complaints warranted action given that she was living in an environment which amplified the noise of her neighbours. The complainant was not satisfied with the operation of an arrangement the Council had in place for her to lodge noise complaints.

Following discussion with the Chief Ombudsman, the Council amended its procedures for responding to the complainant so that there was an "official record" of all complaints, requiring each complaint to be investigated by noise control officers including making on site enquiries where the noise complained about was no longer apparent at the time of inspection, and providing a point of contact for the complainant with an environmental health officer in the Council responsible for managing and monitoring noise control's response to her complaints. The Chief Ombudsman considered that these measures suitably addressed the complaint and on this basis discontinued her investigation.

The administrative deficiencies identified

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

- 6 cases where there were procedural deficiencies;
- 6 unreasonable, unjust, oppressive or discriminatory acts, omissions or decisions;
- 4 instances of inadequate advice, explanation or reasons;
- 4 cases where there were flawed agency processes or systems;
- 2 cases where the act or decision was "wrong".
- 1 case of legal error;
- 1 case of unreasonable delay;
- 1 case where legislation had an unreasonable or harsh impact; and
- 1 case of inadequate knowledge or training of agency staff.

¹⁷ 37% of cases.

¹⁸ 10% of cases.

¹⁹ 8% of cases.

²⁰ 8% of cases.

Payment to remedy mistake by Customs

Ombudsman Ron Paterson investigated a complaint about the decision of the New Zealand Customs Service (Customs) to only offer the complainant an ex gratia payment of \$200 for causing him to miss a flight to Australia due to minor water damage to his passport.

The complainant, who had been successfully checked in by his airline, was prevented from boarding his flight by Customs after it rejected his passport because it appeared to be damaged. The complainant was sent back to the airline to seek confirmation that his passport would be accepted by Australian authorities. The airline could not provide the confirmation required and the complainant was therefore not allowed to board the flight which departed without him.

As he needed to be in Melbourne the next day, the complainant had to fly to Auckland to catch the next available flight from New Zealand at 7am the following morning. He also had to obtain an emergency passport. The cost of last minute flights, overnight accommodation in Auckland and an emergency passport, was \$1,143.13.

Before offering the ex gratia payment of \$200, Customs acknowledged that its actions were inconsistent with its procedures, that its officials omitted to test the passport in an electronic reader, and that the responsibility for whether a passport is acceptable for travel purposes rests with the airline.

The Ombudsman formed the opinion that the amount of the ex gratia payment offered was unreasonable because it did not cover the financial loss suffered by the complainant, and that the complainant was owed an apology in light of the stress caused by the incident.

The Ombudsman considered the combined evidence of the complainant, Customs officials, airline staff and airport camera footage, and was satisfied that Customs' acknowledged failure to follow its own well documented procedures was the main cause of the incident.

Customs reviewed its position, agreed to an ex gratia payment covering the full amount of the financial loss and apologised in writing to the complainant. In light of the remedial action taken by Customs, no recommendation by the Ombudsman was necessary.

The remedies obtained

We obtained remedies for the individual concerned in 164 OA complaints and other contacts concerning OA matters,²¹ including:

- 53 cases where a decision was changed;
- 43 cases where an omission was rectified;
- 29 cases where a decision was reconsidered;
- 18 cases where reasons or an explanation for a decision was given;
- 11 cases where a financial remedy was provided; and
- 10 cases where an apology was given.

²¹ In cases that were both investigated, and resolved informally without investigation.



We also obtained a public administration benefit in 14 cases, with:

- agency agreement to review a law, policy, practice or procedure in 6 cases;
- a change in practice or procedure in 3 cases;
- the provision of guidance or training to agency staff in 3 cases;
- a change in law or policy in 1 case; and
- the provision of additional resources in 1 case.

The data supports our experience that 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

In terms of the new OA complaints received in the 2014/15 year, we met our targets for decision making as to whether an investigation should be undertaken. However, given the continued large volume of work received across jurisdictions, we did not meet our timeliness targets for completing OA investigations. We closed or completed:

- 84% of complaints outside our jurisdiction within 1 month of receipt (*target 75%*);
- 76% of complaints that we declined to investigate or resolved informally within 3 months of receipt (*target 75%*);
- 50% of urgent investigations within 4 months of receipt (*target 90%*);²²
- 25% of priority investigations within 6 months of receipt (*target 70%*);²³ and
- 52% of all other investigations within 12 months of receipt (*target 60%*).

Following a review of best practice performance reporting by various Ombudsmen and Information Commissioners in Australia, for the 2015/16 reporting year onwards we have decided to update our timeliness performance measures to target:

- the number of complaints and other contacts completed during the reporting year as compared with the number of complaints and other contacts received during the year (net clearance rate); and
- the percentage of complaints completed within 6 and 12 months of receipt and other contacts completed within 3 months of receipt.

We consider these measures will provide a better overall report of our performance in this area, in terms of the general timeliness and throughput of work. Since 2012, we have had a sustained high level of complaints and other contacts received in the Office. In order to effectively manage the number of complaints and other contacts on hand, we must improve both our timeliness and net clearance rate.

²² Two OA complaints were investigated urgently, with both completed within 6 months.

²³ Four OA complaints were investigated as a priority, with 50% completed within 12 months.

Applying these new performance measures for 2015/16 onwards to the 2014/15 reporting year, we achieved:

- a net clearance rate of 97% for OA complaints and 100% for OA other contacts;
- 84% of OA complaints completed in 6 months;
- 94% of OA complaints completed in 12 months; and
- 99% of other contacts completed within 3 months.

Quality

For the first time, in the 2014/15 year, we piloted a formal quality assurance process, concerning OA complaints and other contacts completed by investigating staff who had completed our in-house training programme. The result of the pilot was that 86% of the complaints and other contacts reviewed met quality standards. The main reason for complaints not meeting quality standards was timeliness.

Prior to the 2014/15 reporting year, we have ensured the quality of our work through review of all correspondence by senior staff with delegated authority from the Ombudsmen, and the participation by staff in our in-house training programme. These requirements for review of all correspondence by senior staff and participation in training still remain in place.

Work in the Corrections sector

OA complaints and other contacts

The Department of Corrections (Corrections) continued to account for a significant proportion of our overall workload, in terms of numbers. In the 2014/15 year we completed 425 OA complaints and 3,837 other contacts concerning OA matters.

The complaints and other contacts were predominantly received from prisoners and prisoner advocates.

Nearly all OA complaints (410) were dealt with by our Prison Investigators. The majority of other contacts concerning OA matters (3,602) were quickly dealt with by our Early Assistance Team over the telephone. Another 156 other contacts concerning OA matters were dealt with by our Prison Investigators, mainly on the spot during prison visits.



Prison canteen prices

Chief Ombudsman Dame Beverley Wakem received complaints from several prisoners that the prices charged by the Department of Corrections for prison canteen items were excessively high. While the prisoners raised specific concerns about the price of certain items (including Christmas items and toothpaste) the underlying issue was whether the pricing methodology used by Corrections resulted in prices which were fair and affordable.

The Chief Ombudsman decided to commence an investigation and requested detailed information from Corrections about the pricing system. In response, Corrections explained that canteen prices included the cost of the product from the supplier and an operating margin of 25% (and a GST component). Corrections stated that it did not have the purchasing power of a supermarket and it was more appropriate to compare canteen prices with a Four-Square, dairy or petrol station.

The Chief Ombudsman formed the provisional opinion that Corrections was entitled to operate canteen services under a cost-recovery model, even though it had an obligation to provide those services under section 46(5) of the Corrections Act 2004. However, the Chief Ombudsman was not persuaded that canteen prices should be significantly higher than those the general public were charged when purchasing an equivalent item in a retail environment (excluding a supermarket). The Chief Ombudsman expressed reservations about aspects of the pricing methodology such as high prices in facilities not covered by the main supply contract, the inclusion of some staff costs and the extent to which affordability had been considered given the limited income of prisoners. The Chief Ombudsman stated:

“Overall, I am not persuaded that the Department has given sufficient consideration to the issue of affordability in the application of its pricing methodology. Nor does the Department appear to have undertaken any comparison of prices which are offered elsewhere. The Department has not demonstrated that items priced on the ... prison canteen list are affordable for prisoners, especially if they are priced at the higher end of the market and bearing in mind a prisoner’s limited earning power.”

In response, Corrections undertook to commission a comprehensive review of prison canteen pricing, which included consultation with key stakeholders. In the circumstances, the Chief Ombudsman decided to discontinue her investigation. Corrections is keeping this Office informed of progress in its review of prison canteen supplies.

The most common concerns raised by prisoners in 2014/15 related to:

- property (11%);
- transfers and movements (8%);
- staff conduct and attitudes (7%);
- health services (7%);
- communications (7%); and
- discipline and misconduct (7%).

Security classification for interim recall prisoners

Chief Ombudsman Dame Beverley Wakem investigated a complaint about the decision of the Department of Corrections not to assign a security classification to a prisoner returned to prison under an interim recall order. Corrections is required to assign prisoners on final recall orders a security classification within two weeks of their reception into prison. However, there is no legislative requirement for Corrections to assign a security classification to a prisoner on an interim recall order. Corrections informed the prisoner that he had to wait until after his recall hearing with the Parole Board to receive his security classification, which meant that he was held by default in a high security unit.

Correction's decision was based on regulation 47 of the Corrections Regulations 2005, which provides that the Chief Executive of Corrections:

“must ensure that a prisoner received in a prison after being sentenced to imprisonment for a term exceeding 3 months or recalled under a final recall order to serve such a sentence is assigned a security classification within 14 days of the date of his or her reception into that prison.”

The Chief Ombudsman formed the opinion that interim recall prisoners should have the opportunity to be assigned a security classification if they are to be managed in conditions that are not more restrictive than reasonably necessary. The Chief Ombudsman noted that legislative changes were pending to allow security classifications to be assigned to remand prisoners, rather than the current system where all remand prisoners were treated as high security prisoners. The reasons for assigning remand prisoners a security classification seemed to apply equally to interim recall prisoners.

The Chief Ombudsman recommended that Corrections review its security classification policy and, unless contrary to the Corrections Regulations 2005, amend that policy to include provision for interim recall status prisoners to be assessed and assigned a security classification. Otherwise, an appropriate amendment should be sought to the Corrections Regulations. In response, Corrections amended its policy to allow for prisoners recalled to prison on an interim recall order to be assigned a security classification within 14 days of being received into prison.



Prison visitor approval process

Chief Ombudsman Dame Beverley Wakem received a complaint about the decision of the Department of Corrections to issue a Prohibition Order excluding the complainant from visiting a prisoner for an indefinite period, on the basis that she was a journalist. Following investigation, the Chief Ombudsman formed the opinion that Corrections had insufficient evidence to make the adverse inference that the complainant had provided “misleading” information by describing herself as a friend of the prisoner. The reporter’s professional interest in the prisoner did not automatically exclude any personal relationship. In response, Corrections decided to reverse the prohibition order. The complainant would be able to reapply to visit the prisoner, but evidence that she would be visiting the prisoner as a friend and not in her professional capacity as a journalist would be required.

The Chief Ombudsman recommended that Corrections undertake a review of the Prison Service Operating Manual and any associated procedures, to ensure that they were fully consistent with Part 8 of the Corrections Regulations 2005 (which sets out the criteria for permission to visit prisons). Corrections was also asked to provide the Chief Ombudsman with regular updates on progress of the review. Following discussions, Corrections agreed to review the Prison Service Operating Manual and advised that training would be implemented ensure that staff fully understood the process for assessing applications for private visitors to prisons. Corrections also undertook to amend the Prison Service Operating Manual to ensure better clarity around the process of visitor approvals, exclusion of visitors and the issuing of Prohibition Orders.

Deaths in custody

In 2014/15 we reviewed the investigation of deaths in custody by the Inspectors of Corrections, including deaths by natural causes. However, each investigation is at all times the responsibility and function of the Inspector, and the Inspector forms his or her own conclusions. Once the Inspector has issued his or her final report, we may comment on the investigation and the Inspector’s conclusions to the Chief Executive of Corrections, but we do not direct or instruct the Inspector during their investigation process. We are also able at any time to commence our own independent investigation under the OA.

In 2014/15 we commenced reviewing 18 investigations into deaths in custody.

We also completed reviewing 10 investigations into deaths in custody, in relation to 6 deaths in 2013/14 and 4 deaths in 2014/15. In 3 concluded cases we made comments additional to the Inspector’s report.

Serious incidents

Under the OA, 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 2014/15, 31 serious incidents were assessed. In undertaking our assessments, we viewed all incident and follow-up reports, and made informal enquiries with Corrections. We commenced formal investigations in 6 cases, concerning:

- a prisoner assault on staff;
- prisoner Phillip Smith failing to return from temporary leave;
- the escape of 2 prisoners from separate hospitals; and
- the assault of 2 prisoners at 2 different prisons.

Complaints against the Earthquake Commission

During the 2014/15 year, complaints against the Earthquake Commission (EQC) have declined, although they continue to be a significant area of our work. The nature of the complaints have also changed, moving from complaints about delays to more complex complaints about the quality of remedial work.

Before the Canterbury earthquakes, we received around 10 - 15 complaints per year concerning EQC. In this reporting year, we received 474 complaints and other contacts concerning EQC, including:

- 188 OA complaints;
- 242 other contacts concerning OA matters;
- 20 Official Information Act (OIA) complaints; and
- 24 other contacts concerning OIA matters.

The total number of matters received this reporting year has eased off from a peak of 838 in 2012/13, and 649 in 2013/14.

We completed 163 OA complaints against EQC in the 2014/15 year, including:

- 33 complaints that were resolved (either before or during an investigation);
- 15 complaints which we formally investigated;
- 50 complaints where an explanation, advice or assistance was provided; and
- 47 complaints where we advised the complainant to raise their concerns with EQC in the first instance.

We also completed 22 OIA complaints against EQC in the reporting year, including 10 complaints that were resolved (either before or during an investigation) and 11 complaints which we formally investigated.



Wider administrative improvement investigations

As part of our functions, we undertake interventions to achieve wider administrative improvement in the state sector. These interventions range from focused investigations of significant and systemic issues, to providing more targeted advice, guidance and training to state sector agencies.

OIA practices in government agencies

In this reporting year, Chief Ombudsman Dame Beverley Wakem commenced a major review of the OIA practices in government agencies.

There are three components of this review:

- **a survey:** covering 75 central government agencies and all 27 Ministers' offices;
- **review agency engagement:** a more in-depth review of OIA policy and practices in 12 selected government agencies, including interviews/discussions with key personnel and on-site observation of practice; and
- **stakeholder engagement:** inviting submissions from key stakeholders and the general public, and convening discussions with specific stakeholders where warranted.

The first part of the survey (focusing on agency policies and resource documents) was sent out in mid-December 2014 for response by the end of January 2015. The second part (focusing on the way agencies are set up to respond to OIA requests, and actual practice) was sent out in February 2015 for response by the beginning of April 2015. Since this time, we have been undertaking a detailed analysis of the responses from the 102 agencies and Minister's offices included in the survey, and this analysis has informed our current engagement with the 12 review agencies:

- Accident Compensation Corporation
- Department of Corrections
- Ministry of Education
- Ministry of Foreign Affairs and Trade
- Ministry of Health
- Ministry of Justice
- New Zealand Customs Service
- New Zealand Defence Force
- New Zealand Transport Agency
- Ministry of Social Development
- Ministry of Transport
- State Services Commission

We are currently reviewing the OIA practices of the 12 selected agencies in more depth, including conducting interviews and carrying out site visits, and reviewing systems, practices and correspondence.

We are also conducting a stakeholder survey, with the aim of obtaining structured responses through a series of questions, tailored for each key stakeholder group and the general public, to facilitate easier analysis and comparison. There is also an opportunity for submitters to make any general comments they wish to about their experience of OIA practices.

The Chief Ombudsman's intention is that the review will operate as an overall health check of OIA practices in the core public sector, and that it will enable a framework for ongoing assessments of OIA compliance for both central and local government agencies to apply in the future.

The Chief Ombudsman is intending to issue a report (recording her analysis, conclusions and formal recommendations) for tabling in the House and for general publication early in the 2015/16 reporting year.

Consultation on school closures and mergers

Chief Ombudsman Dame Beverley Wakem also continued a wider administrative improvement investigation concerning consultation by the Ministry of Education in relation to school closures and mergers.

The investigation concerns the policy and practice of the Ministry of Education in consulting with school communities when it is proposed that a school be closed or merged with another school.

This issue has been of great importance in the Canterbury region since September 2012, when the Minister of Education announced a proposal that 38 schools be closed or merged. The Chief Ombudsman has been reviewing the Canterbury process in detail, and is also examining a range of closure and merger processes that have occurred over the past several years in other areas.

