

**Ombudsman**

Fairness for all

Annual Report  
2012/2013

2012/2013

Report of the Ombudsman

Tari o te Kaitiaki Mana Tangata





Mr Speaker

We submit to you our report for the year 1 July 2012 to 30 June 2013.



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



**Professor Ron Paterson**  
Ombudsman



**50**

**YEARS OF THE  
OMBUDSMAN IN  
NEW ZEALAND**

2012/13

Report of the Ombudsman

Tari o te Kaitiaki Mana Tangata

for the year ended 30 June 2013

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



# Contents

1 : 2012/13 at a glance	5
2 : Introduction	9
3 : Background	15
4 : Report on operations	23
5 : Organisational health and capability	65
6 : Financial and performance information	71
7 : Analysis, statistics and directory	105





---

# Part 1

## 2012/13 at a glance

# 1

---

Overview	6
Ombudsmen Act	6
Official information	6
Crimes of Torture Act	7
United Nations Convention on the Rights of Persons with Disabilities	7
Policy and professional practice	7

---



## Overview

---

- Received 13,684 complaints and other work, an increase of 29% on 2011/12 numbers
- Received 838 complaints and other contacts about the Earthquake Commission, up from 443 in 2011/12 and 77 in 2010/11
- Completed 13,358 complaints and other work, an increase of 30% 2011/12 numbers
- Finished the year with 2,072 complaints and other work on hand, up from 1,746 the previous year
- Struggled to meet some timeliness targets, given the volume of work on hand

## Ombudsmen Act (OA)

---

- Received 11,008 OA complaints and other contacts
- Completed 2,878 OA complaints, an increase of 21% from the previous year
- Completed 8,283 other contacts, an increase of 29% from the previous year
- Resolved 349 cases
- Provided advice and assistance in 3,953 cases
- Formally investigated 379 cases, and formed final opinions in 174 cases
- Identified administrative deficiency in 44 cases, or 25% of all complaints formally investigated
- Obtained remedies for the benefit of the individual concerned in 330 cases
- Obtained remedies for the benefit of public administration in 18 cases
- Made recommendations in 4 cases
- Monitored investigations into 11 deaths in custody
- Assessed 53 serious incidents in prisons, commencing investigations in 7 cases, and concluding investigations in 7 cases.

## Official information (OIA and LGOIMA)

---

- Received 2,374 OIA complaints, an increase of 92% on 2011/12 numbers, and the highest number ever
- Received 271 LGOIMA complaints
- Significant increase in delay complaints
- Completed 2,158 cases, an increase of 67% from the previous year
- Resolved 1,078 cases
- Investigated 637 cases, and formed final opinions in 337 cases
- Identified administrative deficiency in 167 cases, or 50% of all cases formally investigated
- Obtained remedies for the benefit of the individual concerned in 1,100 cases
- Obtained remedies for the benefit of public administration in 16 cases
- Made recommendations in 12 cases

## Crimes of Torture Act

- Visited 45 places of detention, including 22 formal inspections
- 77% of visits to places of detention were unannounced
- Made 40 recommendations for improvement, 35 of which were accepted

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

- Published the first annual report of the Independent Monitoring Mechanism, *Making Disability Rights Real*
- Commenced work on key projects, including website accessibility and mental health care in prisons
- Received 52 complaints and other contacts which raised issues relevant to the Disabilities Convention

## Policy and professional practice

- Advised on 26 legislative, policy and administrative proposals relevant to our jurisdiction
- Made and published submissions on the Education Amendment Bill and the Prisoners' and Victims' Claims (Continuation and Reform) Amendment Bill
- Provided informal advice on 152 occasions to state sector agencies, mainly in relation to the processing of official information requests
- Advised the Secretary of Transport on 8 applications for authorised access to personal information on the motor vehicle register
- Conducted 19 workshops and training seminars for state sector agencies, and delivered 27 presentations, on the role of the Ombudsman and the operation of the official information legislation
- Published 45 new or updated guidance materials on our new website, including topic guides and Ombudsman opinions
- Nationwide survey showed 72% awareness of the Ombudsman by the New Zealand public

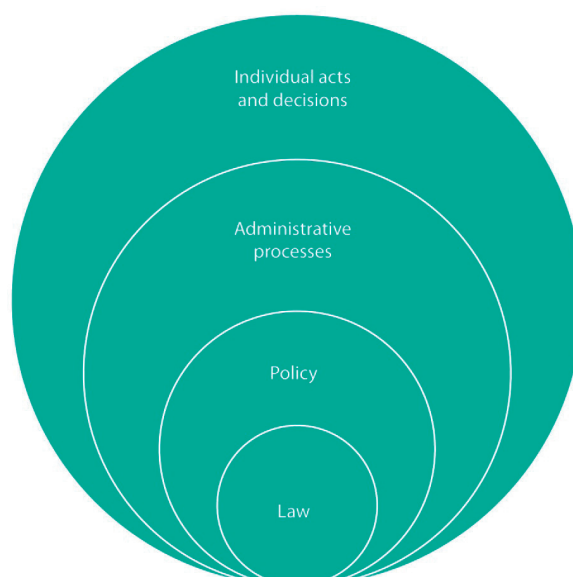


Figure 1: What can our interventions influence in the state sector?







---

Part 2  
Introduction

2

---



## Introduction

---



Dame Beverley Wakem DNZM, CBE  
Chief Ombudsman



Professor Ron Paterson  
Ombudsman

---

### Anniversary year

This year, we celebrated the 50<sup>th</sup> anniversary of the Ombudsman in New Zealand. We also observed the 30<sup>th</sup> anniversary of the Official Information Act 1982, and the 25<sup>th</sup> anniversary of the Local Government Official Information and Meetings Act 1987.

Our anniversary year has been a period of growth and consolidation. We have taken time to reflect on the significant contribution to our development by all those who have held the office of Ombudsman in the past 50 years. We have also managed an unprecedented increase in demand for our services, drawing on both our traditional practice developed over the previous half century and new ways of prioritising and organising our workflows.

The Ombudsman concept originated in Scandinavia in the 1800s. The word “*Ombudsman*” is Swedish, and loosely translated means “*grievance person*”. It was first used in its modern sense in 1809 when the Swedish Parliament established the office of Justitieombudsman, who was to look after citizens’ interests in their dealings with government. On 1 October 1962, New Zealand was the fourth country in the world, and the first country outside Scandinavia, to appoint an Ombudsman.

When he was sworn in, New Zealand’s first Ombudsman, Sir Guy Powles, described our role as follows:

*“The Ombudsman is Parliament’s [person], put there for the protection of the individual, and if you protect the individual, you protect society.”*

Sir Guy’s statement rings as true today as it did back then. Our overall purpose is to investigate, review and inspect the administrative conduct of state sector agencies, and provide advice and guidance, in order to ensure people are treated fairly in New Zealand.

### Growing workload

Our services are clearly in demand. For the second year in a row, we received and completed the highest ever number of complaints and other contacts concerning state sector agencies. In particular, we managed significant increases in both official information complaints (92%), and complaints and other contacts relating to the Earthquake Commission (89%).

We continued the structural and procedural changes needed to direct and focus our work towards our new strategic direction, which was established in the previous reporting year. These changes enabled us to apply a systematic approach to addressing the large increase in our incoming work, while still catering for the individual circumstances of each case.

In particular, we have completed the establishment of new workflow structures intended to allow us to more easily move staff resource to an area of identified need. We have set up formal early assistance and early resolution processes within dedicated teams, which have enabled us to deal with the large influx of new complaints more effectively and efficiently.

We have also reviewed the strategic services provided by the staff who guide and support our investigators and inspectors in their work, to ensure we have an overall structure in our Office that is efficient and allows us to effectively implement our new strategic direction.

The result was that we achieved a 30% increase in our overall work completed this year, despite a 29% increase in incoming work. In particular, although we received 1,427 more complaints than in the previous year, we managed to complete most of these, finishing with only an additional 374 complaints on hand as opposed to last year.

However, the large increase in work has affected the timeliness of our interventions. Our performance this year has not met our expectations for the timeframes within which some types of work should be completed. Even so, our overall performance in this area has remained steady, with 93% of all complaints and other contacts completed within 6 months of receipt.

Parliament has taken steps to begin to address the growing pressures on our Office. During the reporting year, we were able to secure an increase in overall funding for the 2013/14 year onwards, which will enable us to appoint additional investigating staff to progress the growing number of complaints on hand at any one time.

## Wider administrative improvement

Part of our new strategic direction is to have a greater focus on interventions to achieve wider administrative improvement in the state sector. These interventions range from focused investigations of significant and systemic issues, to providing more targeted advice, guidance and training to state sector agencies.

We completed 3 wider administrative improvement investigations in the reporting year, including an investigation of the Ministry of Education's management of official information requests about proposed Christchurch school closures. The outcome of this investigation has led us to timetable further wider administrative improvement investigations of:

- the policy and practice of the Ministry of Education in relation to school closure consultations generally; and
- overall official information policy and practice in selected government agencies.

We also continued our well-regarded training programme for state sector agencies, and we provided advice and comment on legislative, policy and procedural matters.

## Public awareness and guidance

In 2012/13 we undertook our second nationwide public awareness survey, to gauge the level of awareness of our service in the community. Pleasingly, this survey found 72% of the New Zealand public had heard of the Ombudsman.



Following the review of our strategic direction, we also continued work to reposition the Ombudsman as a “modern, independent New Zealand authority, that is agile, proactive and approachable”. In August 2012, we launched a new Ombudsman identity and website. Our work in this area reflects the fact that the way complainants find out about and interact with us is changing, with increasing use of new technology. Our new website has been designed to:

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

During the year, we published on our website 45 new guides, Ombudsman opinions and case notes. In particular, as part of the celebration of our 50<sup>th</sup> anniversary, we published new guidance on:

- good decision making;
- effective complaint handling;
- managing unreasonable complainant conduct; and
- making a protected disclosure.

We also published official information topic guides and a guide on using the Local Government Official Information and Meetings Act.

In November 2012, we were privileged to host the 10<sup>th</sup> World Conference of the International Ombudsman Institute. Based in Wellington, the theme of the conference was “*Speaking Truth to Power – The Ombudsman in the 21st Century*”. We welcomed Ombudsmen from 58 countries around the world, providing a forum to meet and share our collective experience and expertise.

## Changing the guard

We farewelled Ombudsman David McGee at the end of May 2013. Dr McGee’s contribution to the Office over the past 5 and a half years has been invaluable. His areas of responsibility included education, health, accident compensation, transport, foreign affairs and defence, police, conservation, economic development, inland revenue, corrections and local government. Dr McGee has overseen over 15,000 complaints in his time, and most notably reported on the outcome of an investigation with the Chief Ombudsman into the health services available to prisoners, as well as the outcome of his investigations concerning;

- education agency responses to bullying at Hutt Valley High School; and
- the Ministry of Education’s management of official information requests about proposed Christchurch school closures.

We will miss Dr McGee, and wish him well in his retirement.

We welcomed Professor Ron Paterson as our new Ombudsman in June 2013. Professor Paterson brings a wealth of complaint handling skills and relevant experience to the role of Ombudsman.

Prior to taking up Office as an Ombudsman, Professor Paterson was a Professor of Law at the University of Auckland and New Zealand Health and Disability Commissioner from 2000 to 2010. He has previously held positions as Chairman of the New Zealand Banking Ombudsman Scheme and as a member of the Board of the Royal Australasian College of Physicians.

When announcing Professor Paterson's appointment, then Speaker of the House Dr The Rt Hon Lockwood Smith said:

*"Professor Paterson is well regarded in New Zealand and overseas for his legal expertise, particularly in the areas of patients' rights and healthcare quality improvement ... With his particular knowledge and experience, Professor Paterson will contribute effectively to the work of the Office of the Ombudsman."*

Overall, this year has been one of reflection and growth. With our long-established complaint handling practices, the structural changes now in place to support our new strategic direction, and the support from Parliament in the form of additional funding, we are better placed to meet the challenges of the future and provide effective interventions to ensure people are treated fairly in New Zealand.

This annual report highlights some of the cases where our intervention has resulted in changes for the better or improvement in the fair, just and transparent delivery of services to the public. This is the area where we can make our best contribution.





---

# Part 3

## Background

# 3

---

Nature and scope of the Ombudsman’s functions	16
Outcomes and impacts sought by the Ombudsman	18
Ombudsman outcomes framework	21

---



## Nature and scope of the Ombudsman's functions

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

### Our purpose

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

### Legislative functions

Our main functions under legislation are to:

- investigate state sector administration and decision making;<sup>1</sup>
- investigate and review decisions made on requests to access official information;<sup>2</sup>
- deal with requests for advice and guidance about alleged serious wrongdoing;<sup>3</sup>
- monitor and inspect places of detention for cruel and inhuman treatment;<sup>4</sup> and
- provide comment to the Ministry of Transport on applications for authorised access to personal information on the motor vehicle register.<sup>5</sup>

In carrying out our functions, we provide Parliament and the New Zealand public with an independent and impartial check on the quality, fairness and integrity of state sector administrative conduct. By contributing to wider administrative improvement in the state sector, we can help to reduce overall downstream costs, caused by poor decision making and ineffective administrative processes.

### What is the state sector?

We have authority to investigate approximately 4,000 entities in the state sector, including:

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

<sup>1</sup> Under the Ombudsmen Act 1975.

<sup>2</sup> Under the Official Information Act 1982 and the Local Government Official Information and Meetings Act 1987.

<sup>3</sup> Under the Protected Disclosures Act 2000.

<sup>4</sup> Under the Crimes of Torture Act 1989.

<sup>5</sup> Under section 241 of the Land Transport Act 1998.



## International responsibilities

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

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

## Other functions

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

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



## Outcomes and impacts sought by the Ombudsman

Our strategic direction is:

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

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

Our *Outcomes Framework* on page 21 demonstrates the linkages between the service we deliver through our outputs, and the outcomes and impacts we are seeking to achieve.



Figure 2: The overall impact of our work

### Impacts

The impacts we are seeking to achieve are:

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

For the first time this reporting year, we have introduced high level measures of our impacts. These relate to the overall status of New Zealand society and the state sector, to which we are but one contributing factor.

Our first impact measure is that the overall quality of public services improves over time. We measure this through the Kiwis Count Survey which is administered by the State Services Commission. Our target was for the public services to achieve an overall quality score higher than 69 points (the 2009 New Zealand benchmark). The quality score in March 2013 of this reporting year was 72 points, showing a pleasing improvement.

Our second impact measure is that New Zealand is rated as one of the leading countries in public service probity as measured by the Transparency International Corruption Perceptions Index. In 2011, New Zealand was ranked first in the world. Our target is for New Zealand to be in the top 3 ranked countries over the next 5 years. In 2012, New Zealand ranked first equal with Denmark and Finland.

## Outputs

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

### **Investigate state sector administration and decision making**

We seek to improve administration and decision making in state sector agencies, primarily by undertaking investigations under the Ombudsmen Act 1975. This may be on complaint or on the Ombudsman's own motion, particularly where systemic or wider public interest issues are raised.

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

### **Investigate and review official information decisions**

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

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

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

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

### **Monitor and inspect places of detention**

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

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

**Improve state sector capability in areas relevant to our jurisdiction**

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

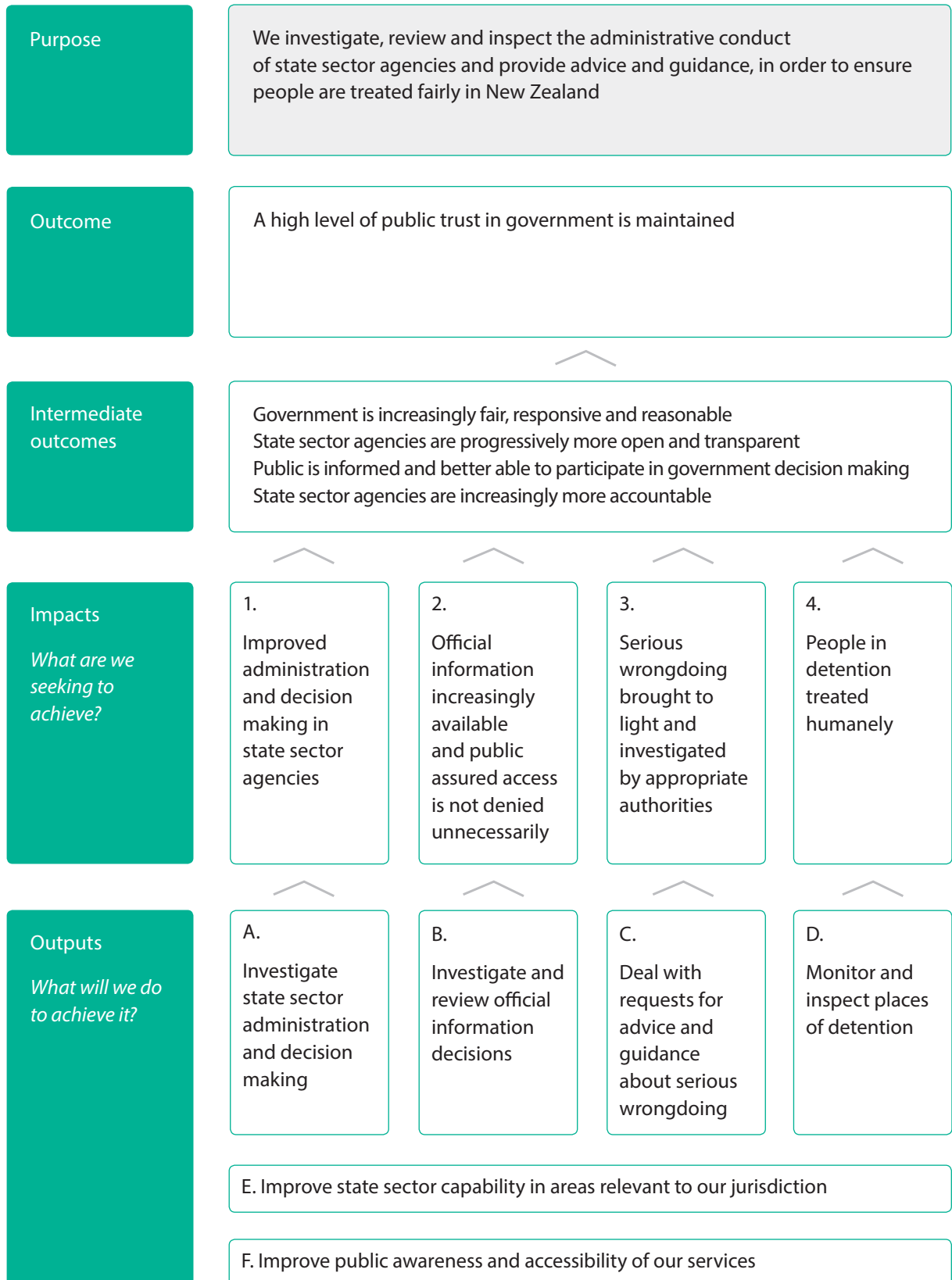
- reviewing and commenting on legislative, policy and procedural matters to ensure they:
  - reflect good administrative practice;
  - promote good decision making; and
  - are consistent with the principles of open and transparent government; and
- providing advice, guidance and training to state sector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

**Improve public awareness and accessibility of our services**

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

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

## Ombudsman outcomes framework







# Part 4

## Report on operations

# 4

Ombudsmen Act	24
Official information	39
Protected Disclosures Act	47
Crimes of Torture Act	48
United Nations Convention on the Rights of Persons with Disabilities	55
Policy and professional practice	58



## Ombudsmen Act

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

### The numbers

---

We treat matters as formal “*complaints*” once they have been put in writing. However, we also deal with a large number of oral complaints and enquiries from members of the public, mainly over the telephone or by prison visit, prior to a complaint being made to us in writing. While we term these matters “*other contacts*”, our staff spend a significant amount of time providing advice and assistance, and resolving these matters.<sup>6</sup>

We received a total of 11,008 OA complaints and other contacts in 2012/13, an increase of 23% from 2011/12. The total received is made up of:

- 2,745 OA complaints; and
- 8,263 other contacts.

The increase can be explained in part by the significant increase in OA complaints and other contacts received against the Earthquake Commission, which rose to 689 in 2012/13, from 389 in 2011/12, and 72 in 2010/11. The remaining increase of 1,369 complaints and other contacts was spread over multiple agencies and a diverse range of issues.

We completed a total of 11,161 OA complaints and other contacts in 2012/13, an increase of 27% over the previous year. The total completed is made up of:

- 2,878 OA complaints (21% increase from the previous year); and
- 8,283 other contacts (29% increase from the previous year).

This enabled us to finish the reporting year with 767 OA complaints and other contacts on hand, compared with 904 the previous year.

### The complainants

---

The OA is primarily used by individual members of the public, even though corporate entities are equally entitled to do so. This reflects the intent of the legislation, which is to provide recourse for people personally affected by the administrative conduct of state sector agencies. In 2012/13, 74% of OA complaints were from individual members of the public, and 23% per cent were from prisoners or prisoner advocates.<sup>7</sup> Only 2% of OA complaints were made by corporate entities and special interest groups.

<sup>6</sup> For the last two reporting years, we have recorded data about complaints and other contacts separately. However, we discuss other contacts received in conjunction with OA complaints, as this provides the best basis for comparison with previous reporting years.

<sup>7</sup> Not all against the Department of Corrections.



In terms of other contacts, 53% were from individual members of the public and 44% were from prisoners or prisoner advocates.<sup>8</sup> The higher proportion of other contacts received from prisoners reflects the fact that many matters of concern to prisoners are raised with us and resolved immediately by telephone or prison visit.

## The agencies

---

Half of OA complaints (51%) were made against central government departments. Other state sector agencies accounted for 28% of OA complaints, and 13% were made against local government agencies.

