

Office of the Ombudsman – Annual Report 2018/19



Annual Report 2018/19

Mr Speaker

I submit to you my report for the year
1 July 2018 to 30 June 2019.

Peter Boshier
Chief Ombudsman

2018/19
Report of the Ombudsman
Tari o te Kaitiaki Mana Tangata
for the year ended 30 June 2019

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

Directory

Legal authorities for establishing the Office of the Ombudsman

The Ombudsman is appointed pursuant to sections 8 and 13 of the Ombudsmen Act 1975, and reports annually to Parliament pursuant to this Act and the Public Finance Act 1989. The Ombudsman is an Officer of Parliament pursuant to section 3 of the Ombudsmen Act 1975, and the Public Finance Act 1989.

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PART 1

Introduction



Peter Boshier
Chief Ombudsman

It was a busy year. A very busy year.

Using almost all measures, the level of our work increased, yet our results were, overall, very pleasing.

The provision of advice to public sector agencies rose 29 percent, and the Office published 23 new or updated pieces of guidance material. These are important metrics as a key part of my role is to improve the capability of agencies, which in turn lifts the performance of the whole public sector. The aim is to give the people of Aotearoa/New Zealand more confidence in government, a greater sense that information is freely available, and that they are being treated fairly.

I also concluded nine official information practice investigations into six central government agencies and three local government agencies, another key method of improving public sector performance.

The achievements of the past year are a credit to all my colleagues in the Office of the Ombudsman. I am immensely grateful for their efforts, professionalism, dedication, and hard work.

My Office operates in an environment where both domestic and international stakeholders have high expectations, and there is a significant demand for our services.

Traditionally, my activities are a balance between a reactive focus on resolving complaints from the public, and a proactive focus on identifying, resolving and investigating systemic issues, monitoring compliance and good practice, and providing advice, guidance and training.

Now my mandate is broadening to include three new initiatives.

Each is an extension of my existing work overseeing the administrative actions of all state agencies.

In June 2018, I was tasked with monitoring the treatment of patients in privately-run aged care facilities and detainees in court cells.

In April this year, I was given an enhanced role in relation to Oranga Tamariki—Ministry for Children. This will involve overseeing complaints and investigations relating to Oranga Tamariki and children and young people in state custody. I also launched a separate wide-ranging and independent investigation into the steps Oranga Tamariki takes when newborn babies are removed from their parents or caregivers.

I was delighted that Parliament saw fit to increase my funding so I can develop a flexible and responsive four-year Asia-Pacific Ombudsman institutional support programme. My Office has a long history of supporting the development of international Ombudsman institutions, and is committed to not only learning from, but also supporting other nations' integrity organisations, especially in the Pacific.

I believe my Office has received these new responsibilities because of its reputation established since the first Ombudsman took office in this country 56 years ago. A reputation based on conducting high quality, independent and fair minded investigations.

My Office will be expanding both in numbers and in expertise to meet these new challenges.

I wish to make other improvements over the next 12 months and beyond.

The Office of the Ombudsman is known in Te Reo as Tari o te Kaitiaki Mana Tangata. We are responsible for the kaitiakitanga or guardianship of all New Zealanders.

A top priority for me is to improve our relationship with tangata whenua. Our research shows Māori awareness of my office is unacceptably low. Therefore, a key focus in the next year will be increasing our engagement with Māori.

I will also be working to improve awareness of the Protected Disclosures Act. The Ombudsman is one of the authorities where people can report concerns about serious wrongdoing in public and private organisations. In the past year I commissioned a national survey, which showed just nine percent of respondents were aware of the legislation.

Mechanisms to expose and investigate serious wrongdoing can only be effective when people feel confident about using them. If they are unaware of the protections available, or do not know how to raise concerns through the right channels, incidents of serious wrongdoing could go undetected. Trust in our democratic institutions can only be improved by bringing such incidents to light and independently investigating them.

Lastly, I have an active role in the rights of the disabled and we aim to ensure those rights are at the heart of our work and culture. My work alongside our partners over the past year has included creating a guide for people to making complaints to the United Nations.

An ongoing question during the year was whether or not legislation such as the Official Information Act needed changing. The Act was passed in 1982, and while largely fit for purpose, I believe improvements could be made. There have been huge social and technological changes in the past 36 years and any law ought to reflect these developments.

Crucially, we need to address the problem with how the Act is perceived as working, and consequently, with its credibility. In my submission to

the Ministry of Justice on this issue, I noted a number of areas that could be reviewed to close loopholes, provide certainty or clarification, tighten up reporting, and ensure the integrity of the legislation is maintained and enhanced.

In this report, you will see what my Office has achieved already, and get a sense of where it is heading. If the coming year mirrors that just past, we are in for a busy and interesting time.

The institution of Ombudsman is an essential part of New Zealand's constitutional and democratic framework, and I am grateful for Parliament's continued support for the important work I do.

Peter Boshier
Chief Ombudsman

I believe my Office has received these new responsibilities because of its reputation established since the first Ombudsman took office in this country 56 years ago. A reputation based on conducting high quality, independent and fair minded investigations.

PART 2

2018/19 at a glance



Inform the public to enable them to take constructive action to realise their rights

- Hosted 89,162 visitors to our website, an 11 percent increase on last year.
- Gave 22 external speeches and presentations to the public.
- Increased public awareness of the Ombudsman (76 percent of respondents aware of the Ombudsman, up 8 percent from 2017/18).

Improve public sector capability to do its work and make decisions

- Provided advice on 440 occasions to public sector agencies, mainly in relation to the processing of official information requests and on legislative, policy and administrative proposals relevant to our jurisdiction. This represents a 29 percent increase from last year.

- Delivered 52 external speeches, presentations and training sessions to public sector agencies.
- Published 23 new or updated pieces of guidance material.
- Published two sets of data about the number of official information complaints received and completed by the Ombudsman between July–December 2018 and January–June 2019 (released 5 September 2019). The latter publication included, for the first time, Local Government Official Information and Meetings Act complaints data.

Formal consultation to assist public sector agencies to make specific decisions

- Advised the New Zealand Transport Agency on 15 applications for authorised access to personal information on the motor vehicle register.
- Advised the Cabinet Office on the annual release of information from the Ministerial conflicts of interest register.

Enable serious wrongdoing to be disclosed and investigated and whistleblowers to be protected

- Completed 90 requests and enquiries for advice and guidance, 25 percent more than last year.
- 96 percent of all requests and enquiries completed within three months.

Break down the barriers that prevent disabled people from participating equally in society

- Made a submission, via video conference, to the United Nations Disability Committee, which informed the Committee's ongoing communications with the New Zealand Government.
- Made a submission to the United Nations General Committee on Economic, Social and Cultural Rights for New Zealand's 4th Periodic Review under the Covenant on Economic, Social and Cultural Rights.
- Led the development of a new guide entitled *Making complaints to the United Nations Disability Committee: A Guide for New Zealanders*.

Improve the conditions and treatment of people in detention

- Visited 40 places of detention, including 22 formal inspections.
- 90 percent of visits to places of detention were unannounced.
- Made 288 recommendations for improvement, 266 of which were accepted or partially accepted.

Ensure official information is increasingly available and is not unlawfully refused

- Received 1,901 Official Information Act (OIA) complaints and 364 Local Government Official Information and Meetings Act (LGOIMA) complaints, 35 percent more than last year.¹
- Completed 1,859 OIA complaints and 339 LGOIMA complaints, 13 percent more than last year.²
- Net clearance rate of 98 percent for OIA complaints and 110 percent for LGOIMA complaints.
- Finished the year with 469 OIA complaints and 122 LGOIMA complaints on hand.
- Resolved 425 complaints, or 19 percent of all complaints completed.
- Investigated 797 complaints, and formed 360 final opinions.
- Identified administrative deficiency in 94 complaints, or 26 percent of all complaints where a final opinion was formed.
- Made 49 recommendations.³
- Obtained 1,064 remedies for the benefit of the individual concerned, an increase of 59 percent from last year.⁴

1 A significant proportion of the complaints received and completed in 2018/19 can be attributed to one party, who made 471 delay complaints against school boards of trustees.

2 See note 1.

3 Recommendations may not be necessary if an agency agrees to take remedial action.

4 See note 1; this increase is largely attributable to the 471 delay complaints made by one party against school boards of trustees, in which remedial action was taken to benefit the complainant.

- Obtained 17 remedies for the benefit of public administration.
- Concluded nine official information practice investigations into six central government agencies and three local government agencies.⁵

Identify flawed public sector decision making and processes and how to resolve them

- Received 2,413 Ombudsmen Act (OA) complaints and 5,109 other contacts concerning OA matters.
- Completed 2,355 OA complaints and 5,112 other contacts concerning OA matters.
- Net clearance rate of 98 percent for OA complaints.
- Finished the year with 363 OA complaints and other contacts on hand.
- Resolved 109 cases.⁶
- Provided advice and assistance in 1,605 cases.
- Formally investigated 117 complaints, and formed 64 final opinions.
- Identified administrative deficiency in 22 complaints, or 34 percent of all complaints where a final opinion was formed.
- Made 10 recommendations.⁷
- Obtained remedies for the benefit of the individual concerned in 128 cases.
- Obtained remedies for the benefit of public administration in 10 cases.
- Commenced three systemic improvement investigations into:
 - › The Ministry of Health's system of information collection, analysis, and reporting in relation to the deaths of people with intellectual disability

who live in secure, supervised, and community-level supported residential care, commenced October 2018.

- › The Ministry of Health's role in providing facilities and services for the care and rehabilitation of people with high and complex intellectual disability, commenced January 2019.
- › The practice of Oranga Tamariki relating to the without notice process of removal of newborn tamariki, commenced June 2019.
- Completed a systemic resolution project into the Ministry for Primary Industries' OIA process and practice (see case study).

Learn from, and assist to develop, international best practice

- Chief Ombudsman elected Regional President of the Australasian and Pacific Ombudsman Region (APOR) of the International Ombudsman Institute.
- Ran a training programme for the new Cook Islands Ombudsman and a work placement for a member of the Tongan Ombudsman's staff.
- Facilitated training workshops in Vanuatu for Ombudsman investigating officers, correctional services senior management and health inspectors.

5 Callaghan Innovation, Department of Conservation, Greater Wellington Regional Council, Horowhenua District Council, Land Information New Zealand, Ministry for Culture and Heritage, Ministry for the Environment, Tasman District Council and the Treasury. Two further investigations into Auckland Council and Far North District Council were concluded in August 2019. The investigation into Christchurch City Council will be completed in 2019.

6 'Cases' refers to OA complaints and other contacts concerning OA matters.

7 Recommendations may not be necessary if an agency agrees to take remedial action.

PART 3

Background



Nature and scope of the Ombudsman's functions

The Ombudsman is an Officer of Parliament and is appointed by the Governor-General on the recommendation of Parliament. I am responsible to Parliament and independent of the Government.

My purpose

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

My functions

My functions are to:

- improve public sector capability to do its work and make decisions;
- inform the public to enable them to take constructive action to realise their rights;
- undertake formal consultations to assist public sector agencies to make specific decisions;
- deal with requests for advice and guidance about alleged serious wrongdoing;⁸
- protect and monitor disability rights in New Zealand;⁹

⁸ Under the Protected Disclosures Act 2000.

⁹ The Ombudsman is part of the Independent Monitoring Mechanism protecting and monitoring implementation in New Zealand of the United Nations Convention on the Rights of Persons with Disabilities.

- monitor and inspect places of detention for cruel and inhumane treatment;¹⁰
- resolve, investigate and review complaints about decisions on requests for access to official information;¹¹
- monitor general compliance and good practice by public sector agencies in managing and responding to official information requests;¹²
- resolve and investigate complaints about public sector administration and decision making;¹³
- contribute to systemic improvement by identifying, resolving, and investigating concerns with public sector administration and decision making;¹⁴ and
- learn from, and assist to develop, international best practice.

My contribution

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

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

What is the public sector?

I have authority to investigate approximately 4,000 agencies in the public sector, including:

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

I also have the designation to inspect private sector facilities funded by and/or accountable to the public sector in the detention of aged care recipients.

10 The Ombudsman is a National Preventive Mechanism under the Crimes of Torture Act 1989. This Act fulfils New Zealand's responsibilities under the United Nations Optional Protocol to the Convention Against Torture.

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

12 Through investigation under the Ombudsmen Act 1975.

13 Under the Ombudsmen Act.

14 Under the Ombudsmen Act.

Outcomes and impacts sought by the Ombudsman

My strategic direction is guided by the functions assigned to me by Parliament. I oversee a range of key democratic and human rights measures aimed at safeguarding the rights of individuals and increasing transparency and accountability.

The overall outcome I contribute to is that people are treated fairly by those with executive power and there is a high level of public trust in government.

I aim to do this by helping to ensure:

- people’s rights are protected and restored;
- Parliament is assured that robust and independent oversight is taking place; and
- New Zealand contributes to regional stability and supports integrity institutions.

Ombudsman Outcomes Framework

My Outcomes Framework demonstrates the linkages between the services I deliver through my outputs and the outcomes and impacts I am seeking to achieve.



Impacts

The impacts I seek to achieve are:

- people are able to participate in government decision making;
- government is responsive, efficient, effective, and accountable;
- government actions, systems, processes, and legislation are open, fair, and reasonable;
- people in positions of power act with integrity;
- people are treated humanely and with dignity and respect by those in authority; and
- New Zealand is a leader in promoting anti-corruption and integrity.

There are two high-level measures of these impacts. These relate to the overall status of New Zealand society and the public sector, to which the Ombudsman is but one contributing factor.

My first impact measure is that the overall quality of public services improves over time. I measure this through the Kiwis Count Survey that is administered by the State Services Commission.¹⁵ My target is for the public services to achieve an overall quality score higher than 75 points. The quality score in December 2018 was 77 points. This is nine points higher than 2007 and an increase of one point over 2017.

My 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.¹⁶ My target is for New Zealand to be in the top three ranked countries over the next five years. In 2018, New Zealand ranked second, only surpassed by Denmark by one point.

Outputs

In order to achieve these impacts, as well as our overall outcome, I carry out work under nine output areas. These are set out below. Our achievements in these areas are detailed in Part 4 (with detailed statistics in Parts 6 and 7).

Inform the public to enable them to take constructive action to realise their rights

In order for people to participate in government decision making, and take action when they believe they have not been treated fairly, the public needs to be informed.

I provide information to help ensure that the public understand their rights and options, have reasonable expectations about what the public sector should provide, and have a reasonable understanding and expectation of what the Ombudsman can do.

Improve public sector capability to do its work and make decisions

I provide sound advice, effective training, and relevant resources for public sector agencies. I also promote good administrative practice, effective complaint handling, good decision making, and the principles of open and transparent government.

This support is provided with an aim to:

- lift public sector capability to improve administration, decision making, and complaint handling capability; and
- improve compliance with official information legislation, whistleblowing legislation, and international conventions, including those concerning the rights of disabled people and people in detention.

¹⁵ See <http://ssc.govt.nz/our-work/kiwis-count>.

¹⁶ The Index is an aggregate indicator that annually ranks 180 countries by their perceived levels of corruption in the public and political sectors. See <https://www.transparency.org>.

Formal consultation to assist public sector agencies to make specific decisions

Providing sound and timely input to public sector agencies as part of a formal consultation process provides the public and stakeholders with confidence that agencies are receiving a relevant, independent perspective when they are making decisions, improving practices, and reporting.

I ensure agencies and Parliament are aware that I can provide formal input where relevant and that appropriate frameworks are developed to provide input while remaining independent.

Enable serious wrongdoing to be disclosed and investigated and whistleblowers protected

Mechanisms to expose and investigate serious wrongdoing will only be effective when whistleblowers are protected and people have the confidence to expose serious wrongdoing. Ensuring that serious wrongdoing is brought to light and investigated by appropriate authorities will lead to greater transparency and accountability and will ultimately help to ensure public trust in government.

The Protected Disclosures Act 2000 aims to encourage people to report serious wrongdoing in their workplace (in the public or private sector) by providing protection for employees who want to 'blow the whistle'. My role under that Act includes raising general awareness, receiving disclosures, and providing advice and guidance regarding serious wrongdoing.

Break down the barriers that prevent disabled people from participating equally in society

The United Nations Convention on the Rights of Persons with Disabilities (the Disability Convention) exists to promote, protect, and ensure the full and equal enjoyment of all

human rights and fundamental freedoms by disabled people. Disabled people face barriers to participating equally in society.¹⁷ New Zealand can make disability rights real by breaking down these barriers.

The Ombudsman is part of New Zealand's Independent Monitoring Mechanism (IMM),¹⁸ which has the role to protect and monitor implementation of the rights in the Disability Convention. I work with our IMM partners to raise awareness of disability rights and contribute to effective change.

Improve the conditions and treatment of people in detention

Inspecting places of detention helps to ensure that people who are deprived of their liberty are treated humanely, and their rights are protected and restored. It also ensures New Zealand is seen nationally and internationally as a good global citizen, adhering to agreed international human rights conventions.

The Ombudsman has been designated as a National Preventive Mechanism under the United Nations Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) to monitor prisons and people otherwise in the custody of the Department of Corrections or in a residence established for people under a public protection order. This includes immigration detention facilities, health and disability places of detention (including privately-run aged care facilities), childcare and protection residences, youth justice residences, and courts.

Ensure official information is increasingly available and not unlawfully refused

The Official Information Act 1982 (OIA) and the Local Government Official Information and Meetings Act 1987 (LGOIMA) give the public the ability to request official information held

17 These can be physical, information and communication, attitudinal, technological, systemic, or economic barriers.

18 Together with the Human Rights Commission and Disabled Peoples' Organisations.

by Ministers of the Crown and public sector agencies. Making official information increasingly available, and assuring the public that access is not denied unnecessarily, will lead to greater transparency and accountability within the public sector, and facilitate public participation in the making and administration of laws and policies.

Under both Acts, I independently investigate and review complaints about decisions made by public sector agencies on official information requests. I also monitor agencies' official information practices, resources, and systems. This will both enhance public trust and confidence in government and increase the availability of official information.

Identify flawed public sector decision making and processes and how to resolve them

Under the Ombudsmen Act 1975, I can investigate the administrative conduct of public sector agencies that affects people. I may decide to investigate after receiving a complaint or do so of my own initiative, where significant or systemic issues are identified. My independent oversight can assist public sector agencies to identify and correct administrative deficiencies. In doing so, I provide a means of improving administration and decision making over time, and so better services to the public.

Learn from, and assist to develop, international best practice

Parliamentary Ombudsmen in more than 90 countries are members of the International Ombudsman Institute (IOI), which describes the role of an Ombudsman as:

...to protect the people against violation of rights, abuse of powers, unfair decisions and maladministration. They play an increasingly important role in improving public administration while making the government's actions more open and its administration more accountable to the public.

As part of assisting New Zealand in being a good global citizen, I have a responsibility to:

- act as an international leader in promoting good government practices, including transparency and anti-corruption;
- use the Ombudsman's mana, networks, and experience to help lift regional best practice in Asia and the Pacific; and
- help with the ongoing definition of what a modern ombudsman institution is and how it works.



PART 4

Report on operations

In this part, I set out the work carried out in 2018/19 by myself and my staff, in the Office's nine output areas.

Inform the public to enable them to take constructive action to realise their rights

In this section, I give an overview of our work to inform the public.¹⁹

In order for people to participate in government decision making, and take action when they believe they have not been treated fairly, the public needs to be informed.

I provided information to help ensure that:

- the public understand their rights and options;
- people have reasonable expectations about what the public sector should provide; and

- people know where, when, and how to access my services, and have reasonable expectations of what I can do.

This includes identifying key messages and communication channels, providing useful information, resources, and events, providing effective and timely responses to media, and discussion in public forums.