The Chief Ombudsman's final report on the matter was originally expected to be published in early 2015. However, the broad scope of the review (including how the Ministry of Education has gone about undertaking school closures and mergers since the Education Act 1989 came into effect), and the complexity of the post-earthquake Canterbury process, have necessitated an extended investigation. The Chief Ombudsman now expects to publish a final report towards the end of 2015.



Official information

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

The numbers

The high number of official information complaints we are receiving continued this year. We received 1,090 complaints under the OIA and 240 complaints under LGOIMA, a level which we expect to continue in the foreseeable future.

We completed 960 OIA complaints and 253 LGOIMA complaints, showing that the pressure of a continuing high volume of official information complaints is affecting our ability to complete the complaints that we receive in a timely way.

We finished the year with 838 OIA complaints and 161 LGOIMA complaints on hand.

The complainants

This year's statistics concerning the type of complainants who raised concerns about official information decisions are consistent with previous years. 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 64% of OIA complaints and 82% of LGOIMA complaints. The next highest users were the media, who made 18% of OIA complaints, and 8% of LGOIMA complaints. Companies, associations and incorporated societies made 8% of OIA complaints and 10% of LGOIMA complaints. MPs and political party research units accounted for 4% of the OIA complaints received, a significant decrease on 2013/14 figures where they made 12% of the OIA complaints received.

The agencies

This year, 452 OIA complaints were made against government departments, making up 34% of all official information complaints received. Other state sector agencies accounted for 491 OIA complaints, or 37% of all official information complaints received. This shows a continuing trend for official information complaints to be made against the wider state sector just as much as against central government.

Local government agencies subject to LGOIMA made up 18% of the official information complaints received, and 10% of official information complaints were against Ministers of the Crown.

Advice on Kim Dotcom's applications to invest in New Zealand

Ombudsman Ron Paterson investigated a complaint by the Campaign Against Foreign Control of Aotearoa against the decision of the Overseas Investment Office (OIO) to refuse a request for information deleted from the file relating to Kim Dotcom's applications for consent to invest in New Zealand.

The Ombudsman considered that most of the deletions were justified, but queried the basis for withholding parts of the OIO's advice to Ministers on the applications. The advice had been withheld in order to maintain legal professional privilege (section 9(2)(h) of the OIA) as well as to protect the effective conduct of public affairs through the free and frank expression of opinions between Ministers and officials (section 9(2)(g)(i) of the OIA). However, the Ombudsman identified a public interest in people knowing how government decision makers are interpreting and applying the law to make decisions that affect people in their personal capacity.

After considering the Ombudsman's comments in consultation with the Crown Law Office, the Attorney-General agreed to waive legal professional privilege. The information was released and the complaint was resolved.

The complaints

This year, 59% of all official information complaints received concerned the partial or outright refusal of requests for official information, and 24% concerned delays by agencies in making decisions on official information requests or in releasing information.

These figures show a further reduction in the proportion of delay complaints received. We received 313 delay complaints in 2014/15, as compared to 448 received in 2013/14, 1,695 in 2012/13²⁴ and 584 in 2011/12.

A comparison with the figures for 2011/12 shows a decrease of 46% in delay complaints this year as compared to 2011/12. In turn, other types of complaints, which can be more complex to progress, increased by 10% in 2014/15 as compared to 2011/12.

²⁴ Including the anomaly of 1,007 delay complaints made by a single complainant concerning various school Boards of Trustees (plus 5 refusal complaints).



List of buildings requiring structural review

Chief Ombudsman Dame Beverley Wakem received a complaint about a decision by the Ministry of Business, Innovation and Employment (MBIE) to refuse to release a list of buildings with columns similar to the CTV building that collapsed in the Canterbury earthquakes.

The Ministry had relied on section 9(2)(b)(ii) of the OIA to withhold the information, arguing that release of the list would unreasonably prejudice the commercial position of the building owners and tenants.

The list was compiled for the purposes of a review into 1,659 buildings that had some features in common with the CTV building. The review was instigated by MBIE as a result of recommendations by the Canterbury Earthquakes Royal Commission. The list was drawn up by MBIE after a “paper-based” assessment of local authority records, and then passed on to local authorities to commence an assessment process that involved detailed engineering evaluations.

The purpose of the review was to assess the buildings’ earthquake risk and resilience profile according to modern-day standards. Although such an assessment had been part of the construction of the buildings, there was no requirement for this assessment to be updated after subsequent updating of building standards.

Following her investigation, the Chief Ombudsman formed the opinion that section 9(2)(b)(ii) applied to the information. This is because release of the list would likely cause the building owners commercial prejudice, due to an inaccurate impression that would be conveyed that all the buildings on the list were unsafe, resulting in likely loss of tenants and adverse valuation or insurance effects. This prejudice would be unreasonable as the list was preliminary only, and no engineering evaluations had been undertaken. The vast majority of the buildings on the list had been removed and were not the subject of any further inquiry.

The Chief Ombudsman recognised that there was a public interest in release of information about unsafe buildings. However as the list was preliminary only and did not represent earthquake-prone buildings, any public interest in its release did not outweigh the commercial prejudice that would result from its release. The Chief Ombudsman noted that if a building was found to be earthquake-prone, and posed a risk to public safety, the building should then be identified.

The outcomes

In 2014/15, we resolved 23% of all official information complaints, with 107 resolutions achieved without formal investigation and 194 resolutions achieved during an investigation.

We commenced formal investigations in 43% of all completed official information cases (571 out of 1,330), and we formed final opinions in 247 cases.²⁵ In 98 of these cases²⁶ we identified administrative deficiency by the agency concerned in its official information decision making.

We made 5 recommendations under the OIA and no recommendations under LGOIMA. Our recommendations have been accepted in 4 cases, and in 1 case we are awaiting confirmation as to whether the recommendation is accepted.

²⁵ 19% of all completed official information complaints.

²⁶ 40% off all complaints where a final opinion was formed,.

Police information on decision to lay charges

Ombudsman Ron Paterson investigated a complaint against the decision made by the Police on a request for the nature of charges that had been laid for a fatal shooting.

On 7 April 2012 Christopher Dummer had been hunting in the Aorangi Forest Park, South Wairarapa, when he fatally shot Alexander Cameron McDonald. Mr Dummer pleaded guilty to a charge of carelessly using a firearm causing death under section 53(1) of the Arms Act 1983. He was convicted of that charge on 24 August 2012 and sentenced to 9 months imprisonment.

The complainant requested from the Police information relating to the decision to charge Mr Dummer with careless use of a firearm causing death, rather than manslaughter. The Police withheld the information under section 9(2)(h) of the OIA in order to *“maintain legal professional privilege”*.

The Ombudsman accepted that the material was subject to legal professional privilege. However he formed the opinion that the countervailing public interest considerations of transparency and accountability weighed in favour of releasing a summary of the reasons for the decision to lay the lesser criminal charge. The complainant and the public were entitled to a fuller explanation from the Police about why they decided to charge Mr Dummer with the lesser charge of carelessly using a firearm causing death.

The Police accepted the Ombudsman’s opinion and provided the complainant with a summary of reasons

The administrative deficiencies identified

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

- 64 cases of delay;
- 33 cases where the refusal of official information was not justified;
- 2 cases where there was an unreasonable extension; and
- 1 case where there was a legal error.



Wellington Regional Council's transport rate estimates

Chief Ombudsman Dame Beverley Wakem investigated a decision by the Greater Wellington Regional Council (GWRC) to withhold information relating to transport rate estimates.

GWRC periodically seeks tenders from transport operators for the provision of public transport services in the Wellington region. The provision of those services is funded by fares paid by passengers, the transport rate levied by GWRC on local authorities, and grants the New Zealand Transport Authority (NZTA) pays GWRC. In its 2011/12 Annual Plan estimates of expenditure, GWRC indicated that the transport rate would be about \$46.4 million.

To assist it in keeping accurate information about the provision of public transport services, GWRC created a transport rating model (TRM). The TRM includes information about the amounts originally paid by GWRC to transport operators each year, the "Contract PA – cost" (annual cost of providing transport services for each route), adjustments to those amounts reflecting increases in NZTA subsidies, and operators' actual revenue for routes they service.

The complainant had requested certain background calculations used to create the estimated expenditure, including the TRM. GWRC refused to release some of the information under section 7(2)(b)(ii) of LGOIMA.

The Chief Ombudsman formed the opinion that release of the information at issue would unreasonably prejudice the commercial position of transport operators for the purposes of section 7(2)(b)(ii). For example, release of the "anticipated revenue" in the "price proposal" forms would be likely to reveal transport operators' strategies in the last tender round and also in future tender rounds. This would impact adversely on the ability of those transport operators to participate competitively in future tenders for transport services in the Wellington region and the ability of GWRC to get the best deal for ratepayers for those services.

The Chief Ombudsman held that there were no public interest considerations that outweighed the need to withhold that information. Information that was publicly available, or available as a result of the request, enabled submitters on the GWRC's Annual Plans to make informed submissions on matters relating to the cost of provision of transport services.

The remedies obtained

We obtained 324 remedies for complainants,²⁷ including:

- 228 cases where a decision was changed;
- 45 cases where reasons or an explanation for a decision were given;
- 38 cases where an omission was rectified;
- 8 cases where a decision was reconsidered;
- 4 cases where an apology was given; and
- 1 case where a financial remedy was provided.

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

Timeliness

Given the continuing large volume and increasing complexity of work received in the official information area, we struggled to meet our timeliness targets. We closed or completed:

- under our OIA jurisdiction:
 - 50% of complaints outside jurisdiction within 1 month of receipt (*target 75%*);
 - 57% of complaints that were not investigated or resolved informally within 3 months of receipt (*target 75%*);
 - 92% of urgent investigations within 4 months of receipt (*target 90%*);
 - 22% of priority investigations within 6 months of receipt (*target 60%*); and
 - 43% of all other investigations within 12 months of receipt (*target 60%*).
- under our LGOIMA jurisdiction:
 - 53% of complaints outside jurisdiction within 1 month of receipt (*target 83%*);
 - 50% of complaints that were not investigated or resolved informally within 3 months of receipt (*target 70%*);
 - 100% of urgent investigations within 4 months of receipt (*target 90%*);
 - 7% of priority investigations within 6 months of receipt (*target 60%*);²⁸ and
 - 54% of all other investigations within 12 months of receipt (*target 60%*).

The pressure point this reporting year continued to be priority investigations. Due to a loss of senior experienced staff assisting the Ombudsmen with official information complaints and an increase in the number of complex official information complaints received, we were not able to complete most of our priority investigations within our target timeframe of 6 months. Our ability to complete other investigations in a timely manner also suffered.

As noted above in respect of Ombudsmen Act complaints, for the 2015/16 reporting year onwards we have decided to update our timeliness performance measures to target:

- the number of complaints and other contacts completed during the reporting year as compared with the number of complaints and other contacts received during the year (net clearance rate); and
- the percentage of complaints completed within 6 and 12 months of receipt and other contacts completed within 3 months of receipt.

Applying these new performance measures for 2015/16 onwards to the 2014/15 reporting year, we achieved:

- a net clearance rate of 88% for OIA complaints and 101% for OIA other contacts;
- a net clearance rate of 105% for LGOIMA complaints and 101% for LGOIMA other contacts;
- 58% of OIA complaints and 50% of LGOIMA complaints completed in 6 months;

²⁸ Fourteen LGOIMA complaints were investigated as a priority, with 57% completed within 12 months.



- 74% of OIA complaints and 74% of LGOIMA complaints completed in 12 months; and
- 99% of other contacts completed within 3 months.

Quality

As noted above in respect of the Ombudsmen Act, for the first time in the 2014/15 year we piloted a formal quality assurance process, concerning OIA complaints completed by investigating staff who had completed our in-house training programme. The result of the pilot was that 71% of the complaints reviewed met quality standards. The main reason for complaints not meeting quality standards was timeliness.

Prior to the 2014/15 reporting year, we have ensured the quality of our work through review of all correspondence by senior staff with delegated authority from the Ombudsmen and participation by staff in our in-house training programme. These requirements for review of all correspondence by senior staff and participation in training still remain in place.

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 in 2001, we have received an average of 10 requests per year for guidance and assistance in relation to possible protected disclosures.

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

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

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,²⁹ 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.

In 2014/15, we received 14 and completed 16 requests for guidance and assistance. We completed 75% of all requests for guidance and assistance within 6 months of receipt (*target 95%*). We also responded to 43 informal contacts about Protected Disclosures Act matters.

²⁹ The State Services Commission’s Integrity and Conduct Survey 2013 found “*the [PDA] is not being widely referred to or used by State servants*”. Available at www.ssc.govt.nz.



Crimes of Torture Act

In this section we give an overview of our work under the Crimes of Torture Act 1989 (COTA), and discuss issues arising in prisons and health and disability places of detention.

Overview

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, and to prevent torture, and other cruel, inhuman or degrading treatment or punishment in:

- 18 prisons;³⁰
- 79 health and disability places of detention;³¹
- 1 immigration detention facility;
- 4 child care and protection residences; and
- 5 youth justice residences.

The designation in respect of child care and protection and youth justice residences is jointly shared with the Children's Commissioner, and this year we undertook our second joint visit to the Mothers with Babies Unit at Christchurch Women's Prison.

We are funded for 2 Inspectors to assist us in carrying out our NPM functions under COTA. In 2014/15 we committed to carrying out 32 visits to places of detention. We exceeded this commitment and carried out a total of 40 visits, including 22 formal inspections. Twenty-nine visits (73%) were unannounced. This year we were successful in obtaining funding for a third Inspector and specialist advisors as and when required.

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

The NPM's ability to ensure its recommendations are implemented is central to its success. There is no uniform approach from the different agencies we monitor in the way they respond to NPM recommendations. This is something we intend working on over the next 12 months, as well as increasing the uptake of recommendations in the Corrections area.

³⁰ The new South Auckland Corrections Facility increased the number of prisons we visit from 17 to 18.

³¹ This year, an additional 8 secure community care homes and the new national intelligence disability unit for youth has increased the number of health and disability facilities we visit from 70 to 79.

The 22 formal inspections were at the sites set out in the table below.

Name of facility	Type of facility	Recommendations made
Child Adolescent and Family Unit, Princess Margaret Hospital, Canterbury DHB	Mental Health	1
Te Whare Manaaki, Hillmorton Hospital, Canterbury DHB	Forensics	1
Assessment Treatment & Rehabilitation Unit, Hillmorton Hospital, Canterbury DHB	Intellectual Disability	-
Puna Maatai Unit, Henry Bennett Centre, Waikato DHB	Forensics	2
Puna Awhi-rua, Henry Bennett Centre, Waikato DHB	Forensics	2
Southland Inpatient Mental Health Unit, Southern DHB	Adult Mental Health	4
Ward 9A, Wakari Hospital, Southern DHB	Forensics	3
Ward 10A, Wakari Hospital, Southern DHB	Intellectual Disability	3
Kingsley Mortimer Unit, North Shore Hospital, Waitemata DHB	Mental Health - Older Adults	-
Rata Unit, Mason Clinic, Waitemata DHB	Forensics	6
Tane Whakapiripiri Unit, Mason Clinic, Waitemata DHB	Forensics	1
Kahikatea Unit, Mason Clinic, Waitemata DHB	Forensics	4
Fraser McDonald Unit, Auckland DHB	Mental Health - Older Adults	1
Te Whare Oranga Tangata O Whakaue, Rotorua, Lakes DHB	Adult Mental Health	2
Hikitia Te Wairua Unit, Capital and Coast DHB	National Forensic Youth, Intellectual Disability	-
Te Whare Ra Uta	Mental Health - Older Adults	1
Tumanako Unit, Whangarei, Northland DHB	Mental Health - mixed	4
Kensington Centre, Timaru, South Canterbury DHB	Adult Mental Health	-
Otago Corrections Facility (Health Services)	Prison	8
Mount Eden Corrections Facility (Follow-up)	Prison	8
Christchurch Women's Prison	Prison	7
Tongariro Working Prison	Prison	5

We reported back to 22 places of detention (100%) within three months of conducting an inspection and made 63 recommendations, of which 52 were accepted or partially accepted (as set out in the table below). We intend to report separately on the specific recommendations which were not accepted.

Recommendations	Accepted	Not accepted
Prisons	18	10
Health and disability places of detention	34	1



Of the 10 recommendations not accepted by the Department of Corrections (Corrections), seven concerned 2 common matters that were repeated across several sites, namely:

- the use of cameras and prisoners' right to privacy (3 recommendations); and
- segregated prisoners being placed in non compliant cells (4 recommendations).

This brings the total number of visits conducted over the 8 year period of our operation as an NPM to 339, including 137 formal inspections.

Prisons

In last year's annual report we identified 4 key areas which raised concerns following our inspections:

- segregation facilities;
- prisoner meal times;
- young persons; and
- privacy issues.

All of these matters continued to be of particular concern in the 2014/15 reporting year.