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

Most other contacts (62%) concerned central government departments. Of those central government departments, 46% of other contacts concerned the Department of Corrections. This shows that dealing with prisoner matters is a large part of the work we do in responding to and resolving matters by telephone.

Other state sector agencies accounted for 16% of other contacts, and 5% concerned local government agencies. Dealing with other contacts is less resource intensive than dealing with the complaints we receive, but we are still able to provide effective assistance and resolution of concerns.

<sup>8</sup> Not all against the Department of Corrections.

**Where significant numbers of OA complaints arose**

	Year ended 30/06/12	Year ended 30/06/13
<b>Central Government – greater than or equal to 30 complaints</b>		
Department of Corrections	848	<b>644</b>
Ministry of Business, Innovation and Employment	- <sup>9</sup>	<b>310<sup>10</sup></b>
Ministry of Social Development	125	<b>166<sup>11</sup></b>
Inland Revenue Department	89	<b>81<sup>12</sup></b>
Ministry of Justice	51	<b>79<sup>13</sup></b>
<b>Local Government – greater than or equal to 15 complaints</b>		
District Councils – all	175	<b>175</b>
City Councils – all	139	<b>63</b>
Regional Councils – all	27	<b>34</b>
Council controlled organisations – all	14	<b>20</b>
Auckland Council	56	<b>55</b>
Far North District Council	13	<b>15</b>
<b>Other Organisations – greater than or equal to 15 complaints</b>		
Earthquake Commission	201	<b>286<sup>14</sup></b>
Accident Compensation Corporation	81	<b>91</b>
New Zealand Police	45	<b>50</b>
Health and Disability Commissioner	22	<b>35</b>
New Zealand Transport Agency	24	<b>32</b>
Housing New Zealand Corporation	26	<b>20</b>
Boards of Trustees (schools) – all	62	<b>40</b>
District Health Boards– all	36	<b>34</b>
Polytechnics – all	22	<b>31</b>
Universities – all	22	<b>25</b>

<sup>9</sup> Counted against Department of Labour and other agencies in previous years.

<sup>10</sup> Includes 271 complaints concerning Immigration New Zealand.

<sup>11</sup> Includes 81 Work and Income, 58 Child, Youth and Family and 10 Studylink matters.

<sup>12</sup> Includes 27 Child Support and 9 student loan matters.

<sup>13</sup> Includes 34 courts, 14 tribunals, 9 legal services and 5 Office of Treaty Settlements matters.

<sup>14</sup> A further 403 other contacts were received concerning the Earthquake Commission.

## The outcomes

### Complaints

Not all OA complaints we receive require formal investigation. In 985 cases (36% of the total completed during 2012/13) our role was to provide an explanation, advice or assistance to complainants about the most appropriate way of addressing their concerns.

We advised complainants in 612 cases<sup>15</sup> to raise their complaint with the state sector agency of concern in the first instance. We also declined to investigate in 165 cases<sup>16</sup> where there was another remedy or right of appeal available to the complainant. A further 373 complaints were not within our jurisdiction.

We were able to resolve 216 complaints<sup>17</sup> – in 127 cases before investigation and in 89 cases during an investigation.

#### Failure to advise client of rights of review

Following a medical assessment by her doctor, ACC stopped paying the complainant weekly compensation on the basis that she was now capable of working. After receiving a complaint, we advised the complainant of her rights of review and appeal from ACC's decision, and declined to investigate.

However, it transpired that ACC had not advised the complainant at the time that she had these rights of review and appeal. We therefore made informal enquiries with ACC about this matter. ACC acknowledged that its current practice was simply to cease weekly compensation once a person is certified fit to return to work by their doctor. No decision letter and no advice of review and appeal rights are provided to claimants in this situation. We pointed out to ACC that the relevant legislation requires ACC to give notice to a claimant of its decision on a claim, as well as the rights of review. As a result, ACC has implemented a change to its current practice so that claimants in this situation are sent a decision letter which includes review and appeal rights.

#### Procedures followed by school in excluding student

A complaint was made about the exclusion of a student by a school. The student's parents were concerned about the procedures followed by the school in making the decision.

Following informal enquiries we made with the school and the Ministry of Education, the Ministry worked with the school to improve its suspension and exclusion procedures. The school also agreed to lift the exclusion. As a result, the complaint was withdrawn by the student's parents on the basis that the matter had been resolved.

<sup>15</sup> 22% of cases.

<sup>16</sup> 6% of cases.

<sup>17</sup> 8% of cases.



We commenced formal investigations in 379 cases,<sup>18</sup> and we formed final opinions in 174 cases. In only 44 cases (25% of all those formally investigated), did we identify administrative deficiency by the state sector agency that was the subject of complaint.

We made formal recommendations in 4 cases. All recommendations were accepted.

### Decision to serve trespass notice

The Horowhenua District Council issued a trespass notice against the complainant, after he made offensive comments during submissions on its annual plan. The complainant had left the premises voluntarily at the time, after the Mayor asked that he be trespassed. Six days later, a trespass notice was served on the complainant, banning him from Council premises for two years.

Ombudsman David McGee formed the opinion that the Council had acted unreasonably and unjustly by failing to give the complainant an opportunity to comment prior to service of the trespass notice, despite the incident giving rise to the notice having arisen 6 days earlier. The Ombudsman considered the Council should reconsider its decision to serve the notice, after first giving the complainant an opportunity to comment.

### Other contacts

In terms of other contacts, we provided an explanation, advice or assistance in 2,968 cases (35% of the total completed during 2012/13).

### Repairs to damaged garage

We received a call from a person whose garage wall was damaged by their neighbour, a Housing New Zealand tenant. The damage to the wall left the caller's belongings, which were stored in the garage, unsecured. Housing New Zealand had inspected the damage. Our Early Assistance Team made informal enquiries with Housing New Zealand, and Housing New Zealand advised the matter had been investigated and the wall would be repaired.

We advised individuals in 2,523 cases<sup>19</sup> to raise their complaint with the state sector agency of concern in the first instance. We referred individuals to other complaint agencies in 927 cases,<sup>20</sup> including the Privacy Commissioner, the Health and Disability Commissioner and the Independent Police Conduct Authority. We referred 313 cases<sup>21</sup> directly to a state sector agency for consideration by that agency, and we invited 779 individuals<sup>22</sup> to make a complaint to us in writing.

We were able to resolve 133 cases<sup>23</sup> as a result of direct informal enquiries with the state sector agencies concerned.

<sup>18</sup> 14% of cases.

<sup>19</sup> 30% of cases.

<sup>20</sup> 11% of cases.

<sup>21</sup> 4% of cases.

<sup>22</sup> 9% of cases.

<sup>23</sup> 2% of cases.

### Transfer of information between Work and Income and IRD

A part time relief teacher contacted us by telephone after Work and Income supplied information to the Inland Revenue Department (IRD), resulting in a tax debt of \$300. The caller was concerned that the information should be amended and advised that he had been trying to get the matter resolved with Work and Income and IRD.

Our Early Assistance Team made informal enquires with both the Ministry of Social Development (of which Work and Income is a part) and IRD. IRD and the Ministry liaised over the matter, and 3 working days later IRD had received the relevant information from the Ministry and resolved the matter by sending the caller an updated notice of assessment.

### Requirement to attend work test appointment

We received a call from a person who was unable to attend a Work and Income appointment for a work test due to a court hearing on the same day. He was concerned his benefit would be cut if he missed the appointment. Our Early Assistance Team made informal enquiries with the Ministry of Social Development. As a result, the Ministry advised that the caller's benefit would not be cut, and another appointment would be booked.

## The administrative deficiencies identified

---

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

- 17 cases where there were procedural deficiencies;
- 9 unreasonable, unjust, oppressive or discriminatory acts, omissions or decisions;
- 7 instances of inadequate advice, explanation or reasons;
- 5 cases where there were flawed agency processes or systems;
- 5 cases of unreasonable delay;
- 5 cases of legal or factual error;
- 1 case where a policy had an unreasonable or harsh impact;
- 1 case where there was inadequate knowledge or training of agency staff; and
- 1 case where the act or decision was just plain “wrong”.



### Delay in processing residence application

The complainant and his family were living in a refugee camp in Kenya. The complainant's sibling lives in New Zealand, and the complainant applied to Immigration New Zealand (INZ) for residence. INZ placed the application in a managed queue, and three and a half years later a complaint was made to the Chief Ombudsman about INZ's delay in reaching a decision.

The Chief Ombudsman formed the opinion that the delay processing the application was unreasonable, and INZ had failed to take into account the humanitarian factors that favoured prioritising it. In the course of the investigation, INZ expedited the application and approved residence. However, the Chief Ombudsman recommended that INZ put in place processes to ensure that priority is given to all residence applications from persons facing particular hardship or deprivation. INZ accepted this recommendation and is reviewing its practice accordingly.

## The remedies obtained

---

We obtained remedies in 330 cases concerning OA complaints and other contacts,<sup>24</sup> including:

- 134 cases where an omission was rectified;
- 105 cases where a decision was changed;
- 28 cases where reasons or an explanation for a decision was given;
- 27 cases where a decision was reconsidered;
- 25 cases where a financial remedy was provided; and
- 11 cases where an apology was given.

We also obtained a public administration benefit in 15 cases, with:

- a change in practice or procedure in 9 cases;
- agency agreement to review a law, policy, practice or procedure in 4 cases;
- the provision of guidance or training to agency staff in 4 cases; and
- a change in law or policy in 1 case.

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

<sup>24</sup> In cases that were both investigated, and resolved informally without investigation.

## Timeliness

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

- 79% per cent of complaints outside our jurisdiction within 1 month of receipt (*target 90%*);
- 85% of complaints that we declined to investigate or resolved informally within 3 months of receipt (*target 90%*);
- 57% of priority investigations within 6 months of receipt (*target 70%*); and
- 56% of all other investigations within 12 months of receipt (*target 70%*).

## Work in the Corrections sector

### Complaints and other contacts

OA complaints and other contacts concerning the Department of Corrections (Corrections) continued to account for a significant proportion of our overall workload, in terms of numbers. In the 2012/13 year we completed 633 OA complaints and 3,806 other contacts concerning Corrections.

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

Nearly all OA complaints concerning Corrections (611) were dealt with by our Prison Investigators. The majority of other contacts concerning Corrections (3,467), were quickly dealt with by our Early Assistance Team over the telephone. Another 309 other contacts were dealt with by our Prison Investigators, mainly on the spot during prison visits.

### Moving prisoner's property during transfer between prisons

A prisoner contacted us by telephone, explaining that he was to be transferred between prisons in 2 day's time. He had been told that he would not be allowed to take his course materials, which he required for his ongoing study and for an art course he was participating in, because the materials did not fit into his allocated property bins.

As a result of informal enquires made by our Early Assistance Team, the Department of Corrections organised, that same day, for the prisoner's course materials to be couriered to him at the new prison.



### Protective segregation for transgender prisoner

During a prison visit, a transgender prisoner raised a concern with a Prison Investigator that the prison had declined a request to be placed on protective segregation. The prisoner feared for their safety amongst mainstream prisoners. Enquiries were made with prison management who agreed to undertake an immediate review of the prisoner's circumstances. The prisoner's request for protective segregation was approved following this review.

Each prison open over the whole reporting year was visited 4-5 times.<sup>25</sup> The most common concerns raised by prisoners related to:

- property (16%);
- transfers and movements (10%);
- health services (8%);
- communications (7%);
- discipline and misconduct (7%); and
- staff conduct and attitudes (5%).

### Transfer of a segregated prisoner

The complainant, a segregated prisoner, was transferred between prisons. There was an expectation that the complainant would be kept apart from mainstream prisoners for his own protection, because of his segregation status. The complainant made a complaint to Ombudsman David McGee about the transfer, raising concerns that his personal safety was put at risk. He stated that when he was placed on the prison escort bus, he was accommodated in a sectional compartment containing mainstream prisoners. Following an investigation, the Ombudsman was unable to reach a conclusive opinion as to whether the complainant was placed in the mainstream compartment, and his personal safety therefore put at risk. Witnesses interviewed by the Ombudsman provided differing versions of events as to where the complainant was placed in the escort bus. Accordingly, Corrections was not found to have acted wrongly or unreasonably.

However, the Ombudsman raised concerns with Corrections about inadequate record keeping. There was no recorded video surveillance footage or documentary evidence of the seating arrangements of prisoners on the bus. The Ombudsman considered the systems in place for recording the placement of prisoners were unsatisfactory and unhelpful. Given the risks and potential consequences for a prisoner who is inappropriately placed in a prison escort vehicle, the Ombudsman suggested that Corrections review its processes to ensure sufficient precautionary measures and checks have been taken for the safety and wellbeing of a prisoner during transit, and to confirm the seating arrangements that were actually put in place.

Corrections subsequently confirmed that it had considered the Ombudsman's suggestions and initiated a new process for the recording of prisoners' names on the bus.

<sup>25</sup> Wellington Prison was visited once, and New Plymouth Prison was visited three times, as they were closed part way through the reporting year.



## Deaths in custody

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

We play an active monitoring role in every investigation, contributing to the effectiveness of the final outcome. That said, the investigation is at all times the responsibility and function of the Inspector, and the Inspector forms his or her own personal conclusions. Once the Inspector has issued his or her final report, we will comment on the investigation and the Inspector's conclusions to the Chief Executive of Corrections, but we do not direct or instruct the Inspector during the investigation process. If we were sufficiently concerned about the investigation process, we are able at any time to commence our own independent investigation.

In 2012/13 we commenced monitoring 11 investigations into deaths in custody.

We also completed monitoring 13 investigations into deaths in custody, in relation to 4 deaths in 2012/13, 7 deaths in 2011/12 and 2 deaths in 2010/11.

In 12 concluded cases we found the Corrections investigation to be fully satisfactory, and it was unnecessary for us to make any further comments additional to the Inspectors' reports.

In 1 concluded case we found the Corrections investigation to be substantially satisfactory, but made comments additional to the Inspectors' report.

### Prisoner cell location checks

One death in custody investigation monitored by the Chief Ombudsman this year resulted in corrective action by Corrections to review its policy surrounding prisoner cell location checks (PCLCs), and introduce a requirement and expectation on staff to conduct further necessary checks during the night.

In our annual report for the 2011/12 year, we raised concerns about Corrections' amended PCLC policy, which reduced the number of night time checks from every 2 hours after lock up to a maximum of 3 checks a night. We note the refinement of the policy this year, to allow for further necessary checks during the night.

## Serious incidents

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

In 2012/13, 53 serious incidents received preliminary assessment as to whether further enquiries were warranted. In most cases this involved reviewing all incident and follow-up reports, and making informal enquiries. We commenced formal investigations in 7 cases, and we also completed 7 investigations (including 2 investigations commenced in the previous reporting year). Two investigations remain ongoing.



### Fire at Auckland prison

The Chief Ombudsman investigated complaints arising from a fire at D Block in Auckland prison. During the fire, there was thick black smoke up to chest height on the top landings and cross passage of D block, including in prisoners' cells. Immediately following the fire, all prisoners were checked by prison staff. In addition, prison staff were assessed by ambulance officers. The ambulance officers asked if any prisoners needed assessing, but were advised this was not necessary. The prisoners were then seen by the prison nurse the following morning.

Two prisoners complained to the Chief Ombudsman that they were not medically assessed until the day after the fire. Following investigation, the Chief Ombudsman formed the opinion that it was unreasonable for Corrections not to have arranged for a medical assessment of the prisoners immediately after the fire. While prison staff trained in first aid checked the prisoners, steps should also have been taken to arrange an immediate medical assessment by either prison health staff or ambulance officers. The fire was of a considerable size and thick smoke was present in the area where the prisoners were located. The Chief Ombudsman considered Corrections has a responsibility to ensure all practical steps have been taken to ensure the health and safety of individual prisoners after a serious incident.

The Chief Ombudsman recommended that Corrections review its emergency response procedures for serious incidents to ensure that the immediate health needs of any directly affected prisoner are assessed or examined as soon as practical after the incident. In response, Corrections advised that it had reviewed and amended its procedures accordingly.

## Complaints against the Earthquake Commission

---

During the 2012/13 year, complaints against the Earthquake Commission (EQC) have continued to be a significant area of our work. Traditionally, we have received around 10 - 15 complaints per year concerning EQC. Last year we received 389 OA complaints and other contacts concerning EQC. This year we received 689.

Given the volume of work in this area and the complex and difficult situation facing many complainants, we have continued our flexible process for dealing with EQC complaints. This involves:

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

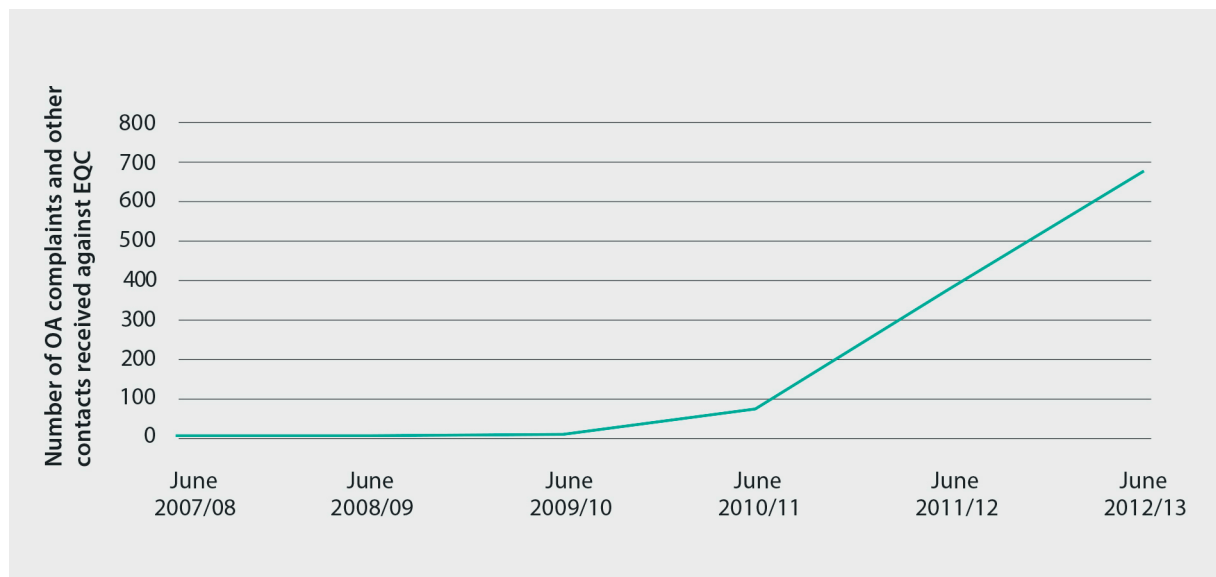


Figure 3: OA complaints and other contacts received against EQC over the past 6 years

### Delay by EQC in paying claim

Following the September 2010 Canterbury earthquake, the complainant made a claim to EQC for contents damage at her property where she resides. In March 2012, the complainant made a complaint to the Chief Ombudsman about a delay by EQC in making payment on her claim.

During her investigation, the Chief Ombudsman noted that an assessment of the claim had been carried out on 31 January 2011. However, a decision on the claim had been delayed, as the complainant also had a claim with EQC for damage to boarding houses that she owned. EQC was awaiting the outcome of that claim, as it could affect the total overall payment made to the complainant for her separate claims.

The Chief Ombudsman pointed out to EQC that it seemed unreasonable to await the outcome of the separate claim for the boarding houses. The contents claim related to a property which the complainant personally occupied, and for which she had separate insurance cover. It might therefore be reasonable to expect that claim to be settled independently of the claim over the boarding houses.

After consideration of the Chief Ombudsman's comments, EQC reconsidered its position and paid the complainant in settlement of her contents claim. The Chief Ombudsman discontinued her investigation on the basis that the matter was resolved.



### Failure by EQC to consider all relevant information in assessing claim

The complainant's chimney was damaged in the September 2010 Canterbury earthquake. The complainant made a claim to EQC for the damage, and the damage was assessed by EQC on 2 February 2011. Following the assessment, the complainant was advised to have the chimney demolished, which she did. However, her claim for the damage was declined by EQC, on the grounds that there was no evidence of loss or that it was earthquake related. EQC stated there was no record of the assessment on 2 February 2011, and relied on an earlier assessment undertaken on 6 December 2010 which did not identify any chimney damage.

The complainant made a complaint to the Chief Ombudsman about EQC's decision to decline her claim, stating the February 2011 assessment was witnessed by at least 4 people, and providing a copy of a form which she said was left by the EQC assessors. In responding to the Chief Ombudsman, EQC advised that after reviewing the full claim file and contacting EQC field offices and hubs, no record could be found of the February 2011 assessment, apart from a short file note that EQC considered was a mistake.

After considering the information provided by the complainant and EQC, as well as the relevant claim file, the Chief Ombudsman formed the opinion that EQC had acted unreasonably.

While the EQC records did not contain details or documentation of the February 2011 inspection, the Chief Ombudsman found it difficult to believe that the complainant and her witnesses were being untruthful or had been misled by bogus assessors. Furthermore, the Chief Ombudsman did not consider the reference in the file note to be a mistake. Rather, the Chief Ombudsman believed the inspection had taken place, but the relevant EQC records had been subsequently misplaced. The complainant should not be disadvantaged by this.

Following further enquiries, EQC located the relevant paper work in an archived file. It seemed the February 2011 assessment was incorrectly archived without having first been loaded onto the claim file. EQC reconsidered the claim, made a payment for the full damage and apologised to the complainant.

## Wider administrative improvement investigations

Part of our new strategic direction is to have a greater focus on interventions to achieve wider administrative improvement in the state sector. These interventions range from focused investigations of significant and systemic issues, to providing more targeted advice, guidance and training to state sector agencies.