To do this, I undertake a range of public awareness-related activities, including making speeches and presentations, publishing information and resources, and maintaining a website and social media presence so people can easily access information and resources.

¹⁹ Including public forums, media, political parties, and community organisations.

I also track the levels of awareness by the public of their rights and my work and identify gaps in knowledge and hard to reach audiences so that I can appropriately target information and outreach efforts.

Website

In 2018/19, I continued my work on developing a more user-friendly website, which will make access from a wider range of digital devices easier and put greater focus on helping people make or resolve complaints.

The popularity of the existing website has continued to increase with 89,162 visitors this year, an 11 percent increase on last year. Aside from the home page, the resources and publications section continued to be the most popular, with a particular focus on guides to official information.

Speeches and presentations to the public

Meeting face-to-face with stakeholders is important. During the year, 22 external speeches and presentations were given to the public. This involved a wide range of audiences including public forums, media and community organisations.

Speeches and presentations to the public in 2018/19

Some of the public audiences spoken to this year were:

- Alzheimer's New Zealand conference
- Blind Foundation
- Canterbury University
- Catalyst NZ
- Dementia conference
- Dementia New Zealand's Knowledge Exchange
- Institute of Public Administration
- Mayors, Chairs and Iwi Forum
- Public Sector Network's Inaugural Safer Cities New Zealand conference
- The Press (Stuff)
- U3A (The University of the Third Age)
- Victoria University, Wellington

Public awareness survey

In 2018/19, I undertook my eighth public awareness survey to gauge the level of awareness of the Ombudsman in the community. Overall, 76 percent of those surveyed had heard of the Ombudsman; this is an increase of eight percent from 2017/18. Similar to previous surveys, respondents over 60 years old were more likely to be aware of the Ombudsman (92 percent, up five percent) when compared to respondents who were under 40 (53 percent, up seven percent).

The research cohort, especially at a granular level, is small. I also acknowledge that Māori and Pasifika groups tend to be underrepresented in the democratic process. However, this does not hide some disappointing results for Pasifika awareness of the Ombudsman (42 percent). However, my recent outreach objectives have impacted on Māori awareness of the Ombudsman (65 percent, up nine percent).

official information, and publish resources to assist agencies in implementing good official information handling practices.

I monitored and reviewed relevant developments in the public sector, and identified relevant skill and knowledge gaps to best target my efforts. I also participated in initiatives to build capability and improve practice.

Advice and guidance

In 2018/19, I commented on 20 legislative, policy and administrative proposals. These included comments on Cabinet papers, Bills, and administrative policies and procedures.

I provided comment on:

- good administrative conduct;
- good decision making and effective complaints handling;
- the impacts of particular proposals on the application of the official information legislation;
- whether legislation was compliant with the Disability Convention; and
- whether legislation had implications relevant to New Zealand's obligations under the Optional Protocol to the Convention Against Torture.

I also provided advice on 420 occasions to public sector agencies, mainly in relation to enquiries about the processing of official information requests. This represented a 23 percent increase from last year. This shows that agencies are increasingly seeking our advice on 'live' requests for official information.

I do not tell agencies what to do with 'live' requests, as I may be called on to investigate and review their decisions later. However, I am happy to provide advice about the requirements of the legislation, and the things agencies should consider when making decisions. This helps agencies effectively manage official information requests, including the consideration of proactive release where there is significant public interest.

Training

An important part of my work is the training offered to agencies and other stakeholders who are looking to improve their understanding of my role and functions, and the requirements of the Ombudsmen Act and official information legislation. In 2018/19, my staff and I provided 34 workshops and training sessions, and gave 18 speeches to public sector agencies.

Some agencies sought several training sessions, while others continued to group together to participate in the Office's training. Training topics included official information, good administration (including record keeping), the Ombudsman's role, and managing unreasonable complainant conduct.

I continue to receive positive feedback from the stakeholders who access training services, with 87 percent of participants reporting the training would help them in their work.

New Zealand organisations which received Ombudsman training in 2018/19

Some of the public sector agencies my Office trained this year were:

- Archives Council
- Auckland Transport
- Commerce Commission
- Department of Internal Affairs
- Earthquake Commission (EQC)
- Fire and Emergency New Zealand
- Gore District Council
- Horowhenua District Council
- Invercargill City Council
- Land Information New Zealand
- Ministry of Business, Innovation and Employment
- Ministry for Culture and Heritage
- Ministry for Primary Industries
- Ministry of Health
- National Animal Welfare & Ethics Advisory Committees
- New Zealand Customs Service
- New Zealand Defence Force
- New Zealand School Trustees Association
- South Canterbury District Health Board
- Southland District Council
- Society of Local Government Managers
- Tasman District Council
- Technical Advisory Services Limited (TAS)
- Waitaki District Council

Guides and information

In 2018/19, I continued to publish new guides to replace the *Ombudsman Practice Guidelines* that have for many years been the Office's primary resource to assist agencies in complying with their obligations under the official information legislation. My guides are supplemented by case notes and opinions available on the Office's website.

This year, I conducted an online survey on the Office's guidance materials. I received 156 responses, with the majority of respondents working in central government (60 percent), and local government (20 percent). The official information guides were the most popular resource, followed by the website, case notes, and opinions. These products help people to do a better job, more quickly and easily, in a way that is more likely to be legally compliant. Some respondents asked for better indexing and search functionality. This feedback will be addressed with the redesign of my Office's website. Aside

from that, responses suggested that agencies want to see more of the same; that is, more authoritative guidance on the application of the official information legislation that is illustrated with real life case examples.

Significant publications in 2018/19 included:

- Commercial information
- Consulting third parties
- Information not held
- Negotiations
- The OIA and draft documents
- The OIA and parliamentary privilege
- The OIA and the public tender process
- Making complaints to the UN Disability Committee: A guide for New Zealanders
- Making a protected disclosure

Overall guidance materials produced this year included:

- 4 new opinions and case notes on key complaints;
- 7 new official information guides;²⁰
- 13 template letters and work sheets for dealing with official information requests;
- 1 Easy Read pamphlet about the role of the Ombudsman; and

- 4 e-newsletters to keep our stakeholders up to date with developments relevant to our jurisdiction, role and functions.

I also continued my work with the State Services Commission to release data regarding agency compliance with the Official Information Act (OIA). My complaints data was released in September 2018, and February and September 2019. It is available on the Office's website. In September 2019, I published Local Government Official Information and Meetings Act 1987 (LGOIMA) complaints data for the first time.

Formal consultation to assist public sector agencies to make specific decisions

This output provides the public and stakeholders with confidence that agencies are receiving a relevant, independent perspective when they are making decisions, improving practices, and reporting.

I do this by:

- meeting both legislated and agreed requirements for the Ombudsman's formal input in decision making; and
- participating effectively in advisory and working groups.

I ensure agencies and Parliament are aware that I can provide formal input where relevant, and that appropriate frameworks are developed for me to provide input while remaining independent.

In 2018/19, I provided comment to the Ministry of Transport on 15 applications for authorised access to personal information on the motor vehicle register,²¹ and to the Cabinet Office on the annual release of information from the Ministerial Conflicts of Interest register.

20 There were also three updates to existing guides.

21 Under section 241 of the Land Transport Act 1998.

Enable serious wrongdoing to be disclosed and investigated and whistleblowers protected

Mechanisms to expose and investigate 'serious wrongdoing'²² will only be effective when whistleblowers are protected and people have the confidence to expose serious wrongdoing.

Insiders will often be the only ones with knowledge of serious wrongdoing. If they are unaware of the protections available to them, or do not feel confident raising their concerns through the appropriate channels, incidents of serious wrongdoing could go undetected. Ensuring that serious wrongdoing is brought to light and investigated by appropriate authorities will lead to greater transparency and accountability, and will ultimately help to ensure public trust in government.

The Protected Disclosures Act 2000 (PDA) aims to encourage people to report serious wrongdoing in their workplace (in the public or private sector) by providing protection for 'employees'²³ who want to blow the whistle. My role under that Act is to:

- raise general public awareness of whistleblowing processes and protections;
- provide advice and guidance, both to potential whistleblowers and to public and private sector organisations about the protections they need to put in place;
- receive and investigate disclosures of serious wrongdoing, or refer them to other authorities as appropriate; and
- review and guide public sector agencies in their investigations of serious wrongdoing.

Any issues brought to my attention, which do not meet the threshold of serious wrongdoing, are considered under my general powers to investigate public sector administration and decision making.

I ensure potential whistleblowers are aware they can come to my Office for advice and assistance. I also provide advice and guidance to government to help improve the legal framework for protecting whistleblowers, and monitor current practice by public sector agencies in relation to whistleblowing.

In 2018/19, I completed 90 requests and enquiries for advice and guidance. I completed 96 percent of these within three months of receipt. This continues the year-on-year trend of increasing demand for our services in this area.

I also updated my existing guidance, *Making a protected disclosure*, to include information about how the Ombudsman maintains confidentiality, and published a new checklist for potential whistleblowers to help them assess whether they are ready to make a protected disclosure or should seek further guidance.

As well as receiving disclosures and providing advice and guidance, I contributed to the ongoing review of the PDA, and commissioned research on awareness of the PDA in order to understand what further guidance is needed and how best to raise awareness. The results showed that while only nine percent of respondents were aware of the PDA, 21 percent had witnessed serious wrongdoing in their current or former

22 'Serious wrongdoing' 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.

23 'Employee' includes a former employee, a secondee, a contractor and a volunteer (see s 3 PDA for a full definition of 'employee').

workplace. Only 40 percent felt that they would be safe in their current jobs if they reported serious wrongdoing, and respondents who were aware of the PDA were more likely to feel that

their job would be safe. This research will inform future guidance which will focus on ensuring that organisations are sure that their employees know how to make a protected disclosure.

Break down the barriers that prevent disabled people from participating equally in society

The United Nations Convention on the Rights of Persons with Disabilities (the Disability Convention) exists to promote, protect, and ensure the full and equal enjoyment of all human rights and fundamental freedoms by disabled people. Disabled people face barriers to participating equally in society.²⁴ New Zealand can make disability rights real by breaking down these barriers.

The Ombudsman is part of New Zealand's Independent Monitoring Mechanism (IMM),²⁵ which has the role to protect and monitor implementation of the rights in the Disability Convention.

I work with IMM partners to:

- monitor and analyse information and evidence about the realisation of disability rights in New Zealand;
- publish reports and other information which identify and promote good practice and make recommendations for improvement;
- track and follow up on the implementation of our recommendations;
- provide training, advice, and guidance on disability rights;

- make submissions on legislation, policy, and practices affecting disabled people; and
- formally report to Parliament and the United Nations.

In doing so, I raise awareness of disability rights and contribute to effective change.

I also exercise my general powers to resolve complaints and investigate concerns about administrative conduct by public sector agencies when disability rights issues are raised and note issues as they arise in relation to the inspections carried out under the Optional Protocol to the Convention Against Torture (OPCAT).

I ensure that disability rights are at the heart of my Office's work and culture, infuse our work practices with a disability rights perspective, and network and collaborate with disabled people and other stakeholders.

²⁴ These can be physical, information and communication, attitudinal, technological, systemic, or economic barriers.

²⁵ Together with the Human Rights Commission and Disabled Peoples' Organisations.

Demystifying the Optional Protocol to the Disability Convention

New Zealand acceded to the Optional Protocol to the Disability Convention in 2016 and it came into force on 4 November 2016.

The Optional Protocol is an additional agreement to the Disability Convention establishing a way for disabled people to make a complaint to the United Nations Committee on the Rights of Persons with Disabilities (UN Disability Committee) if they believe their rights under the Disability Convention have been breached or denied.

To help explain what this means, my Office led the development of a guide entitled *Making complaints to the United Nations Disability Committee: A Guide for New Zealanders*. For more information about this guide, see *Making complaints to the UN Disability Committee* below.

Working as an Independent Monitoring Mechanism

As part of the IMM, I work with partners and assess the key issues that disabled people face in contemporary New Zealand by:

- holding quarterly governance meetings to discuss key disability rights issues and initiatives;
- regularly convening a working group to coordinate projects and responses relevant to disability rights issues;
- making submissions on legislation, policy, and practices affecting disabled people; and
- continuing work on the third *Making Disability Rights Real* report to Parliament and the United Nations, focussing on New Zealand's adherence to the articles of the Disability Convention.

My Office is the Project Manager for the *Making Disability Rights Real* report that will be released on 3 December 2019, the International Day of Persons with Disabilities. The report has six key themes: accessibility of public information, data, education, employment, housing, and seclusion and restraint. Research for the project has included a series of nationwide public consultation hui and an accessible online survey.

Multi-agency Group to reduce discrimination against people who experience mental illness

In October 2016, I formally became a member of the multi-agency group (MAG) to reduce discrimination against people with mental illness. MAG has a vision of New Zealand as a country where people with experience of mental distress/illness are not discriminated against, and their human rights are actively respected and realised, enabling participation, and the opportunity to experience a valued life.

In the past year, my Office engaged with other key stakeholders in the group regarding the outcome of the Government Inquiry into Mental Health and Addiction, and is currently involved in discussions about potential reform to the Mental Health (Compulsory Assessment and Treatment) Act 1992.

It is important for key groups in the mental health sector to have a collective voice on issues of mutual interest or concern, and for information to be exchanged with other members of the group on a quarterly basis.

Making complaints to the UN Disability Committee

On behalf of the IMM, I released *Making complaints to the United Nations Disability Committee: A guide for New Zealanders* in April 2019. The guide is aimed at both disabled New Zealanders and public sector agencies. It provides information and advice on making complaints to the UN Disability Committee and the steps that need to be taken before making a complaint, including exhausting all domestic remedies. The guide is available in Te Reo Māori, New Zealand Sign Language, and a range of accessible formats, including Braille and audio. I also designed an accessible poster to support the guide. The guide was well received by people in the disability community and shared extensively on social media.

Accessible resources

I continue to lead by example in the area of accessible formats.

I prioritise the publication of resources in Easy Read format to allow information to be accessible to people with an intellectual disability. Examples include the terms of reference and media announcement for the investigation into the Ministry of Health and its oversight of services for people with intellectual disabilities (for more information about this investigation see Systemic improvement investigations) and our guide on *Making complaints to the UN Disability Committee*.

The IMM conducted a survey regarding the *Making Disability Rights Real* report that went live in July 2019. The survey was available in a range of languages and accessible formats, including Te Reo Māori, Easy Read, and Braille. People were also able to view questions and provide answers to the survey in New Zealand Sign Language.

I am currently working on a project to offer general resources and disability guides in a range of formats, including Te Reo Māori, Braille and audio.

Improve the conditions and treatment of people in detention

In this section, I give an overview of my work under the *United Nations Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment* (OPCAT).

The purpose of OPCAT is to establish a system of independent monitoring of places of detention. The Crimes of Torture Act 1989 (COTA) gives effect to OPCAT in New Zealand.

The Ombudsman has been designated, since 2008, as a National Preventive Mechanism (NPM) under OPCAT to examine, and make

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;
- 88 health and disability places of detention²⁶ and approximately 227 aged care secure facilities;
- 3 immigration detention facilities;
- 4 child care and protection residences;

26 This is 10 more than last year across both intellectual disability community facilities and locked mental health units.

- 5 youth justice residences;
- 1 Public Protection Order (PPO) unit;
- 1 Substance Addiction (Compulsory Assessment and Treatment) unit; and
- 58 court facilities.

The designation in respect of child care and protection residences and youth justice residences is jointly shared with the Children's Commissioner. The designations in respect of privately-run aged care facilities, courts, and the PPO unit were given to the Ombudsman in June 2018.

Visits and inspections

In 2018/19, I carried out a total of 40 visits, including 22 formal inspections. Thirty-six visits (90 percent) were unannounced.

Each place of detention contains a wide variety of people, often with complex and competing needs. All have to be managed within a framework that is consistent and fair to all. While I appreciate the complexity of running such facilities and caring for detainees, my role is to

monitor whether appropriate standards are maintained in the facilities and people detained in them are treated in a way that avoids the possibility of torture or other cruel, inhuman or degrading treatment, or punishment occurring.

In line with the Ombudsman's power to make recommendations with the aim of improving the treatment and the conditions of people deprived of their liberty, I also review and comment on proposed policy changes and legislative reforms relevant to these places of detention.

This year I scoped the necessary resource to conduct regular inspections of the designations received in June 2018. This scoping exercise informed a funding request to the Officers of Parliament Committee for the 2019/20 year onwards. In 2018/19, I engaged with the aged care sector to explain the NPM function, and update them on my work to date preparing to implement the new designation. I also conducted some visits to court facilities.

Table 1: Formal inspections

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

Name of facility	Type of facility	Recommendations made	Visit type	Report published
Te Whare Manaaki Canterbury District Health Board	Forensic Unit	7	Unannounced	No
Te Whare Hohou Roko Canterbury District Health Board	Forensic Unit	2	Unannounced	No
Psychiatric Service for Adults with an Intellectual Disability (PSAID) Canterbury District Health Board	Intellectual Disability Unit	13	Unannounced	No
Assessment, Treatment and Rehabilitation (AT&R) Unit Canterbury District Health Board	Forensic Intellectual Disability Unit	11	Unannounced	No
Auckland South Corrections Facility (SERCO)	Men's Prison	36	Announced	Yes
Te Whare Maiangi Bay of Plenty District Health Board	Acute Mental Health Inpatient Unit	14	Unannounced	No

Mental Health Services Older Persons Bay of Plenty District Health Board	Older Persons Mental Health Service	10	Unannounced	No
Te Toki Maurere Bay of Plenty District Health Board	Acute Mental Health Inpatient Unit	13	Unannounced	No
Hawke's Bay Regional Prison (follow up visit)	Men's Prison	23	Unannounced	Yes
Ngā Rau Rākau (follow up visit) Hawke's Bay District Health Board	Acute Mental Health Inpatient Unit	11	Unannounced	No
Ward BG Older Persons Mental Health Service Canterbury District Health Board	Older Persons Mental Health Service	6	Unannounced	No
Child Adolescent and Family Unit Canterbury District Health Board	Children and Adolescence Inpatient Unit	9	Unannounced	No
Te Whare Awhiora (follow up visit) Tairāwhiti District Health Board	Acute Mental Health Inpatient Unit	10	Unannounced	No
Ward 9A Southern District Health Board	Forensic Inpatient Unit	13	Unannounced	No
Ward 9B Southern District Health Board	Acute Mental Health Inpatient Unit	11	Unannounced	No
Otago Corrections Facility (follow up visit)	Men's Prison	9	Unannounced	Yes
Northland Regional Corrections Facility	Men's Prison	31	Unannounced	Yes
Southland Inpatient Mental Health Unit Southern District Health Board	Acute Mental Health Inpatient Unit	10	Unannounced	No
Assessment, Treatment and Rehabilitation Unit Southern District Health Board	Older Persons Mental Health Service	11	Unannounced	No
Invercargill Prison (follow up visit)	Men's Prison	6	Unannounced	Yes
Tongariro Prison	Men's Prison	17	Unannounced	Yes
Te Whare Oranga Tangata o Whakaue Lakes District Health Board	Acute Mental Health Inpatient Unit	15	Unannounced	No

I reported back to 21 places of detention (95 percent) within 12 weeks of concluding the inspection. This brings the total number of

visits conducted over the 12-year period of the Ombudsman's operation as an NPM to 517, including 205 formal inspections.

Table 2: Recommendations

This year, I made 288 recommendations, of which 266 (92 percent) were accepted or partially accepted as set out in the table below.

Recommendations	Accepted/partially accepted	Not accepted
Prisons	115	7
Health and disability places of detention	151	15

Table 3: Visits

Eighteen visits were conducted at the sites set out in the table below.

