



2010/2011

Report of the Ombudsmen
Te Tari-o-Nga Kaitiaki Mana Tangata
for the year ended 30 June 2011



2010/2011

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Mr Speaker

We submit to you our report for the year 1 July 2010 to 30 June 2011.



Beverley Wakem
Chief Ombudsman



David McGee
Ombudsman

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2010/2011 at a glance

Overview

Ombudsmen Act

Official information

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Policy and professional practice

2010/2011 at a glance

Overview

- Received 8,706 complaints and enquiries, a decrease of 12.5 per cent on 2009/10 numbers
- Just under half of these concerned the Department of Corrections
- Completed 9,077 complaints and enquiries
- Finished the year with 1,359 complaints on hand, down from 1,720 the previous year

Ombudsmen Act (OA)

- Received 6,163 OA complaints and enquiries
- Completed 6,411 OA complaints and enquiries
- Resolved 617 cases informally
- Provided advice and assistance in 3,474 cases
- Formally investigated 570 cases
- Formed final opinions in 217 cases, an increase of 13 per cent on the previous year
- Sustained complaints in just eight per cent of all cases formally investigated
- Made recommendations in 10 cases
- Reduced the average working days required to complete prison complaints from 16 to 15 working days
- Visited each of the 21 prisons five times
- Concluded three own motion investigations in relation to the Department of Corrections
- Monitored investigations into 23 deaths in custody that occurred in 2010/11
- Completed investigations into 24 deaths in custody (eight which occurred in 2010/11, 12 which occurred in 2009/10, and four which occurred in 2008/09)
- Assessed 75 serious incidents in prisons for further investigation, commencing investigations in 10 cases, and concluding investigations in three cases.

Official information legislation (OIA and LGOIMA)

- Received 992 OIA complaints, the highest number since 2000/01
- Received 256 LGOIMA complaints
- Completed 1,309 cases, 17 per cent more than in 2009/10 and the highest number of OIA complaints completed since 1999/00
- Resolved 302 cases informally
- Investigated 713 cases formally

- Formed final opinions in 366 cases
- Sustained complaints in 18.5 per cent of all cases formally investigated
- Made recommendations in 18 cases, all of which were accepted

Crimes of Torture Act

- Inspected 23 places of detention, up from 17 the year before
- Produced 20 inspection reports, twice as many as the year before
- Made 103 recommendations for improvement
- Seventy-six per cent of our recommendations were wholly or partially accepted
- Reported back to all places of detention within three months of conducting a visit, exceeding our target of doing so in 95 per cent of all cases

United Nations Convention on the Rights of Persons with Disabilities

- Reviewed all complaints on hand to identify those raising issues relevant to the Disabilities Convention
- Identified approximately 20 such complaints, which are at various stages of investigation
- Completed an investigation relating to the Ministry of Health's home modification policy

Policy and Professional Practice

- Advised on 35 legislative, policy and administrative proposals relevant to the Ombudsmen's jurisdiction
- Advised on 112 applications to the Secretary of Transport for authorised access to personal information on the motor vehicle register, as well as three class authorisations granted to financial service providers, motor vehicle traders and service stations
- Made and published submissions on the Law Commission's review of the official information legislation
- Conducted 29 workshops and training seminars for state sector agencies on the role of the Ombudsmen and the operation of the official information legislation, up from 23 the year before
- Delivered 29 presentations on the role of the Ombudsmen to community groups, students and media organisations
- Seconded an experienced investigator to the office of the Cook Islands Ombudsman
- Assisted Niue with the implementation of an Ombudsman-backed complaint handling scheme

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Introduction



Beverley Wakem
Chief Ombudsman

David McGee
Ombudsman

Introduction

The past year has seen consolidation of our efforts to improve work practices within the Office and improve our service to complainants and agencies. The final tranche of work to complete the restructuring and renewal of the Office will take place early in the 2011/2012 financial year.

Alongside this, considerable effort has been devoted to reducing the backlog of cases and coping with the outfall from a spike in the number of complaints received over the past two years. We have fielded complaints about delays in our response times, but complainants would generally like us to be thorough in our examination of their issues rather than simply faster. Where urgency is required we can and do endeavour to give such cases priority.