### Investigations completed in the reporting year

We completed 3 wider administrative improvement investigations in the reporting year, concerning:

- the Ministry of Education's management of official information requests about proposed Christchurch school closures;
- delay by Immigration New Zealand in processing residence applications (as reported above at page 30); and
- unlawful levy collection by the Plumbers, Gasfitters and Drainlayers Board.

## Management of official information requests

Ombudsman David McGee reported publicly this year on his investigation of the Ministry of Education's management of official information requests about proposed Christchurch school closures.

The Ombudsman formed the opinion that the Ministry had inappropriately suggested to the Christchurch City Council that it should refuse a request for information on the basis that it was not held by the Council. The Ombudsman was also of the opinion that the Ministry was wrong to have advised two school principals to withdraw their official information requests in order that they may receive a better response.

Following the Ombudsman's investigation, the Ministry reviewed its official information procedures and guidance for staff. The Ministry also invited our Office to provide official information training for staff across the Ministry, which we have been pleased to provide.

The outcome of this investigation has also led us to timetable further wider administrative improvement investigations into:

- the policy and practice of the Ministry of Education in relation to school closure consultations generally; and
- overall official information policy and practice in selected government agencies.

## Unlawful levy collection

A complaint was made to Ombudsman David McGee, in part about the collection of a disciplinary levy by the Plumbers, Gasfitters and Drainlayers Board from registered persons.

In relation to the disciplinary levy, the complainant was concerned that the Board collected the levy for an 18 month period, despite the Board later acknowledging the levy to have been unlawful as it included costs that were not within the purpose of the levy. Following investigation, the Ombudsman formed the opinion that the Board's action in imposing and collecting the levy was based on a mistake of law. However, the Ombudsman noted that any refund of the levy (amounting to \$600,000 in total over all those levied) would be devastating to the Board, which relies for funding on the fees and levies collected from registered persons.

The Ombudsman recommended that the Board address the matter with those who had paid the levy, and that the Board and the Ministry of Business, Innovation and Employment should make a proposal to the Minister of Building and Construction in relation to:

- legislation to validate the levy; and
- funding to assist the Board to arrive at a satisfactory arrangement with those who had paid the levy during the time in question.

The Plumbers, Gasfitters and Drainlayers Amendment Bill currently before Parliament addresses some of these issues.



## Investigations commenced in the reporting year

We also commenced wider administrative improvement investigations this year concerning:

- consultation by the Ministry of Education in relation to school closures and mergers; and
- the Earthquake Commission's handling of requests for information.

### Consultation on school closures and mergers

In March 2013, the Chief Ombudsman commenced an investigation into the policy and practice of the Ministry of Education in consulting with school communities when it is proposed that a school be closed or merged with another school.

This issue has been of great importance in the Canterbury region since September 2012, when the Minister of Education announced a proposal that 38 schools be closed or merged. The Chief Ombudsman has been reviewing the Canterbury process in detail, and is also examining a range of closure and merger processes that have occurred over the past several years in other areas. The Chief Ombudsman's final report on the matter will be published in late 2013 or early 2014.

### The Earthquake Commission's handling of requests for information

By the early part of 2013, it was clear that the Earthquake Commission had become routinely unable to comply with its obligations under the Official Information Act and the Privacy Act to respond in a timely manner to requests for information. In June 2013, the Chief Ombudsman and the Privacy Commissioner decided to conduct a co-ordinated investigation to establish whether there were improvements that EQC could make in the processes and resourcing of its Official Information Act and Privacy Act functions to improve compliance. The findings of this investigation are due to be publicly released in late 2013.

## Official information

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

### The numbers

There was a continuing increase in the number of official information complaints received this year. We received 2,374 complaints under the OIA, an increase of 92% on 2011/12 numbers and the highest number ever received. We also received 271 complaints under LGOIMA, which is comparable with previous years.

Of the OIA complaints received, 1,012 were from a single complainant, concerning delays in responding to the same request by various school Boards of Trustees. Even removing these complaints from calculations, 1,361 OIA complaints were received in 2012/13, an increase of 26% over the previous year.

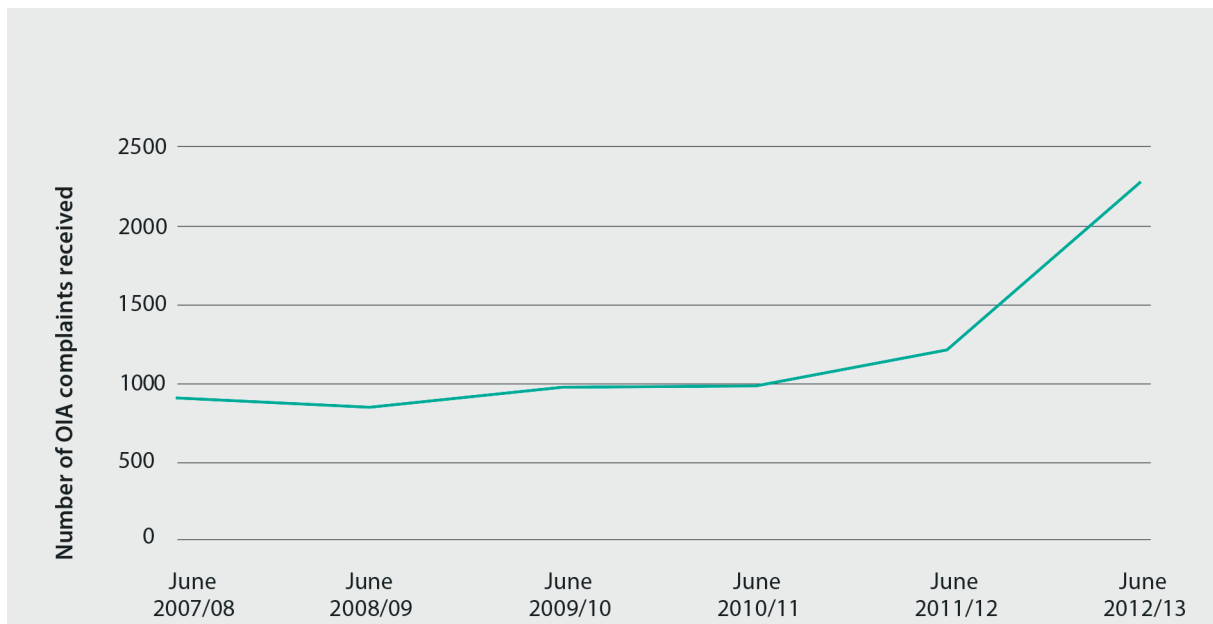


Figure 4: OIA complaints received over the past 6 years

We completed 1,913 OIA complaints. This is significantly more than in recent years – 78% more than in 2011/12, and the highest number of OIA complaints ever completed. We also completed 245 LGOIMA complaints, up from 217 in 2011/12. We finished the year with 1,129 OIA complaints and 162 LGOIMA complaints on hand.



## The complainants

This year's statistics concerning the type of complainants who raised concerns about official information decisions are consistent with previous years. They continue to suggest that members of the public are making good use of their rights to request information under the OIA and LGOIMA, and to complain to the Ombudsman if dissatisfied. Individuals accounted for approximately three-quarters of all OIA (77%) and LGOIMA (69%) complaints. The next highest users were the media, who made 12% of all OIA complaints, and 18% of all LGOIMA complaints. MPs and political party research units accounted for 4% of the OIA complaints received.

## The agencies

This year 571 official information complaints were made against government departments, making up 22% of all official information complaints received. This can be compared with last year's figure of 376 complaints, making up 25% of all official information complaints received.

In contrast, 1,623 official information complaints were made against other state sector agencies this year, compared with 684 last year. As noted above, 1,012 of these complaints were made by a single complainant concerning various school Boards of Trustees. Nonetheless, this represents a significant change in the types of agencies complained against, with 61% of all official information complaints being made against other state sector agencies this year, as opposed to 45% last year.

Local government agencies subject to LGOIMA made up 10% of the official information complaints received, and 6% of official information complaints were against Ministers of the Crown.

### Submissions on *The Hobbit* made to Government by film industry

Ombudsman David McGee received OIA complaints from the New Zealand Council of Trade Unions and Radio New Zealand, about decisions by the Minister for Economic Development to withhold information about the production of *The Hobbit* and film production generally. In respect of key issues, the Ombudsman formed the opinion that:

- Section 9(2)(ba) of the OIA did not apply to information which was supplied to the Government by the film industry. This provision is not intended to permit Ministers or departments to erect a barrier to the disclosure of general policy submissions made to them by third parties on the ground that an obligation of confidence is owed to those submitters.
- Section 9(2)(g)(i) of the OIA did not apply to the submissions and comments that were made to Ministers by the film industry. While there will be circumstances in which persons may feel inhibited from making submissions by the prospect of those submissions being made public, this was not so in this case. The submissions and comments were made by these parties in their own direct interests with a view to persuading the Government to a policy stance that advantaged them in their commercial dealings. There is nothing improper in this. But it is not accepted that persons who have a commercial interest in making submissions to Ministers would likely be deterred from doing so by the prospect of release.

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



## Where significant numbers of OIA complaints arose

	Year ended 30/06/12	Year ended 30/06/13
<b>Departments and organisations – greater than or equal to 20 complaints</b>		
Boards of trustees (schools) – all	239	<b>1,041</b>
District Health Boards – all	38	<b>57</b>
Earthquake Commission	54	<b>149</b>
New Zealand Police	130	<b>120</b>
Department of Corrections	48	<b>100</b>
Ministry of Social Development	40	<b>97</b>
Ministry of Business, Innovation and Employment	<b>-26</b>	<b>66</b>
Accident Compensation Corporation	53	<b>56</b>
Ministry of Education	24	<b>51</b>
Ministry of Justice	38	<b>31</b>
New Zealand Defence Force	17	<b>31</b>
Canterbury Earthquake Recovery Authority	16	<b>28</b>
Ministry of Health	20	<b>27</b>
Ministry for Primary Industries	2	<b>25</b>
Department of Internal Affairs	15	<b>24</b>
Ministry of Foreign Affairs and Trade	13	<b>21</b>
Housing New Zealand Corporation	11	<b>20</b>
<b>Ministers of the Crown – greater than or equal to 15 complaints</b>		
Minister of Foreign Affairs	10	<b>22</b>
Minister of Transport	6	<b>15</b>

## Where significant numbers of LGOIMA complaints arose

	Year ended 30/06/12	Year ended 30/06/13
<b>Greater than or equal to 10 complaints</b>		
District Councils – all	86	<b>103</b>
City Councils – all	150	<b>58</b>
Council controlled organisations – all	14	<b>42</b>
Regional Councils – all	14	<b>15</b>
Auckland Council	60	<b>48</b>
Auckland Transport	5	<b>23</b>
Kapiti Coast District Council	5	<b>15</b>
Wellington City Council	20	<b>14</b>
Horowhenua District Council	4	<b>11</b>
Christchurch City Council	22	<b>10</b>

<sup>26</sup> Counted against Department of Labour and other agencies in previous years.



## The complaints

This year, 41% of all official information complaints concerned the partial or outright refusal of requests for official information. While the number of complaints received about refusals has increased to 999 (from 825 in the previous year), the proportion of such complaints has decreased significantly. Last year, 55% of official information complaints concerned refusals.

This change is due to a significant increase in the number of complaints received about delays by agencies in making decisions on official information requests. We received 1,695 delay complaints this year, compared with 584 received last year. This represents an increase of 190%. However, 1,007 of these delay complaints were made by a single complainant concerning various school Boards of Trustees.<sup>27</sup> If these complaints are removed from calculations, there was an 18% increase in delay complaints this year. This continues to be a worrying trend, after a 34% increase in delay complaints in the previous year. As a result, we will be including the issue of timeliness in our upcoming wider administrative improvement investigation of official information policy and practice in selected government agencies.

## The outcomes

Traditionally, we have formally investigated most official information complaints. However, this year 926 complaints were resolved without formal investigation. A large proportion of these were part of the 1,012<sup>28</sup> complaints made by a single complainant concerning various school Boards of Trustees, where we undertook an overall approach of contacting the Boards with advice and guidance on a suitable means to resolve the complaints. We commenced formal investigations in 30% of all completed official information cases (637 out of 2,158). We managed to resolve 152 of these without needing to form a final opinion.

We formed final opinions in 337 official information cases. In 167 of these cases<sup>29</sup> we identified an administrative deficiency by the agency concerned in its official information decision making.

### Ministerial conflicts of interest

The Chief Ombudsman investigated complaints about the refusal of the Cabinet Office to release information about ministerial conflicts of interest.

Following her investigation, the Chief Ombudsman formed the opinion that there was good reason to withhold the details of Ministers' declarations of interest at Cabinet and Cabinet Committees, and correspondence between Ministers and the Cabinet Office about actual or possible conflicts of interest. However, the Chief Ombudsman did not consider there was good reason to withhold some information concerning actions taken to manage conflicts of interest, namely key information about the non-receipt of papers by Ministers and transfers of responsibility. There is a strong public interest in the transparency of those actions so that the public can be reassured the integrity of the decision making process of executive government is being protected, and conflicts of interest are being identified and managed appropriately.

The Cabinet Office accepted the Chief Ombudsman's opinion, and released a summary of action that had been taken to manage Ministers' interest. The Cabinet Office also accepted the Chief Ombudsman's suggestion that such information continue to be released proactively on an annual basis.

<sup>27</sup> An additional 5 complaints made by this complainant concerned refusals.

<sup>28</sup> Made up of 1,007 delay complaints and 5 refusal complaints.

<sup>29</sup> 26% of all cases formally investigated.

We made 11 recommendations under the OIA and 1 recommendation under LGOIMA. All recommendations made under the OIA were accepted. The recommendation made under LGOIMA was not accepted.

### Residential locations of Board members

A LGOIMA complaint was made to the Chief Ombudsman by the Hon Judith Collins, MP, who had requested from the Independent Maori Statutory Board the towns and districts where its Board members resided. The Board released the towns and districts of 7 Board members, but in respect of the remaining 2 Board members released *“their iwi and hapu boundaries within which their papakainga (residences) are located and...therefore the districts within which they reside in accordance with their tikanga, their culture and their traditions”*.

The Chief Ombudsman considered that the Board had not fully responded in terms of the request made by Ms Collins for *“the towns and districts”* where the 2 Board members resided. The Chief Ombudsman was not able to identify any provision in LGOIMA which would justify the withholding of this information. Accordingly, the Chief Ombudsman formed the final opinion that it was not open to the Board to withhold the information, and recommended that the Board provide Ms Collins with the towns and districts in which the Board members resided.

There was a public duty on the Board to observe the Chief Ombudsman’s recommendation within 21 working days, unless the Board decided otherwise by resolution at a meeting of the Board. The Board advised that it had met and passed a resolution not to accept the recommendation, putting the matter beyond the Chief Ombudsman’s jurisdiction.

## The administrative deficiencies identified

---

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

- 30 cases where the refusal of official information was not justified;
- 134 cases of delay;
- 3 cases where there was an inadequate statement of reasons;
- 1 case where there was an unreasonable charge; and
- 1 case of procedural deficiency.



## Policy advice concerning partnership schools

A complaint was made to Ombudsman David McGee about the decision of the Associate Minister of Education to withhold certain advice relating to the development of the partnership (charter) schools policy, under section 9(2)(f)(iv) of the OIA. Information concerning the funding of partnership schools was withheld.

The Ombudsman formed the opinion that section 9(2)(f)(iv) did not provide good reason to withhold this information. Section 9(2)(f)(iv) applies if the withholding of the information is necessary to maintain the constitutional convention which protects the confidentiality of advice tendered by Ministers of the Crown and officials, and the need to withhold the information is not outweighed by other public interest considerations which make it desirable to make the information available.

The purpose of the convention is to protect the ability of the government to receive and deliberate upon advice in an effective and orderly manner. Ombudsmen have recognised that one purpose of the convention is to protect the ability of Ministers and Cabinet to consider advice, where release of the advice will prejudice the ability to decide what course of action to take. The stage reached in the policy-making process to which the information relates is relevant to this assessment.

In this case, at the time the decision was made to withhold the advice, Cabinet had already considered the advice and reached a decision as to how they wished to proceed. In light of this, the Ombudsman did not consider that withholding the funding advice was necessary to protect the ability of the government to receive and deliberate upon advice in an effective and orderly manner, nor that its disclosure would impinge upon the maintenance of the convention protected by section 9(2)(f)(iv).

The Ombudsman recommended that the Associate Minister release the relevant information, and the Associate Minister accepted this recommendation.

## The remedies obtained

We obtained 1,100 remedies for complainants,<sup>30</sup> including:

- 880 cases where an omission was rectified;
- 158 cases where a decision was changed;
- 47 cases where reasons or an explanation for a decision was given;
- 9 cases where a decision was reconsidered;
- 4 cases where an apology was given; and
- 2 cases where a financial remedy was given.

We also obtained a public administration benefit in 16 cases, with:

- a change in practice or procedure in 7 cases;
- agency agreement to review a law, policy, practice or procedure in 5 cases;
- the provision of guidance or training to agency staff in 3 cases; and
- the provision of additional resources in 1 case.

<sup>30</sup> In cases that we both investigated, and resolved informally without investigation.

## Identities of PHARMAC staff and people making submissions to PHARMAC

Tony Wall of the Sunday Star Times made a complaint to Ombudsman David McGee about the decision by PHARMAC to refuse his request for the identities of some PHARMAC staff involved in decision making on the blood thinning drug dabigatran, as well as the identities of members of the public making submissions in that respect. In withholding this information, PHARMAC relied on sections 9(2)(a), 9(2)(g)(i) and 9(2)(g)(ii) of the OIA.

The Ombudsman formed the opinion that these sections did not provide good reason to refuse the request. The Ombudsman considered that the names of officials should, in principle, be made available when requested. All such information normally discloses is the fact of an individual's employment and what they are doing in that role. Anonymity may be justified if a real likelihood of harm can be identified, but it is normally reserved for special circumstances such as where safety concerns arise.

The Ombudsman also stated as a general principle that the public have the right to know the provenance of public policy decisions. This will generally include the content of submissions and the identity of those who elected to contribute. For that reason, it is important that public agencies seeking submissions make it clear that information provided may need to be disclosed in response to OIA requests. There is no guarantee of anonymity for submitters.

In this case, the Ombudsman did not consider there was good reason to withhold the identities of those making submissions on behalf of organisations or in their professional capacity. Only one individual member of the public had made a submission, and that person did not object to release of their identity. Accordingly, the Ombudsman did not make a finding in this case on the general question whether the identity of individual members of the public should be disclosed in the absence of their consent.

In the course of the Ombudsman's investigation, PHARMAC agreed to release the relevant information, and so no recommendations were made.

## Timeliness

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

- under our OIA jurisdiction:
  - 63% of complaints outside jurisdiction within 1 month of receipt (*target 90%*);
  - 30% of complaints that were not investigated or resolved informally within 3 months of receipt (*target 90%*);
  - 81% of urgent investigations within 4 months of receipt (*target 90%*);
  - 30% of priority investigations within 6 months of receipt (*target 70%*); and
  - 50% of all other investigations within 12 months of receipt (*target 70%*).



- under our LGOIMA jurisdiction:
  - 75% of complaints outside jurisdiction within 1 month of receipt (*target 90%*);
  - 68% of complaints that were not investigated or resolved informally within 3 months of receipt (*target 90%*);
  - 93% of urgent investigations within 4 months of receipt (*target 90%*);
  - 35% of priority investigations within 6 months of receipt (*target 70%*); and
  - 69% of all other investigations within 12 months of receipt (*target 70%*).

The particular pressure point this reporting year was priority investigations. Due to the heavy volume of official information complaints received, we were not able to meet our target of 70% priority investigations completed within 6 months, for either the OIA or LGOIMA. However, 60% of OIA and 85% of LGOIMA priority investigations were completed within 12 months.

In addition, only 30% of OIA complaints that were not investigated or resolved informally were completed within 3 months. This was due to the 1,012 complaints made by a single complainant concerning various school Boards of Trustees. The majority of these complaints were resolved during the reporting year without investigation, but this took more than 3 months given the complexity of dealing with that number of complaints in respect of one overall issue.

## Protected Disclosures Act

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

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

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

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

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

### Registration of laboratory technicians

Ombudsman David McGee completed one substantial investigation under the PDA this reporting year, concerning a protected disclosure about a District Health Board. The disclosure related to supervision, training, qualifications and registration of laboratory technicians.

No serious wrongdoing was found to have occurred. However, in the course of the investigation the Board agreed to review certain parts of its practices including clarifying the pathway to registration for laboratory technicians, shifting the burden of responsibility for determining eligibility for registration onto the Board, strengthening supervision, and establishing a joint working group comprising the Medical Laboratory Science Union, and Board staff and management, to address union concerns about training and workplace stress. The Board also agreed to amend its protected disclosures policy to better address reporting requirements.

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

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

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

In 2012/13, we received 7 and completed 11 requests for guidance and assistance. We completed 82% of all requests for guidance and assistance within 6 months of receipt (target 95%).

<sup>31</sup> The State Services Commission’s Integrity and Conduct Survey 2010 found “*a serious lack of awareness about the [PDA]*”. Available at [www.ssc.govt.nz](http://www.ssc.govt.nz).



## Crimes of Torture Act

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

### Overview

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

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

There are also an additional 132 aged care facilities with dementia units that may fall within our designation in respect of health and disability places of detention. If so, we would need to seek additional funding in order to conduct regular inspections of these facilities.