Name of facility	Type of facility	Visit type
Nova STAR (Christchurch)	Supported Treatment & Recovery Unit	Unannounced
Kennedy Centre (Christchurch)	Detox Unit	Unannounced
Christchurch Men's Prison	Men's Prison	Unannounced
Te Awakura Canterbury District Health Board	Acute Mental Health Services	Unannounced
Wellington District Court	Courts	Announced
Gisborne District Court	Courts	Unannounced
Napier District & High Courts	Courts	Unannounced
Hastings District Court	Courts	Unannounced
Auckland Region Women's Corrections Facility (Mothers and Babies)	Women's Prison	Announced
Christchurch District Court	Courts	Unannounced
Community Secure Facility (Christchurch) Emerge Aotearoa	Community secure home for clients with intellectual disabilities	Unannounced
Wakari Hospital—Ward 9C Southern District Health Board	Acute Mental Health Inpatient Unit	Announced
Wakari Hospital—Ward 10A Southern District Health Board	Forensic Intellectual Disability Unit	Unannounced
Wakari Hospital—Helensburgh Cottages Southern District Health Board	Forensic Intellectual Disability (stepdown cottages)	Unannounced
Dunedin District & High Court	Courts	Unannounced
Dunedin Hospital—Ward 6C Southern District Health Board	Older Persons Mental Health Service	Unannounced
Invercargill District & High Court	Courts	Unannounced
Rotorua District & High Court	Courts	Unannounced

Prisons

This year, I further reviewed my trial prison inspection criteria,²⁷ and incorporated prisoner focus groups, staff forums, and regular unit muster checks into the inspection methodology.

My assessment of prisons across New Zealand continues to be varied, and I reported concerns that were similar to those raised in previous years, including:

- the number of prisoners transferred outside of the region;
- time out of cell for prisoners; and
- prisoners' access to timely case management.

Prisoners transferred out of region

In last year's report, I raised concerns over the increase in the prison population that had placed significant pressure on accommodation, staffing levels, and effective prisoner processes. Changes and expansion to the prison system/operations, due to the increase in prison population, has now resulted in a high percentage of prisoners being transferred out of their home region. The Department of Corrections advised that, as at 30 April 2019, 20 percent of prisoners were out of region.²⁸

As a consequence, opportunities for maintaining family contact, keeping connections with whānau, and access to existing legal representation were compromised. In the past 12 months, I conducted three prisoner surveys that highlighted difficulties in maintaining family contact for prisoners out of region. In response to the survey question *'Is it easy for your family and friends to visit you here?'* an average of 60 percent of all survey respondents answered *'No'*.²⁹ In response to the survey question, *'Do you usually*

have one or more visits per week from family and friends?' an average of 77 percent of all survey respondents answered *'No'*.³⁰

Time out of cell

The amount of time that prisoners receive out of their cells continues to be poor for many. Only 22 percent of prisoners responding to my survey reported that they were out of their cell for more than eight hours on weekdays. Eleven percent reported that they were out of their cell for less than two hours a day.³¹ Inspections found that staff shortages in some prisons affected time out of cell.

While unlocked, prisoners are expected to attend work, education, and training, and use their time constructively to engage with health services, case management, and to take exercise. It is also an opportunity for basic domestic tasks, such as showering, cleaning cells, eating meals, and telephoning family and whānau. I continue to find that prisoners spend far too much time locked up and not able to access these services leading to frustration, boredom, and often deteriorating physical and mental health.

I also found that operational practices had become less predictable, which prisoners found frustrating and unsettling. Prisons were operating temporary restricted regimes. This meant that prisoners were often locked earlier, affecting their access to the telephone and contact with families.

Prisoners' access to timely case management

Case management—the process to identify the needs of the prisoner population—was poorly effected across most prisons I inspected. Timeliness and quality of case management

27 There are currently six prison inspection criteria.

28 Tongariro Prison (51 percent), Otago Corrections Facility (9 percent), Auckland South Corrections Facility (ASCF 9 percent), and Invercargill Prison (7 percent).

29 ASCF (50 percent), Northland Region Corrections Facility (NRCF 71 percent), Tongariro Prison (60 percent).

30 ASCF (60 percent), NRCF (82 percent), Tongariro Prison (88 percent).

31 ASCF (16 percent), NRCF (6 percent), Tongariro Prison (6 percent).

practice needed to improve, including prisoners' access to a case manager.³² Key problematic factors included:

- delays in accessing rehabilitation programmes which impacted prisoners' sentence progression;
- timeliness in providing reports to the New Zealand Parole Board; and
- case managers' non-attendance at meetings designed to discuss a prisoner's sentence progression and re-integration needs.

Prisoner comments from surveys

[The Prison] needs more support for education and more case managers as I've done three years and still not met a case manager and I have parole soon.

The level of support within this jail is poor and getting things done on time for Parole Board and other important meetings leaves you unsure as to what's happening. Parole Board submissions and information don't arrive to the Board on time and at times important information is missing. Having other important objectives achieved for the Parole Board not done does not give me confidence of a positive outcome.

[I need] to see a case manager so I can progress with my offender plan and still waiting nine months later... all I have to do is my course before next parole only four weeks away and no case manager to help.

Prisoners who have been going up for parole are doing so only to be told that they are stood down pending courses when those services should have been made available or offered to prisoners way before parole dates come up... Prisoners shouldn't have to go to parole to be told that they can't have parole because they haven't done things not made available.

Good practice

I have also observed various examples of good practice during inspections.

Auckland South Corrections Facility (ASCF) should be recognised for its installation of in-cell telephones and user interfaces. This is a positive initiative that ensures that prisoners with disabilities are afforded reasonable accommodation.

At-risk cells were still subject to CCTV monitoring. However, ASCF should also be commended for having privacy screening in place to maintain the dignity of prisoners when carrying out their ablutions.

Tongariro Prison is considered to be a centre of excellence in terms of establishing and embedding the Corrections' Te Tokorima a Māui values and consulting with *paihere*³³ on issues that impact on their care.

Intellectual disability facilities

This year, I inspected two Regional Intellectual Disability Secure Services (RIDSS), the Assessment, Treatment, and Rehabilitation (AT&R) Unit, and the Psychiatric Service for Adults with an Intellectual Disability (PSAID) Unit operated by the Canterbury District Health Board.

These inspections identified that improvements were required in four key areas:

- living conditions for patients;
- patients' access to fresh air;
- patients' access to the complaints system; and
- training for staff to enhance their knowledge and skills in working with clients who have high and complex needs.

32 The Department of Corrections requires that case managers meet with every new prisoner on their caseload within 10 working days of allocation.

33 *Paihere* is the term used to describe prisoners at Tongariro Prison. It means 'in search of something better' and was developed in conjunction with local iwi.

Both units were tired, dated, and no longer fit for purpose. Built in the 1970s, the units lacked space to de-escalate patients and were, therefore, incompatible with modern treatment practice.

The required complaints process was not readily available to patients in either unit, including how to access the District Inspector and advocacy services. Patients also had limited opportunities to spend time outside in the fresh air due to locked courtyard doors.

Training and support for staff who work with patients displaying unpredictable and assaultive behaviour needed to be enhanced.

I will continue to work with the Ministry of Health on these concerns.

Mental health facilities

I conducted inspections of 12 mental health inpatient units in 2018/19,³⁴ including two follow up inspections. Similar to last year, I observed a number of units using seclusion rooms as bedrooms due to unit capacity issues. The effect of high occupancy levels has a detrimental effect on the health of staff and patients as well as reducing the ability of staff to provide optimal nursing care.

Despite the apparent declining number of seclusion events, the length of time of events in some units had increased.³⁵ Māori continue to be over-represented in seclusion statistics.

I observed open units routinely locking their exit doors (environmental restraint).³⁶ This restricts patients' ability to come and go freely, including access to the outdoors and fresh air. This practice

affected both formal and informal patients.³⁷ Locking exit doors was not recorded as an episode of environmental restraint by all units.

Access to the complaints process and contact details for the District Inspector were often not available or accessible to all patients,³⁸ including patients in de-escalation, low stimulus, and seclusion areas.

As reported last year, the majority of mental health units inspected did not routinely invite patients to attend their multi-disciplinary team (MDT) meeting review, nor did they receive a copy of the meeting minutes. Additionally, consent for treatment was poorly documented.

Seven of the units inspected reported issues with staff retention and high turnover rates. This was highlighted by security staff being observed in a number of inpatient units assisting with the personal restraint of patients and conducting patient searches, which I considered to be sub-optimal.

I raised concerns at the time of the inspection, and ongoing discussions are being held with the Director of Mental Health and Addiction Services to find a workable solution to these issues.

Good practice

I was pleased to report that patients had unrestricted access during the day to kitchen facilities at a number of units.³⁹ This practice allowed patients the independence to access hot and cold drinks and snacks throughout the day. While this access is not yet commonplace in inpatient services, I was pleased to note a number of units normalising this practice.

34 Three facilities were older persons' mental health units.

35 Te Whare Maiangiangi, Te Whare Oranga Tangata o Whakaue, and Te Whare Awhiora.

36 An open unit does not have the exit doors locked at all times. In contrast, a designated 'locked unit' is where 'the locked exit is a permanent aspect of service delivery.' *New Zealand Standards. Health and Disability Services (Restraint Minimisation and Safe Practice) Standards. Ministry of Health. 2008.*

37 Formal patients are patients detained under the Mental Health (Compulsory Assessment and Treatment) Act 1992 (MHA). Informal patients have agreed to be admitted to an inpatient unit, but are not subject to the MHA.

38 Te Whare Manaaki, Ward BG, Ward 9A, Ward 9B, Te Whare Awhiora, Gisborne Mental Health, Te Whare Maiangiangi, Ngā Rau Rākau, and Tauranga Hospital's Mental Health Services for Older People.

39 Ward 9B, Te Whare Oranga Tangata o Whakaue and Southland Hospital's Inpatient Mental Health Unit.

Ward BG, an older persons' mental health unit at Burwood Hospital, had eliminated the use of all forms of mechanical restraint.⁴⁰ This significant change was reportedly brought about by

increased staffing levels on the unit, the use of one-to-one supervision, and the therapeutic benefits of the new, purpose-built facility.

Ensure official information is increasingly available and not unlawfully refused

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

Under both Acts, the Ombudsman independently investigates and reviews complaints about decisions made by public sector agencies on official information requests. The Ombudsman has also been tasked by Parliament with monitoring agencies' official information practices, resources, and systems.

In undertaking these roles, the Ombudsman helps to ensure that requests are being dealt with appropriately. This will both enhance public trust and confidence in government and increase the availability of official information.

In this context, I:

- provide resolution-oriented, high quality, timely, and impartial complaint handling;
- undertake high quality, targeted interventions and investigations to identify where central and local government official information practices, resources, and systems are vulnerable;
- broker resolutions, form opinions, and make recommendations when justified;

- provide advice to agencies and support them to resolve complaints and implement my suggestions and recommendations; and
- report on and monitor the implementation of my recommendations.

Having eliminated the backlog of aged complaints, I continue to refine and improve my complaint handling process to make it as effective, timely, and accessible as possible (my performance on target completion timeframes is reported below, Timeliness and clearance rates).

I continue to publish statistical complaints data concerning central government, and report on the outcome of key complaints and investigations to assist in improving official information practice across the public sector. In September 2019, I reported on complaints data for local government for the first time.

Complaint numbers

I received an increased number of official information complaints this year. I received 1,901 complaints under the OIA and 364 complaints under the LGOIMA, an increase of 35 percent on the previous year.

40 Mechanical restraint includes the use of chair restraints, lap belts, and Posey vests.

I completed 1,859 OIA and 339 LGOIMA complaints, 13 percent more than in the 2017/18 year. My Office's net clearance rate was 98 percent for OIA complaints, and 93 percent for LGOIMA complaints (for information on clearance rates across all OA, OIA and LGOIMA complaints see Timeliness and clearance rates).

A significant proportion of the complaints received and completed in 2018/19 can be attributed to one party, who made 471 delay complaints against school boards of trustees. Complaints of this nature can be logistically challenging and resource-intensive to manage.

I finished the year with 469 OIA complaints and 122 LGOIMA complaints on hand.

Complainants

This year's statistics concerning the type of complainants who raised concerns about official information decisions continue to suggest that members of the public are making good use of their ability to request information, and to complain to the Ombudsman if dissatisfied.

Individuals accounted for 74 percent of OIA complaints and 82 percent of LGOIMA complaints. The next highest users were the media, which made up 15 percent of OIA complainants, and 11 percent of LGOIMA complainants. Members of Parliament and political party research units accounted for five percent of the OIA complaints received.

Agencies

This year, 561 official information complaints were made against government departments (25 percent) and 1,148 against other state sector agencies (51 percent; includes complaints made by one party against 471 school boards of trustees). Local government agencies made up

16 percent of the official information complaints received and eight percent of complaints were against Ministers of the Crown.

Complaints profile

This year, 40 percent of all official information complaints concerned the full or partial refusal of requests for official information, and 39 percent concerned delays by agencies in making decisions on requests or in releasing information. While it appears that the proportion of delay complaints has increased significantly, this is due to 471 delay complaints (nearly two-thirds of all those received), being made by one party against multiple school boards of trustees.

Complaint outcomes

In 2018/19, I resolved 19 percent of all official information complaints, with 171 resolutions achieved without formal investigation, and 254 resolutions achieved during an investigation.

I formally investigated 36 percent of all completed complaints, and I formed 360 final opinions.⁴¹ In 94 cases,⁴² I identified administrative deficiency by the agency concerned.

I made recommendations under the OIA in 44 cases, and under the LGOIMA in five cases. My recommendations were accepted in all but one case, where the agency and complainant agreed an alternative resolution.⁴³

41 16% of all completed official information complaints.

42 26% of all complaints where a final opinion was formed.

43 In another case, the recommended summary was abridged following subsequent developments.

Measures protecting public health and safety—request for video footage

The New Zealand Police (Police) received a request from a journalist for video footage of an incident in December 2016 during which a goat was tasered.

Although releasing copies of still images, and offering to make the material available for viewing by the requester, Police refused to provide a copy of the full video. Police explained that it was considered necessary to withhold the information to ‘avoid prejudice to measures protecting the health or safety of members of the public’ pursuant to section 9(2)(c) of the OIA, due to the distressing nature of the footage.

However, I did not consider that release of the material would cause this harm. Having considered my provisional opinion, Police revised the original decision and released the footage to the requester.

Read the full case note at www.ombudsman.parliament.nz.

Administrative deficiencies

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

- 53 cases where the refusal of official information was not justified;
- 23 cases of delay;
- 13 cases where there was an unreasonable extension;
- 1 case where there was an unreasonable charge;
- 1 inadequate statement of reasons; and

- 3 cases where the decision was in some other way wrong or unreasonable.

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

Remedies

I obtained 1,064 remedies for complainants.⁴⁴ While this represents a 59 percent increase on last year, this is largely accounted for by one complainant who made 471 delay complaints against school boards of trustees. The remedies included:

- 590 cases where an omission was rectified;⁴⁵
- 309 cases where a decision was changed;
- 110 cases where reasons or an explanation for a decision were given;
- 45 cases where a decision was reconsidered; and
- 10 cases where an apology was given.

I also obtained 17 remedies with a public administration benefit, including:

- 11 cases where there was a change in practice or procedure;
- 5 cases where guidance or training was provided to staff; and
- 1 case where the law/policy/practice/procedure was reviewed.

Timeliness and clearance rates

I report timeliness and clearance rates across all complaint types—OIA, LGOIMA and Ombudsmen Act.

⁴⁴ In cases that were investigated and those resolved informally without investigation.

⁴⁵ Including the 471 delay complaints mentioned above.

In 2018/19, my Office achieved net clearance rates of:

- 97 percent for all complaints (target: 100 percent); and
- 100 percent for all other contacts (target: 100 percent).

The target net clearance rate was set on the basis that expected intake levels would be around 3,550 new complaints for the 2018/19 year. However, actual intake levels at 4,678 were significantly higher when the 471 OIA complaints by one party against multiple boards of trustees were included.

In terms of my timeliness targets, I completed:

- 99 percent of other contacts within one month of receipt (target: 99 percent);
- 72 percent of complaints received from 1 July 2016 within three months (target: 70 percent);
- 88 percent of complaints received from 1 July 2016 within six months (target: 80 percent);
- 93 percent of complaints received from 1 July 2016 within nine months (target: 90 percent); and
- 97 percent of complaints received from 1 July 2015 within 12 months (target: 95 percent).

Quality assurance

I report quality assurance measures across all complaint types—OIA, LGOIMA, and Ombudsmen Act.

I performed formal quality assurance across a random sample of all complaints and other contacts completed in the 2018/19 year. The Office reached the target that 80 percent of the complaints and other contacts reviewed met internal quality standards.

As well as conducting formal quality assurance sampling, I also ensure the quality of my Office's work through review of all correspondence

by senior staff with my authorisation, and the participation by staff in our in-house training programmes.

Official information practice investigations

My proactive investigations to review public sector agencies' official information compliance and practices look at five key areas that have a significant impact on official information compliance and practice. These are:

- Leadership and culture;
- Organisation structure, staffing, and capability;
- Internal policies, procedures, and resources;
- Current practices; and
- Performance monitoring and learning.

Having tested the resources and timeframes required to complete high quality and targeted investigations, I am committed to completing eight investigations per year. In 2018/19, I completed nine investigations into six central government agencies and three local government agencies:

- Callaghan Innovation
- Department of Conservation
- Greater Wellington Regional Council
- Horowhenua District Council
- Land Information New Zealand
- Ministry for Culture and Heritage
- Ministry for the Environment
- Tasman District Council
- The Treasury.

I also finalised investigations into the official information practice of Auckland Council and Far North District Council in August 2019. The official information practice investigation into Christchurch City Council, which also commenced in 2018/19, will be completed before the end of 2019.

The first tranche of official information practice investigations focused on central government agencies. The second tranche had a stronger focus on local government agencies. The LGOIMA is an important tool for fostering transparency and accountability. Without access to information held by local authorities and to public meetings, the public's ability to participate in the democratic process is undermined. An effective official information regime sits at the very heart of local government practice and should be closely connected with governance and community engagement.

Concentrating on local government resulted in an adjustment to our methodology in order to reflect the provisions of the LGOIMA. While

the LGOIMA is similar to the OIA in relation to requests for information, there are also several differences. These include sections on processing Land Information Memoranda (LIMs),⁴⁶ and the conduct of local authority meetings.⁴⁷

A LGOIMA-specific Terms of Reference was produced to explain the investigation process. A staff survey was designed for those whose duties involved collating documents for LIM reports, and an elected member survey was designed for councillors. Additionally, the agency, general staff, and public surveys were updated to reflect the LGOIMA requirements.

Key themes from OIA practice investigations in 2018/19

I considered all agencies would benefit from clearer messaging from leadership teams about their commitment to complying with the intent and requirements of the OIA to either staff, stakeholders, or both. Websites are an integral communication tool between agencies and the public. Some agency OIA webpages could be reviewed and improved by providing an overarching statement about the purpose of the OIA and publishing internal OIA policies.

Another observation was that agencies could improve their training practices. I considered some level of training should be mandatory to ensure an agency meets its OIA obligations. 'Best practice' would be OIA induction training to all staff, targeted training for decision makers (such as senior leaders), and specific training for those who respond to OIA requests, including front-line staff and the communications/media team. There should also be regular refresher

sessions. Training, along with mechanisms such as 'buddy' or 'champion' systems, can strengthen an agency's resilience and capability.

One way of promoting the principles of openness and transparency is by releasing information proactively. Most agencies would benefit from developing a proactive release policy. I acknowledged that there was a commitment to the development of this type of policy, and some of the agencies had commenced a journey down this path.