Segregation facilities

Management cells, separates cells or punishment cells are some of the terms used to describe a form of confinement where prisoners are held alone in a cell for up to 24 hours a day, and are only allowed to leave it for outdoor exercise (generally of an hour's duration). Segregation may be imposed on prisoners as short-term punishment for prison offences (misconduct), or indefinitely for a prisoner's own protection, either at their own request or at the discretion of the prison director. At other times prisoners may be isolated from others as a long-term strategy for managing challenging and disruptive behaviour, where prisoners are deemed to be a threat to security, or to assess a prisoner's physical health. It is the most extreme form of custody and one where purported containment needs can infringe on prisoner rights.

Due to the differences between prisons in the physical environment of segregation units and cells, segregation remains a cause for significant concern, with ongoing evidence of variances in the way directed segregation is being applied to prisoners across the prison estate pursuant to sections 58, 59 and 60(1)(a) of the Corrections Act 2004.

While the new management cells at Auckland Prison are bigger, brighter and less oppressive than the old ones, their design is intended to increase surveillance and to enable prolonged solitary confinement and to minimise contact between prisoners and staff. Cells are self-contained with a toilet and shower. Other measures, such as a small barren exercise yard and feeding-slots built into cell-doors serve to reduce prisoner movement in and out of the unit.

Tongariro/Rangipo Prison has no management unit. Therefore, prisoners on directed segregation are located in the separates units (in a punishment cell). As previously reported, separates facilities are designed for prisoners undertaking a period of cell confinement and are missing some of the design features legally required for prisoners subject to a segregation directive under the Corrections Act. Furthermore, cells are monitored on camera, including the toilet and shower facilities.

Meal times

For the last three years we have reported that the 8am to 5pm unlock regime has condensed the working day for many prisoners, including meal times, with some dinners being routinely served as early as 3.30pm, leaving prisoners for lengthy periods without meals. Last year, Corrections advised that it would be commencing a review of the national prisoner menu. However, during the reporting period we still witnessed lunch being issued at 11.10am in Christchurch Women’s Prison and the evening meal as early as 3.15pm at Mount Eden Corrections Facility (MECF). Corrections has confirmed that prisoner meal times and aspects of the prisoner menu are currently subject to review.

Young persons

In last year’s report we highlighted the inadequate facilities available for young people at the Waikeria Youth Unit and in 2013/14 we made a total of 12 recommendations to improve conditions for young people. While some remedial work was undertaken to improve the environment for youth, the unit eventually closed in early 2015 with prisoners transferred to either Hawke’s Bay or Christchurch Youth Unit. Remand prisoners were sent to MECF.

As previously reported, MECF has no youth unit and is not set up to manage young people long term. Following an unannounced inspection in April 2014 we found the average period of unlock for young people was five hours a day. We made two recommendations:

- that Corrections considers the development of a dedicated youth at MECF unit; and
- that Corrections review the unlock hours and facilities available for young people.

Corrections responded as follows:

“As the young prisoner population is projected to decrease, we are not considering the development of a dedicated Youth Unit at MECF at this time. However, as a result of the projected decrease we are currently considering a more intensive and coordinated approach to managing these individuals in our prison system. This includes considering our options for expanding available placements for under 20 year olds in the Auckland Region.”

Follow-up visits in October and November 2014 and January 2015 found the time out of cell for youth had reduced considerably to between one and two hours a day with minimal access to programmes and facilities. Youth were housed in various units around the prison, including the management unit (not on segregation).

The number of young people in MECF over the last twelve months has fluctuated, as set out in the table below.

	Sept 2013	April 2014	Oct 2014	Jan 2015	Jun 2015	Jul 2015	Aug 2015
Under 18	5	7	5	19	18	15	10
18 - 19 yrs	N/A ³²	N/A	N/A	N/A	53	64	51

Young people in detention are extremely vulnerable – by virtue of their age and capacity; separation from families and friends at a formative time, and in many cases, characteristics such as mental illness. Monotony, reduced environmental stimulation and social isolation, can be extremely distressing and potentially fatal.

³² N/A - Information not available at the time.



This issue needs renewed and urgent action by Corrections.

Corrections advises that the Acting Prison Director and his team at MECF are actively working to increase the opportunity for youth to participate in constructive activity while maintaining their safety and the security of the site. Increasing activity will increase the time out of cells as well as provide greater opportunity for rehabilitation.

Privacy issues

This year we found continued examples where perceived needs for order and security prevailed over treating prisoners with dignity and fairness, resulting in serious privacy breaches for prisoners.

As well as being monitored on camera, women in the separates cells at Christchurch Women's Prison can be observed using the toilet by staff through the cell door. In the at risk unit, cells are monitored by cameras, including the unscreened toilet area. Footage from cameras in both units are visible to staff in the office and in master control including by officers of the opposite sex in the course of their work when female staff are unavailable, as well as to visitors to the office.

Of the officers at Christchurch Women's Prison, 11% are male.

We are pleased that privacy screening around the toilets has now been completed in wings 1, 2 and 3 at Christchurch Women's Prison, in response to our recommendations.

In the separate cells at Tongariro/Rangipo Prison and Otago Corrections Facility prisoners are monitored on camera, and by staff in the corridor, including the toilet and shower areas. We made several recommendations that cameras should not cover toilet and shower areas. We are concerned that these were not accepted by Corrections and this situation continues, in spite of our advice that this practice amounts to degrading treatment or punishment.

Follow-up to previous recommendations

Last year we reported on the less than satisfactory conditions in the Separates Unit at Northland Prison and recommended that they be upgraded. Corrections responded:

"The Department acknowledges that the use of indoor shower facilities is best practice and thus the use of the showers in the Separates Unit is not ideal. The Separates Unit will undergo significant remedial work in 2014 to be upgraded to the Department's Management Unit standard. This remedial work will address the issue with the current shower facilities as it is intended that it will include both covered yard and indoor shower blocks, replacing the individual cell yards and current showers."

A follow-up with Corrections found that some remedial work to upgrade the Separates Unit in Northland was completed in late 2014. However, the covered yard and internal shower block was not completed resulting in prisoners having to continue to shower in external yards whilst being monitored on camera. Corrections advises it is currently progressing a design for an upgrade of the Separates Unit, with construction to commence in the first part of the 2016/17 year.

In 2011 and 2014 we reported on the living conditions in Waikeria Separates Unit, describing them as deplorable and recommending that they be urgently upgraded and brought in line with international standards. In May 2015 Corrections announced the closure of the top jail (which houses the Separates Unit) at Waikeria Prison as part of the *Lifting Productivity and Performance in New Zealand's Prisons strategy*.

Good practices at the prisons visited

- Over three quarters of prisoners at Christchurch Women's Prison are unlocked for more than 12 hours a day.
- All prisoners at Tongariro/Rangipo Prison are unlocked for more than 12 hours a day.
- Meals at Tongariro/Rangipo Prison are served within normal times – 7am, 12pm and 5pm.

Health and disability places of detention

Mental Health (Compulsory Assessment and Treatment) Act

Generally, we found good areas of practice and many positive findings across the adult acute, older and forensic inpatient services around New Zealand. Service users³³ held staff in high regard and felt they could approach them if they had a problem.

Kingsley Mortimer (Waitemata DHB), Fraser McDonald (Auckland DHB) and Te Whare Ra Uta Unit (Capital and Coast DHB) provide assessment and treatment for older people with mental health needs. We observed service users experiencing compassionate person-centred care and support, potential risks associated with aging, such as falls, were well managed and mental health was promoted.

There were three main areas where improvements need to be made. These relate to bed occupancy rates, restraint training for staff, and seclusion rooms being used as long term bedrooms.

A visit to Tumanako Unit (Northland DHB) and Southland Inpatient Mental Health Unit (Southern DHB) noted bed occupancy rates above 100%. Both facilities have converted offices and day rooms into makeshift bedrooms in order to accommodate extra service users. These makeshift bedrooms lack adequate privacy, reduce the communal space available for service users (and their family and other visitors) and place extra pressure on the workforce.

Nine of the 18 health and disability sites visited this year had staff who were out of date with their restraint training updates. This appears to be a problem across most DHBs. However, with the exception of Tumanako Unit (Northland DHB), the use of seclusion and restraint appears to be tracking down.

As previously highlighted, seclusion rooms continue to be used as bedrooms across some sites for those service users who are difficult to manage and disruptive. For the last 2 years we have reported on a patient in Tawhirimatea Unit (Capital & Coast DHB) who was being managed in seclusion/de-escalation on a semi-permanent basis. Although progress remains slow, we are encouraged by recent developments for an independent external review of the service user.

We will continue to work with the DHB and the Ministry of Health on all of the above issues.

Follow-up to previous recommendations

In 2012/13 we reported on the practice of using outdated “*night safety procedures*” in Totara Unit in the Mason clinic (Waitemata DHB) to justify locking service users in their bedrooms overnight. Following an assurance

³³ The term service user encompasses patients, clients and care recipients.



that the “blanket” policy had been replaced with individualised night safety plans, we discovered in March 2015 that all of the service users in Rata Unit (the Mason clinic) were on individual night safety plans, but with no evidence that they were reviewed on a regular basis. The oldest plan was dated September 2011.

We raised the issue with the Director of Mental Health who confirmed that guidance for DHBs was currently being developed around restrictive practices within the mental health arena (including night safety orders), and that individual night safety plans are now being reviewed regularly in the Mason clinic.

Intellectual Disability (Compulsory Care and Rehabilitation) Act

Overall, service users in the Assessment Treatment & Rehabilitation Unit, Hillmorton Hospital (Canterbury DHB), Ward 10, Wakari Hospital (Southern DHB) and Hikitia Te Wairua Unit (Capital and Coast DHB) gave positive feedback regarding staff in the unit. Interactions between staff and service users were observed and considered appropriate and caring.

Hikitia Te Wairua Unit, the new national youth facility for people with an intellectual disability, was clean and bright with plenty of open space and fresh air. Youth had access to a variety of activities both on and off the unit as well as education and training opportunities. Ward 10, Wakari Hospital, was less than satisfactory and requires significant investment to bring it up to an acceptable standard. Activities in the unit were limited due to a lack of adequate space. The Ministry of Health advises that significant developments have now occurred.

This year we revisited Haumietikitiki Unit (Capital & Coast DHB) to follow up on two service users identified in our 2013/14 report who were subject to restrictive regimes. While it was encouraging that one of the service users had moved to a more suitable facility, it was disappointing that the second service user was still subject to a permanent seclusion order – although they had been, until recently, spending considerable amounts of time outside the seclusion room. The Ministry of Health advises that the National Intellectual Disability Care Agency is currently developing a long-term plan for this service user, and is actively working with the Ministry to secure appropriate funding to support the plan. A third service user on long-term seclusion in Te Whare Manaaki Unit (Canterbury DHB) had been successfully managed out of seclusion and back into the unit. We will continue to work with the Ministry of Health on all of the above issues.

Other activities

Detention centre inspections in Samoa

In January 2015, the Chief Inspector was invited to join the Samoan Ombudsman in undertaking their first detention centre inspections. The inspections were conducted under the Samoan Ombudsman’s new mandate as the National Human Rights Institution of Samoa. The visit was funded by the Asia Pacific Forum, aiming to strengthen the capacity of National Human Rights Institutions in the Asia Pacific region to prevent torture and other cruel, inhuman and degrading treatment and punishment.

United Nations Convention on the Rights of Persons with Disabilities

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

Overview

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 of the Disabilities Convention 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 in New Zealand. We share our role as an independent mechanism with the Human Rights Commission and the New Zealand Convention Coalition Monitoring Group (Convention Coalition), a group of national disabled people’s organisations. On 13 October 2011, the 3 independent mechanisms were formally designated by the Minister for Disability Issues as New Zealand’s *Independent Monitoring Mechanism* (IMM), by notice in the New Zealand Gazette.

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

- receive, and where appropriate, investigate complaints from affected individuals or groups about the administrative conduct of state sector agencies which relate to implementation of the Disabilities Convention; and
- conduct own motion investigations and other monitoring activities 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.

Making disability rights real

In August 2014, the IMM’s second report, *Making Disability Rights Real*, was published. We spent a considerable amount of time working with the Human Rights Commission and the Convention Coalition to identify and assess the key issues that persons with disabilities are facing in contemporary New Zealand.

The report details some of the experiences disabled people in New Zealand encounter every day and highlights the barriers that prevent the full realisation of the rights set out in the Disabilities Convention. The report also recommends steps that need to be taken to better respect, protect and fulfil those rights, and calls for action from the Government.



There are 5 overarching issues that the IMM has identified during the reporting period:

- data;
- accessibility;
- building a people driven system;
- violence and abuse; and
- education.

The report also highlights 4 specific areas of concern. The first is the implementation of the New Zealand Public Health and Disability Amendment Act 2013, which precludes the ability to pursue complaints of unlawful discrimination in relation to the Government's family care policy. The report also expresses concerns about individual autonomy (particularly the substituted decision-making process), health outcomes for people with disabilities, and the impact of certain parts of the Children, Young Persons, and Their Families Act 1989, on the rights of children with disabilities.

The report makes 38 specific recommendations, and outlines 9 key areas the IMM intends to monitor, over the next reporting period.

Subsequent to the release of this report the IMM engaged with government agencies on the key recommendations and received a formal response from the Government on 16 June 2015. The IMM is presently liaising with Government on how it can assist to implement the recommendations and improve the lives of persons with disabilities in New Zealand. This includes engaging with Government on how we can assist to ensure it implements its objectives under the Better Public Services targets from a disability perspective.³⁴

New Zealand's disability context examined in Geneva

The *United Nations Committee on the Rights of Persons with Disabilities* (the Committee) is a body of independent experts which monitors implementation of the Disabilities Convention. All countries are obliged to submit reports to the Committee on how disability rights are being implemented.

New Zealand's most recent report to the Committee was reviewed on 15 and 16 September 2014 in Geneva, Switzerland. The Committee's Concluding Observations on disability issues in New Zealand are now available.³⁵

Members of the IMM were in attendance to observe the examination, including Ombudsman Ron Paterson. The IMM took this opportunity to provide a briefing on its key recommendations from *Making Disability Rights Real* to Committee Members in Geneva. Members of the Committee commented that they found the briefing useful as it assisted them to formulate questions to ask the New Zealand Government, and helped to inform the Concluding Observations. The New Zealand Government provided a formal response to the Concluding Observations on 16 June 2015.³⁶

New Zealand's next examination before the Committee is scheduled for 2018.

³⁴ Delivering the Better Public Services target is one of the Government's four key priorities this term.

³⁵ See <http://www.odi.govt.nz/what-we-do/un-convention/monitoring-implementation/2014-review.html>

³⁶ Above, n 35.

Reasonable accommodation

During the reporting year, we have led an IMM project to publish a brochure on the concept of reasonable accommodation for persons with disabilities. This brochure is aimed at assisting persons with disabilities to understand their rights to request reasonable accommodation, as well as to inform employers, state sector agencies and others providing services to the public, of their obligation to provide reasonable accommodation to persons with disabilities in particular circumstances.

The brochure is in the final stages of review and once published will be available in a variety of formats. We hope that this brochure will provide useful and practical guidance on the concept of reasonable accommodation to a broad audience.

Correspondence over debt causing anxiety

Ombudsman Ron Paterson received a complaint that a person who had sustained a serious head injury was receiving student loan correspondence from the Inland Revenue Department (IRD) which caused her significant anxiety. In essence, the communications related to financial transactions which had taken place between the person and IRD several years earlier, but due to the person's head injury, she had no recollection of this period of her life. The nature of the person's disability meant that she was unable to work, and therefore unlikely to be able to pay the outstanding debt at any stage in the future.

On receipt of the complaint, preliminary inquiries were made of IRD to clarify whether the outstanding debt could be annulled. IRD advised the debt could only be cancelled in the event an individual dies, or is declared bankrupt. IRD expressed a significant amount of compassion for the complainant but noted it was unable to make an exception.

Based on this, we worked with IRD and the complainant's local Member of Parliament, to find a way to accommodate the person's needs. After some discussion, it was decided that an advocate would be appointed to represent the complainant in all affairs relevant to IRD, and that all future correspondence would be forwarded to this advocate. Therefore, while the debt was not able to be annulled, the person's disability was taken into account, and reasonable accommodation provided so that she did not receive any further communications which might cause her distress.



Complaints and investigations

In 2014/15 we continued to receive a number of complaints and other contacts which raised issues relevant to the Disabilities Convention. The issues concerned various state sector agencies, over a wide range of subject matters.

Looking forward, we will continue to identify complaints and investigations where the Disabilities Convention is relevant. We will continue our focus on early identification of specific articles in the Disabilities Convention which are relevant in a particular case.

Exclusion and expulsion of students with disabilities

In the reporting year, Ombudsman Ron Paterson investigated two separate complaints concerning the exclusion/expulsion of students with disabilities. Both complaints concerned decisions by secondary school Boards of Trustees to exclude/expel students with disabilities raising behavioural issues.

Article 24 of the Disabilities Convention requires that educational institutions ensure the full realisation of all human rights and fundamental freedoms for students with disabilities, on an equal basis with others, and without discrimination on the basis of disability.