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

Two Inspectors exercise delegations from the Ombudsmen in carrying out our NPM functions under COTA. In 2012/13 we committed to carrying out 32 visits to places of detention. We well exceeded this commitment and carried out a total of 45 visits, including 22 formal inspections. Thirty five visits (just over 77%) were unannounced.

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

Name of facility	Type of facility	Recommendations made
Ward K1, Princess Margaret Hospital, Canterbury DHB	Acute assessment (organic brain disorders)	1
Hohou Roko, Hillmorton Hospital, Canterbury DHB	Forensic rehabilitation	-
Rimutaka – Upper Prison	Prison	7
Waiatarau Unit, Waitakere Hospital, Waitemata DHB	Acute Mental Health	-
Tongariro – Cedar Units	Prison	1
Wahi Oranga Unit, Nelson Hospital, Nelson & Marlborough DHB (follow-up inspection)	Acute Mental Health	-
He Oranga Kahurangi Unit, Grey Hospital, West Coast DHB	Dementia Unit	1
Manaakitanga Unit, Grey Hospital, West Coast DHB	Acute Mental Health	1
Rimutaka – Management Unit	Prison	6



Name of facility	Type of facility	Recommendations made
Starship Child and Family Unit, Auckland Hospital, Auckland DHB	Child and adolescence	1
Te Whare Awhiora, Gisborne Hospital, Tairāwhiti DHB	Acute Mental Health	-
Totara Unit, Mason Clinic, Waitemata DHB	Forensic Unit	5
Tanekaka Unit, Mason Clinic, Waitemata DHB	Forensic rehabilitation	-
Ward 36, Henry Bennett Centre, Waikato DHB	Acute Mental Health	-
Puna Poipoi, Henry Bennett Centre, Waikato DHB	Forensic rehabilitation	-
Ward 9b, Wakari Hospital, Southern DHB	Acute Mental Health	-
Helensburg Cottage, Wakari Hospital, Southern DHB	Forensic rehabilitation Intellectual disability	-
Auckland East – Management Unit and ARU	Prison	6
Rimutaka – Management Unit (follow-up)	Prison	5
Te Whare O Matairangi, Wellington Hospital, Capital & Coast DHB	Acute Mental Health	-
Mt Eden – Management Unit and CSI Unit	Prison	5
Christchurch Men’s – Management Unit	Prison	1

We reported back to 20 places of detention (91%) within 3 months of conducting an inspection and made 40 recommendations of which 35 were accepted or partially accepted (as set out in the table below).

Recommendations	Accepted	Not accepted
Prisons	30	1
Health and disability places of detention	5	4

This brings the total number of visits conducted over the 6 year period of our operation as an NPM to 262, including 93 formal inspections.



## Prisons

### Segregation facilities (management units)

In last year's annual report we identified two prisons, Auckland and Waikeria, where there were significant variances within the directed segregation regimes being applied to prisoners pursuant to sections 58(1)(a) or (b) of the Corrections Act 2004. Directed segregation units house prisoners who pose a risk to the security and good order of the prison. There were particular variances in the amount of time prisoners were allowed out of their cells, particularly in the open air. This year the inspectors maintained their focus on segregation facilities at a further 3 sites: Rimutaka Prison, Mt Eden Corrections Facility and Christchurch Men's Prison. A fourth follow-up inspection was also undertaken at Auckland Prison.<sup>32</sup>

Segregated prisoners at Auckland and Mt Eden had particularly bad living conditions with dirty toilets and graffiti on cell walls. The lack of appropriate management facilities at Auckland Prison means segregated prisoners are housed with non-segregated prisoners including, on occasion, remand prisoners. This mixed regime, along with reduced unlock hours (8.30am to 11.30am and 1.30pm to 4.30pm) dramatically reduces the time out of cell for prisoners. This is exacerbated by a lack of stimulation for those held on long term segregation. Although we have been informed that a new, maximum security prison will replace the current one, this is several years away. In the meantime, accommodation for those prisoners currently undergoing a period of segregation is well below standard and could be considered cruel and inhuman for the purposes of the Convention Against Torture. Two new stainless steel segregation cells are being piloted with a view to rolling out similar cells to replace the existing cells. We consider these cells to be similarly substandard and are in active discussions with the Department with a view to upgrading the plans. The Department has informed us that the construction of an interim Management Unit is scheduled to commence in early 2014, with completion in September 2014.

Generally, the documentation relating to those held on segregation was used inconsistently and was poorly completed, with essential details missing. In most cases, reviews of prisoners on segregation remained perfunctory, with little emphasis on reintegration to a normal residential unit or meaningful programmes to challenge and address poor behaviour. Inadequate records management and a general lack of managerial oversight seemed to be a significant issue across the board.

Most prisoners placed on directed segregation were not receiving their daily minimum entitlement of one hour in the open air at Rimutaka, Mt Eden and Auckland. However, Rimutaka had addressed this issue by the time we carried out a follow-up inspection in April 2013.

The management cells at Mt Eden are included in the overall prison muster resulting in some newly arrived inmates having to be located in the unit for several days, until a bed becomes available in the main prison. We do not consider this appropriate.

### Meal times

We expressed concerns this year about the truncated period in two prisons between breakfast and dinner (8.15am and 3.30pm and 4pm respectively). We understand from visits in previous years that this condensed meal time is a broader problem and we are in discussions with the Department as to how this might be resolved across the board.

<sup>32</sup> The previous inspections were in 2010, 2011 and 2012.

## Use of force and restraint

The term “*use of force or restraint*” covers a wide range of actions or equipment that restrict a prisoner’s movement. “*Trifling*” is a relatively new term that describes when a member of staff has placed their hand on a prisoner to guide them to, or remove them from, a particular location or situation. Incidents that Corrections categorises as “*trifling*” are not recorded (unlike use of force), and are therefore not open to scrutiny by senior management. The same applies to incidents where mechanical restraints (handcuffs) have been applied to a prisoner for non-escort purposes.

Concerns were expressed to us by two prisoners who felt excessive force was used against them during incidents in their respective units. When inspectors queried the incidents, management described one as a “*trifling*” event and the other as applying mechanical restraints to a prisoner for non escort purposes. Neither such event requires recording under Department of Corrections policy. Further investigation, including the viewing of video footage, revealed force had in fact been used against each prisoner and the under-reporting by staff failed to trigger the necessary checks by senior management. Both prisoners were located in Rimutaka Prison. The prison has since implemented a process whereby all “*trifling*” incidents and applications of handcuffs for non-escort purposes will be reviewed by the Residential Manager, in addition to an official review process.

We will be monitoring other facilities to determine whether there is a need to recommend a broader review of the policy not to record “*trifling*” incidents and the application of mechanical restraints for non-escort purposes. Such a review would bring the prison facilities regime into line with the mental health facilities regime.

### Good practices at the 5 prisons visited

- At Mt Eden weekly segregation review panels and a health screening algorithm are used to review prisoners’ behaviour before, during and after a period of segregation. Some prisoners (based on risk) are able to associate with other prisoners while in the management unit, but others have gradual reintegration back in their units prior to the completion of segregation.
- The Care, Support and Integration Unit at Mt Eden is a therapeutic unit run by a multi-disciplinary team of staff. It predominately caters for those prisoners considered to be at risk of harm to themselves and in need of greater levels of intervention with regard to their mental health. This unit is a model of good practice in the balance it achieves between therapeutic and custodial regimes. Furthermore, the Unit’s mental health outreach team is a positive addition to the mental health work already being undertaken across the site.
- The mental health course being undertaken by some custodial officers at Mt Eden (funded by Serco) gives staff the opportunity to enhance their knowledge and skills of general mental health issues.
- In December 2012, the Department opened a 20-bed High Dependency Unit in Rimutaka Prison. This much needed facility is a first for New Zealand prisons and will hopefully address some of the growing concerns relating to the aging prison population. Although we have not undertaken a formal inspection, we had the opportunity to look around the unit during the open day.



## Health and disability places of detention

---

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

We visited one, relatively new intellectual disability facility this year: Helensburgh Cottage at Wakari Hospital. The cottage is a step down facility for clients/care recipients with an intellectual disability and has four beds. Generally, clients move to the less restrictive environment and continue the gradual reintegration process back into the community. One of the current clients was previously located in a secure unit, in Wakari, when we visited in 2008. It was encouraging to see the client in such a contrasting environment and their general improvement since our last visit.

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

#### Guidance on seclusion and 'night safety procedures'

Historically, the human rights of patients have been affected by controlling practices. It has, therefore, been pleasing to see a general improvement in the philosophy of care used in most mental health facilities visited over the last three years. However, we identified one forensic unit, namely Totara Unit in the Mason Clinic (Waitemata DHB), where controlling practices are still in place and a blanket policy is applied of locking patients in their bedrooms overnight pursuant to outdated "night safety" procedures.

We also found patients were unable to freely access their bedrooms throughout the day as all internal doors were operated by a swipe card held by staff. Patients are advised that there are no staff in the bedroom area in the daytime, which means their door will remain locked to maintain the security and safety of the area. If patients request to go to their room for a rest, they are locked in.

The *Night Safety Procedures* guidance document written in 1995 allowed some informal patients and patients within some forensic units to have their bedroom doors locked overnight. However, it has been superseded by the Ministry's 2010 publication, *Seclusion under the Mental Health (Compulsory Assessment and Treatment) Act 1992*. The practice of locking someone in their bedroom (at any time of the day or night) should be considered a period of seclusion and reported as such. There was no such reporting at the Totara Unit.

Until recently, Purehurehu Unit at Te Korowai-Whariki forensic mental health service (Capital and Coast DHB (CCDHB)) also had a blanket policy for locking patients in their bedrooms overnight. Although the Unit has now initiated individualised plans for those patients requiring night seclusion, it is still not recording these as seclusion events.

As a result of our report, Mason Clinic has taken steps to remove blanket night safety procedures. The Ministry has also advised that it is reviewing its seclusion guidelines.

### Patient held in seclusion on semi-permanent basis

In September 2011, we discovered a patient in Tawhirimatea Unit, Korowai-Whariki forensic mental health service who was being held in seclusion on a semi-permanent basis. We made a recommendation that *“A more appropriate facility needs to be sourced for the client”*. A follow-up visit in June 2012 found the patient in the same situation and a repeat recommendation was made. Although the formal diagnosis has been subject to some dispute, the patient is being detained under section 30 of the Mental Health (Compulsory Assessment and Treatment) Act. The Capital and Coast District Health Board (CCDHB), with the involvement of the staff of this Office, has been seeking to resolve the current situation.

In light of the seriousness of the situation we initiated an investigation this reporting year under section 13 of the Ombudsmen Act to look into the overall treatment and management of the patient by CCDHB, with a particular focus on the extensive use of seclusion and the failure to arrange a more appropriate placement.

In early August 2013, the Director of Area Mental Health Services (CCDHB) confirmed that funding had been secured for a targeted service for the patient in the community.

### Privacy and dignity

We made the following recommendation in our Totara Unit report: *“All bathrooms and toilet doors should be lockable from the inside.”* The Unit’s response was:

*“None of the bathrooms have locks, noting that in this acute end of the service self harm is a real risk with consequential delays for staff intervention if individual locking in was possible. There are engaged/vacant tabs on the doors and patients/staff know to knock before entering. The patients have separate male/female bathroom areas.”*

This approach does not adequately maintain the dignity and privacy of patients. The explanation was unsatisfactory as many mental health facilities visited have internal doors that can be overridden by staff, should they need to gain access in an emergency.

We have recently been advised that the Director of Mental Health will raise the issue of the lack of internal locks on toilet and bathroom doors during his visit to Waitemata DHB’s mental health and addiction facilities later this year.

### Good practices

- At Hohou Roko forensic rehabilitation unit (Canterbury DHB), work is being undertaken to provide consumers with access to the internet in preparation for their reintegration back into the community.
- Waiatarau mental health service (Waitemata DHB) has implemented a seclusion and restraint minimisation policy that has seen a substantial reduction in the use of both seclusion and restraint within the unit.
- Te Whare Awhiora mental health unit (Tairāwhiti DHB) has developed a Recovery Action Plan document for patients upon their discharge from the unit.



## Other activities

---

### Office of the Inspector Custodial Services - Perth

In October 2012, one of our Inspectors was invited to join the Office of the Inspector Custodial Services in Perth on a 6 day inspection of Greenough Regional Prison. Greenough Prison is situated 420 kilometres north of Perth and can house up to 239 male and female prisoners. This was a good opportunity for us to share learning and best practice in inspecting and monitoring places of detention and to form working relationships with another jurisdiction.

### Association for the Prevention of Torture

In November 2012, the Association for the Prevention of Torture (APT) Secretary General provided a keynote address at the 10<sup>th</sup> World Conference of the International Ombudsman Institute in Wellington. During the conference, the APT agreed to facilitate a two and a half day strategic planning workshop for all of the NPMs in New Zealand. A stimulating workshop and inspection training programme was held in April 2013.

### United Nations Subcommittee on Prevention of Torture

The United Nations Subcommittee on Prevention of Torture (SPT) made its first visit to New Zealand this year from 29 April 2013 to 8 May 2013. During the visit, SPT members met with relevant national authorities and representatives of civil society, and conducted visits to places of detention, including 7 prisons. They dedicated one day of the visit to working alongside all of the NPMs and accompanied our Inspectors on a follow-up visit to Rimutaka Prison. This was an opportunity to work alongside the international NPM and gain an insight into some of their working practices.

# United Nations Convention on the Rights of Persons with Disabilities

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

## Overview

---

New Zealand signed the Disabilities Convention on 30 March 2007 and ratified it on 26 September 2008. The purpose of the Disabilities Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities.

Article 33 of the Disabilities Convention says that states should establish a framework, including 1 or more independent mechanisms, to “*promote, protect and monitor*” progress in implementation of the Disabilities Convention.

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

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

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

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

## Developing our role

---

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

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



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

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

In December 2012, the first annual report of the IMM, *Making Disability Rights Real*, was published. The report sets out an overview of the key issues identified by the IMM as requiring the government's immediate attention. Since publication of the report, we have been working with government, as part of the IMM, to establish:

- support for DPOs to build capacity and capability;
- mechanisms for engagement between DPOs and government; and
- a programme for DPOs and government to work together over the next 12 months, in particular to update the national Disability Action Plan.

The IMM has also been working on a number of projects related to the key issues identified in the first annual report, with each IMM taking the lead on particular projects. We are currently taking the lead on the following projects:

- publication of a guide to making complaints, including guidance on reasonable accommodation;
- development of a framework for the IMM to work with relevant government agencies on implementation and enhancement of government web standards; and
- monitoring work by the Department of Corrections and the Ministry of Health in improving mental health care in prisons.



## Mental health care in prisons

In 2012 the Ombudsmen released a report into prisoner health services. In that report, the Ombudsmen noted that there are deficiencies in the Department of Corrections' management of mentally unwell prisoners, and indicated an intention to undertake a separate investigation into the identification, management and treatment of such prisoners.

Subsequent discussions with the Department of Corrections and the Ministry of Health resulted in those agencies proposing that they undertake a joint project to address the effective management within the prison environment of prisoners with mental illness. The Chief Ombudsman consequently decided to defer her investigation into mental health care in prisons, on the basis that she would prefer to support the current initiative by the Department and the Ministry to work together to address the matter. On this basis, it was agreed that she would take on a monitoring role at this stage.

Monitoring of the project is currently ongoing. The Chief Ombudsman will report independently on the project, and decide whether she needs to take any further action, in due course.

## Complaints and investigations

In 2012/13 we received 52 complaints and other contacts which raised issues relevant to the Disabilities Convention. The issues concerned many different state sector agencies, over a wide range of subject matters.

### Surcharge for audiology equipment

The complainant received audiology equipment from the Whanganui District Health Board (the Board). On being fitted for the equipment, the complainant was required to pay a 10% surcharge, including on an item that the complainant later returned to the Board. The complainant made a complaint to Ombudsman David McGee about both the surcharge and the failure to reimburse the surcharge for the item he returned.

The Ombudsman formed the opinion that it was open to the Board, under current Ministry of Health policy, to impose a surcharge. However, the Ombudsman also formed the opinion that it was unreasonable for the Board to impose a flat surcharge of 10% on audiology equipment, regardless of the actual costs involved in supplying and fitting that equipment. The Ombudsman noted that the complainant was charged \$400 for equipment that was delivered for free and fitted in 40 minutes, and that this sum seemed out of proportion to the service provided. The Ombudsman considered that some patients were subsidising others, and that as the surcharge was based on the value of the equipment, patients being fitted with more expensive equipment were effectively being penalised. Overall, the Ombudsman considered it would be more appropriate for the Board to charge a rate that reflected the actual cost to consumers on a pro rata basis.

The Ombudsman also formed the opinion that it was unreasonable for the Board not to have refunded the surcharge paid by the complainant for equipment that was later returned.

The Board accepted the Ombudsman's opinion, and agreed to undertake a costing exercise to ensure that fitting charges recovered the cost of the actual service provided. The Board also agreed to repay to the complainant the surcharge he paid on equipment that was later returned.



## Policy and professional practice

In support of our legislative functions, we aim to:

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

We also carry out a range of international relations and development work. This section summarises our work in these 3 areas.

### State sector capability

---

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

#### Advice and comment

In 2012/13 we commented on 26 legislative, policy and administrative proposals relevant to our role. In particular, we commented on Cabinet papers, Bills and administrative policies and procedures, including the Government response to the Law Commission's review of the official information legislation.

In addition to matters affecting our jurisdiction, we provide comments on good administrative conduct, good decision making and effective complaints handling, as well as the impacts of particular proposals on the application of the official information legislation.

When we identify issues, it is open to us to make a submission to the relevant select committee considering a bill before Parliament. In the current reporting year, we made submissions on:

- the Education Amendment Bill, in relation to the provision in the Bill that partnership schools not be subject to the Ombudsmen Act and the Official Information Act; and
- the Prisoners' and Victims' Claims (Continuation and Reform) Amendment Bill, in relation to the continuation of the victims' claim scheme.

We will continue to make submissions where appropriate. However, we encourage agencies to consult with us at an early stage of policy development. In that way, so far as possible, a solution to any problem that is identified can be discussed before a bill is introduced to Parliament. When we are asked to comment, the timeframes given for our response are often very short. This can make it difficult for us to manage our workflow in this area.

In addition to commenting on legislative, policy and administrative proposals, we also provided informal advice on 152 occasions to state sector agencies, mainly in relation to enquiries about the processing of official information requests. Agencies often request our advice on 'live' requests for official information and how best they can comply with the legislation. We do not tell agencies what to do in relation to 'live' requests. This would be inappropriate since we may be called on to investigate and review the decision ultimately taken. However, we are happy to provide advice in general terms about the requirements of the legislation, and the types of considerations that agencies ought to be taking into account.

We also provided advice to the Secretary of Transport on 8 applications for authorised access to the motor vehicle register, under section 241 of the Land Transport Act 1998.

## Training

We offer training on request to agencies seeking to improve their understanding of our role and functions, and the requirements of the OA and official information legislation. In 2012/13, we conducted 19 workshops and training seminars around New Zealand. We continued to receive overwhelmingly positive feedback from the agencies who accessed our training services, with 100% of participants reporting the training would assist them in their work.

### The agencies who received Ombudsman training in 2012/13

Bathgate Park School	Museum of New Zealand Te Papa Tongarewa
Canterbury District Health Board	New Zealand Film Commission
Creative New Zealand	New Zealand Historic Places Trust
Department of Corrections	New Zealand Lotteries Commission
Dunedin City Council	New Zealand on Air
Dunedin Venues	Radio New Zealand
Greater Wellington Regional Council	St Marks Primary School
Ministry for Culture and Heritage	Southland District Health Board
Ministry of Education	Sport New Zealand
Ministry of Pacific Island Affairs	TVNZ

### Comments by agencies who received Ombudsman training

*"Excellent, topical and well delivered."*

*"Very good presentation, held interest and time went fast."*

*"I feel I have a much better understanding of LGOIMA and how to deal with requests in the future."*

*"[Your workshop] really was the best one I have seen tailored for the public sector perspective and the presenter was excellent at thinking on her feet."*

## Information resources

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

We continued our initiative this year to publish more information resources. Following the launch of our new website in August 2012, we used this platform to produce or update 45 guidance materials, including topic guides and Ombudsman opinions.



## New guidance materials

- We released 8 opinions, 2 case notes and 1 report on key complaints we investigated.
- We published 3 e-newsletters to keep our stakeholders up to date with developments.
- We published 7 guides, on:
  - Good decision making;
  - Effective complaint handling;
  - Managing unreasonable complainant conduct (full manual and short guide);
  - Making a protected disclosure – “blowing the whistle”;
  - Official information requests made by Twitter and Facebook; and
  - Using the Local Government Official Information and Meetings Act.
- We updated 6 fact sheets on common agency complaints, explaining our role and how to progress a complaint about the following agencies:
  - Accident Compensation Corporation;
  - Child, Youth and Family;
  - Earthquake Commission;
  - Immigration New Zealand;
  - Inland Revenue Department; and
  - Work and Income.
- We published 7 new pamphlets on our role, providing general information about what the Ombudsman does and how we can help in the different areas of our jurisdiction. We published these pamphlets in both regular and large print in English. We also released 7 New Zealand Sign Language videos based on these pamphlets.
- We published 4 teaching resources on making complaints for those working with people who are not confident speaking and writing English. The resources were developed by a group of New Zealand complaint handling organisations, including the Ombudsman.

## Public awareness and accessibility

---

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

In 2012/13 we undertook our second nationwide public awareness survey, to gauge the level of awareness of the Ombudsman in the community. Pleasingly, this survey found 72% of the New Zealand public had heard of us. This shows a slight increase over the result of 69% last year.