One common issue across most of the agencies was the need for clarification of the role of the Minister in agency OIA responses. There was a practice of providing the relevant Minister with proposed responses up to five days before a response's release. While Ministerial consultation is allowed when appropriate, this practice indicated a failure to distinguish between requests that required genuine consultation, and those for

46 See section 44A LGOIMA.

47 See Part 7 LGOIMA.

the Minister's information only. Where a response is for the Minister's information only, best practice is to provide a response at the same time, or shortly before, it is provided to the requester. This avoids the perception of inappropriate ministerial involvement in an agency response. This also means the agency will not routinely risk failing to make and communicate a decision on a request 'as soon as reasonably practicable' and, once a decision is made, to release information 'without undue delay.'

Another common issue across the agencies concerned media and contact centre requests, and compliance with the OIA. I understood the need for a mechanism to respond to media requests quickly, but noted it is essential not to overlook the fact that such requests are still governed by the OIA. This is relevant where, for instance, information was refused or not provided in the preferred timeframe or format. It is also relevant to the agency's OIA statistics and record keeping. Uniform collection

and reporting of data on OIA requests is likely to have the single biggest impact on improving agency performance. Agencies should ensure all media information requests, to which the OIA applies, are handled in accordance with the provisions of the Act.

Agencies did not appear to be consistently taking adequate steps to record the decision making process on OIA requests. There were some records of internal and external consultations. However, there were often gaps in the decision making process and no discrete place where the rationale behind the decision was clearly articulated and recorded.

I considered that all the agencies would benefit from collecting additional data on the handling of OIA requests so that opportunities for improvement could be identified and performance could be monitored.

Emerging themes of investigations into the LGOIMA practices of three agencies

Where councils and their chief executives have a healthy relationship with elected members (councillors and Mayor), openness and transparency are more likely to be supported. However, when the relationships between these parties are strained, the importance of upholding the principles of the LGOIMA is weakened, and can adversely affect the staff working in those agencies. Therefore, the importance of developing and maintaining positive working relationships between councils and elected members should not be underestimated.

Councils must ensure all information requests are handled in accordance with the provisions of the LGOIMA, including media requests, property file requests, requests handled by contact centres, and requests from elected members. While information can be provided to elected members through the common law 'need-to-know' principle, when requests are refused or information is not provided in the preferred timeframe or format it must be in compliance with the LGOIMA. Regardless of the approach taken (LGOIMA or the need-to-know principle), councils should disclose the most information possible to the requester. Additionally, councils should

take adequate steps to record the decision making on LGOIMA requests and collect additional data on the handling of LGOIMA requests.

Public engagement and consultation is the mechanism by which local government ensures the community is involved in decision making. Under statute, councils are required to publish a range of information such as a Long-term Plans and Significance and Engagement policies. In these respects, some councils had good practices in place for proactive release. Councils would benefit from more of a connection between official information practices and the efforts already being made to increase public engagement in decision making.

I considered that development of a proactive release policy, alongside public engagement and communications strategies, would complement the proactive release practices.

The development of such a policy would facilitate a consistent approach between business units, and help manage any risks around releasing private or confidential information, commercially sensitive information, or information subject to third party copyright.

One of the common issues identified was workshop record keeping practices. The workshops are not forums for decision making, therefore, the sessions are not required to be held in accordance with LGOIMA meeting provisions. As a matter of good practice, and in order to align with any relevant provisions of the Public Records Act 2005, councils should have a standard approach to the type of record kept. The record should, at a minimum, summarise the purpose and subject of the workshop. This record would then be available to be requested under the LGOIMA.

Identify flawed public sector decision making and processes and how to resolve them

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

Under the OA, the Ombudsman can investigate the administrative conduct of public sector agencies that affects people. The Ombudsman may decide to investigate after receiving a complaint, or of their own initiative.

The Ombudsman's independent oversight can assist public sector agencies to identify and correct administrative deficiencies. In doing so, the Ombudsman provides a means of improving administration and decision making over time, and so better services to the public.

In this context, I:

- provide resolution-oriented, high quality, timely, and impartial complaint handling;
- undertake high quality, targeted interventions and investigations into administrative and decision making processes;
- broker resolutions, form opinions, and make recommendations when justified;
- provide advice to agencies and support them to resolve complaints and implement my suggestions and recommendations; and
- report on and monitor the implementation of my recommendations.

I continue to report on the outcome of key complaints and investigations to assist in improving administrative practice across the public sector.

Complaint numbers

I treat matters as formal complaints once they have been put in writing.⁴⁸ However, my Office also deals with a large number of enquiries from members of the public, mainly over the telephone, prior to a complaint being made to me in writing. While I term these matters 'other contacts,' my staff spend a significant amount of time providing advice and assistance in relation to them.

I received a total of 7,522 OA complaints and other contacts in 2018/19. This was made up of:

- 2,413 complaints (an increase of 6.6 percent from last year); and
- 5,109 other contacts (a decrease of 12 percent from last year).

The decrease in other contacts continues a trend that is largely attributable to fewer telephone calls from prisoners, as the Department of Corrections' complaints telephone line came into operation in 2017/18.

I completed a total of 7,467 OA complaints and other contacts in 2018/19 comprising:

- 2,355 complaints; and
- 5,112 other contacts.

My Office's net clearance rate for OA complaints was 98 percent (for information on clearance rates across all OA, OIA and LGOIMA complaints see Timeliness and clearance rates). I finished the year with 354 complaints and nine other contacts on hand.

48 See section 16(1A) OA.

Complainants

The OA is primarily used by individual members of the public. This reflects the intent of the legislation, which is to provide recourse for people personally affected by the administrative conduct of public sector agencies. In 2018/19, 88 percent of OA complaints were from individual members of the public and 10 percent were from prisoners or prisoner advocates.⁴⁹

In terms of other contacts concerning OA matters, 63 percent were from individual members of the public and 29 percent were from prisoners or prisoner advocates.⁵⁰ As noted above, this continues a trend of receiving fewer other contacts from prisoners,⁵¹ although dealing with prisoner matters remains a large part of my Office's work in responding to and resolving matters by telephone.

Agencies

Forty-three percent of OA complaints were made against central government departments. Other state sector agencies accounted for 25 percent of OA complaints and 18 percent were made against local government agencies. These figures are consistent with previous years.

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

A third of other contacts concerned the Department of Corrections.⁵² Thirteen percent concerned other central government departments and a further 13 percent concerned agencies in the wider state sector. Six percent concerned local government agencies.

Outcomes

Complaints

Not all OA complaints require formal investigation. In 219 cases (nine percent of the total completed during 2018/19), my role was to provide an explanation, advice or assistance to complainants about the most appropriate way of addressing their concerns.

I was also able to resolve 104 complaints,⁵³ in 69 cases before investigation, and in 35 cases during an investigation.

I advised complainants in 1,011 cases to raise their complaint with the public sector agency of concern in the first instance.⁵⁴ I also declined to investigate in 121 cases, where there was another remedy or right of appeal available to the complainant,⁵⁵ and in 276 cases, where I considered it unnecessary.⁵⁶ A further 419 complaints were outside my jurisdiction.⁵⁷

I formally investigated 117 complaints,⁵⁸ and formed 64 final opinions.⁵⁹ I identified an administrative deficiency by the public sector agency in only 22 cases, 34 percent of all complaints where a final opinion was formed.

I made recommendations in 10 cases, all of which were accepted.

49 Not all against the Department of Corrections.

50 Not all against the Department of Corrections.

51 In 2017/18, 60% of other contacts were from individual members of the public and 39% were from prisoners or prisoner advocates.

52 33% of other contacts.

53 4% of cases.

54 43% of cases.

55 5% of cases.

56 12% of cases.

57 18% of cases.

58 5% of cases.

59 3% of cases.

Email quarantining practice

Between 2011 and 2017, the Horowhenua District Council kept a list of people whose emails were deemed to pose a risk to staff. This list included the names of some of the Council's own elected officials. Anyone on the list who attempted to email Council staff would automatically have their emails diverted to the Chief Executive to be vetted.

During this time, the Council did not have formal policy in place regarding the quarantining of emails, which meant this practice went largely unchecked. A high proportion of the emails that were quarantined did not appear to reach all of their intended recipients.

Five of the individuals who were added to this email quarantine list complained to me.

After investigating, I formed the opinion that the Council acted unreasonably. The Council's email quarantine practice ran contrary to the principles of transparency, accountability, and fairness.

I recommended that the Council apologise to the five complainants, but did not consider it necessary to recommend any further action given the Council had addressed the administrative issues identified by ceasing the practice and introducing a new email quarantining policy.

Read the full opinion at www.ombudsman.parliament.nz

Other contacts

In terms of other contacts concerning OA matters, my Office provided an explanation, advice or assistance in 2,816 cases (39 percent of the total completed during 2018/19).

I advised individuals in 2,445 cases⁶⁰ to raise their complaint with the public sector agency of concern in the first instance. I referred individuals to other review agencies in 430 cases,⁶¹ including the Health and Disability Commissioner, the Independent Police Conduct Authority, and the Privacy Commissioner. I referred 12 cases directly to a public sector agency for consideration by that agency, and invited 580 individuals to complain to me in writing.⁶²

Administrative deficiencies

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

- 7 unreasonable, unjust, oppressive or discriminatory acts, omissions or decisions;
- 6 instances of flawed agency processes or systems;
- 5 instances of inadequate advice, explanation or reasons;
- 5 cases where there were procedural deficiencies;
- 1 wrong action or decision; and
- 1 case of legal error.

60 34 % of cases.

61 6 % of cases.

62 8 % of cases.

Auckland Council's processing of a request for official information

I investigated a complaint by Radio New Zealand (RNZ) about the way in which Auckland Council processed its request for a consultant's report under the LGOIMA. The focus of this investigation was on the reasonableness of the Council's processing of the request, not on the merits of the decision to refuse the request which would have been investigated under the LGOIMA.

The complaint was prompted by correspondence released to RNZ under the LGOIMA about the Council's processing of its request. In one exchange, a Council officer said it was only a matter of time before the report was required to be released, and therefore it might be better to plan for a *'managed release'*. The officer further noted that *'if [RNZ] objects, [its] only recourse is to appeal to the Ombudsman, and that process will take time, and may be overtaken by the planned release'*. Another executive said it might not be *'useful'* to have the report in the public domain during an election campaign, and that his *'instincts [were] to withhold it for the maximum period'*.

After investigating, I concluded that the Council's processing of RNZ's request was unreasonable, and in some respects, appeared to have been contrary to law.

There was a lack of coordination and oversight, which led to delays in breach of the statutory timeframe requirements. The process of consulting interested parties was also mishandled, and officers had raised some irrelevant considerations, reflecting poorly on the Council's commitment to openness and transparency. I recommended that the Council apologise to RNZ and complete a review of its policies and procedures on the handling of LGOIMA requests.

I followed up this investigation with a broader one into official information compliance and practice at Auckland Council, which was completed in August 2019 (for more information about this work see Official information practice investigations). Read my opinion on this case, and my wider report on Auckland Council's official information compliance and practice at www.ombudsman.parliament.nz.

Remedies

I obtained remedies for the individual concerned in 128 OA complaints,⁶³ including:

- 35 cases where an omission was rectified;
- 26 cases where reasons or an explanation for a decision was given;
- 25 cases where a decision was changed;
- 22 cases where a decision was reconsidered;
- 10 cases where an apology was given; and
- 10 cases where a financial remedy was provided.

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

- a change in practice or procedure in seven cases;
- agency agreement to review a law, policy, practice or procedure in two cases; and
- a change in law or policy in one case.

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

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

Timeliness and quality assurance

You can read⁴ about timeliness and quality assurance, which is reported across all complaint types, at Timeliness and clearance rates, and at Quality assurance.

Children in care complaints

In April, the Government announced a new oversight regime for Oranga Tamariki—Ministry for Children that included an enhanced role for the Ombudsman. Under the regime, the Ombudsman will:

- investigate and resolve complaints about the Oranga Tamariki system;
- monitor systemic issues and undertake resolutions and investigations where appropriate;
- be notified by Oranga Tamariki of any serious and significant incidents;
- have additional powers to obtain information and work with other oversight bodies;
- have explicit duties requiring engagement with, and a focus on improved outcomes for, Māori; and
- operate a common doorway for complaints relating to a child in the custody of the state that span government agencies.

The Ombudsman’s jurisdiction will also be expanded to include organisations approved by Oranga Tamariki to provide care for children.

The legislation setting up the new regime is scheduled to be passed at the end of 2020.

Since the announcement of this enhanced role, I have been:

- assisting the Ministry of Social Development to develop the legislative framework for the oversight agencies as it relates to the Ombudsman;
- seeking to undertake our enhanced role so far as possible within our existing budget and legislative framework;

- commencing work on the organisational changes necessary to fulfil the enhanced role;
- scoping resource needs in advance of securing a budget bid from the Officers of Parliament Committee; and
- developing the cultural competence of staff through cultural awareness courses, Te Reo classes, and a focus on recruiting a more diverse workforce.

In June, I initiated a systemic investigation into the practices of Oranga Tamariki when it removes a newborn baby from its parents, whānau or other caregivers (more information about this investigation follows below—Systemic improvement).

Systemic improvement

This year I began three major systemic improvement investigations.

The first two investigations reflect the Ombudsman’s role in protecting and monitoring disability rights in New Zealand, under the United Nations Convention on the Rights of Persons with Disabilities.

In the first investigation, commenced in October 2018, I am investigating the Ministry of Health’s system of information collection, analysis, and reporting in relation to the deaths of people with intellectual disability who live in secure, supervised, and community-level supported residential care.

The second investigation, commenced in January 2019, also relates to the Ministry of Health. This investigation is looking at the Ministry’s role in providing facilities and services for the care and rehabilitation of people with high and complex intellectual disability, particularly those with long-term needs, women, and youth. It is also looking at how much workforce planning is being done to ensure that there are enough appropriately trained staff. It is taking a case study approach to highlight any systemic issues found. Read the media release at www.ombudsman.parliament.nz (available in Easy Read format).

In the third investigation, commenced in June 2019, I am investigating two aspects of Oranga Tamariki's decision making relating to the removal of newborn tamariki:

1. when a decision is made to apply to the Family Court for an interim custody order (without notice) for newborns and unborn babies; and

2. when Oranga Tamariki carries out a removal of a newborn, in accordance with an interim custody order (without notice).

It is anticipated that all three investigations will be completed and reports tabled in Parliament in 2019/20.

Systemic resolution in action— working with the Ministry for Primary Industries (MPI)

Sometimes systemic improvement can be achieved without a formal investigation. In 2018/19, my Office worked alongside MPI to address a persistent pattern of OIA delays.

This systemic resolution project was a highly structured exercise where MPI agreed to specific goals and a reasonably intensive schedule of meetings and discussions to address longstanding issues in resourcing, internal guidance, processes, and culture. This resulted in MPI committing to a substantial and trackable schedule of improvement during 2019 and into 2020.

As part of this programme, the MPI's Senior Leadership Team approved substantial investment in additional staffing resource for the OIA team, with a review after one year to see if further increases were needed.

MPI worked with my Office throughout the resolution process in a cooperative and responsive way. They recognised that the issues were real and that they needed to improve. The MPI Senior Leadership team also showed full appreciation of its critical ongoing role, especially in providing sound and clear messaging to the rest of MPI, and providing continuous oversight.

I will continue monitoring MPI's OIA improvement programme, and working with MPI to help develop the guidance, messaging and processes that are scheduled over the remainder of 2019. This should lead to transformed OIA culture at MPI.

Learn from, and assist to develop, international best practice

Parliamentary Ombudsmen in more than 90 countries are members of the International Ombudsman Institute (IOI) which describes the role of Ombudsman as:

...to protect the people against violation of rights, abuse of powers, unfair decisions and maladministration. They play an increasingly important role in improving public administration while making the government's actions more open and its administration more accountable to the public.

As part of assisting New Zealand in being a good global citizen, I have a responsibility to:

- act as an international leader in promoting good government practices, including transparency and anti-corruption;
- use the Ombudsman's mana, networks and experience to help lift regional best practice in Asia and the Pacific; and
- help with the ongoing definition of what a modern ombudsman institution is and how it works.

I assist integrity institutions in other countries by working with them to lift regional and international best practice, work with others around the world to build and improve tools, frameworks, methodologies and resources, and improve our own practices by benchmarking internationally. I do this by:

- building quality relationships and partnerships with other integrity institutions and integrity focused organisations;
- building on our experience of cross-cultural relationships in New Zealand, and actively seeking to understand cultural diversity and local circumstances;

- identifying best practice issues my Office and others face; and
- ensuring that our international work is co-ordinated with other New Zealand agencies.

I am committed to learning from and fostering relationships with other nations' integrity organisations. This includes hosting visiting international delegations, participating in international Ombudsman and Information Commissioner networks, and providing training and assistance to international Ombudsmen or Ombudsman-type organisations.

Overview

This year I hosted visiting international delegations, participated in international Ombudsman and Information Commissioner networks, and provided training and assistance to international Ombudsmen and Ombudsman-type organisations.

In 2018, I was elected to an important role as the Regional President of the Australasian and Pacific Ombudsman Region (APOR). APOR is the regional arm of the IOI.

As Regional President, I continued my programme of official visits to colleagues in the Pacific region, as part of my work to promote good governance, integrity, and anti-corruption.

Parliament also approved funding for a four-year programme of work from 2019/20, to support and learn from fellow integrity institutions in the Asia-Pacific region.

Training and assistance

My Office provided training and development support to Ombudsmen in the Asia-Pacific region. The commitment to promoting accountability, transparency, and anti-corruption

practices, particularly in the Asia–Pacific region is growing, hence the importance of my Office providing support where it can.

In 2018/19, my Office facilitated:

- a one–month work placement within my Office for a staff member from the Tongan Ombudsman’s Office;
- a one–week training programme for the new Cook Islands Ombudsman;
- a four–week internship for a student from Victoria University’s Myanmar Young Leaders Programme.

My Office also facilitated training workshops in Vanuatu for Ombudsman investigating officers, correctional services senior management and health inspectors. This project was in conjunction with the United Nations Development Programme in the Pacific.

Delegations

I received delegations from Vietnam, Myanmar, and Indonesia to hear about the Ombudsman’s contribution to New Zealand’s Transparency International rating (second in the world after Denmark by one point), enforcing official information legislation and monitoring places of detention.

Networks

I maintained awareness of international development initiatives through membership of:

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

As a result of this membership, I:

- hosted the 30th APOR conference in Auckland, the theme of which was ‘Holding governments to account in a changing climate’;
- hosted a meeting of the AIAC in Wellington;
- published our 6–monthly newsletter, *Wakatangata*, focussing on issues in Australasia and the Pacific;
- participated in the Australian Research Council project ‘*Whistling While They Work*’;
- participated in an Australia and New Zealand School of Government (ANZSOG) research project for the New South Wales Ombudsman; and
- provided advice and guidance to relevant authorities in Myanmar to shape their institutions and complaints processes in a way that will improve governance outcomes in Myanmar.



PART 5

Organisational health and capability

Financial and asset management

In 2018/19, I continued to operate under tight fiscal conditions. Vote Ombudsmen is small, with an appropriation of \$18.621 million (excluding GST) for the year ended 30 June 2019. Personnel and accommodation costs accounted for 65 percent of the actual amount spent. The remaining spending was primarily on service contracts, maintenance, depreciation, travel, and communication.

There is little expenditure of a discretionary kind. What discretionary financial resources do exist are allocated in a planned, prioritised, and contestable manner. The allocation of every dollar is closely scrutinised to ensure the investment is the best use that can be made of the limited resources available. Discretionary funding may be spent on special projects or staff training.