In both cases, the Ombudsman noted the absence of detailed records of the decision making process, meaning that the schools were unable to substantiate that consideration had been given to the students' disabilities in the decision making process. In one case the Ombudsman noted:

"When making disciplinary decisions relating to students with a behavioural disability, schools must take care to consider how their disability impacted on the behaviour in question, and maintain comprehensive records of that process".

In the other case, the Ombudsman recognised that *"school boards must strike a difficult balance, within available resources between the rights of a student with a disability to an education, and their obligations to staff and other students"*. Overall, improvements to practices and processes within both schools were recommended.

Rights of persons with disabilities in places of detention

Our COTA Inspectors and Prison Investigators have actively considered the welfare of persons with disabilities in prisons, institutions and other places of detention. Particular issues of concern have been noted in our overview of our work under COTA.

Non-chew diet for prisoners

Chief Ombudsman Dame Beverley Wakem received a complaint from a prisoner without natural teeth who had previously been on a 'non-chew' diet for five years. The prisoner was concerned that subsequent to a prison transfer, he had been changed to a 'soft' diet.

Corrections staff advised the prisoner that he could obtain dentures but would have to pay a \$250 deposit first. The prisoner complained that he could not swallow several items he was currently being served for breakfast and lunch (he had previously been provided with pureed and liquid food only). The prisoner also noted that he wanted dentures but did not have the financial means to pay the deposit required.

The Chief Ombudsman urgently notified the Department of Corrections (Corrections) of the complaint, drawing attention to the United Nations Convention on the Rights of Persons with Disabilities, in particular Article 2 which provides guidance around reasonable accommodation. The Chief Ombudsman noted that Corrections should carefully consider the circumstances of the prisoner, and queried whether changing the diet of an individual who had no natural or artificial teeth was reasonable.

In response, Corrections advised that the prisoner had been returned to the 'non-chew' diet. In addition, Corrections agreed to assist the prisoner in obtaining dentures, with the prisoner making weekly payments to cover the cost of the dentures rather than being required to purchase them outright.

The prisoner was happy with the actions taken by the Department subsequent to the Chief Ombudsman notifying an investigation. The Chief Ombudsman also considered that the Department had reasonably accommodated the prisoner by permitting him to revert to his previous diet, and to allow flexibility around purchasing and paying for dentures. On that basis, the Chief Ombudsman discontinued her investigation.



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.

State sector capability

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 2014/15 we commented on 21 legislative, policy and administrative proposals relevant to our role. In particular, we commented on Cabinet papers, Bills and administrative policies and procedures.

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

We encourage agencies to consult with us at an early stage of policy development. In that way, so far as possible, we can identify any unintended consequences or other issues that arise, and these can be discussed before a paper is put before Cabinet or a Bill is introduced to Parliament. When we are asked to comment, the timeframes given for our response are often very short. This can make it difficult for us to manage our workflow in this area.

In addition to commenting on legislative, policy and administrative proposals, we also provided informal advice on 168 occasions to state sector agencies, mainly in relation to enquiries about the processing of official information requests. This can be compared to the previous reporting year, where we provided informal advice on 103 occasions – amounting to a 63% increase this year in this area of work. Agencies are increasingly turning to us for advice on *'live'* requests for official information and how best they can make a decision that will comply with the legislation.

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

We also provided advice to the Secretary of Transport on 7 applications for authorised access to the motor vehicle register, under section 241 of the Land Transport Act 1998.

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 2014/15, we provided 20 workshops and training sessions.³⁷ We have seen an increasing trend for agencies to seek multiple training sessions from us, over a number of locations.

We continued to receive overwhelmingly positive feedback from the agencies who accessed our training services, with 100% of participants reporting the training would assist them in their work.

New Zealand organisations who received Ombudsman training in 2014/15

- Department of Internal Affairs (3 sessions)
- Callaghan Innovation
- Financial Services Complaints Ltd
- Grow Wellington
- Ministry of Culture and Heritage
- Ministry of Foreign Affairs and Trade
- Ministry for Primary Industries (5 sessions)
- New Zealand Security Intelligence Service
- Radio New Zealand
- Royal Society of New Zealand

Information resources

The *Ombudsman Practice Guidelines* are our primary resource to assist agencies in complying with their obligations under the official information legislation. They are supplemented by case notes and opinions available on our website.

We produced or updated 19 guidance materials this reporting year, comprising:

- 10 opinions and 2 case notes on key complaints we investigated;
- 1 guide on the changes to the OA, OIA and LGOIMA which occurred in March 2015;
- 2 joint publications as part of New Zealand's *Independent Monitoring Mechanism* on the Disabilities Convention; and
- 4 e-newsletters to keep our stakeholders up to date with developments relevant to our jurisdiction, role and functions.

We have also had a suite of new guidance material under development this reporting year which is due to be released in the 2015/16 reporting year.

³⁷ Including 4 training sessions in the Cook Islands.



Public awareness and accessibility

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

In 2014/15 we undertook our fourth nationwide public awareness survey, to gauge the level of awareness of the Ombudsman in the community. The survey found 67% of the New Zealand public had heard of us, with levels of awareness tracking slightly downwards when compared with 69% awareness in 2013/14, 72% awareness in 2012/13 and 69% awareness in 2011/12.

More older respondents had heard of the Ombudsman, with awareness levels in 2014/15 at:

- 92% for those aged 60 years or older;
- 88% for those aged 45-59 years;
- 56% for those aged 30-44 years; and
- 22% for those aged under 30 years.

The awareness levels amongst different ethnic groups were:

- 70% for non-Maori and non-Pacific Islanders;
- 55% for Maori; and
- 35% for Pacific Islanders.

This continues to demonstrate that we need to raise greater awareness amongst young people and Maori and Pacific Islanders in particular.

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

- 30% believe that we handle complaints and disputes generally;
- 22% believe that we are a regulator or watchdog; and
- 9% believe that we consider complaints about central and local government services.

When asked where they would go to find out about the Ombudsman, respondents primarily favoured online sources. Three-quarters of those surveyed (75%) said they would use the internet to search for information about the Ombudsman. Only 6% said they would ask a government agency, and only 4% said they would ask a community organisation for information.

There have been continued high levels of access to our new website (launched in 2012/13) this reporting year, with 56,421 visitors this year – a 23% increase on 2013/14 numbers, and including 50% new visitors. Most of the visits (80%) were from people in New Zealand. Apart from our home page, the most popular pages were in our resources and publications section; in particular our guides to official information legislation and protected disclosures.

We also maintain a growing presence on Facebook, with 299 likes by the end of the reporting year.

We continued our efforts to be more visible, active and engaged in the community this year. We delivered 24 presentations and workshops on the role of the Ombudsman. Audiences included public servants, university students, complaint-handling organisations, various conference participants, disabled people's organisations, unions and complainant representatives.

International relations and development

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 2014/15, we received a delegation from Tonga and hosted an internship by a student from Myanmar. 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 (APOR) of the International Ombudsman Institute;
- Australia and New Zealand Ombudsman Association;
- Pacific Ombudsman Alliance; and
- Association of Information and Access Commissioners.

We also worked in partnership with other Ombudsmen and complaint handling organisations:

- as a committee member revising the Standards Australia/Standards New Zealand joint Standard: *Guidelines for complaint handling in organisations*;
- developing a manual for APOR; and
- supporting the establishment of a second whistle blowing research project by Griffith University in Queensland.



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 2014/15 a senior staff member was seconded to the Cook Islands, during which time she assisted the Office with its case load, assisted with practice improvement, and provided modular training on investigations.

As noted above in relation to our COTA work, we also accompanied the Samoan Ombudsman on his first detention centre inspections.



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Part 5

Organisational health and capability

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Overview

In recent years, our Office has grown from its original classical model of an investigator of administrative conduct under the Ombudsmen Act, to that of a modern Ombudsman with multiple responsibilities and functions arising from a variety of pieces of legislation. We have seen an increasing demand for our services, with the number of complaints and other contacts concerning state sector agencies continuing to be at record levels. With no corresponding increase in resources until the 2013/14 year, the increasing demand has resulted in the age profile of open complaints growing and has impacted adversely on our ability to meet our timeliness performance targets.

In order to manage the impact of these high levels of work, we have introduced a *Continuous Practice Improvement* (CPI) programme with initiatives that have resulted in changes at each stage of our complaint handling, investigation and resolution processes; and strengthened our training, knowledge management, information management and outreach capabilities. The Officers of Parliament Committee supported our CPI programme by recommending an increase in funding for the various initiatives associated with our increased workload, multiple roles and modernisation of the Office.

As a result, in 2014/15 we increased our investigation capacity by 6 investigators and are looking forward to a further increase of 2 investigators in 2015/16 to handle the high level of complaints we are continuing to receive, along with 4 additional staff to enhance our proactive investigation, inspection and training roles (in the form of a COTA inspector, wider administrative improvement investigator, and communications, training and disability advisors).

As the size and work of the Office continues to grow, our corporate and business support needs are also continually being assessed carefully to ensure opportunities, risks and good practices are identified and managed appropriately.

In 2014/15 we completed our first ever Collective Agreement with our staff who belong to the Public Service Association (PSA). We introduced our first ever Information Systems Strategic Plan and continued the implementation of our first ever training and professional development strategy for our staff. We introduced portfolio and sector monitoring to identify trends, share knowledge and promote consistency within our work, as well as enable us to intervene quickly and provide advice, guidance and recommendations to agencies to review any issues themselves and fix problems early before they give rise to complaints. We also commenced security, risk management and business continuity planning reviews with a view to developing strategies and programmes of work in these areas to ensure our staff and information are protected.

These changes are enabling us to quickly and accurately recognise work pressures and more easily target our limited resources to particular areas when a need is identified and efficiencies can be achieved. As a result, we are confident that we are well positioned to continue to make considerable gains in meeting our performance targets during the 2015/16 year.

Financial and asset management

This financial year our Office continued to operate under tight fiscal conditions. Vote Ombudsmen is small, amounting to \$10.591 million (excluding GST) for the year ended 30 June 2015. Personnel and accommodation costs accounted for 80% of the actual amount spent. The remaining spending was primarily on service contracts, travel, depreciation and communication.

There is little expenditure of a discretionary kind. What discretionary financial resources do exist are allocated in a contestable manner. 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.

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

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

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

Our people

As at 30 June 2015, we had 69 employees³⁸ (plus 2 Ombudsmen). Our staff are distributed across 3 office sites:

- Auckland 16%;
- Christchurch 10%; and
- Wellington 74%.

In terms of working arrangements, as at 30 June 2015, 97% of our staff were permanent and 3% were fixed term. In addition:

- 89% of our staff work full-time;
- 11% of our staff work part-time; and
- 3% of our staff job-share.

³⁸ There were 12 net vacant positions as at 30 June 2015. Three positions started in July 2015, 4 in August 2015, 2 are scheduled to start in October 2015 and 1 in November/December 2015.



In terms of gender distribution, 72% of our staff are female and 28% male, with further details set out in the table below.

Role	Number	% of total staff	% Female	% Male
Senior Managers (including 2 Ombudsmen)	5	7%	60%	40%
Managers (with direct reports)	7	10%	71%	29%
Specialist staff (legal, policy and professional practice, wider administrative improvement, corporate)	12	17%	75%	25%
Investigations and inspections staff	33	47%	60%	40%
Administration and support staff (operations and corporate)	14	18%	100%	-

Fifteen staff left in the reporting period, resulting in a staff turnover for the year of 21%. Our investigating staff are highly trained and in demand within the wider state sector. Our work is very interesting and attractive but we are unable to compete with other better funded employers who offer better remuneration so some staff turnover is inevitable.

People performance and capability

In 2014/15 we continued the rollout of our formal training and development strategy, and we intensified our delivery of core training for new and promoted investigating staff throughout the year.

Given the Ombudsmen's key role as part of the *Independent Monitoring Mechanism* protecting and monitoring the rights of people with disabilities pursuant to the *United Nations Convention on the Rights of Persons with Disabilities*, we initiated our first round of formal training for all staff on how the Convention applies to our work.

In heightening awareness of health and safety management, we also focused on staff health, safety, and security and commenced a review and update of our health and safety and personnel security systems and processes. All managers and staff were provided with training on their health and safety responsibilities in line with the health and safety legislative requirements. We also delivered training and initiated a review of our procedures on managing unreasonable complainant conduct, in line with the review of our physical and personnel security procedures which are being aligned with the NZSIS new Personnel Security Requirements.

We conducted our biennial staff survey, the results of which helped to establish key themes for our staff conference on culture and communication and further subsequent work on the development of a set of corporate values for the Office. We also conducted a workplace bullying survey which has provided impetus to formalising new procedures and revision of current policy in relation to preventing and managing unacceptable workplace behaviour.

We concluded a new Collective Employment Agreement with the PSA at the end of May 2015 which is a significant achievement for both the Office and the union. This has been followed with commencement of the review of our corporate policies with the priorities initially focused on performance review and remuneration policies.

Information management

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

All complaints and other contacts records in electronic format are stored in a customised *Case Management System*. The *Case Management System* was upgraded in 2010, and has since been modified and enhanced via process change requests to support the new *Continuous Practice Improvement* initiatives as they have been introduced since 2011/12. All other work carried out in the Office is stored either in hard copy or in an electronic file system created some 20 years ago comprising a series of shared drives and folders. We are aware that a number of issues have arisen that inhibit our ability to achieve maximum efficiency due to the limitations of our current information management and communication technologies, including their age and appropriateness to service our growth in jurisdiction and functions, and the growth in demand for our services over recent years.

In 2013/14 we commenced a comprehensive review of:

- the underlying drivers of the growth the Office has experienced in recent years;
- our stakeholders' experiences, needs and expectations, their performance obligations, and the risks to the Office of non-delivery;
- our vision and strategic direction for the next three years and the Office's key business imperatives that all future Information Management (IM) and Information Communications Technology (ICT) projects are intended to contribute to;
- our current IM and ICT environment and support contracts; and
- the current user experience arising from our current technologies, structure, support, skills and practices for IM and ICT and the risks for the Office.

This review resulted in the development of our Information Systems Strategic Plan (ISSP) which is intended to ensure that we apply a more strategic approach to our IM and ICT systems, so that we can be confident we are able to effectively support the:

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

In 2014/15, we commenced a three year programme of work identified by the ISSP and established a four tiered³⁹ governance and management framework to oversight its implementation.

³⁹ Made up of the Chief Ombudsman as Chief Executive, the Executive Management Team, the Information Management Policy and Strategy Governance Group, and Operational management and delivery.



Risk management

Our 2014/18 Statement of Intent identifies our key risks and sets out the strategies we use to manage these risks. In summary, our key risks are:

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

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

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

We have measures in place to manage these risks, and we have continued developing an overall risk management strategy for our Office.





Part 6 Financial and performance information

6

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Financial and performance information

Statement of responsibility

I am responsible, as Chief Executive of the Office of the Ombudsman, for:

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

In my opinion:

- these financial statements fairly reflect the financial position and operations of the Office of the Ombudsman for the year ended 30 June 2015 and its operations for the year ended on that date; and
- the forecast financial statements fairly reflect the forecast financial position of the Office of the Ombudsman as at 30 June 2016 and its operations for the year ending on that date.

Dame Beverley Wakem DNZM, CBE

Chief Executive

30 September 2015

Meaw-Fong Phang

Finance and Business Services Manager

30 September 2015

Independent Auditor's Report

To the readers of the Office of the Ombudsmen's financial statements and non-financial performance information for the year ended 30 June 2015

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

- the financial statements of the Office on pages 78 to 101, that comprise the statement of financial position, statement of commitments, statement of contingent liabilities and contingent assets as at 30 June 2015, the statement of comprehensive revenue and expense, statement of changes in equity, and statement of cash flows for the year ended on that date and the notes to the financial statements that include accounting policies and other explanatory information;
- the performance information prepared by the Office for the year ended 30 June 2015 on pages 21 to 58 and 74 to 77, comprising the report on operations and the statement of objectives and service performance; and
- the statements of expenses and capital expenditure by the Office for the year ended 30 June 2015 on pages 100 and 101, comprising the appropriation statements.

Opinion

In our opinion:

- the financial statements of the Office:
 - presently fairly, in all material respects:
 - > it's financial position as at 30 June 2015; and
 - > it's financial performance and cash flows for the year ended on that date;
 - comply with generally accepted accounting practice in New Zealand and have been prepared in accordance with Public Benefit Entity Standards with reduced disclosure requirements;
- the performance information of the Office:
 - presents fairly in all material respects, for the year ended 30 June 2015:
 - > what has been achieved with the appropriation; and
 - > the actual expenses or capital expenditure incurred compared with the appropriated or forecast expenses or capital expenditure;
- complies with generally accepted accounting practice in New Zealand.



- the statements of expenses and capital expenditure of by the Office are presented fairly, in all material respects, in accordance with the requirements of section 45A of the Public Finance Act 1989.