The statistics reflect a slight drop in the number of complaints received. However, these have been largely in the prison jurisdiction in mostly minor matters (of which there are a considerable number each year). They have resulted from our efforts to deal with these issues more effectively at first instance. Also, we have temporarily suspended our outreach clinics because of the pressure on our limited resources. This has also reduced the number of complaints received but risks leaving causes of citizen grievance unaddressed. The substantive cases on hand, and the work on some of the longstanding and apparently intractable matters continues to stretch our investigators. They are still experiencing very high caseloads with the attendant stress that this causes. We have engaged a small number of highly experienced former and retired staff to assist with the very complex cases, but that is not financially sustainable over the medium term given current constraints on our budget. Like other agencies we also face high and increasing charges for what one might call the basic housekeeping costs. Unlike other agencies we are reliant on temporary funding to meet these costs and have been for several years. Our budget has no capacity to absorb these without the temporary funding.

In spite of the challenges we face in meeting our statutory objectives, we believe we have nonetheless continued to make a real difference in improving trust in government through improved policy and practice within the wider state sector and in illuminating maladministration which can put vulnerable citizens at risk. There is no doubt that we could do even better with adequate resources. This annual report illustrates some of the cases including own motion and special investigations where the intervention of the Ombudsmen has resulted in changes for the better or improvement in the fair, just and transparent delivery of services to ordinary citizens. This is undoubtedly the area where the Office can make its best contribution.

Canterbury earthquakes

In 2010/11, the ongoing earthquakes in Canterbury had a significant impact on the lives, livelihoods and homes of thousands of New Zealanders. People had to rely on a range of state sector agencies for all kinds of support and assistance they might not otherwise have required. It was a true test of our disaster preparedness, and the ability of core public services and the agencies that deliver them to respond to a crisis situation.

We were affected by the earthquakes in the sense that we have an office and seven staff operating out of Christchurch. Our office in the Forsyth Barr building was deemed unfit for occupation after the February earthquake, and it was necessary to secure new premises in Harewood. Our staff have shown huge commitment to the Office and our complainants by continuing to perform their duties in the face of often adverse personal circumstances.

We would particularly like to record our thanks to John Haynes who organised the safe exit of staff from the Forsyth Barr building after the internal stairway collapsed and to Greg Price and Peter Brocklehurst for their bravery in re-entering the building at a later date to retrieve the office files, and their efforts to find and fit-out the new office premises.

In the immediate aftermath it was important to support staff so that they could deal with pressing issues related to home and family. Our Wellington office completed a stock take of the Christchurch complaint files, and picked up most of the urgent work so that our service to the public could continue as seamlessly as possible. Urgent complaint files were reconstructed from electronic records in the first instance, until we could be assisted by an Urban Search and Rescue Team to retrieve our original files from the office.

The earthquakes have not, as yet, had any apparent significant impact on complaint numbers. In 2010/11 we received:

- 77 complaints against the Earthquake Commission (EQC), 25 of which were made by telephone, and dealt with at the time by providing advice and assistance about how to pursue the matter of concern;
- three complaints against the Canterbury Earthquake Recovery Authority (CERA), two of which concerned requests for official information; and
- three complaints against the Ministry of Civil Defence and Emergency Management.

Complaints against EQC and CERA are being dealt with by our Auckland and Wellington offices respectively, in recognition of the fact that some physical and emotional distance from the issues raised is a necessary part of the objectivity and independence required. We had discussions with EQC during the reporting year about their complaints process (www.canterbury.eqc.govt.nz/complaints). Complainants are usually directed to that process in the first instance, unless there is urgency or some other reason preventing them from following that process.

The earthquakes also necessitated the postponement of our biennial complainant survey. The survey had been scheduled for February, but on the basis that Christchurch based potential respondents had immediate priorities associated with the earthquake and that it may be difficult to contact respondents who have relocated temporarily or permanently, as well as concern that any survey results would be skewed if Christchurch was excluded, it has been deferred to later in 2011.

New jurisdiction – Monitoring the rights of the disabled

In 2010 we took on the role of an independent mechanism under the United Nations Convention on the Rights of Persons with Disabilities, with responsibility for protecting and monitoring the implementation of that Convention. Last year has been spent scoping what this role entails, in collaboration with other independent mechanisms (the Human Rights Commission and the New Zealand Convention Coalition).