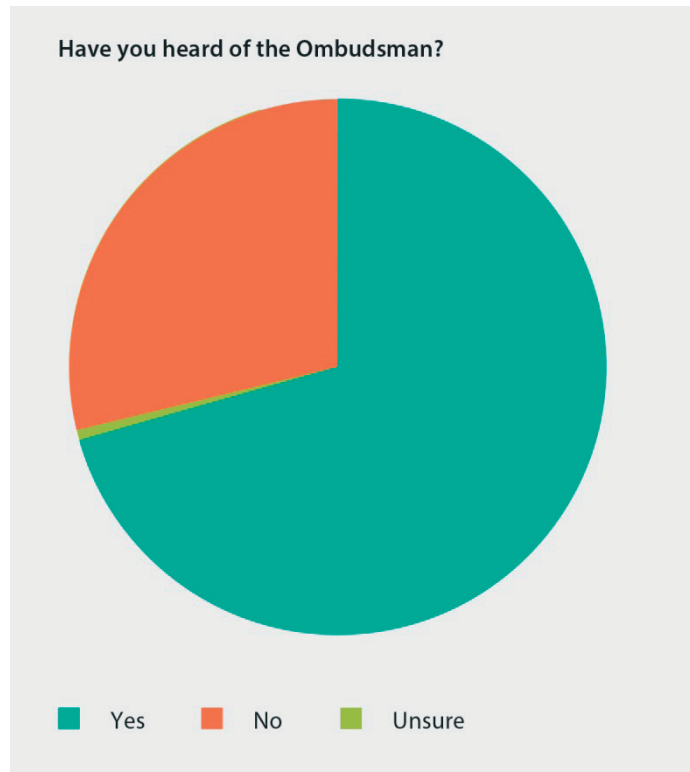


Figure 5: Results of 2012/13 nationwide public awareness survey - 72% of the New Zealand public answered "Yes" to the question "Have you heard of the Ombudsman?"

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

- 94% for those aged 60 years or older;
- 85% for those aged 45-59 years;
- 73% for those aged 30-44 years; and
- 30% for those aged under 30 years.

Last year we identified younger New Zealanders as a target area for our public awareness activities. We were therefore pleased to note the increase from 22% last year to 30% this year in the level of awareness for those aged under 30.

The awareness levels amongst different ethnic groups were:

- 76% for non-Maori and non-Pacific Islanders;
- 55% for Maori; and
- 34% for Pacific Islanders.

This demonstrates that greater awareness raising amongst Maori and Pacific Islanders needs to be a target area for our activities in the future.



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

- 42% aware that we handle complaints and disputes generally;
- 12% aware that we are a regulator or watchdog; and
- 11% aware that we consider complaints about central and local government services.

We also completed a project this year to reposition the Ombudsman as a *“modern, independent New Zealand authority, that is agile, proactive and approachable”*. Our new Ombudsman identity and website was launched in August 2012. Our work in this area reflects that the way complainants find out about and interact with us is changing, with increasing use of new technology, including internet and email. Our public awareness survey showed that 77% of the public (and 85% of those aged under 30) would use the internet to find out what we do.

Our new website has been designed to both:

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

We continued our push to be more visible, active and engaged in community events this year. We delivered 27 presentations and workshops on the role of the Ombudsman. Audiences included media organisations, university students, the NZ School Trustees Association, various conference participants, disabled peoples’ organisations and community groups. Particular initiatives included an ongoing presence at regional Consumer Rights Days in Hamilton, Tauranga, Greymouth, Dunedin and Invercargill.

## International relations and development

---

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

### Delegations

In 2012/13, we received delegations from China, Egypt, Myanmar and South Korea. The comparative experience New Zealand has to offer in reviewing administrative practice, enforcing official information legislation, and monitoring places of detention continues to be of considerable interest to other countries.

### Networks

We maintain awareness of international developments and trends through membership of the:

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

During the reporting year, the Chief Ombudsman continued in her role as President of the International Ombudsman Institute.

In November 2012, we were privileged to host the 10<sup>th</sup> World Conference of the International Ombudsman Institute. Based in Wellington, the theme of the conference was *“Speaking Truth to Power – The Ombudsman in the 21st Century”*. We welcomed Ombudsmen from 58 countries around the world, providing a forum to meet and share our collective experience and expertise. Such an opportunity is particularly important at this time, when public governance and administration arrangements are undergoing fundamental change worldwide, and where challenges to the Ombudsman role mean that we have to review the way we do our work and how we may best ensure procedural fairness and administrative justice for citizens.

### Training and assistance

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

In 2012/13, we provided ongoing support to the Cook Islands Ombudsman office, including conducting official information workshops in the Cook Islands for Ministers, Heads of Departments and media. We also provided training and an in-house placement to the Acting Commissioner of the Tonga Office of the Commissioner for Public Relations.







---

# Part 5

## Organisational health and capability

# 5

---

Overview	66
Financial and asset management	67
Staff numbers and demographics	68
Managing performance and capability development	68
Information management	68
Risk management	69

---



## Overview

---

Our work in 2012/13 was informed by a further refinement of our Statement of Intent for 2012/15, following the major review of our overall strategic direction and performance measures which we undertook for the 2011/12 reporting year.

We continued the structural and procedural changes needed to direct and focus our work towards our new strategic direction. These changes enabled us to apply a systematic approach to addressing the large increase in our incoming work, while still catering for the individual circumstances of each case.

In particular, we have completed the establishment of new workflow structures that allow us to more easily move staff resource to an area of identified need. We have set up formal early assistance and early resolution processes within dedicated teams, which have enabled us to deal with the large influx of new complaints more effectively and efficiently.

We have also reviewed the strategic services provided by our staff who guide and support our investigators and inspectors in their work, to ensure we have an overall structure in our Office that is efficient and allows us to effectively implement our new strategic direction.

These changes have been a part of the continuing implementation of our *continuous practice improvement* initiative. In previous years, we undertook a detailed review and analysis of our policies, procedures and resource allocations to identify opportunities for greater effectiveness and efficiency through more streamlined workflows, improved internal guidance and resources, improvements to systems used to manage our workload and improved quality assurance. Implementation of these changes is now well underway, with the final tranche of work timetabled for completion in the 2013/14 year.

We also continued work on changes to our human resources policies and our IT and information management and resources, to ensure that they support our *continuous practice improvement* initiative.

A number of factors contributed to our receiving this year the highest ever number of complaints and other contacts since the role of the Ombudsman was established. These factors include the current social and economic climate, the disruptions caused by the Canterbury earthquakes, and the increased levels of recourse by members of the public to the official information legislation. We believe the level of work now being received will not diminish significantly even when the economy has strengthened and there is less demand for public sector services. The increase in work is broadly based across many agencies and deals with many diverse issues.

While we have achieved a 30% increase in our overall work completed this year, we are still not keeping pace with demand and the timeliness of our interventions is suffering. In addition, we consider our Office has been underfunded on an ongoing basis. Our submissions this year for the 2013/14 Budget highlighted that we are under resourced for the work expected of us and sought funding for 8 additional investigating staff and one administration support person. The Officers of Parliament Committee considered an increase in staffing was necessary for us to continue to perform our statutory functions satisfactorily, and recommended an increase of \$960,000 in 2013/14 and outyears for 6 additional investigating staff and associated costs.

We also have concerns about our ability to properly fulfil our obligations as a *National Preventive Mechanism* under the Crimes of Torture Act within existing resource constraints. We operate on the basis that 129 detention facilities fall within our remit, including 102 health and disability places of detention. However, our designation in respect of “*health and disability places of detention*” is potentially very wide, and may encompass private sector aged care facilities in which people have been detained. This includes 132 aged care facilities with dementia units, which would bring the total number of health and disability places of detention within our remit to approximately 234. With only 2 inspectors, our ability to conduct “*regular*” inspections of these places of detention as required by the Crimes of Torture Act, and in accordance with international expectations, would be compromised. We would need to seek additional funding to address these concerns.

## Financial and asset management

---

This financial year our Office continued to operate under tight fiscal conditions. Vote Ombudsmen is small, amounting to \$9.598 million (excluding GST) for the year ended 30 June 2013. Personnel, accommodation and communication costs account for more than 85% of the annual budget. Most of the remaining budget is committed to smaller service contracts.

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

Over the last few years we have undertaken a restructuring to create a more efficient and responsive workplace, with completion of the final stage by 30 June 2013. As our resources are so restricted, we sought additional funds to complete this process.

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

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

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



## Staff numbers and demographics

As of 30 June 2013, our Office comprised 68 individuals or 63.3 Full Time Equivalents (FTEs), including the 2 Ombudsmen. The distribution of staff on a gender and geographic basis is set out in the table below.

Staff	Auckland		Wellington		Christchurch		Totals	
	M	F	M	F	M	F	M	F
Corporate roles	-	1	2	8	-	1	2	10
Front line support roles	-	2	-	4	-	1	-	7
Operational roles – investigation, inspection, policy and professional practice	4	4	11	26	2	2	17	32
<b>Total staff by gender and location</b>	<b>4</b>	<b>7</b>	<b>13</b>	<b>38</b>	<b>2</b>	<b>4</b>	<b>19</b>	<b>49</b>
<b>Total (not FTEs)</b>	<b>11</b>		<b>51</b>		<b>6</b>		<b>68</b>	

Our staff are relatively long serving. This has a significant benefit in that they know the business extremely well, and are able to apply sound and experienced judgment to conclude a matter with minimal delay. However, this does give rise to a potential vulnerability if we are unable to retain staff. Three long term members of staff departed during the year.

## Managing performance and capability development

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

An annual review of staff performance is undertaken for each financial year, and we have begun to trial a new performance review and professional development planning process. Further improvements to managing staff performance are anticipated during the 2013/14 year. These will include a particular focus on completing the development of key performance indicators at individual and team levels that reflect our overall Office performance measures.

We have also begun developing a formal training and development strategy and programme for our staff, to enhance capability development within our Office.

## Information management

We have continued work this year on developing our information management strategy, as well as undertaking improvements to our IT and information management resources to support our *continuous practice improvement* initiative. This work will be ongoing over the 2013/14 year.

In August 2012, we launched a new Ombudsman identity and website. Our work in this area is a response to new communication technologies and the different ways complainants are now seeking to interact with us.

## Risk management

Our 2012/15 Statement of Intent identifies our key risks and sets out the strategies we use to manage these risks. In summary, our key risks are:

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

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

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

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

### Our key strategies to manage staffing and accommodation risks

#### Departure of key staff

- effective induction, training and professional development programmes for staff
- provision of guidance and resource material for staff, including further development of IT and information management resources
- fair and reasonable employment terms and conditions, and ongoing monitoring of staff satisfaction

#### Physical and electronic security

- managed access by the public to business premises, including visitor and alarm procedures
- after hours building security
- computer database security

#### Unreasonable complainant conduct

- procedures for the identification and management of unreasonable complainant conduct

#### Natural disaster

- insurance
- IT disaster recovery capability
- procedures to communicate with staff and their family members to ensure their safety and well-being
- emergency first aid and civil defence equipment and supplies, and nominated staff qualified in First Aid



## Part 6 Financial and performance information

# 6

Statement of responsibility	72
Independent auditor's report	73
Statement of objectives and service performance	76
Statement of cost of service	81
Statement of comprehensive income	81
Statement of financial position	82
Statement of changes in taxpayers' funds	83
Statement of cash flows	83
Statement of commitments	84
Statement of contingent liabilities and contingent assets	84
Statement of expenses and capital expenditure against appropriations	85
Statement of unappropriated expenditure and capital expenditure	86
Notes to the financial statements	87



## Financial and performance information

### Statement of responsibility

---

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

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

In my opinion, these financial statements fairly reflect the financial position and operations of the Office of the Ombudsman for the year ended 30 June 2013.

**Dame Beverley Wakem DNZM, CBE**

Chief Executive

30 September 2013

**Kay Reedy**

Finance and Business Services Manager

30 September 2013



**Independent Auditor's Report**  
**To the readers of**  
**the Office of the Ombudsmen's**  
**financial statements and non-financial performance information**  
**for the year ended 30 June 2013**

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

We have audited:

- the financial statements of the Office on pages 81 to 102, that comprise the statement of financial position, statement of commitments, statement of contingent liabilities and contingent assets as at 30 June 2013, the statement of comprehensive income, statement of changes in equity, statement of departmental expenses and capital expenditure against appropriations, statement of unappropriated expenditure and capital expenditure 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; and
- the non-financial performance information of the Office on pages 76 to 81, that comprises the statement of service performance and objectives.

**Opinion**

In our opinion:

- the financial statements of the Office on pages 81 to 102:
- comply with generally accepted accounting practice in New Zealand; and
- fairly reflect the Office's:
  - financial position as at 30 June 2013;
  - financial performance and cash flows for the year ended on that date;
  - expenses and capital expenditure incurred against each appropriation administered by the Office and each class of outputs included in each output expense appropriation for the year ended 30 June 2013; and
  - unappropriated expenses and capital expenditure for the year ended 30 June 2013.
- the non-financial performance information of the Office on pages 76 to 81:
  - complies with generally accepted accounting practice in New Zealand; and
  - fairly reflects the Office's service performance and outcomes for the year ended 30 June 2013, including for each class of outputs:



- its service performance compared with the forecasts in the statement of forecast service performance at the start of the financial year; and
- its actual revenue and output expenses compared with the forecasts in the statement of forecast service performance at the start of the financial year.

Our audit was completed on 30 September 2013. This is the date at which our opinion is expressed.

The basis of our opinion is explained below. In addition, we outline the responsibilities of the Chief Ombudsman and our responsibilities, and we explain our independence.

### **Basis of opinion**

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

Material misstatements are differences or omissions of amounts and disclosures that, in our judgement, are likely to influence readers' overall understanding of the financial statements and the non-financial performance information. If we had found material misstatements that were not corrected, we would have referred to them in our opinion.

An audit involves carrying out procedures to obtain audit evidence about the amounts and disclosures in the financial statements and the non-financial performance information. The procedures selected depend on our judgement, including our assessment of risks of material misstatement of the financial statements and the non-financial performance information, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the Office's preparation of the financial statements and the non-financial performance information that fairly reflect the matters to which they relate. We consider internal control in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of the Office's internal control.

An audit also involves evaluating:

- the appropriateness of accounting policies used and whether they have been consistently applied;
- the reasonableness of the significant accounting estimates and judgements made by the Chief Ombudsman;
- the appropriateness of the reported non-financial performance information within the Office's framework for reporting performance;
- the adequacy of all disclosures in the financial statements and the non-financial performance information; and
- the overall presentation of the financial statements and the non-financial performance information.

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

We have obtained all the information and explanations we have required and we believe we have obtained sufficient and appropriate audit evidence to provide a basis for our audit opinion.

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

The Chief Ombudsman is responsible for preparing financial statements and non-financial performance information that:

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

The Chief Ombudsman is also responsible for such internal control as is determined is necessary to enable the preparation of financial statements and non-financial performance information that are free from material misstatement, whether due to fraud or error. The Chief Ombudsman is also responsible for the publication of the financial statements and non-financial performance information, whether in printed or electronic form.

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

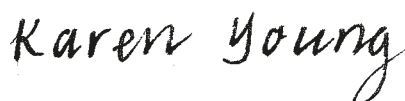
### **Responsibilities of the Auditor**

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

### **Independence**

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

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



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



## Statement of objectives and service performance for the year ended 30 June 2013

Performance Measures	2012/13		2011/12
	Budget Standard	Actual	Actual
<b>Impact measures</b>			
Overall quality of public services improves over time	Higher than 69 points in Kiwis Count Survey	<b>72 points (as at March 2013)</b>	<b>_33</b>
New Zealand rated as one of the leading countries in public service probity as measured by the Transparency International Corruption Perceptions Index	On average over the next 5 years New Zealand in the top 3 ranked countries	<b>In 2012, New Zealand ranked first equal with Denmark and Finland</b>	<b>_34</b>
<b>Output A – Investigate state sector administration and decision making</b>			
<b>Demand driven measures</b>			
# of complaints and other contacts completed	8,500	<b>11,161<sup>35</sup></b>	8,784
# of cases where monitoring of death in custody investigations commenced <sup>36</sup>	18	<b>11</b>	27
<b>Proactive measures</b>			
All complaints and other contacts considered	100%	<b>100%</b>	Met <sup>37</sup>
# of wider administrative improvement investigations completed	3-5	<b>3</b>	<b>_38</b>
% of complaints outside jurisdiction completed within 1 month from date of receipt	90%	<b>79%</b>	49%
% of complaints not investigated or resolved without investigation completed within 3 months from date of receipt	90%	<b>85%</b>	86%
% of urgent investigations completed within 4 months from date of receipt	90%	<b>_39</b>	93%
% of priority investigations completed within 6 months from date of receipt	70%	<b>57%<sup>40</sup></b>	100%
% of all other investigations completed within 12 months from date of receipt	70%	<b>56%<sup>41</sup></b>	64%
% of completed complaints and other contacts meeting internal quality standards, following random quality assurance check	Baseline to be established	<b>_42</b>	<b>_43</b>
# of successful appeals for judicial review of Ombudsman	Nil	<b>Nil</b>	<b>_44</b>

## Report of the Ombudsman

## Part 6 | Financial and performance information

Performance Measures	2012/13		2011/12
	Budget Standard	Actual	Actual
<b>Output A and Output B</b>			
Proactive measures			
% of complainants satisfied with overall quality of our service delivery	70%	<b>-45</b>	55%
% of state sector agencies satisfied with our communication overall	70%	-	<b>-46</b>
% of state sector agencies satisfied the Ombudsmen's views are fair	70%	-	73%
<b>Output B – Investigate and review official information decisions</b>			
Demand driven measures			
# of OIA complaints completed	800	<b>1,913</b>	1,076
# of LGOIMA complaints completed	250	<b>245</b>	217
Proactive measures			
All complaints considered	100%	<b>100%</b>	Met <sup>47</sup>
% of complaints outside jurisdiction completed within 1 month from date of receipt	90%	<b>63% OIA 75% LGOIMA</b>	57% OIA 70% LGOIMA
% of complaints not investigated or resolved without investigation completed within 3 months from date of receipt	90%	<b>30% OIA<sup>48</sup> 68% LGOIMA</b>	82% OIA 88% LGOIMA
% of urgent investigations completed within 4 months from date of receipt	90%	<b>81% OIA 93% LGOIMA</b>	92% OIA 100% LGOIMA
% of priority investigations completed within 6 months from date of receipt	70%	<b>30% OIA<sup>49</sup> 35% LGOIMA</b>	44% OIA 57% LGOIMA
% of all other investigations completed within 12 months from date of receipt	70%	<b>50% OIA<sup>50</sup> 69% LGOIMA</b>	84% OIA 89% LGOIMA
% of completed complaints and other contacts meeting internal quality standards, following random quality assurance check	Baseline to be established	<b>-51</b>	<b>-52</b>
# of successful appeals for judicial review of Ombudsman	Nil	<b>Nil</b>	<b>-53</b>
<b>Output C – Deal with requests for advice and guidance about serious wrongdoing</b>			
Demand driven measure			
# of requests for advice and guidance completed in the reporting year	10	<b>11</b>	<b>-54</b>
Proactive measures			
All requests for advice and guidance considered	100%	<b>100%</b>	-
% of requests completed within 6 months from date of receipt	95%	<b>82%</b>	100%



Performance Measures	2012/13		2011/12
	Budget Standard	Actual	Actual
<b>Output D – Monitor and inspect places of detention</b>			
Proactive measures			
# of full inspections to places of detention	22	<b>22</b>	<b>_55</b>
# of other visits to places of detention	10	<b>23<sup>56</sup></b>	-
% of unannounced full inspections and other visits	At least 33% <sup>57</sup>	<b>77.7%</b>	-
% of reports sent to places of detention within 3 months of visit	95%	<b>91%</b>	100%
% of reports peer reviewed, to meet internal quality standards	100%	<b>100%</b>	-
<b>Output E – Improve state sector capability in areas relevant to our jurisdiction</b>			
Demand driven measures			
# of requests for advice or comment by state sector agencies responded to	60-80	<b>152</b>	<b>_58</b>
# of training sessions provided to state sector agencies	30-40	<b>19</b>	12
Proactive measures			
# of guidance materials produced or updated	10-15	<b>45<sup>59</sup></b>	10
% of participants in Ombudsmen external training sessions who report that the training will assist them in their work	95%	<b>100%</b>	100%
% of agencies which report that they use one or more of the Ombudsmen’s information resources currently available	<b>_60</b>	-	95%
<b>Output F – Improve public awareness and accessibility of our services</b>			
Demand driven measure			
# of external speeches and presentations given <sup>61</sup>	25	<b>27</b>	23
Proactive measures			
# of non-English language pamphlets made available	<b>_62</b>	-	4
% of members of the public who have heard of the Ombudsmen	Baseline to be established	<b>72%</b>	<b>_63</b>
% of complainants who looked at the Office website	Baseline to be established <sup>64</sup>	-	<b>_65</b>
% of complainants who found our website useful	70%	-	<b>_66</b>

## Footnotes to support Performance Measures table

- <sup>33</sup> New measure for 2012/13. However, in June 2012 the overall score was 72 points.
- <sup>34</sup> New measure for 2012/13. However, in 2011 (for the 2011/12 reporting year), New Zealand was ranked first.
- <sup>35</sup> Includes 2,878 complaints and 8,283 other contacts.
- <sup>36</sup> Monitoring was undertaken of all deaths in custody.
- <sup>37</sup> Amended measure for 2012/13, target changed from “met” to a percentage.
- <sup>38</sup> New measure for 2012/13.
- <sup>39</sup> No investigations completed in 2012/13 under the Ombudsmen Act were assessed as requiring urgency. Urgent matters were able to be addressed or resolved without formal investigation.
- <sup>40</sup> Our ability to meet some timeliness targets this year was affected by pressure of work and limited resources. However, 71% of priority Ombudsmen Act investigations were completed within 12 months.
- <sup>41</sup> See footnote 40 above.
- <sup>42</sup> We are unable to report against this measure, as the introduction of random quality assurance checks was deferred until the 2013/14 reporting year, largely due to the pressure of work on hand. However, we do have other measures in place to ensure quality, including review of all letters by senior staff with delegated authority from the Ombudsmen.
- <sup>43</sup> New measure for 2012/13.
- <sup>44</sup> New measure for 2012/13.
- <sup>45</sup> This measure, and the following 2 measures, are assessed biennially in a stakeholder survey and were not assessed in 2012/13. The last survey was conducted in 2011/12. The next survey is due in the 2013/14 reporting year.
- <sup>46</sup> New measure for 2012/13. However, in 2011/12 88% of state sector agencies surveyed were satisfied with our communication overall.
- <sup>47</sup> Amended measure for 2012/13, target changed from “met” to a percentage.
- <sup>48</sup> The low result for this measure was due to 1,012 complaints made by one complainant against separate agencies. The complaints were resolved without investigation, however this took more than 3 months given the complexity of dealing with 1,012 complaints in respect of one overall issue.
- <sup>49</sup> Our ability to complete priority investigations under the official information legislation in a timely manner was significantly impacted by the pressure on our resources in the 2012/13 year. However, 60% of OIA priority investigations and 85% of LGOIMA priority investigations were completed within 12 months.
- <sup>50</sup> See footnote 49 above.
- <sup>51</sup> We are unable to report against this measure, as the introduction of random quality assurance checks was deferred until the 2013/14 reporting year, largely due to the pressure of work on hand. However, we do have other measures in place to ensure quality, including review of all letters by senior staff with delegated authority from the Ombudsmen.
- <sup>52</sup> New measure for 2012/13.
- <sup>53</sup> New measure for 2012/13.
- <sup>54</sup> This measure, and the measure below, are new measures for 2012/13.
- <sup>55</sup> This measure, together with three other measures below, are new measures for 2012/13. In the 2011/12 reporting year, we completed 18 announced visits to places of detention and 52 unannounced visits. In that year, we undertook more unannounced visits than the budget standard in an effort to visit as many places of detention within our designation as we could within the first 5 years of our operation.