Our audit was completed on 30 September 2015. 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 information we audited is free from material misstatement.

Material misstatements are differences or omissions of amounts and disclosures that, in our judgement, are likely to influence readers' overall understanding of the information we audited. 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 information we audited. The procedures selected depend on our judgement, including our assessment of risks of material misstatement of the information we audited, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the Office's preparation of the information we audited 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 appropriateness of the reported non-financial performance information within the Office's framework for reporting performance;
- the adequacy of all disclosures in the information we audited; and
- the overall presentation of the information we audited.

We did not examine every transaction, nor do we guarantee complete accuracy of the information we audited. Also, we did not evaluate the security and controls over the electronic publication of the information we audited.

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

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

The Chief Ombudsman is responsible for such internal control as is determined is necessary to ensure that the annual report is free from material misstatement, whether due to fraud or error. The Chief Ombudsman is also responsible for the publication of the annual report, whether in printed or electronic form.

Responsibilities of the Auditor

We are responsible for expressing an independent opinion on the information we are required to audit, and reporting that opinion to you based on our audit. Our responsibility arises from the Public Audit Act 2001.

Independence

When carrying out the audit, we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the External Reporting Board.

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

Chrissie Murray
Audit New Zealand
On behalf of the Auditor-General
Wellington, New Zealand



Statement of objectives and service performance for the year ended 30 June 2015

Performance Measures	2014/15		2013/14
	Budget Standard	Actual	Actual
Impact measures			
Overall quality of public services improves over time	Higher than 70 points in Kiwis Count Survey	73 points (as at September 2014)⁴⁰	72 points (as at March 2014)
New Zealand rated as one of the leading countries in public service probity as measured by the Transparency International Corruption Perceptions Index	On average over the next 5 years New Zealand in the top three ranked countries	In 2014, New Zealand ranked second⁴¹	In 2013, New Zealand ranked first equal with Denmark
Output A – Investigate state sector administration and decision making			
Demand driven measures			
# of complaints completed (new measure)	2,500	2,226	2,510
# of other contacts completed	5,500	7,231	6,056
# of cases where monitoring of death in custody investigations commenced ⁴²	12-15	18	14
Proactive measures			
All complaints and other contacts considered	100%	100%	100%
# of wider administrative improvement investigations completed	2-3	0⁴³	1
% of complaints outside jurisdiction completed within 1 month from date of receipt	75%	84%	83%
% of complaints not investigated or resolved without investigation completed within 3 months from date of receipt	75%	76%	79%
% of urgent investigations completed within 4 months from date of receipt	90%	50%⁴⁴	100%
% of priority investigations completed within 6 months from date of receipt	70%	25%⁴⁵	43%
% of all other investigations completed within 12 months from date of receipt	60%	52%⁴⁶	47%
% of completed complaints and other contacts meeting internal quality standards, following random quality assurance check	Baseline to be established	86%⁴⁷	- ⁴⁸
# of successful appeals for judicial review of Ombudsman	Nil	Nil	Nil

Report of the Ombudsman
Part 6 | Financial and performance information

Performance Measures	2014/15		2013/14
	Budget Standard	Actual	Actual
Output B – Investigate and review official information decisions			
Demand driven measures			
# of complaints completed	800 OIA 250 LGOIMA	960 OIA 253 LGOIMA	1,623 OIA 233 LGOIMA
# of other contacts completed	400 OIA 40 LGOIMA	548 OIA 72 LGOIMA	510 OIA 54 LGOIMA
Proactive measures			
All complaints considered	100%	100%	100%
% of complaints outside jurisdiction completed within 1 month from date of receipt	75% OIA 83% LGOIMA	50% OIA 53% LGOIMA	64% OIA 55% LGOIMA
% of complaints not investigated or resolved without investigation completed within 3 months from date of receipt	75% OIA 70% LGOIMA	57% OIA 50% LGOIMA	38% OIA 64% LGOIMA
% of urgent investigations completed within 4 months from date of receipt	90% OIA 90% LGOIMA	92% OIA 100% LGOIMA	85% OIA 95% LGOIMA
% of priority investigations completed within 6 months from date of receipt	60% OIA 60% LGOIMA	22% OIA⁴⁹ 7% LGOIMA⁵⁰	23% OIA 21% LGOIMA
% of all other investigations completed within 12 months from date of receipt	60% OIA 60% LGOIMA	43% OIA 54% LGOIMA	44% OIA 62% LGOIMA
% of completed complaints and other contacts meeting internal quality standards, following random quality assurance check	Baseline to be established	71%⁵¹	_52
# of successful appeals for judicial review of Ombudsman	Nil	Nil	Nil
Output C – Deal with requests for advice and guidance about serious wrongdoing			
Demand driven measure			
# of requests for advice and guidance completed in the reporting year	10	16⁵³	7
Proactive measures			
All requests for advice and guidance considered	100%	100%	100%
% of requests completed within 6 months from date of receipt	95%	75%⁵⁴	100%
Output D – Monitor and inspect places of detention			
Proactive measures			
# of full inspections to places of detention	22	22	22
# of other visits to places of detention	10	18⁵⁵	15
% of unannounced full inspections and other visits	At least 33% ⁵⁶	73%⁵⁷	49%
% of reports sent to places of detention within 3 months of visit	95%	100%	100%



Performance Measures	2014/15		2013/14
	Budget Standard	Actual	Actual
% of reports peer reviewed, to meet internal quality standards	100%	100%	100%
% of formal recommendations accepted	80%	83%	81%
Output E – Improve state sector capability in areas relevant to our jurisdiction			
Demand driven measures			
# of requests for advice or comment by state sector agencies responded to	60-80	168	103
# of training sessions provided to stakeholders (amended measure) ⁵⁸	20	20⁵⁹	36 ⁶⁰
Proactive measures			
# of guidance materials produced or updated	25	19⁶¹	15
% of participants in Ombudsman external training sessions who report that the training will assist them in their work	95%	100%	100%
% of overseas participants receiving Ombudsman guidance and training who report this will assist them in their work (new measure)	95%	100%	-
Output F – Improve public awareness and accessibility of our services			
Demand driven measure			
# of external speeches and presentations given	25	24⁶²	44
Proactive measures			
% of members of the public who have heard of the Ombudsman	65%	67%	69%

Performance Measures for capital expenditure (permanent legislative appropriation)	2014/15		2013/14
	Budget	Actual	Actual
Maintain and upgrade infrastructure capability including information and communication technology and office accommodation	Achieved	Achieved	Achieved

A comparison of the actual expenses or capital expenditure incurred in relation to the appropriations in the financial year with the expenses or capital expenditure that were appropriated or forecast to be incurred is shown in the appropriation statements on pages 99 - 101.

Footnotes to Support Performance Measures table

- ⁴⁰ See <https://www.ssc.govt.nz/kiwis-count-update-sept14>.
- ⁴¹ See <http://www.transparency.org/cpi2014/results>.
- ⁴² Monitoring was undertaken of all deaths in custody.
- ⁴³ Two significant wider administrative improvement investigations were underway during the 2014/15 reporting year, with both expected to be completed by December 2015.
- ⁴⁴ Two OA complaints were investigated urgently, with 1 completed within 4 months and the other completed within 6 months.
- ⁴⁵ Four OA complaints were investigated as a priority, with 1 completed within 6 months.
- ⁴⁶ Our ability to meet some timeliness targets this year was affected by the ongoing pressure of work and demands on our resources, and loss of experienced staff.
- ⁴⁷ In 2014/15 we piloted a formal quality assurance process, concerning complaints and other contacts completed by investigating staff who had completed our in-house training programme.
- ⁴⁸ In 2013/14 we were unable to report against this measure, as the introduction of random quality assurance checks was deferred until the 2014/15 reporting year, largely due to the pressure of work on hand. However, we do have other measures in place to ensure quality, including review of all letters by senior staff with delegated authority from the Ombudsmen.
- ⁴⁹ Our ability to meet some timeliness targets this year was affected by the ongoing pressure of work and demands on our resources, and loss of experienced staff.
- ⁵⁰ Fourteen LGOIMA complaints were investigated as a priority, and while only 7% were completed within 6 months, 57% were completed within 12 months.
- ⁵¹ Above n 47. The main reason quality standards were not met in some cases was timeliness.
- ⁵² Above n 48.
- ⁵³ We also completed 43 informal contacts about Protected Disclosures Act matters.
- ⁵⁴ Of the 16 Protected Disclosures Act requests completed in 2014/15, 88% were completed within 12 months.
- ⁵⁵ We completed more visits than budgeted as these often took place at the same time as we were in a particular region of New Zealand to complete a full inspection.
- ⁵⁶ The internationally accepted standard is for at least 1/3 of inspections to be unannounced.
- ⁵⁷ We increased the proportion of our unannounced visits this year, to gain a good perspective of day-to-day practice within the facilities visited.
- ⁵⁸ This measure was amended for the 2014/15 year onwards to include training not just to state sector agencies, but to all our stakeholders, for example media.
- ⁵⁹ Training sessions are currently provided on request from our stakeholders. Four training sessions were provided to overseas stakeholders.
- ⁶⁰ We completed a greater number of training sessions than expected in 2013/14 due to participating in a series of training sessions for new councillors following the local government elections, and requests by some agencies for agency-wide training over a number of locations.
- ⁶¹ A suite of new guidance material is currently under preparation which will be released in the 2015/16 reporting year.
- ⁶² Three speeches were given by the Ombudsmen overseas.



Statement of comprehensive revenue and expense for the year ended 30 June 2015

30/06/14 Actual \$(000)		Notes	30/06/15 Actual \$(000)	30/06/15 Main Estimates \$(000)	30/06/15 Supp. Estimates \$(000)	30/06/16 Unaudited Forecast* IPSAS \$(000)
	Revenue					
9,866	Revenue Crown		10,401	10,368	10,401	11,927
<u>102</u>	Other revenue	2	<u>152</u>	-	<u>190</u>	-
<u>9,968</u>	Total revenue		<u>10,553</u>	<u>10,368</u>	<u>10,591</u>	<u>11,927</u>
	Expenses					
6,831	Personnel costs	3	7,580	7,214	7,423	8,237
2,778	Other operating costs	4	2,741	2,715	2,729	3,018
144	Depreciation and amortisation	5	206	354	354	518
<u>26</u>	Capital charge	6	<u>26</u>	<u>85</u>	<u>85</u>	<u>154</u>
<u>9,779</u>	Total expenses		<u>10,553</u>	<u>10,368</u>	<u>10,591</u>	<u>11,927</u>
<u>189</u>	Surplus/(deficit)		-	-	-	-
-	Other comprehensive revenue and expense		-	-	-	-
<u>189</u>	Total comprehensive revenue and expenses		-	-	-	-

The accompanying notes form part of these financial statements

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

Statement of financial position as at 30 June 2015

30/06/14 Actual \$(000)		Notes	30/06/15 Actual \$(000)	30/06/15 Main Estimates \$(000)	30/06/15 Supp. Estimates \$(000)	30/06/16 Unaudited Forecast * IPSAS \$(000)
Assets						
<i>Current assets</i>						
1,310	Cash and cash equivalents		1,857	696	846	1,164
29	Other current assets	7	133	18	18	18
1,339	Total current assets		1,990	714	864	1,182
<i>Non-current assets</i>						
406	Property, plant and equipment	8	1,809	1,453	1,704	1,614
125	Intangible assets — Software	9	164	251	161	193
531	Total non-current assets		1,973	1,704	1,865	1,807
1,870	Total assets		3,963	2,418	2,729	2,989
Liabilities						
<i>Current liabilities</i>						
511	Creditors and other payables	10	573	159	269	269
189	Return of operating surplus	11	-	-	-	-
622	Employee entitlements	12	445	425	425	425
1,322	Total current liabilities		1,018	584	694	694
<i>Non-current liabilities</i>						
19	Employee entitlements	12	19	18	18	18
200	Leasehold Incentives		1,110	-	201	201
219	Total non-current liabilities		1,129	18	219	219
1,541	Total liabilities		2,147	602	913	913
329	Net assets		1,816	1,816	1,816	1,816
<i>Equity</i>						
329	General funds	13	1,816	1,816	1,816	2,076
329	Total equity		1,816	1,816	1,816	2,076

Explanations of major variances against the original 2014/15 budget are provided in Note 19.

The accompanying notes form part of these financial statements

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



Statement of changes in equity for the year ended 30 June 2015

30/06/14 Actual \$(000)		Note	30/06/15 Actual \$(000)	30/06/15 Main Estimates \$(000)	30/06/15 Supp. Estimates \$(000)	30/06/16 Unaudited Forecast * IPSAS \$(000)
<u>329</u>	Balance at 1 July		<u>329</u>	<u>329</u>	<u>329</u>	<u>1,816</u>
189	Total comprehensive revenue and expense for the year		-	-	-	-
	Owner transactions					
-	Capital injections		<u>1,487</u>	<u>1,487</u>	<u>1,487</u>	<u>260</u>
(189)	Return of operating surplus to the Crown		-	-	-	-
<u>329</u>	Balance at 30 June	13	<u>1,816</u>	<u>1,816</u>	<u>1,816</u>	<u>2,076</u>

Statement of cash flows for the year ended 30 June 2015

30/06/14 Actual \$(000)		Notes	30/06/15 Actual \$(000)	30/06/15 Main Estimates \$(000)	30/06/15 Supp. Estimates \$(000)	30/06/16 Unaudited Forecast * IPSAS \$(000)
	Cash flows from operating activities					
9,866	Receipts from Crown		10,401	10,368	10,401	11,927
102	Receipts from other revenue		152	-	190	-
(6,718)	Payments to employees		(7,757)	(7,239)	(7,645)	(8,262)
(2,641)	Payments to suppliers		(2,625)	(2,690)	(2,936)	(2,993)
(26)	Payment for capital charge		(26)	(85)	(85)	(154)
(34)	Goods and services tax (net)		(197)	-	-	-
549	<i>Net cash from operating activities</i>	14	(52)	<u>354</u>	<u>(75)</u>	<u>518</u>
	Cash flows from investing activities					
(94)	Purchase of property, plant and equipment	8	(626)	(1,615)	(1,615)	(388)
(4)	Purchase of intangible assets — software	9	(73)	(72)	(72)	(72)
(98)	<i>Net cash from investing activities</i>		(699)	<u>(1,687)</u>	<u>(1,687)</u>	<u>(460)</u>
	Cash flows from financing activities					
-	Capital contribution		1,487	1,487	1,487	260

The accompanying notes form part of these financial statements

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

30/06/14 Actual \$(000)		Notes	30/06/15 Actual \$(000)	30/06/15 Main Estimates \$(000)	30/06/15 Supp. Estimates \$(000)	30/06/16 Unaudited Forecast * IPSAS \$(000)
(1)	Return of operating surplus		(189)	=	(189)	=
(1)	<i>Net cash from financing activities</i>		1,298	1,487	1,298	260
450	Net increase /(decrease) in cash		547	154	(464)	318
860	Cash at beginning of the year		1,310	542	1,310	846
1,310	Cash at end of the year		1,857	696	846	1,164

Statement of commitments as at 30 June 2015

Non-cancellable operating lease commitments

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

The agreements for the photocopiers have a non-cancellable period generally of 5 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.

30/6/14 Actual \$(000)		30/6/15 Actual \$(000)
	Non-cancellable operating lease commitments	
706	Less than one year	895
860	One to two years	856
2,569	Two to five years	2,569
6,635	More than five years	5,427
10,770	Total non-cancellable operating lease commitments	9,747

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

Capital commitments

NIL (2014 Nil).

The accompanying notes form part of these financial statements

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



Statement of contingent liabilities and contingent assets as at 30 June 2015

Unquantifiable contingent liabilities

As at 30 June 2015 the Office does not have any unquantifiable contingent liabilities. (2014 Nil).

Quantifiable contingent liabilities

As at 30 June 2015 the Office does not have any quantifiable contingent liabilities. (2014 Nil).

Unquantifiable contingent assets

As at 30 June 2015 the Office does not have any unquantifiable contingent assets (2014 Nil).

Quantifiable contingent assets

As at 30 June 2015 the Office does not have any quantifiable contingent assets. (2014 Nil).

Notes to the financial statements

1. Statement of accounting policies for the year ended 30 June 2015

Reporting entity

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

The primary purpose, functions and outcomes of the Office are discussed at Part 3 of this report. The Office provides services to the public rather than making a financial return. Accordingly, the Office has designated itself a public benefit entity (PBE) for 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 2015. The financial statements were authorised for distribution by the Chief Executive on 30 September 2015.

Basis of preparation

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

STATEMENT OF COMPLIANCE

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

These financial statements have been prepared in accordance with Tier 2 PBE accounting standards. The Office has elected to report in Tier 2 PBE accounting standards as the Office does not have public accountability as defined by the IASB, is not a FMC reporting entity or an issuer under the transitional provisions of the Financial Reporting Act 2013 and is not large. These financial statements comply with PBE accounting standards.