The Office uses Greentree accounting and reporting software as its 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 Greentree to provide budget projections for the current and future years. These contribute to the effective use of the Office's assets, and assist in identifying any potential problems at an early stage. My staff have continued to enhance Greentree to ensure its efficiency and provide a better service to both the Office and internal budget managers.

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

My Office work closely with the Treasury and Audit New Zealand. The liaison allows my Office to benefit from their advice and guidance in matters relating to improving transparency of performance and reporting systems, and ensures that both agencies have a sound understanding of the working environment and issues facing the Ombudsman.

Our people

As at 30 June 2019, my Office had 93 employees.⁶⁴

The regional breakdown was:

- Auckland (9 percent—8 people)
- Christchurch (5 percent—5 people)
- Wellington (86 percent—80 people).

In terms of gender representation:

- 72 percent of my staff are female
- 28 percent of my staff are male.

Further details are set out below.

Role	Number	% of total staff	% Female	% Male
Senior Managers (excluding Chief Ombudsman)	5	5	80	20
Managers	11	12	55	45
Operations staff	47	51	70	30
Specialist staff	14	15	64	36
Administration and support staff	16	17	94	6

In terms of working arrangements, 63 percent of employees were covered by an individual employment agreement as at 30 June 2019 and 37 percent of employees were covered by the one Collective Agreement. Of the permanent employees, 10 percent work part-time.

The work of my Office is very interesting and attractive, however employee turnover is inevitable for a variety of reasons. My staff are highly trained and are in-demand within the

wider public sector. Thirteen staff left voluntarily in the 2018/19 year, resulting in a voluntary staff turnover for the year of 16 percent.

During the course of the year, two reviews were completed of the Office's organisational structure:

- Information and Communications Technology (ICT)/Information and Knowledge Management (IKM) review, which commenced during the 2017/18 year. This review identified the appropriate

⁶⁴ As at 30 June 2019, there were 116 workers, comprising 93 employees and 23 contractors. These figures do not include vacancies, casuals, or staff on parental leave. Temporary resources were engaged to assist in the delivery of key priority projects as necessary.

functions and people resources to service growing demand in ICT and IKM needs for the future.

- People and Capability Team review, which commenced during the 2017/18 year. This review identified the appropriate resources to service the people and management growth across the organisation for the future.

I also commenced work on the following:

- Development and consultation on a new operating model along with a growing structure to provide for increased resourcing for the OPCAT function. The new OPCAT model is designed to address the extension

of the Ombudsman's designation to include monitoring of treatment of patients detained in privately-run aged care facilities, detainees in court cells, and prisoners otherwise in the custody of the Department of Corrections.

- Design of roles and working towards the establishment of an increased focus on complaints and investigations regarding children in care.
- Design of roles for a new International Development Team to focus on the design and delivery of my international development and engagement strategy and work programme.

People performance and capability

In 2018/19, I focused on key people initiatives that supported capability development and reinforced a positive workplace culture. New and ongoing initiatives and projects included:

- the negotiation and conclusion of a new Collective Agreement;
- an update to my Office's employment practices regarding employment agreement coverage resulting from recent employment legislation changes;
- the renewal and modernisation of individual employment agreements;
- a review and update of some of our existing human resources policies and practices to ensure best practice and continuous improvement;
- the completion of the development and implementation of a performance objectives framework to include quality performance objectives for all roles;
- investment in individualised leadership and management development programmes to build the leadership and management capability of new managers and reinforce leadership skills in existing managers;
- the provision of opportunities for staff to develop specific skills to support their ongoing professional development, including opportunities for internal secondments to different roles or to perform specific project work;
- new health and safety initiatives; and
 - › launch of a new Health and Safety Strategy;
 - › review of worker engagement and participation policies and practices, and the establishment of a new Health and Safety Committee to drive the health and safety work programme which includes new wellbeing initiatives;

- › development and implementation of a new health and safety policy and procedures for staff who visit places of detention to manage overlapping Person Conducting a Business or Undertaking responsibilities and health and safety management of staff while carrying out their duties at detention facilities;
- › rollout of a revised Unreasonable Complainant Conduct policy and procedures and new related policy and procedures on managing threatening, aggressive, and violent behaviour. Along with these new policies and procedures, a new online health and safety reporting tool was introduced; and
- › rollout of a new Unacceptable Workplace Behaviours policy and guidelines for all managers and staff.

My Office experienced a significant increase in recruitment activity during the year due to the establishment of new positions arising from reorganisation and new organisational structures and teams, and business-as-usual backfilling of existing vacancies. It also recruited temporary resources to provide specialist expertise in delivering and completing organisational projects.

Information management

I have continued work this year on reviewing and improving the Office's information management technologies, structure and related policies, processes, and practices.

All complaints and other contacts records in electronic format are stored in a customised case management system (CMS). The CMS was upgraded in 2010 and has since been modified and enhanced via process change requests. This system no longer meets my current and future needs and is being replaced. The first phase of this will happen in the 2019–2021 time period.

Corporate administration files are now stored in the Office's Enterprise CMS. The implementation of my three-year work programme has continued via my Information Systems Strategic Plan, which is intended to ensure a more strategic approach to the Office's information management (IM) and

information communications and technology (ICT) systems so that I can be confident that it is able to effectively support the:

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

The four-tiered governance and management framework introduced in 2017 continues to serve the Office well.⁶⁵

In 2018/19, the Office completed a proof of concept for a new CMS. In 2019/20, it will be working on the configuration and implementation of the selected product. This

⁶⁵ Made up of the Chief Ombudsman as Chief Executive, the Executive Committee and Senior Management Team, the Information Management Policy and Strategy Governance Group, and operational management and delivery staff.

project is a multi-year project and the system chosen has been selected for its ability to be able to support future configuration and development to meet the needs of the additional work that the Ombudsman has been given. The system will support increased staffing numbers. It will

also allow me to make better use of the data my Office collects and support my efforts in the areas of business intelligence and data analytics, while also allowing my Office to be more mobile, agile, and responsive.

Risk management

My 2018/22 *Strategic Intentions* identified the key risks, and set out the strategies my Office would use to manage these risks. In summary, the key risks are:

- damage to the Ombudsman's credibility or reputation;
- work pressures and finite resources;
- loss of relevance; and
- loss of international credibility and reputation.

The Office also faces 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
- disasters including fire and earthquakes.

I have targeted measures in place to manage these specific risks. In 2018/19, I invested in projects aimed at developing organisational values, promoting positive health and safety policies and practices in the workplace, and enabling my Office and staff to be confident in both responding appropriately in an emergency and ensuring quick recovery and business continuity after a disaster.

PART 6

Financial and performance information



Statement of responsibility

I am responsible, as Chief Ombudsman, for:

- the preparation of the Office's financial statements and the statements of expenses and capital expenditure and for the judgements expressed in them;
- having in place a system of internal 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 of the Office of the Ombudsman for the year ended 30 June 2019 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 2019 and its operations for the year ending on that date.

Peter Boshier

Chief Ombudsman
30 September 2019

Meaw-Fong Phang

Manager Finance, Administration and
Business Services
30 September 2019

Independent Auditor's Report

To the readers of the Office of the Ombudsman's annual report

for the year ended 30 June 2019

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

- the financial statements of the Office on pages 60 to 79, that comprise the statement of financial position, statement of commitments, statement of contingent liabilities and contingent assets as at 30 June 2019, 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 2019 on pages 13 to 43 and 53 to 59, comprising the report on operations and the statement of objectives and service performance; and
- the appropriation statements of the Office for the year ended 30 June 2019 on pages 80 and 81.

Opinion

In our opinion:

- The financial statements of the Office on pages 60 to 79:
 - › present fairly, in all material respects:
 - » its financial position as at 30 June 2019; and
 - » its financial performance and cash flows for the year ended on that date; and

- › comply with generally accepted accounting practice in New Zealand in accordance with Public Benefit Entity Standards Reduced Disclosure Regime.
- The performance information of the Office on pages 13 to 43 and 53 to 59:
 - › presents fairly, in all material respects, for the year ended 30 June 2019:
 - » what has been achieved with the appropriation; and
 - » the actual expenses or capital expenditure incurred compared with the appropriated or forecast expenses or capital expenditure; and
 - › complies with generally accepted accounting practice in New Zealand.
- The appropriation statements of the Office on pages 80 and 81 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 2019. This is the date at which our opinion is expressed.

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

Basis for our opinion

We carried out our audit in accordance with the Auditor-General's Auditing Standards, which incorporate the Professional and Ethical Standards and the International Standards on Auditing (New Zealand) issued by the New Zealand Auditing and

Assurance Standards Board. Our responsibilities under those standards are further described in the Responsibilities of the auditor section of our report.

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

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

Responsibilities of the Chief Ombudsman for the information to be audited

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

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

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

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

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

Responsibilities of the auditor for the information to be audited

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

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

For the budget information reported in the information we audited, our procedures were limited to checking that the information agreed to the relevant Estimates and Supplementary Estimates of Appropriation for 2018/19, and the 2018/19 forecast financial figures included in the Office's 2017/18 annual report.

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

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

- We identify and assess the risks of material misstatement of the information we audited, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error,

as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- We obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Office's internal control.
- We evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Chief Ombudsman.
- We evaluate the appropriateness of the reported performance information within the Office's framework for reporting its performance.
- We conclude on the appropriateness of the use of the going concern basis of accounting by the Chief Ombudsman and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Office's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the information we audited or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Office to cease to continue as a going concern.
- We evaluate the overall presentation, structure and content of the information we audited, including the disclosures, and whether the information we audited represents the underlying transactions and events in a manner that achieves fair presentation.

We communicate with the Chief Ombudsman regarding, among other matters, the planned scope and timing of the audit and significant

audit findings, including any significant deficiencies in internal control that we identify during our audit.

Our responsibilities arise from the Public Audit Act 2001.

Other information

The Chief Ombudsman is responsible for the other information. The other information comprises the information included on pages 2 to 100, but does not include the information we audited, and our auditor's report thereon.

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

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

Independence

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

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

Andrew Clark

Audit New Zealand

On behalf of the Auditor-General
Wellington, New Zealand

Statement of objectives and service performance for the year ended 30 June 2019

This section provides detailed reporting on our performance against our targets. Key targets are included in *The Estimates of Appropriations for the Government of New Zealand for the year ended 30 June 2019*. Full details can be found on the Treasury's website.

Investigation and resolution of complaints about government administration

Performance measures	2018/19	2018/19	2017/18
	Budget standard	Actual	Actual
IMPACT MEASURES			
Overall quality of public services improves over time	75 points or higher in Kiwis Count Survey	77 points⁶⁶	76 points
New Zealand ranked as one of the leading countries in public service probity ⁶⁷	NZ in top 3 on average over next 5 years	In 2018, New Zealand ranked second⁶⁸	In 2017, New Zealand ranked first

Output 1 – Inform the public to enable them to take constructive action to realise their rights

DEMAND-DRIVEN MEASURES

# of external speeches, presentations, interviews and training sessions given to the public ⁶⁹ (new measure)	40	52⁷⁰	– ⁷¹
# of media mentions of the Ombudsman (new measure)	900	1,172⁷²	– ⁷³
# of unique visitors to Ombudsman website (new measure)	65,000	89,162⁷⁴	– ⁷⁵

66 As at December 2018, see <http://www.ssc.govt.nz/kiwis-count>.

67 Using the Transparency International Corruption Perceptions Index to track perceptions of public trust in government in New Zealand.

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

69 Including public forums, media, political parties, and community organisations.

70 This was a new measure in 2018/19. It is a largely demand driven measure which makes it difficult to forecast the precise number of requests we will receive in the first year.

71 This is a new measure.

72 This was a new measure in 2018/19. It is a largely demand driven measure, which makes it difficult to forecast the precise number of media mentions the Ombudsman will receive in the first year. My Office has an increasingly high media profile, which in turn has driven an increase in media mentions. In late June 2019, I announced that I was conducting a self-initiated investigation into the steps Oranga Tamariki takes when newborn babies are removed. This attracted a considerable amount of media attention.

73 This is a new measure.

74 This was a new measure in 2018/19. This is a largely demand driven measure, which makes it difficult to forecast the precise number of unique visitors we will receive. For the reasons outlined in note 72, my Office's increased media profile has likely driven an increase in this area.

75 This is a new measure.

Performance measures	2018/19	2018/19	2017/18
	Budget standard	Actual	Actual
PROACTIVE MEASURES			
% of members of the public who have heard of the Ombudsman	68%	76%	68%
% of complainants who found our website useful ⁷⁶	80%	90%	88%

Output 2 – Improve public sector capability to do its work and make decisions

DEMAND-DRIVEN MEASURES

# of requests for advice or comment ⁷⁷ from public sector agencies ⁷⁸ responded to	200	440⁷⁹	341
# of external speeches, presentations and training sessions provided to public sector agencies (new measure)	25	52⁸⁰	– ⁸¹

PROACTIVE MEASURES

% of public sector agency participants in Ombudsman external training sessions who report the training will assist them in their work (amended measure) ⁸²	95%	87%	100%
# of guidance materials for public sector agencies produced or updated (new measure)	25	23	– ⁸³
% of public sector agencies which report Ombudsman information resources assist them in their work (new measure) ⁸⁴	80%	81%	– ⁸⁵
% of public sector agencies satisfied with our communication overall ⁸⁶	75%	88%	– ⁸⁷

76 Based on a survey of randomly selected complainants.

77 Including on legislation, policies, procedures, administrative processes, and decision making.

78 All references to public sector agencies include Ministers' offices.

79 This is a largely demand driven measure, which makes it difficult to forecast the precise number of requests for advice or comment we will receive. Over the past 5 years my Office received an average of 190 requests for advice per year (this includes the 2017/18 result which was unusually high compared to previous years).

80 This was a new measure in 2018/19. This is a largely demand driven measure, which makes it difficult to forecast the precise number of requests we will receive.

81 This is a new measure.

82 Based on a survey of public sector agencies who were the subject of investigation in the reporting year.

83 This is a new measure.

84 Based on a survey of public sector agencies who were the subject of investigation in the reporting year.

85 This is a new measure.

86 Based on a survey of public sector agencies who were the subject of investigation in the reporting year.

87 This is a new measure.

Performance measures

	2018/19 Budget standard	2018/19 Actual	2017/18 Actual
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Output 3 – Formal consultation to assist public sector agencies to make specific decisions

PROACTIVE MEASURES

# of formal consultations completed (new measure)	10–100 ⁸⁸	15 ⁸⁹	– ⁹⁰
% of formal consultations completed within 3 months ⁹¹ from date of receipt (new measure)	100%	100%	– ⁹²

Output 4 – Enable serious wrongdoing to be disclosed and investigated and whistleblowers protected

DEMAND-DRIVEN MEASURE

# of requests and enquiries completed (amended measure)	50	90 ⁹³	70
(received)		(88)	(77)

PROACTIVE MEASURES

% of requests and enquiries completed within 3 months ⁹⁴ from date of receipt	85%	96% ⁹⁵	90%
% of responses to requests and enquiries peer reviewed against internal quality standards (new measure)	100%	100%	– ⁹⁶
# of guidance materials and resources produced or updated that assist serious wrongdoing to be disclosed and investigated (new measure)	2	2	– ⁹⁷

88 It is difficult to predict with any certainty how many consultations will be received in any given year, as most of these are consultations under section 241 of the Land Transport Act, of which the Office received 112 in 2010/11, 24 in 2011/12, 8 in 2012/13, 8 in 2013/14, 7 in 2014/15, 72 in 2015/16, 7 in 2016/17, and 129 in 2017/18.

89 This was a new measure in 2018/19. This is a largely demand driven measure, which makes it difficult to forecast the precise number of enquiries we will receive. The majority of these are consultations are under section 241 of the Land Transport Act. The number of consultations has varied considerably, as evidenced by the fact that my Office received 112 consultations in 2010/11, 24 consultations in 2011/12, 8 consultations in 2012/13, 8 consultations in 2013/14, 7 consultations in 2014/15, 72 consultations in 2015/16, 7 consultations in 2016/17 and 129 consultations in 2017/18.

90 This is a new measure.

91 Counted as 90 calendar days.

92 This is a new measure.

93 This was an amended measure in 2018/19. This is a largely demand driven measure, which makes it difficult to forecast the precise number of enquiries we will receive. Historically, the number of requests for PDA advice and guidance has been quite low (eg, 9 in 2015/16 and 16 in 2014/15). The PDA has had a high profile due to cases in the media, the State Services Commission's review of the PDA and our work and media releases on this subject (including research on PDA awareness).

94 Counted as 90 calendar days.

95 The current volume of requests and enquiries and the current PDA expertise available within my Office means that my staff have been able to progress the vast majority of requests and enquiries quickly and efficiently.

96 This is a new measure.

97 This is a new measure.

Performance measures

	2018/19 Budget standard	2018/19 Actual	2017/18 Actual
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Output 5 – Break down the barriers that prevent disabled people from participating equally in society

PROACTIVE MEASURES

# of reports, submissions, guides and resources produced or updated that assist to break down the barriers that prevent disabled people from participating equally in society (new measure)	3	7 ⁹⁸	– ⁹⁹
% of external stakeholders ¹⁰⁰ satisfied that the Ombudsman provides an effective contribution to IMM activities (new measure)	80%	100% ¹⁰¹	– ¹⁰²

Output 6 – Improve the conditions and treatment of people in detention

PROACTIVE MEASURES

# of inspections and visits to places of detention (amended measure)	40	40	39
% of unannounced inspections and visits ¹⁰³ (amended measure)	60%	90%	87%
% of reports sent to places of detention within 3 months ¹⁰⁴ of inspection (amended measure)	95%	95%	100%
% of reports peer reviewed against internal quality standards (amended measure)	100%	100%	100%
% of formal recommendations accepted	80%	92% ¹⁰⁵	92%

98 This was a new measure in 2018/19. I established a Manager Disability Rights role in 2018/19, which increased the Office's capacity in this area.

99 This is a new measure.

100 Including Disabled Peoples' Organisations, Human Rights Commission, Office for Disability Issues, and Health and Disability Commissioner.

101 This was a new measure in 2018/19. The results are based on a survey conducted during the course of this year. The target was designed to establish a benchmark for external stakeholder satisfaction and is set at a level consistent with other similar measures.

102 This is a new measure.

103 The internationally accepted standard is for at least 1/3 of inspections to be unannounced. Within these broad parameters, we vary the proportion of unannounced inspections and visits each year, depending on the institutions visited and the issues of concern. Based on the 2018–22 Strategic Intentions we increased our target from at least 33% of inspections and visits being unannounced to 60% to still allow the flexibility of up to 1/3 announced.

104 Counted as 90 calendar days.

105 The percentage of recommendations accepted remained high this year. However, historically, the percentage of formal recommendations accepted has been lower for example, 72% in 2015/16 and 83% in 2014/15. This year we commenced routinely publishing our reports, which has encouraged agencies to accept our recommendations.

Performance measures

	2018/19	2018/19	2017/18
	Budget standard	Actual	Actual

Outputs 7 & 8 – Complaint handling and investigations

DEMAND-DRIVEN MEASURES

# of official information complaints completed (received)	1,450	2,198¹⁰⁶ (2,265)	1,942 (1,677)
# of official information other contacts completed (received)	400	404 (403)	397 (450)
# of Ombudsmen Act 1975 (OA) complaints completed (received)	2,100	2,355¹⁰⁷ (2,413)	2,398 (2,191)
# of OA other contacts completed (received)	5,800 ¹⁰⁸	5,112 (5,109)	5,813 (6,580)

PROACTIVE MEASURES

% complaints and other contacts considered	100%	100%	100%
% net clearance rate ¹⁰⁹ of complaints	100%	97%	110%
% net clearance rate of other contacts	100%	100%	100%
% of complaints ¹¹⁰ received from 1 July 2016 completed within 3 months ¹¹¹ of receipt ¹¹²	70%	72%	75%
% of complaints received from 1 July 2016 completed within 6 months ¹¹³ of receipt	80%	88%	86%
% of complaints received from 1 July 2016 completed within 9 months ¹¹⁴ of receipt	90%	93%	91%

106 A significant proportion of the complaints received and completed in 2018/19 can be attributed to one party, who made 471 delay complaints against school boards of trustees.