- <sup>56</sup> We completed more visits than budgeted as these often took place at the same time as we were in a particular region of New Zealand to complete a full inspection.
- <sup>57</sup> The internationally accepted standard is for at least 1/3 of inspections to be unannounced.
- <sup>58</sup> New measure for 2012/13.
- <sup>59</sup> The number of guidance materials produced or updated was high this year, due to the launch of our new website and the corresponding work undertaken to revise and increase our overall guidance material located on the website.
- <sup>60</sup> This measure is assessed biennially in a stakeholder survey. The last survey was conducted in 2011/12. The next survey is due in the 2013/14 reporting year.
- <sup>61</sup> Relates only to speeches and presentations within New Zealand.
- <sup>62</sup> Not a performance measure in 2012/13.
- <sup>63</sup> New measure for 2012/13. However, a public awareness survey was also run in 2011/12, with the result that 69% of members of the public had heard of the Ombudsman.
- <sup>64</sup> This measure and the following measure are assessed biennially in a stakeholder survey. The last survey was conducted in 2011/12. The next survey is due in the 2013/14 reporting year.
- <sup>65</sup> New measure for 2012/13. However, the result of the stakeholder survey in 2011/12 was that 59% of complainants looked at the Office website.
- <sup>66</sup> New measure for 2012/13. However, the result of the stakeholder survey in 2011/12 was that 85% of complainants found our website useful.



## Statement of cost of service for the year ended 30 June 2013

30/6/12 Actual \$(000)		30/06/13 Actual \$(000)	30/06/13 Main Estimates \$(000)	30/06/13 Supp. Estimates \$(000)
8,768	Revenue Crown <sup>67</sup>	<b>9,598</b>	9,325	9,424
100	Other revenue	-	-	-
<u>8,868</u>	<b>Total revenue</b>	<b>9,598</b>	<u>9,325</u>	9,424
<u>(8,768)</u>	<b>Total expenses</b>	<b>(9,597)</b>	<u>(9,325)</u>	(9,424)
<u>100</u>	<b>Net surplus</b>	<u>1</u>	-	-

## Statement of comprehensive income for the year ended 30 June 2013

30/06/12 Actual \$(000)		Notes	30/06/13 Actual \$(000)	30/06/13 Main Estimates \$(000)	30/06/13 Supp. Estimates \$(000)
	<b>Income</b>				
8,768	Revenue Crown		<b>9,598</b>	9,325	9,424
<u>100</u>	Other revenue	9	-	-	-
<u>8,868</u>	<b>Total income</b>		<b>9,598</b>	<u>9,325</u>	<u>9,424</u>
6,623	Personnel costs	2	<b>6,947</b>	6,778	6,566
1,850	Other operating costs	3	<b>2,443</b>	2,256	2,618
269	Depreciation and amortisation	4	<b>181</b>	265	214
<u>26</u>	Capital charge	5	<b>26</b>	<u>26</u>	26
<u>8,768</u>	<b>Total expenditure</b>		<b>9,597</b>	<u>9,325</u>	<u>9,424</u>
<u>100</u>	<b>Net operating surplus</b>		<u>1</u>	-	-
-	Other comprehensive income		-	-	-
<u>100</u>	<b>Total comprehensive income</b>		<u>1</u>	-	-

<sup>67</sup> Figures are GST exclusive. Includes Ombudsmen remuneration of \$647,000 (last year \$629,000).



## Statement of financial position as at 30 June 2013

30/06/12 Actual		Notes	30/06/13 Actual	30/06/13 Main Estimates	30/06/13 Supp. Estimates
\$(000)			\$(000)	\$(000)	\$(000)
	<b>Assets</b>				
	<i>Current assets</i>				
969	Cash and cash equivalents		<b>860</b>	684	529
52	Prepayments		<b>52</b>	18	18
-	Debtors and other receivables		<u>4</u>	-	-
<u>1,021</u>	<i>Total current assets</i>		<b>916</b>	<u>702</u>	<u>547</u>
	<i>Non-current assets</i>				
261	Property, plant and equipment	6	<b>230</b>	34	165
172	Intangible assets — Software	7	<b>148</b>	<u>212</u>	<u>219</u>
<u>433</u>	<i>Total non-current assets</i>		<b>378</b>	<u>246</u>	<u>384</u>
<u>1,454</u>	<b>Total assets</b>		<b>1,294</b>	948	931
	<b>Liabilities</b>				
	<i>Current liabilities</i>				
349	Creditors and other payables	8	<b>436</b>	159	159
100	Return of operating surplus	9	<b>1</b>	-	-
664	Employee entitlements	10	<b>510</b>	<u>410</u>	<u>425</u>
<u>1,113</u>	<i>Total current liabilities</i>		<b>947</b>	<u>569</u>	<u>584</u>
	<i>Non-current liabilities</i>				
<u>12</u>	Employee entitlements	10	<b>18</b>	<u>50</u>	<u>18</u>
<u>12</u>	<i>Total non-current liabilities</i>		<b>18</b>	<u>50</u>	<u>18</u>
<u>1,125</u>	<b>Total liabilities</b>		<b>965</b>	<u>619</u>	<u>602</u>
<u>329</u>	<b>Net assets</b>		<b>329</b>	<u>329</u>	<u>329</u>
	Taxpayers' funds				
<u>329</u>	General funds	11	<b>329</b>	<u>329</u>	<u>329</u>
<u>329</u>	<i>Total taxpayers' funds</i>		<b>329</b>	<u>329</u>	<u>329</u>

## Statement of changes in taxpayers' funds for the year ended 30 June 2013

30/06/12 Actual \$(000)		Note	30/06/13 Actual \$(000)	30/06/13 Main Estimates \$(000)	30/06/13 Supp. Estimates \$(000)
<u>329</u>	<b>Balance at 1 July</b>		<b>329</b>	329	329
100	Net operating surplus		1	-	-
<u>(100)</u>	Return of operating surplus to the Crown		<b>(1)</b>	-	-
<u>329</u>	<b>Balance at 30 June</b>	11	<b>329</b>	329	329

## Statement of cash flows for the year ended 30 June 2013

30/06/12 Actual \$(000)		Notes	30/06/13 Actual \$(000)	30/06/13 Main Estimates \$(000)	30/06/13 Supp. Estimates \$(000)
	<b>Cash flows from operating activities</b>				
8,768	Receipts from Crown		<b>9,598</b>	9,325	9,424
100	Receipts from other revenue	9	-	-	-
(6,508)	Payments to employees		<b>(7,096)</b>	(6,778)	(6,799)
(1,846)	Payments to suppliers		<b>(2,342)</b>	(2,256)	(2,774)
(26)	Payment for capital charge		<b>(26)</b>	(26)	(26)
<u>32</u>	Goods and services tax (net)		<b>22</b>	-	-
<u>8,348</u>			<b>9,482</b>	9,060	9,599
<u>520</u>	<i>Net cash from operating activities</i>	12	<b>156</b>	265	(175)
	<b>Cash flows from investing activities</b>				
(122)	Purchase of property, plant and equipment	6	<b>(124)</b>	(93)	(93)
(66)	Purchase of intangible assets — software	7	<b>(41)</b>	(72)	(72)
<u>(188)</u>	<i>Net cash from investing activities</i>		<b>(165)</b>	(165)	(165)
	<b>Cash flows from financing activities</b>				
-	Capital injections		-	-	-
(40)	Return of operating surplus		<b>(100)</b>	-	(100)
<u>(40)</u>	<i>Net cash from financing activities</i>		<b>(100)</b>	-	(100)
292	Net increase /(decrease) in cash		<b>(109)</b>	100	(440)
<u>677</u>	Cash at beginning of the year		<b>969</b>	584	969
<u>969</u>	<b>Cash at end of the year</b>		<b>860</b>	684	529



## Statement of commitments as at 30 June 2013

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

30/6/12 Actual \$(000)		30/6/13 Actual \$(000)
	Non-cancellable operating lease commitments	
640	Less than one year	<b>708</b>
616	One to two years	<b>719</b>
732	Two to five years	<b>621</b>
-	More than five years	<u>1,139</u>
<u>1,988</u>	<b>Total non-cancellable operating lease commitments</b>	<b><u>3,187</u></b>

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

### Capital commitments

NIL (2012 Nil).

## Statement of contingent liabilities and contingent assets as at 30 June 2013

### Unquantifiable contingent liabilities

As at 30 June 2013 the Office does not have any unquantifiable contingent liabilities. (2012 Nil)

### Quantifiable contingent liabilities

As at 30 June 2013 the Office does not have any quantifiable contingent liabilities. (2012 Nil)

### Unquantifiable contingent assets

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

## Quantifiable contingent assets

As at 30 June 2013 the Office does not have any quantifiable contingent assets. (2012 – Nil)

## Statement of departmental expenses and capital expenditure against appropriations for the year ended 30 June 2013

30/6/12 Actual		30/06/13 Actual	Appropriation		
			30/06/13 Final Voted \$(000)	Supp. Estimates Changes \$(000)	Budget Night Voted \$(000)
\$(000)		\$(000)			
	<b>Vote Ombudsmen</b>				
	<b>Appropriation for output expenses</b>				
8,139	Investigation and resolution of complaints about government administration	<b>8,950</b>	8,783	88	8,695
	<b>Other expenses to be incurred by the Office</b>				
<u>629</u>	Remuneration of Ombudsmen (Permanent Legislative Authority)	<b>647</b>	<u>641</u>	<u>11</u>	<u>630</u>
<b>8,768</b>	<b>Sub total</b>	<b>9,597</b>	<b>9,424</b>	<b>99</b>	<b>9,325</b>
<u>189</u>	Office of the Ombudsmen appropriation for capital expenditure (Permanent Legislative Authority)	<b>165</b>	<u>165</u>	=	<u>165</u>
<b>8,957</b>	<b>Total</b>	<b>9,762</b>	<b>9,589</b>	<b>99</b>	<b>9,490</b>

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



## Statement of unappropriated expenditure and capital expenditure for the year ended 30 June 2013

30/06/12 Unappropriated Expenditure \$(000)		30/06/13 Actual \$(000)	30/06/13 Appropriation Voted \$(000)	30/06/13 Unappropriated Expenditure \$(000)
	<b>Appropriation for output expenses</b>			
-	Investigation and resolution of complaints about government administration	<b>8,950</b>	8,783	167
	<b>Other expenses to be incurred by the Office</b>			
-	Remuneration of Ombudsmen (Permanent Legislative Authority)	<b>647</b>	641	-
-	<b>Sub total</b>	<b>9,597</b>	<b>9,424</b>	<b>167</b>
-	Office of the Ombudsmen appropriation for capital expenditure (Permanent Legislative Authority)	<b>165</b>	<b>165</b>	-
-	<b>Total</b>	<b>9,762</b>	<b>9,589</b>	<b>167</b>

The appropriation Voted includes adjustments made in the Supplementary Estimates. Supplementary Estimates totalling \$99,000 were requested and approved for the 2012/13 financial year (2012, \$70,000). Unappropriated expenditure of up to \$174,000 was requested under section 26B of the Public Finance Act 1989 and approved by the Minister of Finance. The unappropriated expenditure was \$167,000.

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

Over the last two years the Office has undertaken restructuring to create a more efficient and responsive workplace. With the intention of completing this restructuring before 30 June 2013 the Office requested to exceed our appropriation by a maximum of 2% under section 26B of the Public Finance Act. The Minister of Finance approved this on 15 June 2013. (2012 Nil).

### Breaches of projected net assets schedules

Nil. (2012 Nil).

## Notes to the financial statements

---

### 1. Statement of accounting policies for the year ended 30 June 2013

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

The financial statements of the Office are for the year ended 30 June 2013. The financial statements were authorised for distribution by the Chief Executive on 30 September 2013.

#### Basis of preparation

##### STATEMENT OF COMPLIANCE

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

These financial statements have been prepared in accordance with NZ GAAP. They comply with NZ IFRS, and other applicable financial reporting standards, as appropriate for public benefit entities.

##### MEASUREMENT BASE

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

##### FUNCTIONAL AND PRESENTATION CURRENCY

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

#### Changes in accounting policies

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

There have been no revisions to accounting standards during the financial year which have had an effect on the Office's financial statements.

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

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

- NZ IFRS 9 Financial Instruments will eventually replace NZ IAS 39 Financial Instruments: Recognition and Measurement. NZ IAS 39 is being replaced through the following three main phases: Phase 1 Classification and Measurement, Phase 2 Impairment Methodology, and Phase 3 Hedge Accounting. Phase 1 has been



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

The Minister of Commerce has approved a new Accounting Standards Framework (incorporating a Tier Strategy) developed by the External Reporting Board (XRB). Under this Accounting Standards Framework, the Office is classified as a Tier 2 reporting entity and it may apply NZ IFRS Reduced Disclosure Regime (NZ IFRS RDR). However, the Office intends to apply full Public Benefit Entity Accounting Standards (PAS). These standards have been developed by the XRB based on current International Public Sector Accounting Standards. The effective date for the new standards for public sector entities is expected to be for reporting periods beginning on or after 1 July 2014. This means the Office expects to transition to the new standards in preparing its 30 June 2015 financial statements. The Office is yet to assess the implications of the new Accounting Standards Framework at this time.

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

## **Significant accounting policies**

### **Revenue**

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

#### SALE OF PUBLICATIONS

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

### **Capital charge**

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

### **Leases**

#### OPERATING LEASES

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



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

#### FINANCE LEASES

The Office is not party to any finance leases.

### Financial instruments

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

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

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

### Cash and cash equivalents

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

### Debtors and other receivables

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

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

### Property, plant and equipment

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

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

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

#### ADDITIONS

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



In most instances an item of property, plant and equipment is recognised at its cost. Where an asset is acquired at no cost, or at nominal cost, it is recognised at fair value as at the date of acquisition.

#### DISPOSALS

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

#### SUBSEQUENT COSTS

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

#### DEPRECIATION

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

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

The cost of leasehold improvements is capitalised and amortised over the unexpired period of the lease or the estimated remaining useful lives of the improvements, whichever is the shorter.

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

### **Intangible assets**

#### SOFTWARE ACQUISITION AND DEVELOPMENT

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

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

#### AMORTISATION

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

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

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

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

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

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

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

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

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

### **Creditors and other payables**

Creditors and other payables are initially measured at face value.

### **Employee entitlements**

#### SHORT-TERM EMPLOYEE ENTITLEMENTS

Employee entitlements that the Office expects to be settled within 12 months of balance date are measured at nominal values based on accrued entitlements at current rates of pay. These include salaries and wages accrued up to balance date, annual leave earned but not yet taken at balance date and long service leave entitlements expected to be settled within 12 months.

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

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

#### LONG-TERM EMPLOYEE ENTITLEMENTS

Entitlements that are payable beyond 12 months, such as long service leave have been calculated on an actuarial basis. The calculations are based on:

- likely future entitlements based on years of service, years to entitlement, the likelihood that staff will reach the point of entitlement and contractual entitlements information;
- the present value of the estimated future cash flows using the current economic assumptions; and
- the demographic assumptions used are based on New Zealand population mortality and the experience of superannuation arrangements in New Zealand and Australia.

The Office's terms and conditions of employment do not include a provision for retirement leave. Long service leave is available to 6 long serving staff under "grandfather" employment terms. Long service leave is not otherwise available to staff of the Office.



## PRESENTATION OF EMPLOYEE ENTITLEMENTS

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

### **Superannuation schemes**

#### DEFINED CONTRIBUTION SCHEMES

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

### **Taxpayers' funds**

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

### **Commitments**

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

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

### **Goods and services tax (GST)**

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

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

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

Commitments and contingencies are disclosed exclusive of GST.

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

### **Income tax**

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

### **Budget figures**

The budget figures are those included in the Information Supporting the Estimates of Appropriations for the Government of New Zealand for the year ended 30 June 2013, which are consistent with the financial information in the Main Estimates. In addition, the financial statements also present the updated budget

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

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

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

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

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

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

### **Critical accounting estimates and assumptions**

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

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

#### **LONG SERVICE LEAVE**

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

#### **ANNUAL LEAVE**

The cost of annual leave is based on accumulated accrued annual leave due to staff as at 30 June 2013 and is calculated using expected salaries payable at that date. The Office terms of employment do not provide for anticipated annual leave.

### **Critical judgments in applying accounting policies**

Management has not exercised any critical judgments in applying the Office's accounting policies for the period ended 30 June 2013.



## 2. Personnel costs

30/06/12 Actual \$(000)		30/6/13 Actual \$(000)	30/6/13 Main Estimates \$(000)	30/06/13 Supp. Estimates \$(000)
6,235	Salaries and wages	<b>6,385</b>	6,378	6,166
272	Employer contributions to staff superannuation	<b>305</b>	298	298
(17)	Accrued long service leave	<b>2</b>	-	-
1	Accrued annual leave	<b>(44)</b>	-	-
26	ACC levy	<b>20</b>	25	25
<u>106</u>	Other personnel costs	<b><u>279</u></b>	<u>77</u>	<u>77</u>
<u>6,623</u>	<b>Total personnel costs</b>	<b><u>6,947</u></b>	<u>6,778</u>	<u>6,566</u>

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

## 3. Other operating costs

30/06/12 Actual \$(000)		30/6/13 Actual \$(000)	30/6/13 Main Estimates \$(000)	30/06/13 Supp. Estimates \$(000)
666	Operating accommodation lease expenses	<b>661</b>	668	679
57	Accommodation costs — other	<b>81</b>	58	58
28	Audit fees	<b>28</b>	28	28
93	Publications, books and statutes	<b>86</b>	98	98
211	Travel	<b>181</b>	241	241
150	Communication costs	<b>153</b>	156	156
<u>645</u>	Other operating costs	<b><u>1,253</u></b>	<u>1,007</u>	<u>1,358</u>
<u>1,850</u>	<b>Total operating expenses</b>	<b><u>2,443</u></b>	<u>2,256</u>	<u>2,618</u>

#### 4. Depreciation and amortisation

30/06/12 Actual \$(000)		30/6/13 Actual \$(000)	30/6/13 Main Estimates \$(000)	30/06/13 Supp. Estimates \$(000)
20	Furniture and fittings	<b>23</b>	12	12
170	Plant and equipment and other	<b>78</b>	120	85
52	Computer equipment	<b>55</b>	103	87
<u>27</u>	Intangible assets – software	<b>25</b>	<u>30</u>	<u>30</u>
<b>269</b>	<b>Total depreciation and amortisation</b>	<b>181</b>	<b>265</b>	<b>214</b>

#### 5. Capital charge

The Office pays a capital charge to the Crown on its average taxpayers' funds as at 31 December and 30 June each year. The capital charge rate for the year ended 30 June 2013 was 8.0% (2012: 8.0%).