These financial statements are the first financial statements presented in accordance with the new PBE accounting standards. There are no material adjustments.

Forecast figures

The financial forecast information for the year ending 30 June 2016 contained in these financial statements is unaudited. The prospective financial statements are in accordance with New Zealand PBE IPSAS standards.

MEASUREMENT BASE

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

FUNCTIONAL AND PRESENTATION CURRENCY

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



Summary off Significant accounting policies

REVENUE

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

Funding from the Crown

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

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

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

Other revenue

During the year the Office has earned other revenue. The majority of this revenue was generated by staff secondment in New Zealand and in the United Kingdom.

In addition, during the year two of our staff were in accidents and we are seeking compensation from ACC.

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.

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

FINANCE LEASES

The Office is not party to any finance leases.

Cash and cash equivalents

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

OTHER CURRENT ASSETS

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

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

Property, plant and equipment

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

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

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

ADDITIONS

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

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

DISPOSALS

Gains and losses on disposals are determined by comparing the proceeds with the carrying amount of the asset. Gains and losses on disposals are 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 general funds.

SUBSEQUENT COSTS

Costs incurred subsequent to initial acquisition are capitalised only when it is probable that future economic benefits or service potential associated with the item will flow to the Office and the cost of the item can be measured reliably. The costs of day-to-day servicing of property, plant and equipment are recognised in the surplus of deficit as they are incurred.

DEPRECIATION

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

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



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

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

Intangible assets

SOFTWARE ACQUISITION AND DEVELOPMENT

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

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

Staff training costs are recognised as an expense when incurred.

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

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

AMORTISATION

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

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

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

Impairment of property, plant and equipment, and intangible assets

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

Property, plant and equipment and intangible assets held at cost that have a finite useful life are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable service amount. The recoverable service amount is the higher of an asset's fair value less costs to sell and value in use.

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

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

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

Payables

Short-term payables are at face value.

Employee entitlements

SHORT-TERM EMPLOYEE ENTITLEMENTS

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

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

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

LONG-TERM EMPLOYEE ENTITLEMENTS

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

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

The Office's terms and conditions of employment do not include a provision for retirement leave. Long service leave is available to 6 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.



Equity

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

Commitments

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

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

Goods and services tax (GST)

All items in the financial statements, 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 from GST pursuant to Part 1 section 6(3)(c) of the Goods and Services Tax Act 1985.

Income tax

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

Statement of cost accounting policies

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

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

Critical accounting estimates and assumptions

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

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

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

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

Income tax

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

An incorrect estimate of the useful life or residual value will affect the depreciation expense recognised in the surplus or deficit, and carrying amount of the asset in the statement of financial position. The Office minimises the risk of this estimation uncertainty by:

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

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

LONG SERVICE LEAVE

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

Critical judgements in applying accounting policies

Management has exercised the following critical judgements in applying accounting policies for the year ended 30 June 2015.

LEASES CLASSIFICATION

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

Judgement is required on various aspects that include, but are not limited to, the fair value of the leased asset, the economic life of the leased asset, whether or not to include renewal options in the lease term, and



determining an appropriate discount rate to calculate the present value of the minimum lease payments. Classification as a finance lease means the asset is recognised in the statement of financial position as property, plant and equipment, whereas for an operating lease no such value is recognised.

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

BUDGET AND FORECAST FIGURES

The budget figures are those presented in the Information Supporting the Estimates of Appropriations for the Government of New Zealand for the year ended 30 June 2015 (Main Estimates) and those amended by the Supplementary Estimates and any transfer made by Order in Council under the Public Finance Act 1989.

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

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

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

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

The main assumptions are as follows:

- Estimated year end information for 2013/14 is used as the opening position for the 2014/15 forecasts.
- There are no significant events or changes that would have a material impact on the BEFU forecast.
- Factors that could lead to material differences between the forecast financial statements and the 2014/15 actual financial statements include changes to the baseline budget through new initiatives, or technical adjustments.

Authorisation Statement

The forecast figures reported are those for the year ending 30 June 2015 included in BEFU 2014. These were authorised for issue on 27 March 2014 by the Chief Executive who is responsible for the forecast financial statements as presented. The preparation of these financial statements requires judgements, estimations, and assumptions that affect the application of policies and reported amounts of assets and liabilities, and income and expenses. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances. Actual financial results achieved for the period covered are likely to vary from the information presented, and the variations may be material.

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

2. Other revenue

30/06/14 Actual \$(000)		30/6/15 Actual \$(000)	30/6/15 Main Estimates \$(000)	30/06/15 Supp. Estimates \$(000)	30/06/16 Unaudited Forecast* IPSAS \$(000)
	- ACC recovery	46	-	-	-
	- Secondment recovery	106	-	190	-
<u>102</u>	Other revenue	-	-	-	-
<u>102</u>	Total other revenue	152	-	<u>190</u>	-

3. Personnel costs

30/06/14 Actual \$(000)		30/6/15 Actual \$(000)	30/6/15 Main Estimates \$(000)	30/06/15 Supp. Estimates \$(000)	30/06/16 Unaudited Forecast* IPSAS \$(000)
6,285	Salaries and wages	7,102	6,878	7,284	7,901
304	Employer contributions to staff superannuation	353	336	336	336
242	Other personnel costs	125	-	(197)	-
6,831	Total personnel costs	7,580	<u>7,214</u>	<u>7,423</u>	<u>8,237</u>

Employer contributions to superannuation plans include contributions to Kiwi Saver and other cash accumulation plans registered under the Superannuation Schemes Act 1989. ¹

4. Other operating costs

30/06/14 Actual \$(000)		30/6/15 Actual \$(000)	30/6/15 Main Estimates \$(000)	30/06/15 Supp. Estimates \$(000)	30/06/16 Unaudited Forecast* IPSAS \$(000)
713	Operating accommodation lease expenses	759	992	992	992
75	Accommodation costs — other	91	-	-	-
34	Audit fees - for audit of financial statements	33	33	33	33
78	Publications, books and statutes	72	90	90	93
219	Travel	238	285	285	394
165	Communication costs	142	186	186	200
1,494	Other operating costs	1,406	<u>1,128</u>	<u>1,143</u>	<u>1,306</u>
2,778	Total operating expenses	2,741	<u>2,714</u>	<u>2,729</u>	<u>3,018</u>

Other operating excludes depreciation and capital charge.

The accompanying notes form part of these financial statements

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



5. Depreciation and amortisation

30/06/14 Actual \$(000)		30/6/15 Actual \$(000)	30/6/15 Main Estimates \$(000)	30/06/15 Supp. Estimates \$(000)	30/06/16 Unaudited Forecast* IPSAS \$(000)
21	Furniture and fittings	31	29	29	53
31	Plant and equipment and other	59	72	72	85
65	Computer equipment	82	213	213	340
27	Intangible assets – software	34	40	40	40
144	Total depreciation and amortisation	206	354	354	518

6. 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 2015 was 8.0% (2014: 8.0%).

7. Other current assets

30/06/14 Actual \$(000)		30/6/15 Actual \$(000)	30/6/15 Main Estimates \$(000)	30/06/15 Supp. Estimates \$(000)	30/06/16 Unaudited Forecast* IPSAS \$(000)
	- Receivables	110	-	-	-
29	Prepayments	23	18	18	18
29	Total receivables	133	18	18	18

8. Property, plant and equipment

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

2015	Plant and Equipment \$(000)	Leasehold improvements \$(000)	IT Equipment \$(000)	Furniture and Fittings \$(000)	Total \$(000)
Cost					
Balance at 30 June 2014	169	671	402	233	1,475
Additions	1	7	282	336	626
Additions - non-cash	-	950	-	-	950 ⁶³
Disposals	(3)	(399)	(45)	(99)	(546)
Balance at 30 June 2015	167	1,229	639	470	2,505
Accumulated depreciation and impairment losses					
Balance at 30 June 2014	151	459	288	171	1,069
Depreciation	6	53	82	31	172
Accumulated depn on disposals	(3)	(399)	(45)	(98)	(545)
Balance at 30 June 2015	154	113	325	104	696

The accompanying notes form part of these financial statements

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

⁶³ Leasehold improvements were paid for by the landlord and are recognised as a non-cash item. The net carrying amount of leasehold improvements is \$1,110,270 (2014 \$201,000).

2015	Plant and Equipment \$(000)	Leasehold improvements \$(000)	IT Equipment \$(000)	Furniture and Fittings \$(000)	Total \$(000)
Carrying amounts					
At 30 June 2014	18	212	114	62	406
At 30 June 2015	13	1,116	314	366	1,809

2014	Plant and Equipment \$(000)	Leasehold improvements \$(000)	IT Equipment \$(000)	Furniture and Fittings \$(000)	Total \$(000)
Cost					
Balance at 30 June 2013	159	458	372	198	1,187
Additions	10	213	30	40	293
Disposals	-	-	-	(5)	(5)
Balance at 30 June 2014	169	671	402	233	1,475
Accumulated depreciation and impairment losses					
Balance at 30 June 2013	130	449	223	155	957
Depreciation	21	10	65	21	117
Accumulated depn on disposals	-	-	-	(5)	(5)
Balance at 30 June 2014	151	459	288	171	1,069
Carrying amounts					
At 30 June 2013	29	9	149	43	230
At 30 June 2014	18	212	114	62	406

9. Intangible assets

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

2015	Acquired Software \$(000)	Internally generated Software \$(000)	Total \$(000)
Cost			
Balance at 30 June 2014	82	165	247
Additions	73	0	73
Disposals	0	0	0
Balance at 30 June 2015	155	165	320
Accumulated amortisation and impairment losses			
Balance at 30 June 2014	63	59	122
Amortisation	18	16	34
Disposals	-	-	-
Balance at 30 June 2015	81	75	156
Carrying amounts			
At 30 June 2014	19	106	125
At 30 June 2015	74	90	164



2014	Acquired Software \$(000)	Internally generated Software \$(000)	Total \$(000)
Cost			
Balance at 30 June 2013	78	165	243
Additions	4	0	4
Disposals	=	=	=
Balance at 30 June 2014	82	165	247
Accumulated amortisation and impairment losses			
Balance at 30 June 2013	52	43	95
Amortisation	11	16	27
Disposals	=	=	=
Balance at 30 June 2014	63	59	122
Carrying amounts			
At 30 June 2013	26	122	148
At 30 June 2014	19	106	125

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

10. Creditors and other payables

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

30/06/14 Actual \$(000)		30/06/15 Actual \$(000)	30/06/16 Unaudited Forecast* IPSAS \$(000)
193	Trade creditors	384	58
318	Other short-term liabilities	189	211
511	Total creditors and other payables	573	269

11. Return of operating surplus

Repayment of surplus is required by 31 October each year.

30/06/14 Actual \$(000)		30/06/15 Actual \$(000)	30/06/16 Unaudited Forecast* IPSAS \$(000)
189	Net operating surplus	-	-
189	Net surplus including Other Expenses	-	-
=	Approval to retain net operating surplus	=	=
189	Net operating surplus to be returned	=	=

The accompanying notes form part of these financial statements

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

The net surplus for 2014 is based on the net surplus reported in the Office's 2014 Annual Report and has not been adjusted for changes arising from the transition to the new PBE accounting standards. The net surplus for 2014 included the final insurance settlement resulted from the Christchurch earthquake event.

12. Employee entitlements

30/06/14 Actual \$(000)		30/6/15 Actual \$(000)	30/6/15 Main Estimates \$(000)	30/6/15 Supp. Estimates \$(000)	30/06/16 Unaudited Forecast* IPSAS \$(000)
	<i>Current liabilities</i>				
398	Annual leave	382	300	300	300
7	Long service leave	-	15	15	15
217	Superannuation, Superannuation Contribution Withholding Tax and salaries	63	110	110	110
622	Total current liabilities	445	425	425	425
	<i>Non current liabilities</i>				
19	Long service leave	19	18	18	18
641	Total for employee entitlements	464	443	443	443

Every 2 years the Office engages AON consulting actuaries to determine the present value of the long service leave obligations for a group of 6 staff who retain the entitlement as a "grandfather" provision. These figures are based on the 2013/14 revaluation. 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	3.42%	3.00%
2	3.93%	3.00%
3	4.11%	3.00%
4	4.25%	3.00%
5	4.41%	3.00%
6	4.59%	3.00%
7	4.76%	3.00%
8	4.86%	3.00%
9	4.91%	3.00%
10+	4.95%	3.00%

- The discount rate is based on NZ government stock yields at 31 March 2014.
- A long term annual rate of salary growth of 3.0% per annum has been assumed. This is consistent with the results of the latest AON Economists' Survey
- A promotional salary scale that depends on age and is derived from the experience of New Zealand superannuation schemes has been applied.

The accompanying notes form part of these financial statements

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



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

13. Equity (Taxpayers' funds)

30/06/14 Actual \$(000)		30/06/15 Actual \$(000)	30/06/16 Unaudited Forecast * IPSAS \$(000)
General Funds			
329	Balance at 1 July	329	1,816
189	Net operating surplus	-	-
-	Capital injections	1,487	260
(189)	Provision for repayment of surplus to the Crown	-	-
329	Total Equity at 30 June	1,816	2,076

14. Reconciliation of net surplus to net cash flow from operating activities for the year ended 30 June 2015

30/06/14 Actual \$(000)		30/06/15 Actual \$(000)	30/06/15 Main Estimates \$(000)	30/06/15 Supp. Estimates \$(000)	30/06/16 Unaudited Forecast * IPSAS \$(000)
189	Net surplus/(deficit)	=	=	=	=
	<i>Add/(less) non-cash items</i>				
-	Write off of assets	3	-	-	-
144	Depreciation and amortisation expense	207	354	354	518
333	Total non-cash items	210	354	354	518
	<i>Add/(less) movements in working capital items</i>				
24	(Inc)/dec prepayments	5	-	-	-
4	(Inc)/dec debtors	(110)	-	10	-
21	Inc/(dec) creditors and payables	192	-	(247)	-
113	Inc/(dec) employee entitlements	(185)	-	(197)	-
88	Inc/(dec) short term liabilities	74	-	-	-
-	Inc/(dec) long term liabilities	(41)			
(34)	Inc/(dec) GST	(197)	=	5	=
216	Net movement in working capital items	(262)	=	(429)	=
549	Net cash flows from operating activities	(52)	354	(75)	518

The accompanying notes form part of these financial statements

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

15. 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.



2015	6 months or less \$(000)	6-12 months \$(000)	1-5 years \$(000)	more than 5 years \$(000)	Total \$(000)
Creditors and other payables	573	-	-	-	573
Return of operating surplus to Crown	-	-	-	-	-
Employee entitlements	445	-	19	-	464

2014	6 months or less \$(000)	6-12 months \$(000)	1-5 years \$(000)	more than 5 years \$(000)	Total \$(000)
Creditors and other payables	511	-	-	-	511
Return of operating surplus to Crown	189	-	-	-	189
Employee entitlements	622	-	19	-	641

Categories of financial instruments

Actual 2014 \$(000)		Actual 2015 \$(000)
	Loans and receivables	
1,310	Cash and cash equivalents	1,857
29	Debtors and other receivables (note 7)	133
1,339	Total	1,990
	Financial liabilities measured at amortised cost	
511	Creditors and other payables (note 10)	573
641	Employee entitlements (note 12)	464
1,152	Total	1,037

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

16. 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.

17. 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.

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

Key management personnel compensation

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

Actual 2014 \$(000)		Actual 2015 \$(000)
	Leadership Team, including the Chief Ombudsman	
1,090	Remuneration and other benefits	1,127
4	Full-time equivalent staff	4

18. 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 2015.

19. Significant variances from forecast financial performance

The only significant variance from budgeted financial performance is the cash figure. In the new financial year the Office will purchase the remaining assets for which funding has been given. There is relatively no variance in the purchase of fixed assets to budgets as we have accounted for the non-cash acquisitions.

Appropriation statements

The following statements report information about the expenses and capital expenditure incurred against each appropriation administered by the Office for the year ended 30 June 2015.



Statement of expenses and capital expenditure against appropriations for the year ended 30 June 2015

30/06/14 Actual \$(000)		30/6/15 Actual \$(000)	30/6/15 Main Estimates \$(000)	30/6/15 Supp. Estimates \$(000)	30/06/16 Unaudited Forecast* IPSAS \$(000)
	Vote Ombudsmen Appropriation for output expenses				
9,106	Investigation and resolution of complaints about government administration	9,868*	9,703	9,907	11,237
673	Remuneration of Ombudsmen (Permanent Legislative Authority)	684*	665	684	690
9,779	Sub total	10,552	10,368	10,591	11,927
98	Office of the Ombudsmen appropriation for capital expenditure (Permanent Legislative Authority)	699*	1,687	1,687	460
9,877	Total	11,251	12,055	12,278	12,387

* Performance is reported in the statement of objectives and service performance pages 74-77.