107 This is a largely demand driven measure, which makes it difficult to forecast the precise number of enquiries we will receive. My target was reduced for 2018/19, as my Office completed the backlog of aged complaints in 2017/18, a year ahead of schedule. I expect future demand from OA complaints to remain stable.

108 Ombudsmen Act other contacts have been tracking down since 2016 as phone contact from prisoners has decreased following the establishment of a Complaints Response Desk (CRD) for prisoners by the Department of Corrections. Phone contact from the general public has remained stable.

109 'Net clearance rate' means the total number of complaints closed in the reporting year as a proportion of the total number of complaints received during the year.

110 This measure and the next three measures are calculated based on the number of Ombudsmen Act, Official Information Act and Local Government Official Information and Meetings Act complaints received and completed (ie, not other contacts).

111 Counted as 90 calendar days.

112 This measure and the next two measures are calculated on the basis of all complaints received between 1 July 2016 and 30 June 2019, and either closed in the reporting year or remaining open at year end. Complaints remaining open and over target at year-end were counted as not met when calculating the percentages.

113 Counted as 180 calendar days.

114 Counted as 270 calendar days.

Performance measures

	2018/19	2018/19	2017/18
	Budget standard	Actual	Actual
% of complaints received from 1 July 2015 completed within 12 months ¹¹⁵ of receipt ¹¹⁶	95%	97% ¹¹⁷	92%
% of other contacts completed within 1 month ¹¹⁸ from date of receipt (amended measure)	99%	99%	99%
% of complaints resolved prior to formal opinion ¹¹⁹ (new measure)	35%	46% ¹²⁰	– ¹²¹
% of complainants satisfied with our service (amended measure) ¹²²	60%	41%	41%
% of completed complaints and other contacts meeting internal quality standards, following random quality assurance check ¹²³	80%	80%	64%
# of official information practice investigations completed	12	9 ¹²⁴	12
# of investigations for systemic improvement completed (amended measure)	2–3	0 ¹²⁵	3
% of OA and official information recommendations accepted	80%	98% ¹²⁶	99%
% of public sector agencies satisfied the Ombudsman's opinions are fair	75%	68%	64%

115 Counted as 365 calendar days.

116 This measure is calculated on the basis of all complaints received between 1 July 2015 and 30 June 2019, and either closed in the reporting year or remaining open at year end. Complaints remaining open and over target at year end were counted as not met when calculating the percentages.

117 The one complaint received before 1 July 2015 remaining on hand was completed in September 2019.

118 Counted as 30 calendar days.

119 Measure does not include complaints which were outside an Ombudsman's jurisdiction, or referred to another complaint handling agency, or where the discretion not to investigate a complaint was exercised.

120 This was a new measure in 2018/19. I signalled in my 2018–22 Strategic Intentions that I intended to continue to refine and improve my Office's approach to complaint-handling to make it as effective, timely and accessible as possible. This includes a greater focus on the early resolution of complaints, which decreases the need for formal opinions.

121 This is a new measure.

122 I expect complainant satisfaction with service delivery will improve as timeliness improves.

123 I also have other measures in place to ensure quality, including review of all correspondence by senior staff with delegated authority.

124 In 2018/19, I concluded investigations of the official information practice of four agencies that were commenced in 2017/18. These four investigations were completed in September 2018. I also commenced my next eight investigations, five of which were completed by 30 June 2019. Having tested the resources and timeframes required to complete high quality and targeted official information practice investigations, I am committed to completing eight investigations per year. I have amended my target accordingly for 2019/20.

125 Three investigations for systemic improvement are currently underway and will be completed after 30 June 2019.

126 An Ombudsman has the power to recommend solutions or remedies. This was a new measure in 2017/18 which was designed to establish a benchmark for agency acceptance of recommendations made pursuant to the Ombudsmen Act. This in turn allows my Office to assess the effectiveness of our recommendations. The target was set at a consistent level with other similar performance measures eg, % of formal OPCAT recommendations accepted. In 2018/19, a total of 10 out of 10 Ombudsmen Act recommendations and 48 out of 49 official information recommendations were accepted.

Performance measures	2018/19	2018/19	2017/18
	Budget standard	Actual	Actual

Output 9 – Learn from, and assist to develop, international best practice

DEMAND-DRIVEN MEASURES

# of international delegations hosted (new measure)	2–5	4¹²⁷	– ¹²⁸
# of international initiatives participated in (new measure)	2–5	5¹²⁹	– ¹³⁰

PROACTIVE MEASURES

# of newsletters for Asia–Pacific Ombudsmen published (new measure)	2	2¹³¹	– ¹³²
% of overseas stakeholders who report value in the guidance and training received from this Office	95%	100%	100%

The cost of delivery of these results is detailed in next section.

127 Vietnam, Myanmar, Tonga and the Cooks Islands—includes visits and placements.

128 This is a new measure.

129 Australasian and Pacific Ombudsman Region (APOR) conference; Society of Consumer Affairs Professionals (SOCAP) Return on Investment (ROI), International Ombudsman Institute (IOI) briefing paper on United Nations (UN) resolution; ANZ complaints handling standard; and United Nations Development Programme training in Vanuatu.

130 This is a new measure.

131 Published in November 2018 and May 2019.

132 This is a new measure.

Statement of comprehensive revenue and expense for the year ended 30 June 2019

30/06/18 Actual		Notes	30/06/19 Actual	30/06/19 Main estimates	30/06/19 Supp. estimates	30/06/20 Unaudited forecast IPSAS*	
\$(000)			\$(000)	\$(000)	\$(000)	\$(000)	
	Revenue						
16,764	Revenue Crown		18,624	19,140	18,621	23,880	
<u>16,764</u>	Total revenue		<u>18,624</u>	<u>19,140</u>	<u>18,621</u>	<u>23,880</u>	
	Expenses						
9,471	Personnel costs	2	10,948	11,225	11,126	13,821	
6,026	Other operating costs	3	5,916	6,784	6,363	8,870	
536	Depreciation and amortisation	4	570	869	870	866	
189	Capital charge	5	267	262	262	323	
16,222	Total expenses		17,699	19,140	18,621	23,880	
542	Surplus/(deficit)		923	-	-	-	
-	Other comprehensive revenue and expense		-	-	-	-	
542	Total comprehensive revenue and expense		923	-	-	-	

Explanations of major variances against the original 2018/19 budget are provided in Note 16.

The accompanying notes form part of these financial statements.

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

Statement of financial position as at 30 June 2019

30/06/18 Actual		Notes	30/06/19 Actual	30/06/19 Main estimates	30/06/19 Supp. estimates	30/06/20 Unaudited forecast IPSAS*
\$(000)			\$(000)	\$(000)	\$(000)	\$(000)
Assets						
<i>Current assets</i>						
4,709	Cash and cash equivalents		7,622	3,437	3,949	4,513
56	Other current assets	6	191	24	24	24
<u>4,765</u>	<i>Total current assets</i>		<u>7,813</u>	<u>3,461</u>	<u>3,973</u>	<u>4,537</u>
<i>Non-current assets</i>						
1,731	Property, plant and equipment	7	1,672	1,389	1,554	1,799
989	Intangible assets – Software	8	1,070	3,491	2,817	3,788
<u>2,720</u>	<i>Total non-current assets</i>		<u>2,742</u>	<u>4,880</u>	<u>4,371</u>	<u>5,587</u>
<u>7,485</u>	Total assets		<u>10,555</u>	<u>8,341</u>	<u>8,344</u>	<u>10,124</u>
Liabilities						
<i>Current liabilities</i>						
880	Creditors and other payables	9	1,237	372	372	374
99	Leasehold incentive – current portion [^]		98	–	–	–
542	Return of operating surplus	10	923	–	–	–
787	Employee entitlements	11	896	470	470	467
<u>2,308</u>	<i>Total current liabilities</i>		<u>3,154</u>	<u>842</u>	<u>842</u>	<u>841</u>
<i>Non-current liabilities</i>						
19	Employee entitlements	11	19	18	18	18

The accompanying notes form part of these financial statements.

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

716	Leasehold Incentives		619	718	718	620
735	Total non-current liabilities		638	736	736	638
3,043	Total liabilities		3,792	1,578	1,578	1,479
4,442	Net assets		6,763	6,763	6,766	8,645
	Equity					
4,442	General funds	12	6,763	6,763	6,766	8,645
4,442	Total Equity		6,763	6,763	6,766	8,645

^ This current liability has no liquidity impact.

Explanations of major variances against the original 2018/19 budget are provided in Note 16.

Statement of changes in equity for the year ended 30 June 2019

30/06/18 Actual		Notes	30/06/19 Actual	30/06/19 Main estimates	30/06/19 Supp. estimates	30/06/20 Unaudited forecast IPSAS*
\$(000)			\$(000)	\$(000)	\$(000)	\$(000)
3,148	Balance at 1 July		4,442	4,442	4,445	6,766
542	Total comprehensive revenue and expense for the year		923	–	–	–
	Owner transactions					
1,294	Capital injections		2,321	2,321	2,321	1,879
(542)	Return of operating surplus to the Crown		(923)	–	–	–
4,442	Balance at 30 June	12	6,763	6,763	6,766	8,645

Explanations of major variances against the original 2018/19 budget are provided in Note 16.

The accompanying notes form part of these financial statements.

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

Statement of cash flows for the year ended 30 June 2019

30/06/18 Actual		Notes	30/06/19 Actual	30/06/19 Main estimates	30/06/19 Supp. estimates	30/06/20 Unaudited forecast IPSAS*
\$(000)			\$(000)	\$(000)	\$(000)	\$(000)
Cash flows from operating activities						
16,764	Receipts from Crown		18,624	19,140	18,621	23,880
–	Receipts from other revenue		–	–	–	–
(9,196)	Payments to employees		(10,837)	(11,256)	(11,032)	(13,857)
(6,361)	Payments to suppliers		(5,503)	(6,851)	(7,346)	(8,933)
(189)	Payment for capital charge		(267)	(262)	(262)	(323)
77	Goods and services tax (net)		(292)	–	–	–
1,095	<i>Net cash from operating activities</i>		1,725	<u>771</u>	<u>(19)</u>	<u>767</u>
Cash flows from investing activities						
(70)	Purchase of property, plant and equipment	7	(361)	(532)	(532)	(947)
(799)	Purchase of intangible assets – software	8	(230)	(1,989)	(1,989)	(1135)
(869)	<i>Net cash from investing activities</i>		(591)	<u>(2,521)</u>	<u>(2,521)</u>	<u>(2082)</u>
Cash flows from financing activities						
1,294	Capital injection		2,321	2,321	2,321	1882
(6)	Return of operating surplus		(542)	–	–542	–
1,288	<i>Net cash from financing activities</i>		1,779	<u>2,321</u>	<u>1,779</u>	<u>1882</u>
1,514	Net increase /(decrease) in cash		2,913	571	(761)	567
3,195	Cash at beginning of the year		4,709	2,866	4,710	3,946
4,709	Cash at end of the year		7,622	<u>3,437</u>	<u>3,949</u>	<u>4513</u>

Explanations of major variances against the original 2018/19 budget are provided in Note 16.

The accompanying notes form part of these financial statements.

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

Statement of commitments as at 30 June 2019

Non-cancellable operating lease commitments

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

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

30/06/18 Actual \$(000)		30/06/19 Actual \$(000)
	Non-cancellable operating lease commitments	
1,144	Less than one year	1,418
1,144	One to two years	1,418
3,243	Two to five years	3,298
3,062	More than five years	2,137
8,593	Total non-cancellable operating lease commitments	8,271

I am not a party to any other lease agreements.

Capital commitments

I have no capital commitments as at 30 June 2019. (2018 \$0.0 million).

The accompanying notes form part of these financial statements.

Statement of contingent liabilities and contingent assets as at 30 June 2019

Contingent liabilities

As at 30 June 2019 the Office has three contingent liabilities as detailed below:

1. The nature of this item is the potential costs associated with proceedings initiated by the relevant party in relation to the exercise of a statutory discretion. I have sent my final decision, however the relevant party is yet to respond. Future costs are unquantifiable, but should be determined by February 2020.
2. The nature of this item is the potential costs associated with proceedings against a public sector agency in which the plaintiff has sought to join the Ombudsman as further defendant. This case was settled in July 2019.
3. The nature of this item is the potential costs associated with employment litigation currently being brought by a former employee against the Chief Ombudsman. This case has been settled in September 2019.

The Office has quantifiable contingent liabilities for legal and other related costs of an estimated \$236,000 in relation to the three contingent liabilities above.

As at 30 June 2018, the Office had no unquantifiable contingent liabilities.

Contingent assets

As at 30 June 2019, the Office does not have any unquantifiable or quantifiable contingent assets (2018 Nil).

The accompanying notes form part of these financial statements.

Notes to the financial statements

1. Statement of accounting policies for the year ended 30 June 2019

Reporting entity

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

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

The financial statements of the Office are for the year ended 30 June 2019. The financial statements were authorised for distribution by the Chief Ombudsman on 30 September 2019.

Basis of preparation

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

Changes in accounting policy

There have been no changes in accounting policies since the date of the last audited financial statements, apart from the early adoption of PBE IFRS 9.

Statement of compliance

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

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

Measurement base

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

Functional and presentation currency

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

The accompanying notes form part of these financial statements.

Summary of significant accounting policies

Revenue

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

Revenue Crown

Revenue from the Crown is measured based on the Office's funding entitlement for the reporting year. The funding entitlement is established by Parliament when it passes the Appropriation Acts for the financial year. The amount of revenue recognised takes into account any amendments to appropriations approved in the Appropriation (Supplementary Estimates) Act for the year and certain other unconditional funding adjustments formally approved prior to balance date.

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 received no other revenue.

Leases

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.

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.

Other expenses

Other expenses are recognised as goods and services are received.

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 that are recorded at their face value less any provision for impairment.

The accompanying notes form part of these financial statements.

Property, plant, and equipment

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

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

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

ADDITIONS

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

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

DISPOSALS

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

SUBSEQUENT COSTS

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

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

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.

Equipment	Useful life	Percent
Computer equipment	4 years	25%
Plant and other equipment	5 years	20%
Furniture and fittings	5–10 years	10%
Leasehold improvement	Lease term	Lease term

Leasehold improvements are depreciated over the unexpired period of the lease or the estimated remaining useful lives of the improvements, whichever is the shorter.

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

Intangible assets

SOFTWARE ACQUISITION AND DEVELOPMENT

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

Costs that are directly attributable in the creation, production, and preparation of internally generated software are recognised as intangible assets.

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.

Work in progress amortisation occurs only when assets are completed and in use.

The accompanying notes form part of these financial statements.

USEFUL LIVES OF SOFTWARE

The useful life of software is determined at the time the software is acquired and brought into use, and is reviewed at each reporting date for appropriateness. For computer software licences, the useful life represents management's view of the expected period over which the Office will receive benefits from the software, but not exceeding the licence term.

For internally generated software developed by the Office, the useful life is based on historical experience with similar systems as well as anticipation of future events that may impact on the useful life, such as changes in technology.

Estimating useful lives and residual values

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

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

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

The Office has not made significant changes to past assumptions concerning useful lives and residual values. The useful lives and associated amortisation rates of major classes of intangible assets have been estimated as set out below.

Computer software	Useful life	Percent
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 recorded at the amount payable.

The accompanying notes form part of these financial statements.

Employee entitlements

SHORT-TERM EMPLOYEE ENTITLEMENTS

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

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

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

LONG-TERM EMPLOYEE ENTITLEMENTS

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

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

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

LONG SERVICE LEAVE

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

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

The accompanying notes form part of these financial statements.

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.

Critical judgements in applying accounting policies

Management has exercised the following critical judgements in applying accounting policies for the year ended 30 June 2019.

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 2019 (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:

- There are no significant events or changes that would have a material impact on the BEFU forecast.

The accompanying notes form part of these financial statements.

- Factors that could lead to material differences between the forecast financial statements and the 2018/19 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 2020 included in BEFU 2019. These were authorised for issue on 18 April 2019 by the Chief Ombudsman, who is responsible for the forecast financial statements as presented. The preparation of these financial

statements requires judgements, estimations, and assumptions that affect the application of policies and reported amounts of assets and liabilities, and income and expenses. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances. Actual financial results achieved for the period covered are likely to vary from the information presented, and the variations may be material.

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

2. Personnel costs

Salaries and wages are recognised as an expense because employees provide services.

30/06/18 Actual		30/06/19 Actual	30/06/19 Main estimates	30/06/19 Supp. estimates	30/06/20 Unaudited forecast IPSAS*
\$(000)		\$(000)	\$(000)	\$(000)	\$(000)
8,566	Salaries and wages	9,798	10,801	10,702	13,244
463	Employer contributions to staff superannuation	395	424	424	577
442	Other personnel costs	755	–	–	–
<u>9,471</u>	Total personnel costs	<u>10,948</u>	<u>11,225</u>	<u>11,126</u>	<u>13,821</u>

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

The accompanying notes form part of these financial statements.

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

3. Other operating costs

30/06/18 Actual		30/06/19 Actual	30/06/19 Main estimates	30/06/19 Supp. estimates	30/06/20 Unaudited forecast IPSAS*
\$(000)		\$(000)	\$(000)	\$(000)	\$(000)
1,052	Operating accommodation lease expenses	1,108	1,064	1,064	1,138
102	Accommodation costs – other	106	–	–	–
37	Audit fees – for audit of financial statements	44	45	35	35
59	Publications, books and statutes	60	87	87	87
277	Travel	429	402	391	391
197	Communication costs	190	160	160	160
4,302	Other costs	3,979	5,026	4,626	7,059
<u>6,026</u>	Total other operating costs	<u>5,916</u>	<u>6,784</u>	<u>6,363</u>	<u>8,870</u>

Other operating costs exclude depreciation and capital charges.

4. Depreciation and amortisation

30/06/18 Actual		30/06/19 Actual	30/06/19 Main estimates	30/06/19 Supp. estimates	30/06/20 Unaudited forecast IPSAS*
\$(000)		\$(000)	\$(000)	\$(000)	\$(000)
58	Furniture and fittings	56	82	79	76
156	Plant and equipment and other	160	151	151	151
211	Computer equipment	205	472	475	475
111	Intangible assets – software	149	164	165	164
<u>536</u>	Total depreciation and amortisation	<u>570</u>	<u>869</u>	<u>870</u>	<u>866</u>

5. Capital charge

The Office of the Ombudsman pays a capital charge to the Crown on its taxpayers' funds as at 30 June and 31 December each year. The capital charge is recognised as an expense in the financial year to which the charge relates.

The capital charge rate was 6% for the year ended 30 June 2019 (Year ended 2018, 6%).

The accompanying notes form part of these financial statements.