#### 6. Property, plant and equipment

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

2013	Plant and Equipment \$(000)	Leasehold improvements \$(000)	IT Equipment \$(000)	Furniture and Fittings \$(000)	Total \$(000)
<b>Cost</b>					
Balance at 30 June 2012	152	448	296	167	1,063
Additions	7	10	76	31	124
Disposals	=	=	=	=	=
<b>Balance at 30 June 2013</b>	<b>159</b>	<b>458</b>	<b>372</b>	<b>198</b>	<b>1,187</b>
<b>Accumulated depreciation and impairment losses</b>					
Balance at 30 June 2012	103	399	168	132	802
Depreciation	27	50	55	23	155
Accumulated depn on disposals	=	=	=	=	=
<b>Balance at 30 June 2013</b>	<b>130</b>	<b>449</b>	<b>223</b>	<b>155</b>	<b>957</b>
<b>Carrying amounts</b>					
At 30 June 2012	49	49	128	35	261
<b>At 30 June 2013</b>	<b>29</b>	<b>9</b>	<b>149</b>	<b>43</b>	<b>230</b>



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

## 7. Intangible assets

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

2013	Acquired Software \$(000)	Internally generated Software \$(000)	Total \$(000)
<b>Cost</b>			
Balance at 30 June 2012	62	180	242
Additions	16	25	41
Disposals	-	(40)	(40)
<b>Balance at 30 June 2013</b>	<b>78</b>	<b>165</b>	<b>243</b>
<b>Accumulated amortisation and impairment losses</b>			
Balance at 30 June 2012	42	28	70
Amortisation	10	15	25
Disposals	-	-	-
<b>Balance at 30 June 2013</b>	<b>52</b>	<b>43</b>	<b>95</b>
Carrying amounts			
At 30 June 2012	20	152	172
<b>At 30 June 2013</b>	<b>26</b>	<b>122</b>	<b>148</b>



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

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

## 8. Creditors and other payables

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

30/06/12 Actual \$(000)		30/06/13 Actual \$(000)
107	Trade creditors	<b>171</b>
181	GST payable	<b>207</b>
<u>61</u>	Other short-term liabilities	<b>58</b>
<u>349</u>	<b>Total creditors and other payables</b>	<b><u>436</u></b>

## 9. Return of operating surplus

Repayment of surplus is required by 31 October each year.

30/06/12 Actual \$(000)		30/06/13 Actual \$(000)
100	Net operating surplus	<b>1</b>
100	Net surplus including Other Expenses	<b>1</b>
-	Approval to retain net operating surplus	-
<u>100</u>	<b>Net operating surplus to be returned</b>	<b><u>1</u></b>



## 10. Employee entitlements

30/06/12 Actual \$(000)		30/6/13 Actual \$(000)	30/6/13 Main Estimates \$(000)	30/6/13 Supp. Estimates \$(000)
	<i>Current liabilities</i>			
382	Annual leave	<b>338</b>	300	300
13	Long service leave	<b>15</b>	-	15
<u>269</u>	Superannuation, Superannuation Contribution Withholding Tax and salaries	<b>157</b>	<u>110</u>	<u>110</u>
664	Total current liabilities	<b>510</b>	410	425
	<i>Non current liabilities</i>			
<u>12</u>	Long service leave	<b>18</b>	<u>50</u>	<u>18</u>
<u>676</u>	<b>Total for employee entitlements</b>	<b>528</b>	<u>460</u>	<u>443</u>

Every 2 years the Office engages AON consulting actuaries to determine the present value of the long service leave obligations for a group of 6 staff who retain the entitlement as a "grandfather" provision. These figures are based on the 2012 revaluation and will be recalculated in 2013/14. Key assumptions used in calculating this liability include the discount rate and the salary inflation factor. Any changes in these assumptions will impact on the carrying amount of the liability. Key assumptions are set out in the table below.

Projection Year	Discount Rate	Salary Growth
1	2.65%	3.00%
2	3.22%	3.00%
3	3.25%	3.00%
4	4.38%	3.00%
5	4.43%	3.00%
6	4.55%	3.00%
7	4.85%	3.00%
8	5.08%	3.00%
9	5.08%	3.00%
10+	5.31%	3.00%

- The discount rate is based on NZ government stock yields at 31 March 2012.
- A long term annual rate of salary growth of 3.0% per annum has been assumed. This is consistent with the results of the latest Aon Economists' Survey
- A promotional salary scale that depends on age and is derived from the experience of New Zealand superannuation schemes has been applied.

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

## 11. Taxpayers' funds (General funds)

30/6/12 Actual \$(000)		30/6/13 Actual \$(000)
	<b>General Funds</b>	
329	Balance at 1 July	<b>329</b>
100	Net operating surplus	<b>1</b>
(100)	Provision for repayment of surplus to the Crown	<b>(1)</b>
<u>329</u>	<b>General Funds at 30 June</b>	<u><b>329</b></u>

## 12. Reconciliation of net surplus to net cash flow from operating activities for the year ended 30 June 2013

30/06/12 Actual \$(000)		30/6/13 Actual \$(000)	30/6/13 Main Estimates \$(000)	30/6/13 Supp. Estimates \$(000)
100	Net surplus/(deficit)	<b>1</b>	=	=
	<i>Add/(less) non-cash items</i>			
2	Write off of assets	<b>40</b>	-	-
269	Depreciation and amortisation expense	<b>180</b>	265	214
<u>371</u>	<b>Total non-cash items</b>	<u><b>221</b></u>	<u>265</u>	<u>214</u>
	<i>Add/(less) movements in working capital items</i>			
21	(Inc)/dec prepayments	-	-	34
4	(Inc)/dec debtors	<b>(4)</b>	-	-
13	Inc/(dec) creditors and payables	<b>64</b>	-	(69)
115	Inc/(dec) employee entitlements	<b>(148)</b>	-	(233)
(36)	Inc/(dec) short term liabilities	<b>(3)</b>	-	-
32	Inc/(dec) GST	<b>26</b>	-	(121)
<u>149</u>	<b>Net movement in working capital items</b>	<u><b>(65)</b></u>	-	<u>(389)</u>
<u>520</u>	<b>Net cash flows from operating activities</b>	<u><b>156</b></u>	<u>265</u>	<u>(175)</u>

## 13. Financial instruments

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

### Currency risk

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

The Office is not exposed to currency risk.



### Interest rate risk

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

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

### Credit risk

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

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

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

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

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

### Liquidity risk

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

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

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

2013	6 months or less \$(000)	6-12 months \$(000)	1-5 years \$(000)	more than 5 years \$(000)	Total \$(000)
Creditors and other payables	436	-	-	-	<b>436</b>
Return of operating surplus to Crown	1	-	-	-	<b>1</b>
Employee entitlements	510	-	18	-	<b>528</b>

2012	6 months or less \$(000)	6-12 months \$(000)	1-5 years \$(000)	more than 5 years \$(000)	Total \$(000)
Creditors and other payables	349	-	-	-	<b>349</b>
Return of operating surplus to Crown	100	-	-	-	<b>100</b>
Employee entitlements	664	-	12	-	<b>676</b>

### Categories of financial instruments

Actual 2012 \$(000)		Actual 2013 \$(000)
	<b>Loans and receivables</b>	
969	Cash and cash equivalents	<b>860</b>
-	Debtors and other receivables	<b>4</b>
<u>969</u>		<b><u>864</u></b>
	<b>Financial liabilities measured at amortised cost</b>	
349	Creditors and other payables (note 8)	<b>436</b>
<u>676</u>	Employee entitlements (note 10)	<b><u>528</u></b>
<u>1,025</u>		<b><u>964</u></b>

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

## 14. Capital management

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

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

## 15. Related party information

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

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

### Significant transactions with government-related entities

The Office has been provided with funding from the Crown of \$8.768m (2012 \$8.752m) for specific purposes as set out in its founding legislation and the scope of the relevant government appropriations.

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

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

The Office also purchases goods and services from entities controlled, significantly influenced, or jointly controlled by the Crown. Purchases from these government-related entities for the year ended 30 June 2013 totalled \$165,000 (2012 \$161,000). These purchases included air travel from Air New Zealand (\$127,000) (2012 \$125,000), Audit New Zealand (\$28,000) (2012 \$28,000) and postal services from New Zealand Post (\$10,000) (2012 \$8,000). The outstanding amount for government-related entities at year ended 30 June 2013 included



Air New Zealand (\$11,412) (2012 \$16,758), Audit New Zealand (NIL) (2012 NIL) and New Zealand Post (\$821) (2012 NIL).

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

### Key management personnel compensation

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

Actual 2012 \$(000)		Actual 2013 \$(000)
1,019	Salaries and other short-term employee benefits	<b>1,007</b>
-	Post-employment benefits	-
9	Other long-term benefits	<b>21</b>
-	Termination benefits	<b>194</b>
<u>1,028</u>	<b>Key management personnel compensation</b>	<b><u>1,222</u></b>

### 16. Events after the balance sheet date

There were no post balance sheet date events in regard to the Office financial statements for the year ended 30 June 2013.

### 17. Significant variances from forecast financial performance

There were no significant variances from forecast financial performance.



.....

Report of the Ombudsman

Part 6 | Financial and performance information

.....  
A.3

.....  
103





---

## Part 7

# Analysis, statistics and directory



---

The throughput of complaints, other contacts and monitoring activities	106
Contact type - who matters were received from	108
Age profiles of open and closed complaints and other contacts	109
Detailed analysis of complaints and other contacts	109
Geographical distribution of complaints and other contacts	123
Directory	124

---

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

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

	2008/09	2009/10	2010/11	2011/12	2012/13
On hand as at 1 July	1,040	1,330	1,720	1,359	<b>1,746</b>
Adjustment <sup>68</sup>	(5)	14	10	1	-
Received during the year	<u>9,150</u>	<u>9,950</u>	<u>8,706</u>	<u>10,636</u>	<b><u>13,684</u></b> <sup>69</sup>
Total under consideration	10,185	11,294	10,436	11,996	<b>15,403</b>
Completed during the year	<u>(8,855)</u>	<u>(9,574)</u>	<u>(9,077)</u>	<u>(10,250)</u>	<b><u>(13,358)</u></b>
On hand at 30 June	<u>1,330</u>	<u>1,720</u>	<u>1,359</u>	<u>1,746</u>	<b><u>2,072</u></b>

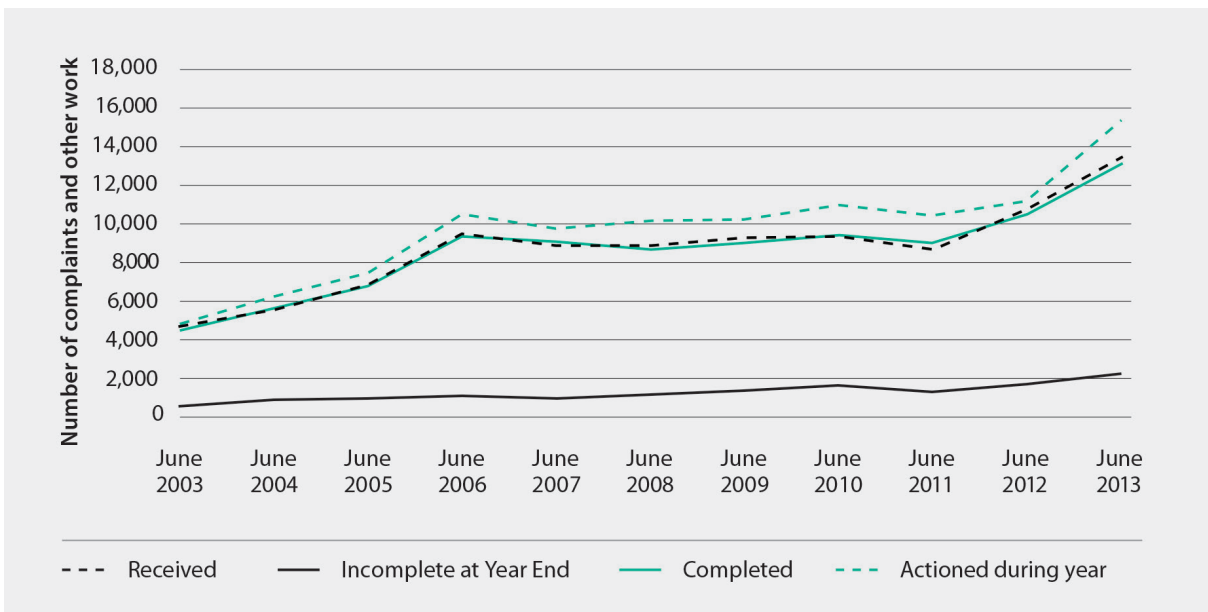


Figure 6: Overall throughput of work over the past 10 years

<sup>68</sup> Adjustments are changes made to reported statistics post completion of a reporting year that arise from the incorrect counting or classification of work.

<sup>69</sup> Made up of 5,392 complaints, 8,263 other contacts, 11 monitoring of death of custody investigations, 7 Protected Disclosures Act matters, and 11 other matters.

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

	2008/09	2009/10	2010/11	2011/12	2012/13
<b>On hand at 1 July</b>					
Ombudsmen Act	576	794	983	727	<b>821</b>
Official Information Act	364	428	550	504	<b>667</b>
Local Government Official Information and Meetings Act	51	83	101	86	<b>136</b>
Protected Disclosures Act	1	3	1	2	<b>5</b>
Monitoring Death in Custody investigations	-	-	-	15	<b>9</b>
Other Contacts	-	-	50	11	<b>100</b>
Other work	42	36	45	14	<b>8</b>
Adjustment	<u>1</u>	<u>-</u>	<u>-</u>	<u>1</u>	<u>-</u>
<b>Total</b>	<b>1,035</b>	<b>1,344</b>	<b>1,730</b>	<b>1,360</b>	<b>1,746</b>
<b>Received during the year</b>					
Ombudsmen Act	7,615	8,488	6,163	2,459 <sup>70</sup>	<b>2,745</b>
Official Information Act	809	920	992	1,236	<b>2,374</b>
Local Government Official Information and Meetings Act	231	294	256	268	<b>271</b>
Protected Disclosures Act	8	6	7	9	<b>7</b>
Monitoring Death in Custody	-	-	22	12	<b>11</b>
Other Contacts	-	-	955	6,491	<b>8,263</b>
Other work	<u>487</u>	<u>242</u>	<u>311</u>	<u>161</u>	<u>13</u>
<b>Total</b>	<b>9,150</b>	<b>9,950</b>	<b>8,706</b>	<b>10,636</b>	<b>13,684</b>
<b>Disposed of during the year</b>					
Ombudsmen Act	7,435	8,250	6,411	2,383	<b>2,878</b>
Official Information Act	754	800	1,038	1,076	<b>1,913</b>
Local Government Official Information and Meetings Act	202	282	271	217	<b>245</b>
Protected Disclosures Act	6	8	6	6	<b>11</b>
Monitoring Death in Custody Investigation	-	-	7	18	<b>13</b>
Other Contacts	-	-	999	6,401	<b>8,283</b>
Other work	<u>458</u>	<u>234</u>	<u>345</u>	<u>149</u>	<u>15</u>
<b>Total</b>	<b>8,855</b>	<b>9,574</b>	<b>9,077</b>	<b>10,250</b>	<b>13,358</b>

<sup>70</sup> The apparent reduction in the number of Ombudsmen Act complaints received and completed in the 2011/12 and 2012/13 reporting years results from a change in recording practice. Previously Ombudsmen Act complaints and other contacts were aggregated.



	2008/09	2009/10	2010/11	2011/12	2012/13
On hand at 30 June					
Ombudsmen Act	757	1,032	735	803	<b>687</b>
Official Information Act	419	548	504	664	<b>1129</b>
Local Government Official Information and Meetings Act	80	95	86	137	<b>162</b>
Protected Disclosures Act	3	1	2	5	<b>1</b>
Monitoring Death in Custody investigations	-	-	15	9	<b>7</b>
Other Contacts	-	-	6	101	<b>80</b>
Other work	71	44	11	27	<b>6</b>
<b>Total</b>	<b>1,330</b>	<b>1,720</b>	<b>1,359</b>	<b>1,746</b>	<b>2,072</b>

## Contact type - who matters were received from

Contact type	2011/12	2012/13
General public – individuals	5,436	<b>8,405</b>
Prisoners and prisoner advocates	4,412	<b>4,302</b>
Media	294	<b>392</b>
Companies, associations and incorporated societies	168	<b>195</b>
Departments, government organisations and local authorities	121	<b>179</b>
Political party research units	61	<b>70</b>
Members of Parliament	51	<b>59</b>
Special interest groups	62	<b>44</b>
Researchers	9	<b>16</b>
Trade unions	11	<b>12</b>
Other	11	<b>10</b>
<b>Total</b>	<b>10,636</b>	<b>13,684</b>

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

### Age profile – all complaints and other contacts closed in 2012/13

	Year ended			
	30/6/10	30/6/11	30/6/12	30/06/13
Aged 6 months or less from date of receipt	94%	89%	92%	<b>93%</b> <sup>71</sup>
Aged between 7 and 12 months from date of receipt	5%	6%	5%	<b>3%</b>
Aged more than 12 months from date of receipt	3%	5%	3%	<b>3%</b>

### Age profile – all complaints and other contacts remaining open at 30 June 2013

	Year ended			
	30/6/10	30/6/11	30/6/12	30/06/13
Aged 6 months or less from date of receipt	52%	49%	62%	<b>38%</b>
Aged between 7 and 12 months from date of receipt	26%	24%	17%	<b>36%</b>
Aged more than 12 months from date of receipt	22%	26%	21%	<b>26%</b>

## Detailed analysis of complaints and other contacts

### Ombudsmen Act (OA)

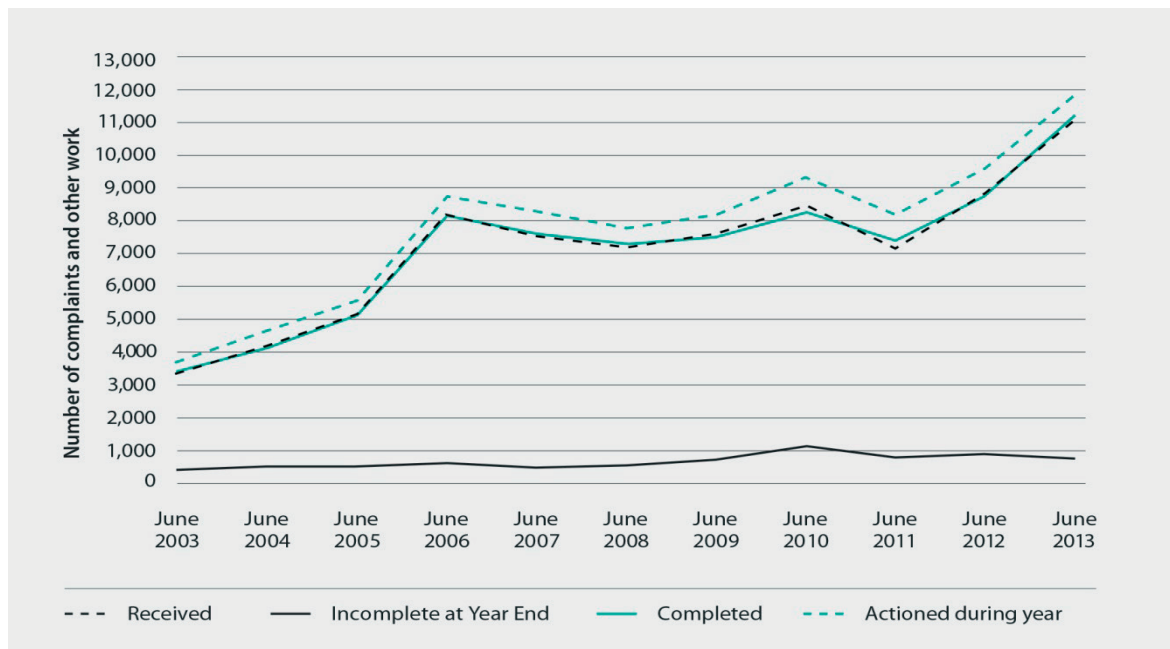


Figure 7: OA complaints and other contacts received and actioned over the past 10 years

<sup>71</sup> Achievement against timeliness performance measures for 2012/13 is detailed above, in Part 6.