Statement of expenses and capital expenditure incurred without, or in excess of, appropriation or authority for the year ended 30 June 2015

There was no unappropriated expenditure for 2014/15 (2013/14 Nil).

Statement of the Office's capital injections for the year ended 30 June 2015

30/06/14 Actual \$(000)		30/06/15 Actual \$(000)	30/06/15 Main Estimates \$(000)	30/06/16 Unaudited Forecast* IPSAS \$(000)
	Office of the Ombudsmen appropriation for capital expenditure (Permanent Legislative Authority)	1,487	1,487	260

Statement of the Office's capital injections without, in excess of, authority for the year ended 30 June 2015

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

The accompanying notes form part of these financial statements

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



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Part 7 Analysis, statistics & directory

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The throughput of complaints, other contacts and monitoring activities

Matters received and under consideration for reported year and previous 4 years

	2010/11	2011/12	2012/13	2013/14	2014/15
On hand as at 1 July	1,720	1,359	1,746	2,072	1,602
Adjustment ⁶⁴	10	1	-	9	-2
Received during the year	<u>8,706</u>	<u>10,636</u>	<u>13,684</u>	<u>11,044</u>	<u>12,151</u>
Total under consideration	10,436	11,996	15,430	13,116	13,753
Completed during the year	<u>(9,077)</u>	<u>(10,250)</u>	<u>(13,358)</u>	<u>(11,505)</u>	<u>(11,964)</u>
On hand at 30 June	<u>1,359</u>	<u>1,746</u>	<u>2,072</u>	<u>1,602</u>	<u>1,787</u>

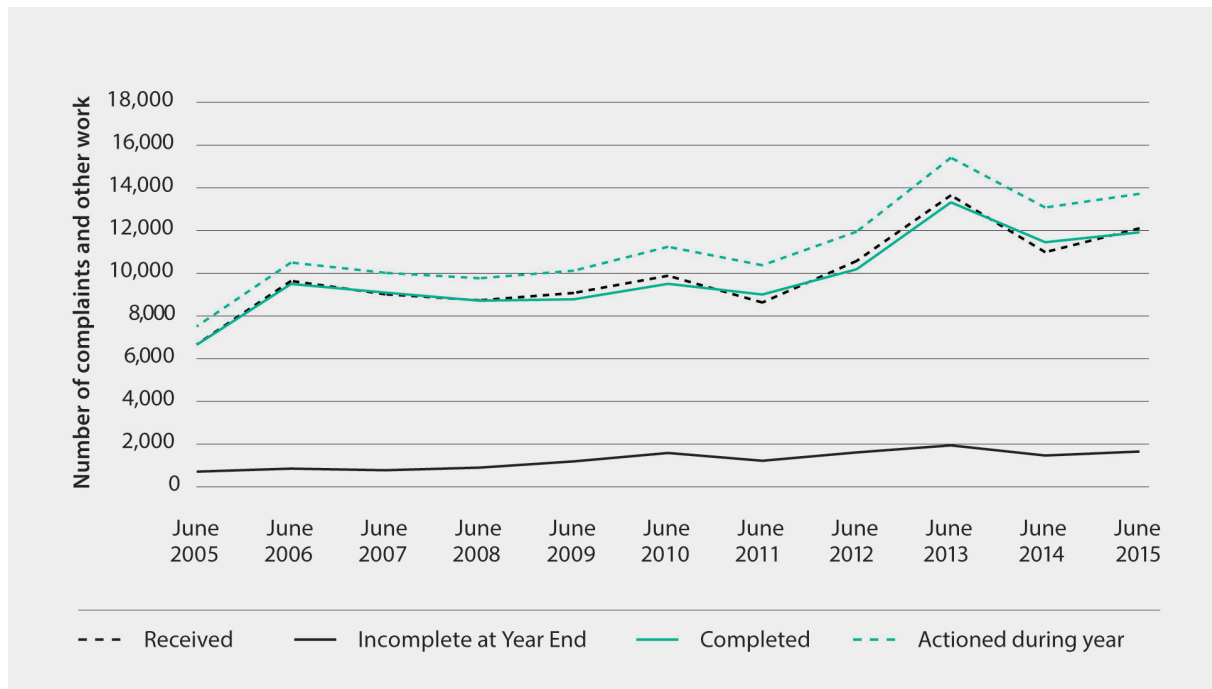


Figure 2: Overall throughput of work over the past 10 years

⁶⁴ Adjustments are changes made to reported statistics post completion of a reporting year..

Breakdown of matters received and under consideration for reported year and previous 4 years

	2010/11	2011/12	2012/13	2013/14	2014/15
On hand at 1 July					
Ombudsmen Act	983	727	821	690	649
Official Information Act	550	504	667	1,131	708
Local Government Official Information and Meetings Act	101	86	136	162	174
Protected Disclosures Act	1	2	5	2	7
Monitoring Death in Custody investigations	-	15	9	7	8
Other Contacts	50	11	100	75	51
Other work	45	14	8	7	3
Total	1,730	1,360	1,746	2,074	1,600
Received during the year					
Ombudsmen Act	6,163	2,459 ⁶⁵	2,745	2,478	2,304
Official Information Act	992	1,236	2,374	1,207	1,090
Local Government Official Information and Meetings Act	256	268	271	246	240
Protected Disclosures Act	7	9	7	14	14
Monitoring Death in Custody investigations	22	12	11	14	18
Other Contacts	955	6,491	8,263	7,081	8,480
Other work	311	161	13	4	5
Total	8,706	10,636	13,684	11,044	12,151
Disposed of during the year					
Ombudsmen Act	6,411	2,383	2,878	2,510	2,226
Official Information Act	1,038	1,076	1,913	1,623	960
Local Government Official Information and Meetings Act	271	217	245	233	253
Protected Disclosures Act	6	6	11	7	16
Monitoring Death in Custody investigations	7	18	13	13	10
Other Contacts	999	6,401	8,283	7,112	8,497
Other work	345	149	15	7	2
Total	9,077	10,250	13,358	11,505	11,964

⁶⁵ The apparent reduction in the number of Ombudsmen Act complaints received and completed in the 2011/12 reporting year onwards results from a change in recording practice. Previously Ombudsmen Act complaints and other contacts were aggregated.



On hand at 30 June					
Ombudsmen Act	735	803	687	647	727
Official Information Act	504	664	1,129	712	838
Local Government Official Information and Meetings Act	86	137	162	174	161
Protected Disclosures Act	2	5	1	8	5
Monitoring Death in Custody investigations	15	9	7	8	16
Other Contacts	6	101	80	50	34
Other work	<u>11</u>	<u>27</u>	<u>6</u>	<u>3</u>	6
Total	<u>1,359</u>	<u>1,746</u>	<u>2,072</u>	<u>1,602</u>	1,787

Contact type - who matters were received from

Contact type	2013/14	2014/15
General public – individuals	6,785	7,276
Prisoners and prisoner advocates	3,417	4,085
Media	281	286
Companies, associations and incorporated societies	233	230
Departments, government organisations and local authorities	118	173
Political party research units	96	28
Members of Parliament	74	25
Special interest groups	18	10
Researchers	9	5
Ministers	4	3
Trade unions	2	5
Other	7	25
Total	<u>11,044</u>	12,151

Age profile of open and closed complaints and other contacts

Age profile – all complaints and other contacts closed in 2014/15

	Year ended			
	30/06/12	30/06/13	30/06/14	30/06/15
Aged 6 months or less from date of receipt	92%	93%	88%	92% ⁶⁶
Aged between 7 and 12 months from date of receipt	5%	3%	5%	4%
Aged more than 12 months from date of receipt	3%	3%	7%	4%

Age profile – all complaints and other contacts remaining open at 30 June 2015

	Year ended			
	30/06/12	30/06/13	30/06/14	30/06/15
Aged 6 months or less from date of receipt	62%	38%	51%	47%
Aged between 7 and 12 months from date of receipt	17%	36%	18%	30%
Aged more than 12 months from date of receipt	21%	26%	31%	23%

Detailed analysis of complaints and other contacts

Ombudsmen Act (OA)

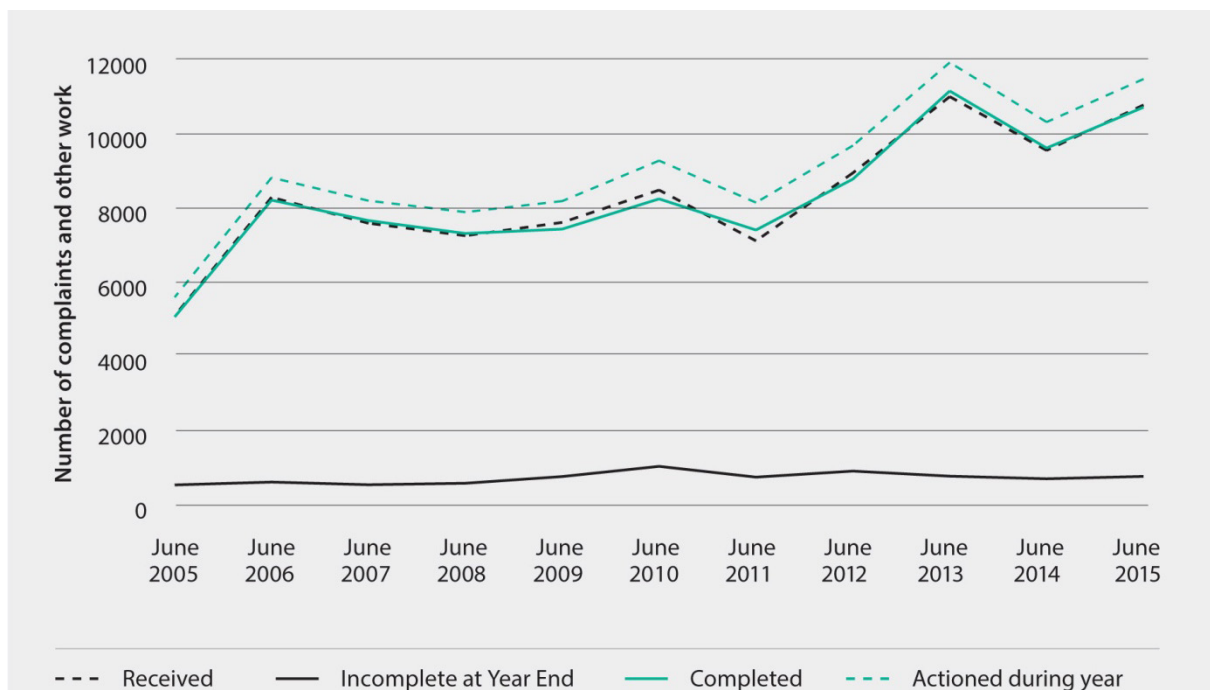


Figure 3: OA complaints and other contacts received and actioned over the past 10 years

⁶⁶ Achievement against timeliness performance measures for 2013/14 is detailed above, in Part 6.



OA complaints received from	2013/14	2014/15
General public – individuals	1,915	1,862
Prisoners and prisoner advocates	483	342
Companies, associations and incorporated societies	48	66
Media	22	13
Departments, government organisations and local authorities	4	3
Political party research units	2	2
Special interest groups	1	1
Trade unions	2	1
Other	1	14
Total	2,478	2,304

OA complaints received against	2013/14	2014/15
Government departments	1,166	1,073
Local authorities (all)	324	288
<i>District Councils</i>	133	131
<i>City Councils</i>	75	113
<i>Council controlled organisations</i>	26	23
<i>Regional Councils</i>	12	21
Other organisations state sector (all)	719	730
<i>Boards of Trustees (schools)</i>	56	48
<i>District Health Boards</i>	52	33
<i>Universities</i>	17	30
<i>Polytechnics</i>	11	30
Ministers	20	17
Not specified	249	196
Total	2,478	2,304

OA complaints received - greater than or equal to 15 complaints ⁶⁷	2013/14	2014/15
Government departments		
Department of Corrections	492	368
Ministry of Business, Innovation and Employment	219	237⁶⁸
Ministry of Social Development	149	174⁶⁹
Inland Revenue Department	140	124⁷⁰
Ministry of Justice ⁷¹	29	27
Ministry of Education	16	21
Department of Internal Affairs	10	17
Local authorities		
Auckland Council	70	44
Auckland Transport	19	18
Wellington City Council	17	15
Other organisations state sector		
Earthquake Commission	233	188⁷²
Accident Compensation Corporation	82	80
New Zealand Police	58	63
New Zealand Transport Agency	34	39
Health and Disability Commissioner	36	36
Housing New Zealand Corporation	27	28
Privacy Commissioner	16	25
New Zealand Post Limited	19	23

⁶⁷ Totals are not included in some tables, where they are not relevant.

⁶⁸ Includes 222 complaints concerning Immigration New Zealand.

⁶⁹ Includes 76 Work and Income, 59 Child, Youth and Family and 9 StudyLink matters.

⁷⁰ Includes 40 child support, 6 family support and 24 student loan matters.

⁷¹ Not including courts and tribunals.

⁷² A further 266 other contacts were received concerning the Earthquake Commission



How OA complaints were dealt with	2013/14	2014/15
Outside jurisdiction		
• agency not listed in schedule	280	214
• scheduled agency otherwise outside jurisdiction	<u>86</u>	68
<i>Subtotal</i>	366	282
Referred		
• referred to Health and Disability Commissioner	17	19
• referred to Independent Police Conduct Authority	23	50
• referred to Inspector-General of Intelligence and Security	1	-
• referred to Privacy Commissioner	<u>12</u>	25
<i>Subtotal</i>	53	94
No investigation undertaken		
• withdrawn by complainant or no response from complainant	180	147
• right of appeal to Court or Tribunal	119	107
• adequate alternative remedy – complain to agency first	695	722
• adequate alternative remedy – complaint referred to agency by Ombudsman	24	16
• adequate alternative remedy – recourse to other agency	52	44
• out of time	7	2
• frivolous, vexatious or not in good faith	3	1
• insufficient personal interest	19	6
• explanation, advice or assistance provided	<u>590</u>	503
<i>Subtotal</i>	1,689	1,548
Resolved without investigation		
• remedial action to benefit complainant	93	79
• remedial action to improve state sector administration	-	1
• remedial action to benefit complainant and improve state sector administration	24	-
• provision of advice/explanation by agency or Ombudsman which satisfies complainant	<u>9</u>	6
<i>Subtotal</i>	126	86
Investigation discontinued		
• withdrawn by complainant or no response from complainant	23	17
• further investigation unnecessary	60	39
• agency to review	<u>2</u>	2
<i>Subtotal</i>	85	58

Report of the Ombudsman
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How OA complaints were dealt with	2013/14	2014/15
Resolved during investigation		
• remedial action to benefit complainant	55	45
• remedial action to improve state sector administration	2	2
• remedial action to benefit complainant and improve state sector administration	2	3
• provision of advice/explanation by agency or Ombudsman which satisfies complainant	<u>6</u>	<u>1</u>
<i>Subtotal</i>	65	51
Investigation finalised (final opinion formed)		
• administrative deficiency identified – recommendation/s	11	11
• administrative deficiency identified – no recommendation	23	12
• no administrative deficiency identified	91	82
• issues cannot be determined	<u>1</u>	<u>1</u>
<i>Subtotal</i>	126	106
Administration - adjustment	-	1
Under consideration at 30 June	<u>647</u>	<u>727</u>
Total	<u>3,157</u>	<u>2,953</u>

Nature of deficiency identified where final opinion formed on OA complaints		2013/14	2014/15
Administrative deficiency in an individual case	Procedural deficiency	10	6
	Unreasonable, unjust, oppressive or discriminatory act, omission or decision	8	6
	Inadequate advice, explanation or reasons	5	4
	Wrong act or decision	1	2
	Unreasonable delay	5	1
	Legal error	4	1
	Factual error or mistake	2	-
Administrative deficiency in the agency or system of government	Flawed agency processes or systems	5	4
	Legislation: unreasonable or harsh impact	-	1
	Inadequate knowledge/training of agency staff	-	1
	Government or agency policy: unreasonable or harsh impact	1	-



Nature of remedy obtained for OA complaints		2013/14	2014/15
Individual benefit	Decision changed	54	48
	Omission rectified	32	34
	Decision to be reconsidered	71	29
	Reasons/explanation given	28	14
	Financial remedy	18	11
	Apology	15	8
Public administration benefit	Law/policy/practice/procedure to be reviewed	5	5
	Change in practice/procedure	30	3
	Provision of guidance or training to staff	14	3
	Change in law/policy	2	1
	Provision of additional resources	1	1

Official Information Act (OIA)