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

6. Other current assets

30/06/18 Actual		30/06/19 Actual	30/06/19 Main estimates	30/06/19 Supp. estimates	30/06/20 Unaudited forecast IPSAS*
\$(000)		\$(000)	\$(000)	\$(000)	\$(000)
2	Receivables	–	–	–	–
54	Prepayments	191	24	24	24
<u>56</u>	Total receivables	<u>191</u>	<u>24</u>	<u>24</u>	<u>24</u>

7. Property, plant, and equipment

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

2019	Plant & equipment \$(000)	Leasehold improvements \$(000)	IT equipment \$(000)#	Furniture & fittings \$(000)	Total \$(000)
Cost					
Balance at 30 June 2018	199	1,510	1,200	625	3,534
Additions	53	–	258	50	361
Disposals	–	–	–	–	–
Balance at 30 June 2019	252	1,510	1,458	675	3,895
Accumulated depreciation and impairment losses					
Balance at 30 June 2018	174	496	865	268	1,803
Depreciation	12	148	205	55	420
Accumulated depreciation on disposals	–	–	–	–	–
Balance at 30 June 2019	186	644	1,070	323	2,223
Carrying amounts:					
At 30 June 2018	25	1,014	335	357	1,731
At 30 June 2019	66	866	388	352	1,672

The Office has not disposed of obsolete assets from its Fixed Asset Register during 2018/19. The disposal will occur during 2019/20. The original cost of redundant ICT equipment is estimated to be \$440,000.

The accompanying notes form part of these financial statements.

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

2018	Plant & equipment \$(000)	Leasehold improvements \$(000)	IT equipment \$(000)	Furniture & fittings \$(000)	Total \$(000)
Cost					
Balance at 30 June 2017	197	1,510	1,156	601	3,464
Additions	2	–	44	24	70
Disposals	–	–	–	–	–
Balance at 30 June 2018	199	1,510	1,200	625	3,534
Accumulated depreciation and impairment losses					
Balance at 30 June 2017	166	348	654	210	1,378
Depreciation	8	148	211	58	425
Accumulated depreciation on disposals	–	–	–	–	–
Balance at 30 June 2018	174	496	865	268	1,803
Carrying amounts:					
At 30 June 2017	31	1,162	502	391	2,086
At 30 June 2018	25	1,014	335	357	1,731

8. Intangible assets

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

2019	Acquired software \$(000)	Internally generated software \$(000)	Total \$(000)
Cost			
Balance at 30 June 2018	1,190	165	1,355
Additions	104	–	104
Work-in-Progress	–	126	126
Balance at 30 June 2019	1,294	291	1,585
Accumulated depreciation and impairment losses			
Balance at 30 June 2018	259	107	366
Amortisation	149	–	149
Balance at 30 June 2019	408	107	515
Carrying amounts			
At 30 June 2018	931	58	989
At 30 June 2019	886	184	1,070

The accompanying notes form part of these financial statements.

2018	Acquired software \$(000)	Internally generated software \$(000)	Total \$(000)
Cost			
Balance at 30 June 2017	391	165	556
Additions	799	–	799
Balance at 30 June 2018	1,190	165	1,355
Accumulated depreciation and impairment losses			
Balance at 30 June 2017	149	107	256
Amortisation	110	–	110
Balance at 30 June 2018	259	107	366
Carrying amounts			
At 30 June 2018	242	58	300
At 30 June 2019	931	58	989

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

9. 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.

30/06/18 Actual \$(000)		30/06/19 Actual \$(000)	30/06/20 Unaudited forecast IPSAS* \$(000)
422	Trade creditors	786	150
458	GST Payable and other accruals	451	224
<u>880</u>	Total creditors and other payables	<u>1,237</u>	<u>374</u>

10. Return of operating surplus

There is a surplus of \$923,000 to be repaid for the 2019 financial year (2018 \$542,000).

The accompanying notes form part of these financial statements.

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

11. Employee entitlements

30/06/18 Actual		30/06/19 Actual	30/06/19 Main estimates	30/06/19 Supp. estimates	30/06/20 Unaudited forecast IPSAS*
\$(000)		\$(000)	\$(000)	\$(000)	\$(000)
	<i>Current liabilities</i>				
506	Annual leave	570	340	340	337
–	Long service leave	–	–	–	–
281	Superannuation, Superannuation Contribution Withholding Tax and salaries	326	130	130	130
787	Total current liabilities	896	470	470	467
	<i>Non-current liabilities</i>				
19	Long service leave	19	18	18	18
806	Total for employee entitlements	915	488	488	485

12. Equity (Taxpayers' funds)

30/06/18 Actual		30/06/19 Actual	30/06/20 Unaudited forecast IPSAS*
\$(000)		\$(000)	\$(000)
	General Funds		
3,148	Balance at 1 July	4,442	6,763
542	Net operating surplus	923	–
1,294	Capital injections	2,321	1,882
(542)	Provision for repayment of surplus to the Crown	(923)	–
4,442	Total Equity at 30 June	6,763	8,645

The accompanying notes form part of these financial statements.

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

13. Financial instruments

Categories of financial instruments

Actual 2018 \$(000)		Actual 2019 \$(000)
	Loans and receivables	
4,709	Cash and cash equivalents	7,622
2	Debtors and other receivables (note 6)	–
4,711	Total	7,622
	Financial liabilities measured at amortised cost	
880	Creditors and other payables (note 9)	1,237
806	Employee entitlements (note 11)	915
<u>1,686</u>	Total	<u>2,152</u>

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

14. Related party information

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

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

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

Key management personnel compensation

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

Actual 2018 \$(000)		Actual 2019 \$(000)
	Leadership Team, including the Chief Ombudsman	
828	Remuneration and other benefits	944
3	Full-time equivalent staff	3
–	Termination benefit	–

The accompanying notes form part of these financial statements.

15. Events after the balance sheet date

There were no post–balance sheet date events in regard to the Office’s financial statements for the year ended 30 June 2019.

16. Significant variances from budgeted financial performance

The significant variances from budgeted financial performance are the cash balance, purchase of intangible assets, and the trade creditor balance.

The cash variance results from the operating surplus to be returned in 2019/20, a delay in the purchase of assets and the trade creditor balance.

Intangible assets were considerably lower than expected as there have been delays with the Case Management System replacement project.

The trade creditor variance largely stems from two unusually high invoices relating to the delivery of IT services and ICT equipment. Due to the timing of payment, both invoices were present in the trade creditors account as at 30 June 2019, causing the balance to be much higher than expected. Additionally, trade creditors was under budgeted by approximately \$500,000, and we will endeavour to increase this figure in the future.

The accompanying notes form part of these financial statements.

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 2019.

Statement of expenses and capital expenditure against appropriations for the year ended 30 June 2019

30/06/18 Actual \$(000)		30/06/19 Actual \$(000)	30/06/19 Main estimates \$(000)	30/06/19 Supp. estimates \$(000)	30/06/20 Unaudited forecast IPSAS* \$(000)
	Vote Ombudsmen				
	Appropriation for output expenses				
15,511	Investigation and resolution of complaints about government administration	17,261	18,437	18,179	23,424
711	Remuneration of Ombudsmen (Permanent Legislative Authority)	438	703	442	456
16,222	Sub total	17,699	19,140	18,621	23,880
868	Office of the Ombudsmen appropriation for capital expenditure (Permanent Legislative Authority)	591	2,521	541	2,082
<u>17,090</u>	Total	<u>18,290</u>	<u>21,661</u>	<u>19,162</u>	<u>25,962</u>

End of year performance information is reported in the [Statement of objectives and service performance](#).

The accompanying notes form part of these financial statements.

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

Statement of expenses and capital expenditure incurred without, or in excess of, appropriation or authority for the year ended 30 June 2019

There was no unappropriated expenditure for 2018/19 (2017/18 Nil).

Statement of the Office's capital injections for the year ended 30 June 2019

30/06/18 Actual		30/06/19 Actual	30/06/19 Main estimates	30/06/19 Supp. estimates	30/06/20 Unaudited forecast IPSAS*
\$(000)		\$(000)	\$(000)	\$(000)	\$(000)
1,294	Office of the Ombudsmen appropriation for capital expenditure (Permanent Legislative Authority)	2,321	2,321	2,321	1,882

Statement of the Office's capital injections without, or in excess of, authority for the year ended 30 June 2019

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.

PART 7

Analysis, statistics and directory

Throughput of complaints, other contacts, and monitoring activities

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

	2014/15	2015/16	2016/17	2017/18	2018/19
On hand as at 1 July	1,602	1,787	1,591	1,302	916
Adjustment ¹³³	-2	-5	-2	-8	-10
Received during the year	12,151	12,595	11,846	11,468	11,886
Total under consideration	13,753	14,382	13,437	12,770	12,802
Completed during the year	(11,964)	(12,786)	(12,141)	(11,846)	(11,793)
On hand at 30 June	1,787	1,591	1,294	916	1,009

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

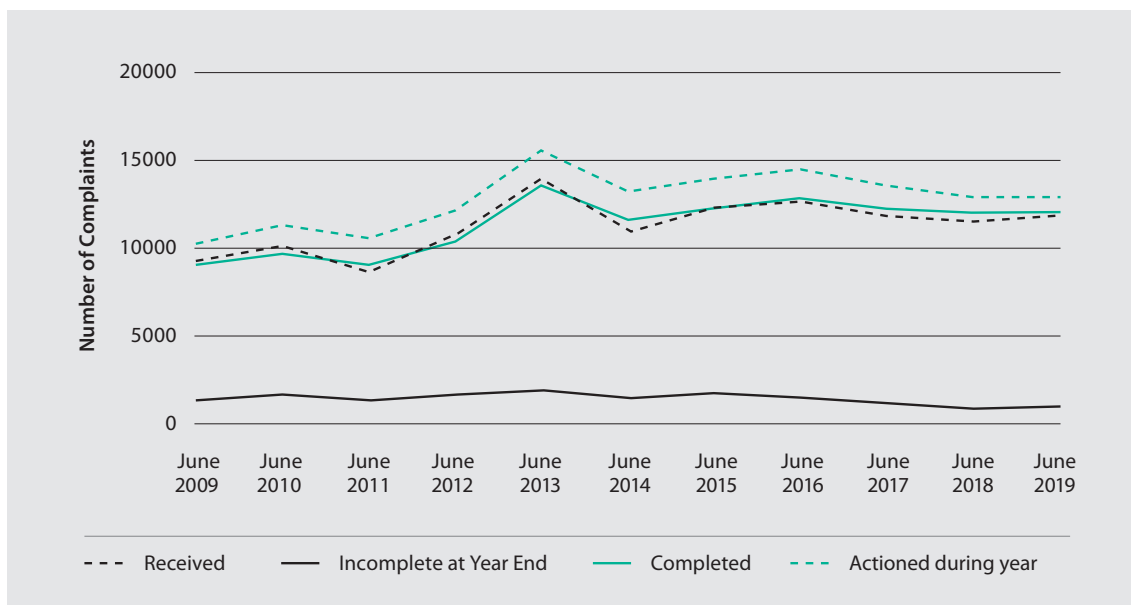


Figure 3: Overall throughput of work over the past 10 years.

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

	2014/15	2015/16	2016/17	2017/18	2018/19
On hand at 1 July					
Ombudsmen Act	649	729	555	430	295
Official Information Act	708	833	856	651	429
Local Government Official Information and Meetings Act	174	160	159	144	98
Protected Disclosures Act	7	5	2	2	3
Other contacts	51	34	15	42	43
Other work	11	21	48	33	38
Total	1,600	1,782	1,635	1,302	906
Received during the year					
Ombudsmen Act	2,304	2,054	2,191	2,263	2,413
Official Information Act	1,090	1,100	1,174	1,378	1,901
Local Government Official Information and Meetings Act	240	240	248	299	364
Protected Disclosures Act	14	6	10	8	39
Other contacts	8,480	9,166	8,198	7,475	7,120
Other work	23	29	25	45	49
Total	12,151	12,595	11,846	11,468	11,886
Disposed of during the year					
Ombudsmen Act	2,226	2,241	2,285	2,398	2,355
Official Information Act	960	1,084	1,375	1,598	1,859

	2014/15	2015/16	2016/17	2017/18	2018/19
Local Government Official Information and Meetings Act	253	247	258	344	339
Protected Disclosures Act	16	9	10	7	41
Other contacts	8,497	9,185	8,168	7,475	7,143
Other work	12	20	45	24	56
Total	11,964	12,786	12,141	11,846	11,793
On hand at 30 June					
Ombudsmen Act	727	542	430	296	354
Official Information Act	838	849	647	427	469
Local Government Official Information and Meetings Act	161	153	142	97	122
Protected Disclosures Act	5	2	2	3	1
Other contacts	34	15	45	45	22
Other work	22	30	28	48	41
Total	1,787	1,591	1,294	916	1,009

Contact type—whom matters were received from

Contact type	2017/18	2018/19
General public – individuals	7,592	8,331
Prisoners and prisoner advocates	2,669	2,333
Departments, government organisations and local authorities	381	490
Media	380	386
Companies, associations and incorporated societies	169	143
Political party research units	101	46
Special interest groups	44	7
Ombudsman self-initiated	35	42
Review agency (Privacy Commissioner, Independent Police Conduct Authority, Health and Disability Commissioner)	27	14
Members of Parliament	26	61
Trade Unions	17	6
Researchers	11	7
Ministers	7	6
Other	9	13
Select Committee	–	1
Total	11,468	11,886

Age profile of open and closed complaints and other contacts

Age profile – all complaints and other contacts closed in 2018/19

	Year ended 30/06/16	Year ended 30/06/17	Year ended 30/06/18	Year ended 30/06/19
Aged 6 months or less from date of receipt	91%	92%	92%	96.4%
Aged between 7 and 12 months from date of receipt	4%	3%	3%	2.5%
Aged more than 12 months from date of receipt	4%	5%	5%	1.1%

Age profile – all complaints and other contacts remaining open at 30 June 2019

	Year ended 30/06/16	Year ended 30/06/17	Year ended 30/06/18	Year ended 30/06/19
Aged 6 months or less from date of receipt	39%	51%	82%	75.2%
Aged between 7 and 12 months from date of receipt	24%	31%	11%	19.2%
Aged more than 12 months from date of receipt	36%	18%	7%	5.6%

Detailed analysis of complaints and other contacts

Ombudsmen Act (OA)

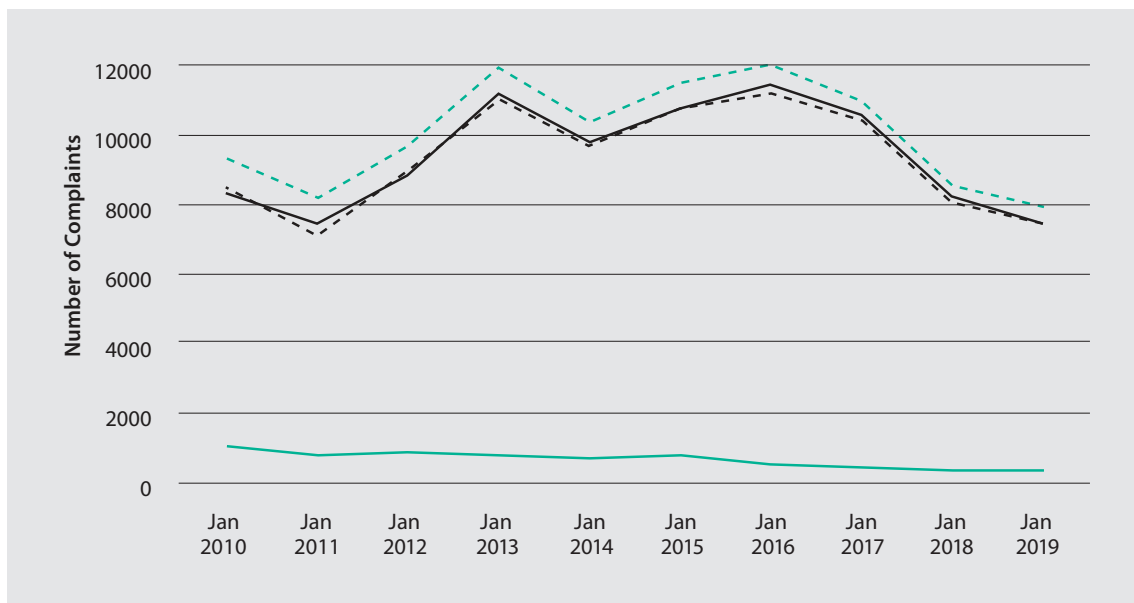


Figure 4: OA complaints and other contacts received and actioned over the past 10 years.

OA complaints received from	2017/18	2018/19
General public – individuals	1,968	2,112
Prisoners and prisoner advocates	221	247
Companies, associations and incorporated societies	55	29
Media	10	16
Members of Parliament	3	7
Special interest groups	2	–
Political party research units	2	–
Researcher	–	1
Departments, government organisations and local authorities	1	1
Other	1	–
Total	2,263	2,413

OA complaints received against	2017/18	2018/19
Government departments	1,042	1,034
Local authorities (all)	374	435
<i>District Councils</i>	165	185
<i>City Councils (including Auckland Council)</i>	152	181
<i>Council controlled organisations (including Auckland Transport)</i>	29	33
<i>Regional Councils</i>	24	35
Other organisations state sector (all)	577	611
<i>Boards of Trustees (schools)</i>	109	101
<i>District Health Boards</i>	28	35
<i>Universities</i>	28	35
<i>Polytechnics</i>	30	30
Ministers	17	25
Not specified	253	308
Total	2,263	2,413

OA complaints received—greater than or equal to 15 complaints	2017/18	2018/19
Government departments		
Department of Corrections	277	291
Ministry of Business, Innovation and Employment	277	269
Ministry of Social Development	123	116
Inland Revenue	124	111
Oranga Tamariki, Ministry for Vulnerable Children	74	81

Ministry of Education	26	46
Ministry of Health	12	20
Ministry of Justice ¹³⁴	18	19
Local authorities		
Auckland Council	70	91
Auckland Transport	27	28
Far North District Council	21	20
Christchurch City Council	13	20
Wellington City Council	22	19
Queenstown Lakes District Council	8	19
Other organisations state sector		
Accident Compensation Corporation	70	79
Health and Disability Commissioner	43	55
New Zealand Police	35	39
New Zealand Post Limited	39	30
New Zealand Transport Agency	27	29
Housing New Zealand Corporation	8	25
Earthquake Commission	56	23
Privacy Commissioner	21	23
Tertiary Education Commission	3	18

How OA complaints were dealt with	2017/18	2018/19
Outside jurisdiction		
Agency not listed in schedule	293	357
Scheduled agency otherwise outside jurisdiction	63	62
Subtotal	356	419
Referred		
Referred to Health and Disability Commissioner	7	7
Referred to Independent Police Conduct Authority	20	19
Referred to Privacy Commissioner	14	12
Referred to Inspector-General of Intelligence and Security	–	1
Subtotal	41	39
No investigation undertaken		
Withdrawn by complainant or no response from complainant	57	78
Right of appeal to Court or Tribunal	59	96
Adequate alternative remedy – complain to agency first	1,034	1,011

134 Not including courts and tribunals.

Adequate alternative remedy – complaint referred to agency by Ombudsman	2	4
Adequate alternative remedy – recourse to other agency	11	21
Investigation unnecessary	313	276
Out of time	5	–
Trivial, frivolous, vexatious or not in good faith	–	–
Insufficient personal interest	6	5
Explanation, advice or assistance provided	150	219
Subtotal	1,637	1,710
Resolved without investigation		
Remedial action to benefit complainant	47	64
Remedial action to improve state sector administration	1	–
Remedial action to benefit complainant and improve state sector administration	3	1
Provision of advice/explanation by agency or Ombudsman that satisfies complainant	5	4
Subtotal	56	69
Investigation discontinued		
Withdrawn by complainant or no response from complainant	14	4
Further investigation unnecessary	58	13
Agency to review	8	1
Trivial, frivolous, vexatious or not in good faith	1	–
Subtotal	81	18
Resolved during investigation		
Remedial action to benefit complainant	48	31
Remedial action to improve state sector administration	2	–
Remedial action to benefit complainant and improve state sector administration	22	1
Provision of advice/explanation by agency or Ombudsman that satisfies complainant	1	3
Subtotal	73	35
Investigation finalised (final opinion formed)		
Administrative deficiency identified – recommendation/s	12	10
Administrative deficiency identified – no recommendation	29	12
No administrative deficiency identified	112	42
Issues cannot be determined	–	–
Subtotal	153	64
Administration – adjustment	1	1
Under consideration at 30 June	296	354
Total	2,694	2,709