OA complaints received from	2011/12	2012/13
General public – individuals	1,546	<b>2,040</b>
Prisoners and prisoner advocates	825	<b>622</b>
Companies, associations and incorporated societies	51	<b>51</b>
Special interest groups	19	<b>8</b>
Media	5	<b>7</b>
Political party research units	3	<b>4</b>
Members of Parliament	1	<b>4</b>
Departments, government organisations and local authorities	3	<b>3</b>
Other	-	<b>3</b>
Ombudsman (investigation of own motion)	6	<b>2</b>
Trade unions	-	<b>1</b>
Researchers	-	-
<b>Total</b>	<u>2,459</u>	<u><b>2,745</b></u>

OA complaints received against	2011/12	2012/13
Government departments	1,424	<b>1,396</b>
Other organisations (state sector)	667	<b>762</b>
Local authorities	356	<b>358</b>
Ministers	-	<b>18</b>
Agencies not subject to jurisdiction	-	<b>20</b>
Not specified	<u>12</u>	<u><b>191</b></u>
<b>Total</b>	<u>2,459</u>	<u><b>2,745</b></u>

How OA complaints were dealt with	2011/12	2012/13
<b>Outside jurisdiction</b>		
• agency not listed in schedule	26	233
• scheduled agency otherwise outside jurisdiction	<u>55</u>	<u>140</u>
	81	373
<b>Referred</b>		
• referred to Health and Disability Commissioner	5	10
• referred to Privacy Commissioner	18	17
• referred to Independent Police Conduct Authority	10	6
• referred to Inspector-General of Intelligence and Security	<u>3</u>	-
	36	33
<b>No investigation undertaken</b>		
• withdrawn by complainant or no response from complainant	162	168
• right of appeal to Court or Tribunal	105	94
• adequate alternative remedy – complain to agency first	504	612
• adequate alternative remedy – complaint referred to agency by Ombudsman	38	20
• adequate alternative remedy – recourse to other agency	46	51
• out of time	12	3
• trivial	2	4
• frivolous, vexatious or not in good faith	5	8
• insufficient personal interest	22	12
• explanation, advice or assistance provided	<u>757</u>	<u>985</u>
	1,653	1,957
<b>Resolved without investigation</b>		
• remedial action to benefit complainant	134	115
• remedial action to improve state sector administration	1	1
• remedial action to benefit complainant and improve state sector administration	4	2
• provision of advice/ explanation by agency or Ombudsman which satisfies complainant	<u>16</u>	<u>9</u>
	155	127
<b>Investigation discontinued</b>		
• withdrawn by complainant or no response from complainant	53	30
• further investigation unnecessary	59	81
• agency to review	10	5
• trivial	1	-
• frivolous or vexatious or not in good faith	<u>2</u>	-
	125	116



How OA complaints were dealt with	2011/12	2012/13
<b>Resolved during investigation</b>		
• remedial action to benefit complainant	91	80
• remedial action to improve state sector administration	2	1
• remedial action to benefit complainant and improve state sector administration	11	4
• provision of advice/ explanation by agency or Ombudsman which satisfies complainant	<u>2</u>	<u>4</u>
	106	89
<b>Investigation finalised (final opinion formed)</b>		
• administrative deficiency identified – recommendation/s	7	4
• administrative deficiency identified – no recommendation	51	41
• no administrative deficiency identified	159	127
• issues cannot be determined	<u>4</u>	<u>2</u>
	221	174
Administration – adjustment	5	9
Under consideration at 30 June	<u>803</u>	<u>687</u>
<b>Total</b>	<b><u>3,185</u></b>	<b><u>3,565</u></b>

Nature of deficiency identified where final opinion formed on OA complaints		2011/12	2012/13
Administrative deficiency in an individual case	Unreasonable delay	3	5
	Inadequate advice, explanation or reasons	9	7
	Procedural deficiency	25	17
	Factual error or mistake	-	2
	Legal error	2	3
	Unprofessional behaviour or misconduct by an official	2	-
	Unreasonable, unjust, oppressive or discriminatory act, omission or decision	14	9
	Wrong act or decision	4	1
Administrative deficiency in the agency or system of government	Legislation: unreasonable or harsh impact or unintended consequence	-	-
	Government or agency policy: unreasonable or harsh impact	-	1
	Flawed agency processes or systems	5	5
	Resource deficiency in agency	-	-
	Inadequate knowledge/training of agency staff	-	1



Nature of remedy obtained for OA complaints		2011/12	2012/13
Individual benefit	Reasons/explanation given	46	18
	Decision changed	74	82
	Decision to be reconsidered	31	24
	Omission rectified	93	75
	Financial remedy	30	18
	Apology	12	11
Public administration benefit	Change in law/policy	2	1
	Change in practice/procedure	11	8
	Law/policy/practice/procedure to be reviewed	6	3
	Provision of guidance or training to staff	2	3
	Provision of additional resources	-	-

### Official Information Act (OIA)

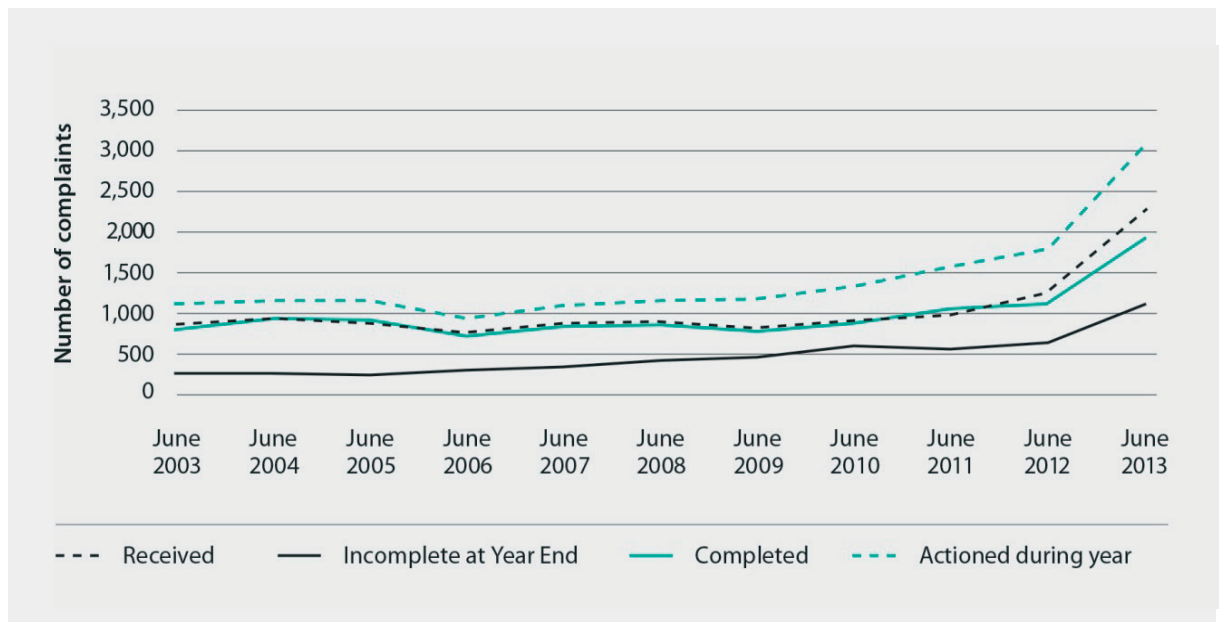


Figure 8: OIA complaints received and actioned over the past 10 years



Nature of OIA complaints made	2011/12	2012/13
Refusals	657	<b>819</b>
Delay deemed refusals	498	<b>1,440</b>
Delays	7	<b>9</b>
Charges	14	<b>22</b>
Corrections	3	-
Deletions	8	<b>13</b>
Extensions	44	<b>55</b>
Conditions	1	<b>2</b>
Transfers	4	<b>4</b>
Other	-	10
<b>Total</b>	<u>1,236</u>	<u><b>2,374</b></u>

OIA complaints received from	2011/12	2012/13
General public – individuals	805	<b>1,819</b>
Media	202	<b>293</b>
Companies, associations and incorporated societies	52	<b>80</b>
Prisoners and prisoner advocates	60	<b>65</b>
Political party research units	45	<b>53</b>
Members of Parliament	40	<b>44</b>
Special interest groups	20	<b>8</b>
Trade unions	10	<b>7</b>
Researchers	1	<b>3</b>
Departments, government organisations and local authorities	1	<b>2</b>
<b>Total</b>	<u>1,236</u>	<u><b>2,374</b></u>

OIA complaints received against	2011/12	2012/13
Other organisations (state sector)	684	<b>1,623</b>
Government departments	376	<b>571</b>
Ministers	176	<b>166</b>
Agenices not subject to jurisdiction	-	3
Not specified	-	<u>11</u>
<b>Total</b>	<u>1,236</u>	<u><b>2,374</b></u>

Report of the Ombudsman  
Part 7 | Analysis, statistics and directory

How OIA complaints were dealt with	2011/12	2012/13
<b>Outside jurisdiction</b>		
• agency not listed in schedule	3	20
• scheduled agency otherwise outside jurisdiction	<u>13</u>	<u>36</u>
	16	56
<b>Referred</b>		
• referred to Privacy Commissioner	65	86
<b>No investigation undertaken</b>		
• withdrawn by complainant or no response from complainant	121	167
• right of appeal to Court or Tribunal	2	-
• adequate alternative remedy – complain to agency first	14	12
• adequate alternative remedy – complaint referred to agency by Ombudsman	-	3
• adequate alternative remedy - recourse to other agency	5	11
• trivial	1	-
• frivolous, vexatious or not in good faith	4	-
• insufficient personal interest	-	1
• explanation, advice or assistance provided	<u>90</u>	<u>159</u>
	237	353
<b>Resolved without investigation</b>		
• remedial action to benefit complainant	65	883
• remedial action to benefit complainant and improve state sector administration	1	2
• provision of advice/ explanation by agency or Ombudsman which satisfies complainant	<u>21</u>	<u>14</u>
	87	899
<b>Investigation discontinued</b>		
• withdrawn by complainant or no response from complainant	80	72
• further investigation unnecessary	21	55
• agency to review	<u>4</u>	-
	105	127
<b>Resolved during investigation</b>		
• remedial action to benefit complainant	225	99
• remedial action to improve state sector administration	-	1
• remedial action to benefit complainant and improve state sector administration	1	8
• provision of advice/ explanation by agency or Ombudsman which satisfies complainant	<u>47</u>	<u>8</u>
	273	116



How OIA complaints were dealt with	2011/12	2012/13
Investigation finalised (final opinion formed)		
• administrative deficiency identified – recommendation/s	16	11
• administrative deficiency identified – no recommendation	105	125
• no administrative deficiency identified	<u>171</u>	<u>138</u>
	292	274
Administration – adjustment	1	2
Under consideration at 30 June	<u>664</u>	<u>1,129</u>
<b>Total</b>	<b><u>1,740</u></b>	<b><u>3,042</u></b>

Nature of deficiency identified where final opinion formed on OIA complaints		2011/12	2012/13
Administrative deficiency in an individual case	Refusal not justified - in whole	24	6
	Refusal not justified - in part	15	18
	Unreasonable charge	2	-
	Unreasonable conditions	-	-
	Unreasonable extension	2	-
	Delay deemed refusal	78	110
	Undue delay in releasing information	-	1
	Inadequate statement of reasons	1	2
	Procedural deficiency	-	1
Administrative deficiency in the agency or system of government	Legislation: unreasonable or harsh impact or unintended consequence	-	-
	Government or agency policy: unreasonable or harsh impact	-	-
	Flawed agency processes or systems	-	-
	Resource deficiency in agency	-	-
	Inadequate knowledge/training of agency staff	-	-

Nature of remedy obtained for OIA complaints		2011/12	2012/13
Individual benefit	Reasons/explanation given	80	41
	Decision changed	97	120
	Decision to be reconsidered	2	8
	Omission rectified	202	862
	Financial remedy	-	1
	Apology	4	3
Public administration benefit	Change in law/policy	-	-
	Change in practice/procedure	3	7
	Law/policy/practice/procedure to be reviewed	3	5
	Provision of guidance or training to staff	1	3
	Provision of additional resources	1	1

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

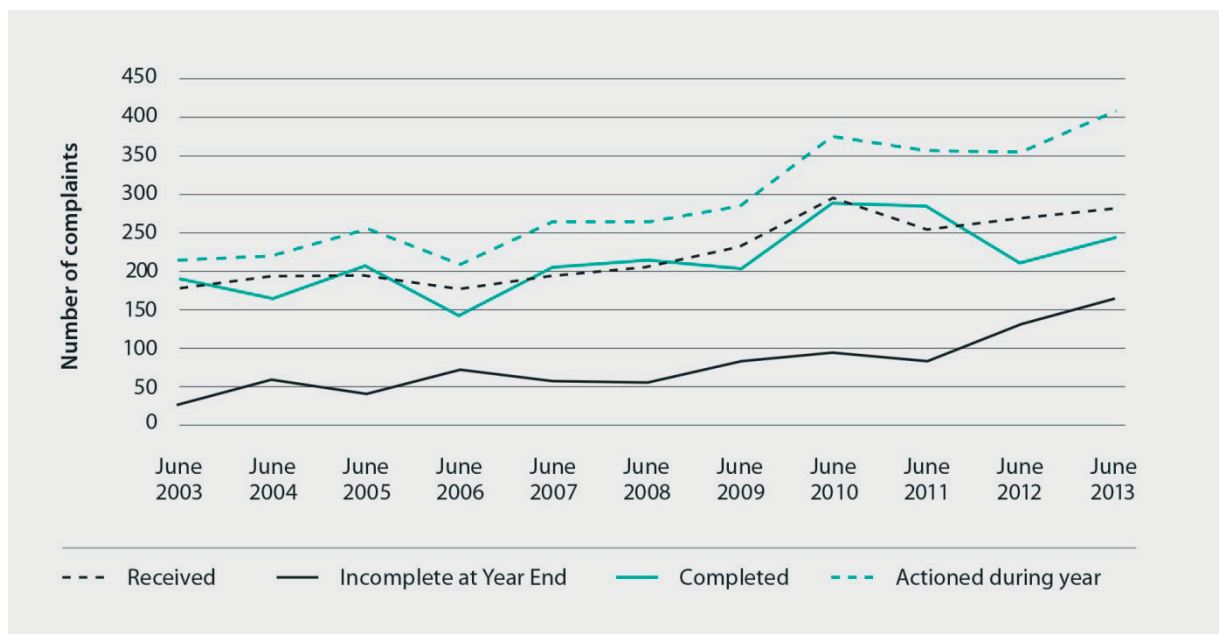


Figure 9: LGOIMA complaints received and actioned over the past 10 years



Nature of LGOIMA complaints made	2011/12	2012/13
Refusals	168	<b>180</b>
Delay deemed refusals	73	<b>66</b>
Delays	6	-
Charges	15	<b>14</b>
Corrections	-	-
Deletions	-	<b>3</b>
Extensions	5	<b>3</b>
Conditions	-	-
Transfers	1	-
Other	-	<b>5</b>
<b>Total</b>	<u>268</u>	<u><b>271</b></u>

LGOIMA complaints received from	2011/12	2012/13
General public – individuals	204	<b>188</b>
Media	39	<b>48</b>
Companies, associations and incorporated societies	15	<b>26</b>
Special interest groups	5	<b>7</b>
Members of Parliament	2	<b>1</b>
Trade unions	-	<b>1</b>
Political party research units	3	-
<b>Total</b>	<u>268</u>	<u><b>271</b></u>

Report of the Ombudsman  
Part 7 | Analysis, statistics and directory

How LGOIMA complaints were dealt with	2011/12	2012/13
<b>Outside jurisdiction</b>		
• agency not listed in schedule	-	1
• scheduled agency otherwise outside jurisdiction	<u>2</u>	<u>2</u>
	2	3
<b>Referred</b>		
• referred to Privacy Commissioner	6	5
<b>No investigation undertaken</b>		
• withdrawn by complainant or no response from complainant	27	33
• adequate alternative remedy – complain to agency first	6	3
• adequate alternative remedy – complaint referred to agency by Ombudsman	2	-
• adequate alternative remedy - recourse to other agency	1	1
• frivolous, vexatious or not in good faith	-	2
• insufficient personal interest	3	1
• explanation, advice or assistance provided	<u>22</u>	<u>50</u>
	61	90
<b>Resolved without investigation</b>		
• remedial action to benefit complainant	17	24
• remedial action to benefit complainant and improve state sector administration	2	-
• provision of advice/ explanation by agency or Ombudsman which satisfies complainant	<u>2</u>	<u>3</u>
	21	27
<b>Investigation discontinued</b>		
• withdrawn by complainant or no response from complainant	18	5
• further investigation unnecessary	8	16
• agency to review	<u>2</u>	-
	28	21
<b>Resolved during investigation</b>		
• remedial action to benefit complainant	26	33
• remedial action to benefit complainant and improve state sector administration	2	1
• provision of advice/ explanation by agency or Ombudsman which satisfies complainant	<u>1</u>	<u>2</u>
	29	36



How LGOIMA complaints were dealt with	2011/12	2012/13
Investigation finalised (final opinion formed)		
• administrative deficiency identified – recommendation/s	1	1
• administrative deficiency identified – no recommendation	24	30
• no administrative deficiency identified	<u>45</u>	<u>32</u>
	70	63
Under consideration at 30 June	<u>137</u>	<u>162</u>
<b>Total</b>	<b>354</b>	<b>407</b>

Nature of deficiency identified where final opinion formed on LGOIMA complaints		2011/12	2012/13
Administrative deficiency in an individual case	Refusal not justified – in whole	1	2
	Refusal not justified – in part	5	4
	Unreasonable charge	-	1
	Unreasonable conditions	-	-
	Unreasonable extension	-	-
	Delay deemed refusal	18	23
	Undue delay in releasing information	-	-
	Inadequate statement of reasons	-	1
Administrative deficiency in the agency or system of government	Legislation: unreasonable or harsh impact or unintended consequence	-	-
	Government or agency policy: unreasonable or harsh impact	-	-
	Flawed agency processes or systems	1	-
	Resource deficiency in agency	-	-
	Inadequate knowledge/training of agency staff	-	-



Nature of remedy obtained for LGOIMA complaints:		2011/12	2012/13
Individual benefit	Reasons/explanation given	8	6
	Decision changed	27	38
	Decision to be reconsidered	1	1
	Omission rectified	17	18
	Financial remedy	-	1
	Apology	-	1
Public administration benefit	Change in law/policy	-	-
	Change in practice/procedure	1	-
	Law/policy/practice/procedure to be reviewed	-	-
	Provision of guidance or training to staff	1	-
	Provision of additional resources	-	-

## Other contacts

Other contacts received from	2011/12	2012/13
General public – individuals	2,737	<b>4,348</b>
Prisoners and prisoner advocates	3,441	<b>3,599</b>
Companies, associations and incorporated societies	48	<b>38</b>
Special interest groups	16	<b>21</b>
Media	47	<b>44</b>
Political party research units	10	<b>13</b>
Members of Parliament	7	<b>10</b>
Departments, government organisations and local authorities	176	<b>174</b>
Trade unions	1	<b>3</b>
Researchers	8	<b>13</b>
<b>Total</b>	<b>6,491</b>	<b>8,263</b>

Other contacts concerned	2011/12	2012/13
Department of Corrections	3,634	<b>3,767</b>
Other central government departments	763	<b>1,386</b>
Other organisations (state sector)	933	<b>1,341</b>
Agencies not subjected to jurisdiction	514	<b>757</b>
Local authorities	375	<b>451</b>
Ministers	35	<b>52</b>
Not specified	237	<b>509</b>
<b>Total</b>	<b>6,491</b>	<b>8,263</b>



How other contacts were dealt with	2011/12	2012/13
No response required – copy correspondence, FYI	240	563
Individual advised to complain in writing / send relevant papers	486	779
Complain to agency first	2,106	2,523
Matter referred to agency by Ombudsman	398	313
Complain to other agency – Privacy Commissioner	104	143
Complain to other agency – Health and Disability Commissioner	105	128
Complain to other agency – Independent Police Conduct Authority	53	87
Complain to other agency – other	442	569
Explanation, advice or assistance provided	2,139	2,968
Resolved – remedial action to benefit individual	167	96
Resolved – remedial action to improve state sector administration	2	1
Resolved – remedial action to benefit individual and improve state sector administration	-	1
Resolved – provision of advice / explanation which satisfies individual	78	35
Withdrawn	70	39
Protected disclosures enquiry	11	38
Under consideration at 30 June	<u>101</u>	<u>80</u>
<b>Total</b>	<b><u>6,502</u></b>	<b><u>8,363</u></b>

Nature of remedy obtained for other contacts		2011/12	2012/13
Individual benefit	Reasons/explanation given	49	10
	Decision changed	44	23
	Decision to be reconsidered	10	3
	Omission rectified	84	59
	Financial remedy	6	7
	Apology	2	-
Public administration benefit	Change in law/policy	-	-
	Change in practice/procedure	1	1
	Law/policy/practice/procedure to be reviewed	-	1
	Provision of guidance or training to staff	2	-
	Provision of additional resources	-	1

## Geographical distribution of complaints and other contacts received in year to 30 June 2013

	Other contacts	OA	OIA	LGOIMA	Other work	All	All Last Year
Auckland	1,739	713	1,296	72	3	<b>3,823</b>	2,425
Bay of Plenty	113	101	34	9	-	<b>257</b>	396
Northland	279	111	26	17	1	<b>434</b>	381
Waikato	673	268	69	16	4	<b>1,030</b>	1,000
Taranaki	44	31	19	4	1	<b>99</b>	116
Hawke's Bay	210	105	12	4	-	<b>331</b>	337
Manawatu/Wanganui	252	123	22	17	2	<b>416</b>	495
Wairarapa	48	16	6	-	1	<b>71</b>	50
East Cape	21	11	3	-	-	<b>35</b>	30
Wellington	998	329	403	52	5	<b>1,787</b>	1,341
<b>Total North Island</b>	<b>4,377</b>	<b>1,808</b>	<b>1,890</b>	<b>191</b>	<b>17</b>	<b>8,283</b>	6,571
Nelson/ Marlborough	66	67	26	9	-	<b>168</b>	148
Dunedin	42	33	32	8	-	<b>115</b>	106
Otago	180	53	27	5	-	<b>265</b>	273
Southland	76	30	20	14	-	<b>140</b>	105
Canterbury	254	114	45	7	-	<b>420</b>	348
Christchurch	609	431	252	16	4	<b>1,312</b>	1,133
Westland	17	38	14	11	-	<b>80</b>	50
Chatham Islands	-	-	-	-	-	-	-
<b>Total South Island</b>	<b>1,244</b>	<b>766</b>	<b>416</b>	<b>70</b>	<b>4</b>	<b>2,500</b>	2,163
Location not known	2,822	174	66	12	-	<b>3,074</b>	1,979
Overseas	41	127	18	-	-	<b>186</b>	141
<b>Total</b>	<b>8,484</b>	<b>2,875</b>	<b>2,390</b>	<b>273</b>	<b>21</b>	<b>14,043<sup>72</sup></b>	10,857

<sup>72</sup> Complaints and other contacts may be made jointly with other persons. As a consequence, the number of complaints and other contacts recorded on the basis of region exceeds the number of issues that were the subject of a complaint or other contact.



## Directory

---

### **Legal authorities for establishing the Office of the Ombudsman**

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

### **Contacting the Ombudsman**

Free phone: 0800 802 602

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

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

Post: PO Box 10152, Wellington 6143

Fax: 04 471 2254

### **Wellington**

Level 14, 70 The Terrace

### **Christchurch**

Level 1, 545 Wairakei Road, Harewood

### **Auckland**

Level 10, 55-65 Shortland Street



**50**

**YEARS OF THE  
OMBUDSMAN IN  
NEW ZEALAND**