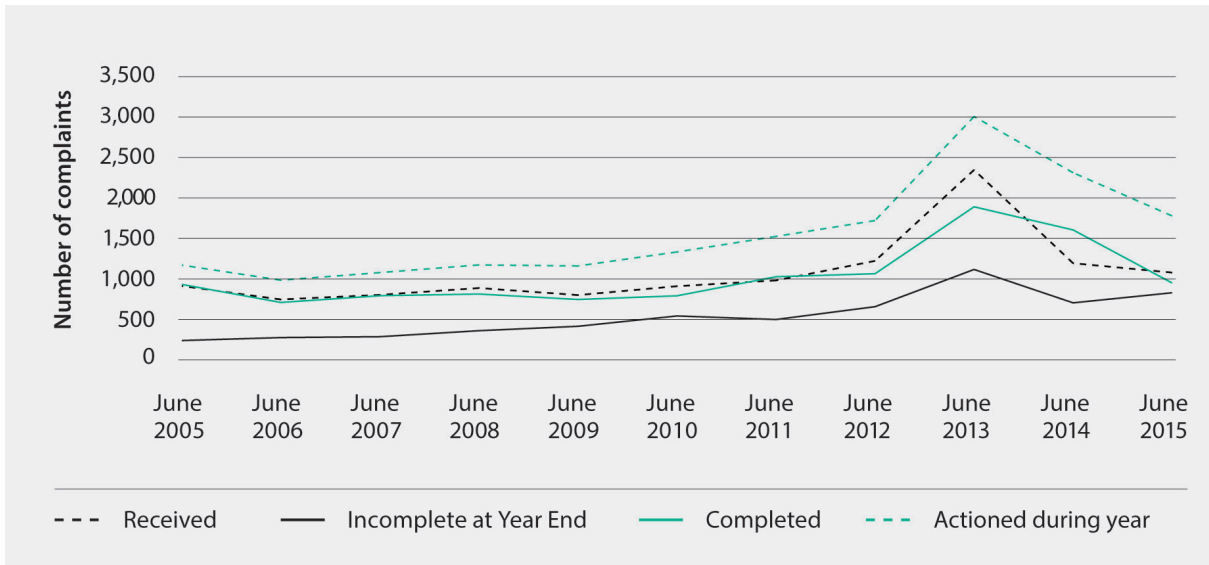


Figure 4: OIA complaints received and actioned over the past 10 years

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Nature of OIA complaints made	2013/14	2014/15
Refusal - general information request	709	643
Delay in making decision	382	235
Extension	47	64
Incomplete or inadequate response	39	59
Delay in releasing information	10	11
Charge	15	9
Refusal - personal information about body corporate	-	8
Manner or form of release	1	5
Refusal - statement of reasons	2	3
Refusal - internal rules and guidelines	-	3
Neither confirm nor deny existence of information	-	2
Decision not made as soon as reasonably practicable	-	1
Other	2	47
Total	1,207	1,090

OIA complaints received from	2013/14	2014/15
General public – individuals	669	697
Media	192	193
Companies, associations and incorporated societies	123	91
Political party research units	86	24
Prisoners and prisoner advocates	68	60
Members of Parliament	59	18
Researchers	5	-
Special interest groups	3	3
Departments, government organisations and local authorities	2	1
Trade unions	-	2
Other	-	1
Total	1,207	1,090

OIA complaints received against	2013/14	2014/15
Other organisations state sector (all)	521	491
<i>District Health Boards</i>	67	61
<i>Boards of Trustees (schools)</i>	25	26
<i>Universities</i>	20	35
Government departments	496	452
Ministers	175	130
Agencies not subject to jurisdiction	1	7
Not specified	14	10
Total	1,207	1,090



OIA complaints received - greater than or equal to 15 complaints	2013/14	2014/15
Government departments		
Department of Corrections	64	77
Ministry of Social Development	110	65
Ministry of Business, Innovation and Employment	56	57
Ministry of Justice	41	35
Ministry of Education	26	32
Ministry for Primary Industries	24	30
Ministry of Foreign Affairs and Trade	20	28
Department of the Prime Minister and Cabinet	8	19
Inland Revenue Department	15	16
Ministry of Health	28	15
Other organisations state sector		
New Zealand Police	134	178
Accident Compensation Corporation	17	23
Earthquake Commission	93	20
Housing New Zealand Corporation	16	18
Ministers of the Crown		
Prime Minister	13	25

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How OIA complaints were dealt with	2013/14	2014/15
Outside jurisdiction		
• agency not listed in schedule	25	15
• scheduled agency otherwise outside jurisdiction	<u>27</u>	59
<i>Subtotal</i>	52	74
Referred		
• referred to Independent Police Conduct Authority	1	-
• referred to Privacy Commissioner	<u>77</u>	74
<i>Subtotal</i>	78	74
No investigation undertaken		
• withdrawn by complainant or no response from complainant	302	182
• right of appeal to Court or Tribunal	-	1
• adequate alternative remedy – complain to agency first	6	6
• adequate alternative remedy – complaint referred to agency by Ombudsman	1	-
• adequate alternative remedy – recourse to other agency	3	2
• out of time	2	-
• frivolous, vexatious or not in good faith	6	-
• insufficient personal interest	2	-
• explanation, advice or assistance provided	<u>171</u>	103
<i>Subtotal</i>	493	294
Resolved without investigation		
• remedial action to benefit complainant	298	61
• remedial action to benefit complainant and improve state sector administration	2	-
• provision of advice/explanation by agency or Ombudsman which satisfies complainant	<u>132</u>	18
<i>Subtotal</i>	432	79
Investigation discontinued		
• withdrawn by complainant or no response from complainant	94	47
• further investigation unnecessary	61	47
• agency to review	<u>4</u>	2
<i>Subtotal</i>	159	96



How OIA complaints were dealt with	2013/14	2014/15
Resolved during investigation		
• remedial action to benefit complainant	127	132
• remedial action to improve state sector administration	9	-
• remedial action to benefit complainant and improve state sector administration	1	-
• provision of advice/explanation by agency or Ombudsman which satisfies complainant	<u>16</u>	8
<i>Subtotal</i>	153	140
Investigation finalised (final opinion formed)		
• administrative deficiency identified - recommendation/s	11	5
• administrative deficiency identified - no recommendation	144	76
• no administrative deficiency identified	<u>101</u>	122
<i>Subtotal</i>	256	203
Under consideration at 30 June	713	838
Total	<u>2,336</u>	1,798

Nature of deficiency identified where final opinion formed on OIA complaints		2013/14	2014/15
Administrative deficiency in an individual case	Delay deemed refusal	116	52
	Refusal not justified – in part	20	21
	Refusal not justified – in whole	11	8
	Unreasonable extension	1	1
	Procedural deficiency	4	-
	Factual error or mistake	1	-
	Resource deficiency in agency	1	-
	Wrong action or decision	1	-

Nature of remedy obtained for OIA complaints		2013/14	2014/15
Individual benefit	Decision changed	155	161
	Reasons/explanation given	165	41
	Omission rectified	276	28
	Decision to be reconsidered	12	6
	Apology	3	4
Public administration benefit	Provision of guidance or training to staff	9	-
	Change in practice/procedure	7	-
	Law/policy/practice/procedure to be reviewed	7	-
	Provision of additional resources	7	-
	Change in law/policy	5	-

Local Government Official Information and Meetings Act (LGOIMA)

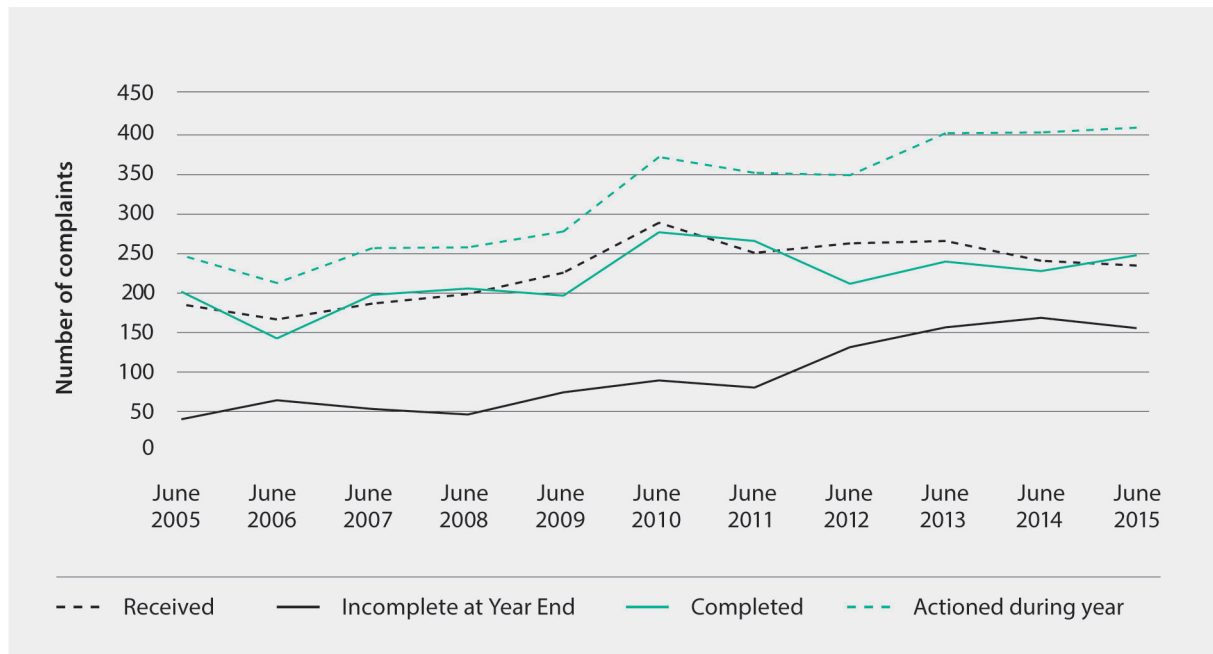


Figure 5: LGOIMA complaints received and actioned over the past 10 years



Nature of LGOIMA complaints made	2013/14	2014/15
Refusal - general information request	161	129
Delay in making decision	56	64
Incomplete or inadequate response	13	17
Charge	14	15
Extension	2	5
Refusal - personal information about body corporate	-	1
Delay in releasing information	-	1
Decision not made as soon as reasonably practicable	-	1
Other	-	7
Total	<u>246</u>	<u>240</u>

LGOIMA complaints received from	2013/14	2014/15
General public – individuals	185	196
Companies, associations and incorporated societies	31	23
Media	26	19
Members of Parliament	3	-
Special interest groups	1	1
Prisoners and prisoner advocates	-	1
Total	<u>246</u>	<u>240</u>

LGOIMA complaints received against	2013/14	2014/15
District Councils	69	76
City Councils	66	65
Auckland Council	61	54
Regional Councils	27	26
Council controlled organisations	19	19
Other	4	-
Total	<u>246</u>	<u>240</u>

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How LGOIMA complaints were dealt with	2013/14	2014/15
Outside jurisdiction		
• agency not listed in schedule	2	-
• scheduled agency otherwise outside jurisdiction	<u>4</u>	11
<i>Subtotal</i>	6	11
Referred		
• referred to Privacy Commissioner	5	7
No investigation undertaken		
• withdrawn by complainant or no response from complainant	55	39
• right of appeal to Court or Tribunal	1	-
• adequate alternative remedy – complain to agency first	4	3
• adequate alternative remedy - complaint referred to agency by Ombudsman	-	1
• frivolous, vexatious or not in good faith	3	1
• insufficient personal interest	-	1
• explanation, advice or assistance provided	<u>32</u>	30
<i>Subtotal</i>	95	75
Resolved without investigation		
• remedial action to benefit complainant	19	24
• provision of advice/explanation by agency or Ombudsman which satisfies complainant	<u>4</u>	4
<i>Subtotal</i>	23	28
Investigation discontinued		
• withdrawn by complainant or no response from complainant	16	25
• further investigation unnecessary	<u>2</u>	7
• agency to review	-	2
<i>Subtotal</i>	18	34
Resolved during investigation		
• remedial action to benefit complainant	29	52
• remedial action to benefit complainant and improve state sector administration	1	-
• provision of advice/explanation by agency or Ombudsman which satisfies complainant	<u>6</u>	2
<i>Subtotal</i>	36	54
Investigation finalised (final opinion formed)		
• administrative deficiency identified – recommendation/s	3	-
• administrative deficiency identified – no recommendation	27	17
• no administrative deficiency identified	<u>20</u>	27
<i>Subtotal</i>	50	44
Under consideration at 30 June	<u>175</u>	161
Total	408	414



Nature of deficiency identified where final opinion formed on LGOIMA complaints		2013/14	2014/15
Administrative deficiency in an individual case	Delay deemed refusal	25	11
	Refusal not justified – in part	2	4
	Legal error	-	1
	Undue delay in releasing information	-	1
	Unreasonable extension	-	1
	Refusal not justified – in whole	2	-
	Unreasonable charge	1	-

Nature of remedy obtained for LGOIMA complaints		2013/14	2014/15
Individual benefit	Decision changed	40	67
	Omission rectified	13	10
	Reasons/explanation given	8	4
	Decision to be reconsidered	3	2
	Apology	2	-
	Financial remedy	-	1
Public administration benefit	Change in law/policy	1	-

Other contacts

Other contacts received about	2013/14	2014/15
Ombudsmen Act matters	6,032	7,216
Official Information Act matters	518	542
Copy correspondence, material sent for information only	142	173
Agency requests for advice	103	167
Requests for information held by the Ombudsman	16	115
Local Government Official Information and Meetings Act matters	55	71
Protected Disclosures Act matters	31	43
Crimes of Torture Act matters	3	1
Other	181	152
Total	<u>7,081</u>	8,480

Other contacts received from	2013/14	2014/15
General public – individuals	4,001	4,508
Prisoners and prisoner advocates	2,856	3,661
Departments, government organisations and local authorities	112	169
Media	41	61
Companies, associations and incorporated societies	29	49
Special interest groups	13	5
Members of Parliament	12	7
Political party research units	8	2
Trade unions	-	2
Ministers	4	3
Researchers	4	5
Other	1	8
Total	<u>7,081</u>	8,480

Other contacts concerned	2013/14	2014/15
Department of Corrections	3,018	3,832
Other organisations (state sector)	1,259	1,292
Other government departments	1,075	1,096
Agencies not subject to jurisdiction	719	920
Local authorities	413	459
Ministers	32	40
Not specified	<u>565</u>	841
Total	<u>7,081</u>	8,480



How other contacts were dealt with	2013/14	2014/15
No response required (including copy correspondence, FYI)	528	573
Individual advised to complain in writing/send relevant papers	742	791
Complain to agency first	2,097	2,678
Matter referred to agency by Ombudsman	329	550
Complain to other agency – Privacy Commissioner	92	104
Complain to other agency – Health and Disability Commissioner	147	158
Complain to other agency – Independent Police Conduct Authority	112	115
Complain to other agency – other	417	408
Explanation, advice or assistance provided	2,566	3,038
Resolved – remedial action to benefit individual	22	20
Resolved – remedial action to improve state sector administration	1	-
Resolved – remedial action to benefit individual and improve state sector administration	-	1
Resolved – provision of advice/explanation which satisfies individual	22	8
Withdrawn	13	15
Protected disclosures enquiry	24	38
Under consideration at 30 June	<u>49</u>	<u>35</u>
Total	<u>7,161</u>	<u>8,531</u>

Nature of remedy obtained for other contacts		2013/14	2014/15
Individual benefit	Omission rectified	11	9
	Decision changed	6	6
	Reasons/explanation given	4	5
	Apology	2	2
	Financial remedy	1	-
	Decision to be reconsidered	-	-
Public administration benefit	Change in practice/procedure	2	-
	Provision of guidance or training to staff	1	-
	Law/policy/practice/procedure to be reviewed	-	1

Geographical distribution of complaints and other contacts received in year to 30 June 2015

	Other contacts	OA	OIA	LGOIMA	Other work	All	All Last Year
Auckland	1,165	583	304	69	6	2,127	1,982
Bay of Plenty	72	65	18	20	1	176	212
Northland	151	66	25	9	3	254	293
Waikato	489	182	79	9	4	763	724
Taranaki	45	30	9	2	2	88	89
Hawke's Bay	162	56	21	4	2	245	250
Manawatu/Whanganui	166	125	30	13	3	337	366
Wairarapa	12	23	4	3	0	42	40
East Cape	11	16	7	1	0	35	29
Wellington	632	281	276	31	7	1,227	1,310
Total North Island	2,905	1,427	773	161	28	5,294	5,295
Nelson/Marlborough	60	67	16	10	0	153	142
Dunedin	34	24	17	14	0	89	100
Otago	142	66	23	7	0	238	203
Southland	73	26	4	8	1	112	104
Canterbury	178	76	30	5	1	290	271
Christchurch	404	296	144	24	1	869	1,077
Westland	19	25	11	8	0	63	68
Chatham Islands	4	0	0	0	0	4	1
Total South Island	914	580	245	76	3	1,818	1,966
Location not known	4,550	370	99	12	6	5,037	3,688
Overseas	137	132	10	2	0	281	259
Total	8,506	2,509	1,127	251	37	12,430⁷³	11,208

⁷³ 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

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

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