Nature of deficiency identified where final opinion formed on OA complaints – Administrative deficiency in an individual case	2017/18	2018/19
Procedural deficiency	18	5
Unreasonable, unjust, oppressive or discriminatory act, omission or decision	14	7
Inadequate advice, explanation or reasons	6	5
Unreasonable delay	4	–
Wrong action or decision	4	1
Factual error or mistake	1	–
Unreasonable charge	1	–
Unprofessional behaviour or misconduct by an official	1	–
Legal error	–	1

Nature of deficiency identified where final opinion formed on OA complaints – Administrative deficiency in the agency or system of government	2017/18	2018/19
Flawed agency processes or systems	4	6
Government or agency policy: unreasonable or harsh impact	2	–
Inadequate knowledge/training of staff	1	–
Legislation – unreasonable or harsh impact or unintended consequences	–	–

Nature of remedy obtained for OA complaints – Individual benefit	2017/18	2018/19
Decision to be reconsidered	68	22
Decision changed	24	25
Omission rectified	23	35
Reasons/explanation given	20	26
Apology	10	10
Financial remedy	3	10

Nature of remedy obtained for OA complaints – Public administration benefit	2017/18	2018/19
Law/policy/practice/procedure to be reviewed	30	2
Change in practice/procedure	28	7
Provision of guidance or training to staff	7	–
Change in law/policy	3	1
Provision of additional resources	2	–

Official Information Act (OIA)

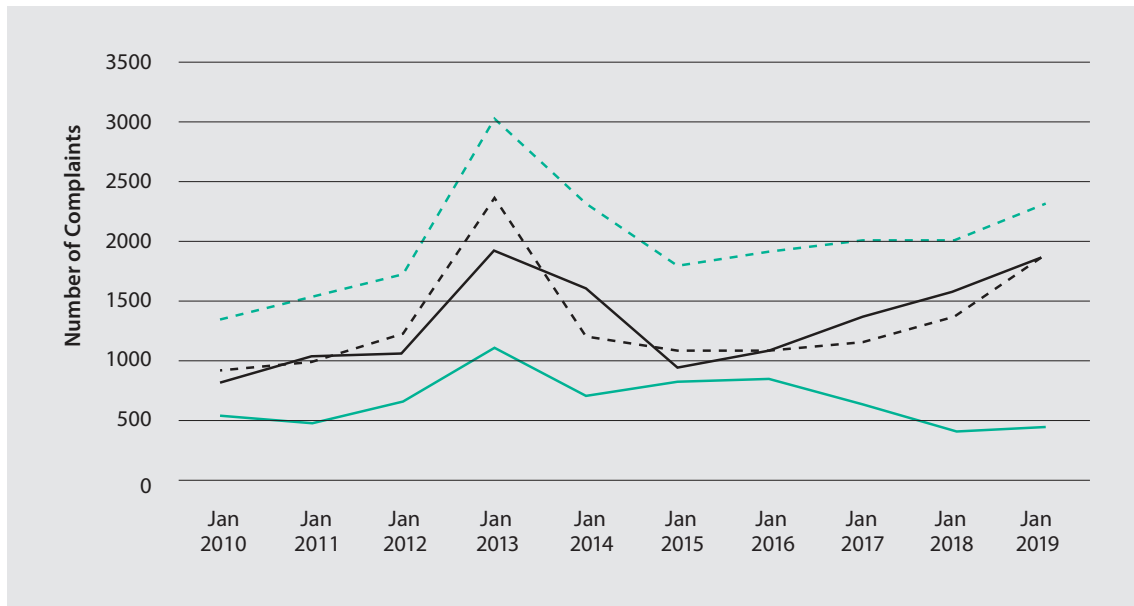


Figure 5: OIA complaints received and actioned over the past 10 years

Nature of OIA complaints made	2017/18	2018/19
Refusal – general information request	673	749
Delay in making decision	257	755 ¹³⁵
Incomplete or inadequate response	106	100
Extension	104	95
Refusal – personal information about individual	84	116
Decision not made as soon as reasonably practicable	21	12
Delay in releasing information	18	26
Charge	13	10
Manner or form of release	11	10
Refusal – personal information about body corporate	4	5
Refusal – statement of reasons	3	4
Neither confirm nor deny existence of information	2	1
Correction – personal information about body corporate	2	1
Condition	1	3
Other	79	14
Total	1,378	1,901

135 Includes multi-party schools complaint (471 complaints).

OIA complaints received from	2017/18	2018/19
General public – individuals	816	1,404
Media	278	289
Political party research units	95	44
Prisoners and prisoner advocates	64	37
Companies, associations and incorporated societies	53	71
Special interest groups	33	–
Members of Parliament	16	44
Trade unions	14	6
Researchers	6	4
Departments, government organisations, and local authorities	3	2
Total	1,378	1,901

OIA complaints received against	2017/18	2018/19
Government departments	647	561
Other organisations state sector (all)	551	1,148
<i>District Health Boards</i>	82	64
<i>Boards of Trustees (schools)</i>	59	524
<i>Universities</i>	18	38
Ministers	168	180
Agencies not subject to jurisdiction	7	3
Not specified	5	9
Total	1,378	1,901

OIA complaints received – greater than or equal to 15 complaints	2017/18	2018/19
Government departments		
Ministry of Business, Innovation and Employment	84	84
Department of Corrections	73	66
Ministry of Health	52	57
Ministry for Primary Industries	68	45
Ministry of Justice	41	40
Department of Conservation	17	35
Ministry of Social Development	44	31
New Zealand Defence Force	34	31
Ministry of Education	62	29
Oranga Tamariki, Ministry for Vulnerable Children	40	24
Ministry of Foreign Affairs and Trade	20	18
Prime Minister	14	17
Minister of Justice	4	15

Other organisations state sector		
New Zealand Police	183	269
New Zealand Transport Agency	24	44
WorkSafe New Zealand	3	25
Accident Compensation Corporation	13	20
Canterbury District Health Board	5	16
Earthquake Commission	20	16

How OIA complaints were dealt with	2017/18	2018/19
Outside jurisdiction		
Agency not listed in schedule	14	16
Scheduled agency otherwise outside jurisdiction	50	42
Subtotal	64	58
Referred		
Referred to Privacy Commissioner	72	121
Subtotal	72	121
No investigation undertaken		
Withdrawn by complainant or no response from complainant	164	177
Right of appeal to Court or Tribunal	1	–
Adequate alternative remedy – complain to agency first	7	7
Adequate alternative remedy – complaint referred to agency by Ombudsman	1	2
Adequate alternative remedy – recourse to other agency	1	2
Investigation unnecessary	222	637
Out of time	–	–
Trivial, frivolous, vexatious or not in good faith	1	4
Insufficient personal interest	–	2
Explanation, advice or assistance provided	65	58
Subtotal	462	889
Resolved without investigation		
Remedial action to benefit complainant	122	98
Remedial action to improve state sector administration	–	–
Remedial action to benefit complainant and improve state sector administration	1	1
Provision of advice/explanation by agency or Ombudsman that satisfies complainant	74	25
Subtotal	197	124

Investigation discontinued		
Withdrawn by complainant or no response from complainant	89	61
Further investigation unnecessary	91	94
Agency to review	4	–
<i>Subtotal</i>	184	155
Resolved during investigation		
Remedial action to benefit complainant	188	175
Remedial action to improve state sector administration	–	–
Remedial action to benefit complainant and improve state sector administration	1	–
Provision of advice/explanation by agency or Ombudsman that satisfies complainant	31	28
<i>Subtotal</i>	220	203
Investigation finalised (final opinion formed)		
Administrative deficiency identified – recommendation/s	59	44
Administrative deficiency identified – no recommendation	80	41
No administrative deficiency identified	260	223
<i>Subtotal</i>	399	308
Administration – adjustment	1	1
Under consideration at 30 June	427	469
Total	2,025	2,328

Nature of deficiency identified where final opinion formed on OIA complaints – Administrative deficiency in an individual case	2017/18	2018/19
Refusal not justified – in whole	46	22
Refusal not justified – in part	37	24
Delay deemed refusal	36	20
Unreasonable extension	8	13
Undue delay in releasing information	7	3
Unreasonable conditions	3	–
Unreasonable charge	1	1
Inadequate advice, explanation, or reasons	1	–
Procedural deficiency	1	–
Factual error or mistake	–	–
Otherwise wrong or unreasonable	–	2

Nature of deficiency identified where final opinion formed on OIA complaints – Administrative deficiency in the agency or system of government	2017/18	2018/19
Resource deficiency in agency	1	–

Nature of remedy obtained for OIA complaints – Individual benefit	2017/18	2018/19
Decision changed	304	232
Decision to be reconsidered	113	41
Reasons/explanation given	84	92
Omission rectified	26	551
Apology	4	6

Nature of remedy obtained for OIA complaints – Public administration benefit	2017/18	2018/19
Provision of guidance or training to staff	2	5
Change in practice/procedure	1	10
Law/policy/practice/procedure to be reviewed	–	1

Local Government Official Information and Meetings Act (LGOIMA)

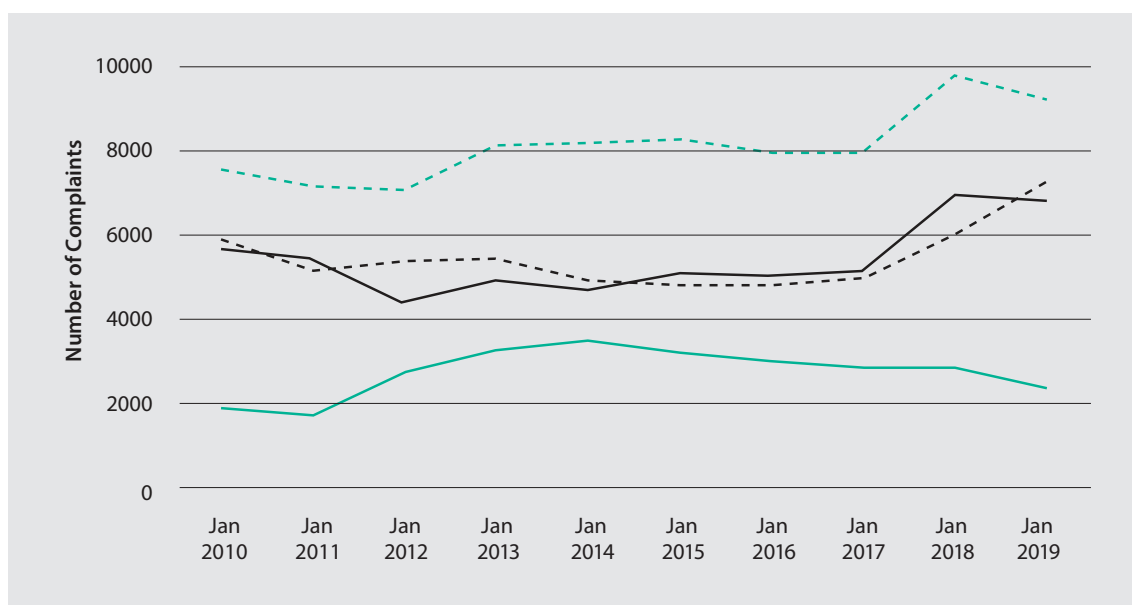


Figure 6: LGOIMA complaints received and actioned over the past 10 years.

Nature of LGOIMA complaints made	2017/18	2018/19
Refusal – general information request	145	158
Delay in making decision	65	92
Incomplete or inadequate response	40	49
Charge	17	17
Delay in releasing information	9	11
Decision not made as soon as reasonably practicable	6	4
Manner or form of release	4	1

Extension	4	13
Refusal – personal information about individual	3	9
Refusal – statement of reasons	1	–
Neither confirm nor deny	–	1
Condition	1	2
Other	4	7
Total	299	364

LGOIMA complaints received from	2017/18	2018/19
General public – individuals	234	300
Media	41	41
Companies, associations and incorporated societies	16	17
Trade unions	3	–
Special interest groups	3	–
Departments, government organisations and local authorities	1	3
Members of Parliament	1	3
Total	299	364

LGOIMA complaints received against	2017/18	2018/19
District Councils	109	110
City Councils (not including Auckland Council)	53	92
<i>Christchurch City Council</i>	15	23
<i>Wellington City Council</i>	29	13
Auckland Council	68	63
Regional councils	32	52
Council Controlled Organisations (including Auckland Transport)	32	36
<i>Auckland Transport</i>	22	27
Other	5	11
Total	299	364

How LGOIMA complaints were dealt with	2017/18	2018/19
Outside jurisdiction		
Agency not listed in schedule	2	2
Scheduled agency otherwise outside jurisdiction	9	18
Subtotal	11	20
Referred		
Referred to Privacy Commissioner	6	11
Subtotal	6	11

No investigation undertaken		
Withdrawn by complainant or no response from complainant	30	39
Adequate alternative remedy – complain to agency first	1	5
Adequate alternative remedy – complaint referred to agency by Ombudsman	–	1
Adequate alternative remedy – recourse to other agency	–	–
Investigation unnecessary	46	70
Out of time	–	–
Insufficient personal interest	–	–
Explanation, advice or assistance provided	14	15
Subtotal	91	130
Resolved without investigation		
Remedial action to benefit complainant	38	39
Remedial action to improve state sector administration	–	–
Remedial action to benefit complainant and improve state sector administration	–	2
Provision of advice/explanation by agency or Ombudsman that satisfies complainant	3	6
Subtotal	41	47
Investigation discontinued		
Withdrawn by complainant or no response from complainant	10	17
Further investigation unnecessary	16	11
Agency to review	1	–
Subtotal	27	28
Resolved during investigation		
Remedial action to benefit complainant	44	47
Remedial action to benefit complainant and improve state sector administration	3	–
Provision of advice/explanation by agency or Ombudsman that satisfies complainant	1	4
Subtotal	48	51
Investigation finalised (final opinion formed)		
Administrative deficiency identified – recommendation/s	40	6
Administrative deficiency identified – no recommendation	26	3
No administrative deficiency identified	54	43
Subtotal	120	52
Under consideration at 30 June	97	122
Total	441	461

Nature of deficiency identified where final opinion formed on LGOIMA complaints – Administrative deficiency in an individual case	2017/18	2018/19
Refusal not justified – in part	30	1
Refusal not justified – in whole	16	6
Unreasonable charge	9	–
Delay deemed refusal	7	–
Undue delay in releasing information	3	–
Wrong action or decision	1	–
Inadequate statement of reasons	–	1
Otherwise wrong or unreasonable	–	1

Nature of deficiency identified where final opinion formed on LGOIMA complaints – Administrative deficiency in the agency or system of government	2017/18	2018/19
Government or agency policy – unreasonable or harsh impact	1	–
Flawed agency processes or systems	–	–

Nature of remedy obtained for LGOIMA complaints – Individual benefit	2017/18	2018/19
Decision changed	90	77
Decision to be reconsidered	26	4
Reasons/explanation given	12	18
Omission rectified	8	39
Financial remedy	1	–
Apology	–	4

Nature of remedy obtained for LGOIMA complaints – Public administration benefit	2017/18	2018/19
Provision of guidance or training to staff	3	–
Law/policy/practice/procedure to be reviewed	–	–
Change in practice/procedure	–	1
Change in law/policy	–	–

Other contacts

Other contacts received about	2017/18	2018/19
Ombudsmen Act matters	5,821	5,109
Agency requests for advice	341	421
Official Information Act matters	336	336
Copy correspondence, material sent for information only	235	274
Requests for information held by the Ombudsman	137	130
Protected Disclosures Act matters	69	49
Local Government Official Information and Meetings Act matters	61	65
Consultation by review agency (Privacy Commissioner, Independent Police Conduct Authority, Health and Disability Commissioner)	25	17
Crimes of Torture Act matters	1	1
Other	449	718
Total	7,475	7,120

Other contacts received from	2017/18	2018/19
General public – individuals	4,565	4,476
Prisoners and prisoner advocates	2,382	2,049
Departments, government organisations, and local authorities	376	483
Media	51	40
Companies, associations and incorporated societies	44	26
Review agencies (Privacy Commissioner, Independent Police Conduct Authority, Health and Disability Commissioner)	27	14
Ministers	7	6
Members of Parliament	6	7
Researchers	5	2
Special interest groups	4	7
Political party research units	3	2
Select Committee	–	1
Other	5	7
Total	7,475	7,120

Other contacts concerned	2017/18	2018/19
Department of Corrections	2,729	2,355
Other government departments	1,160	928
Other organisations (state sector)	1,063	919
Agencies not subject to jurisdiction	740	690
Local authorities	491	448
Ministers	44	32
Not specified	1,248	1,748
Total	7,475	7,120

How other contacts were dealt with	2017/18	2018/19
No response required (including copy correspondence, FYI)	485	773
Individual advised to complain in writing/send relevant papers	453	580
Complain to agency first	3,358	2,445
Matter referred to agency by Ombudsman	10	12
Complain to other agency – Privacy Commissioner	81	78
Complain to other agency – Health and Disability Commissioner	74	82
Complain to other agency – Independent Police Conduct Authority	76	65
Complain to other agency – other	231	205
Explanation, advice or assistance provided	2,599	2,816
Resolved – remedial action to benefit individual	–	–
Resolved – remedial action to improve state sector administration	1	–
Resolved – provision of advice/explanation which satisfies individual	1	8
Withdrawn	11	24
Protected disclosures enquiry	72	42
Matter to be transferred to Ombudsman by other review agency	23	13
Under consideration at 30 June	45	22
Total	7,520	7,165

Nature of remedy obtained for other contacts	2017/18	2018/19
Law/policy/practice/procedure to be reviewed	1	–
Reasons/explanation given	–	–
Omission rectified	–	–
Decision changed	–	1
Decision to be reconsidered	–	–
Apology	–	–

Geographical distribution of complaints and other contacts received in year to 30 June 2019

	Other contacts	OA	OIA	LGOIMA	Other work	All	All last year
Auckland	421	514	361	110	2	1,408	1,229
Bay of Plenty	39	39	9	6	1	94	147
Northland	57	73	20	9	–	159	194
Waikato	134	147	36	8	–	325	310
Taranaki	10	29	18	1	–	58	54
Hawke's Bay	64	51	18	5	–	138	115
Manawatu/ Whanganui	98	79	36	14	–	227	227
Wairarapa	12	22	8	1	–	43	28
East Cape	7	15	5	3	–	30	28
Wellington	411	231	385	58	3	1,088	1,118
Total North Island	1,253	1,200	896	215	6	3,570	3,450
Nelson/Marlborough	38	45	11	19	1	114	116
Dunedin	16	34	18	13	1	82	39
Otago	40	37	16	9	–	102	130
Southland	39	25	9	2	–	75	68
Canterbury	54	42	15	6	3	120	151
Christchurch	132	166	97	23	2	420	480
Westland	19	13	9	7	–	48	39
Chatham Islands	–	–	–	–	–	–	1
Total South Island	338	362	175	79	7	961	1,024
Location not known	5,350	774	853	83	26	7,086	6,938
Overseas	207	120	9	–	–	336	192
Total	7,148	2,456	1,933	377	39	11,953¹³⁶	11,604

136 This table includes complaints and other contacts. 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.