Our role will be carried into effect through the performance of our functions and exercise of our powers under the Ombudsmen Act; that is, by investigating complaints and conducting own motion investigations into matters related to the implementation of the Disabilities Convention.

In 2010/11 we identified approximately 20 complaints which raised issues relevant to the Disabilities Convention, mainly in the areas of health, education and social services. These are at various stages of investigation. We also completed an investigation relating to the Ministry of Health's home modification policy, and made recommendations aimed at improving that policy (see pages 49-50 for more information).

Operational developments

In 2009/10 we reported a large increase in complaints and enquiries received (10,000 – up eight per cent on 2008/09 numbers, and 11.5 per cent on 2007/08 numbers), and correspondingly, a large increase in the number of open complaints on hand at year's end (1,720 – up 22.7 per cent on 2008/09 numbers, and 39.5 per cent on 2007/08 numbers). This year's numbers have provided some respite, with a total of 8,706 complaints and enquiries received. However, in the absence of any significant resource increase, it has been necessary to try and identify operational improvements in order to seek to manage the greater workload.

As advised in last year's annual report, we have introduced a system of prioritising all complaints having regard to urgency and the potential detrimental impact of delay. This is our first year reporting against the priority settings and timeliness targets set out below:

Priority J - Outside jurisdiction - completed within 1 month of date of receipt
Priority D - Within jurisdiction but not investigated - completed within 3 months of date of receipt
Priority 1 - Urgent - investigation completed within 4 months of date of receipt
Priority 2 - Higher public interest - investigation completed within 6 months of date of receipt
Priority 3 - Other - investigation completed within 12 months of date of receipt

These priority settings and timeliness targets have been helpful in managing competing demands, and are proving to provide more meaningful information to enable us to track our progress against our budgeted commitments.

We also implemented a strategy aimed at reducing a backlog of complaints that exceeded the targeted completion time for their respective priority setting. Our immediate goals were to:

- reduce the number of cases outside the target timeframe;
- reduce the age of cases outside the target timeframe;
- develop a plan for managing the complaints on hand that exceeded the target timeframe; and
- develop a plan for ensuring that the number of cases assigned to investigators is at a level that enables them to do good quality investigations in a timely manner and which reflects their capacity.

Our long term goal is to ensure that all cases are completed within Office defined targets.

Our backlog reduction strategy involved a full stocktake of all complaints on hand to identify and prioritise cases requiring urgent attention or assistance to bring them to a conclusion. We also established a high risk team to investigate complaints requiring urgent attention. And we began a review of our processes and procedures for the intake and allocation of complaints, and monitoring and reporting of workloads. Part of this involved learning from the experiences of Ombudsman offices in comparable Australian jurisdictions, such as Western Australia and Victoria.

These measures enabled us to reduce the number of complaints on hand at 30 June 2011 to 1,359 – a decrease of 21 per cent on the previous year.

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Background

Nature and scope of the Ombudsmen's functions
Outcomes and impacts sought by the Ombudsmen

Background

Nature and scope of the Ombudsmen's functions

The Ombudsmen are Officers of Parliament. Each Ombudsman is appointed by the Governor-General on the recommendation of Parliament. This means we are responsible to Parliament and independent of the government.

We provide Parliament and the New Zealand public with an independent and impartial check on the quality, fairness and integrity of administrative and decision making practices in the wider state sector. The wider state sector in this context includes government departments and ministries, local authorities, crown entities, state-owned enterprises, district health boards, tertiary education institutions and school boards of trustees, and in the case of the Official Information Act, Ministers of the Crown.

We have functions under five pieces of legislation:

- Under the *Ombudsmen Act 1975*, we investigate the administrative acts, recommendations or decisions of state sector agencies that affect members of the public in their personal capacity.
- Under the *Official Information Act 1982* and the *Local Government Official Information and Meetings Act 1987*, we investigate the decisions of Ministers and state sector agencies on requests for official information.
- Under the *Protected Disclosures Act 2000*, we provide advice and guidance to employees concerned about serious wrongdoing in organisations, and may in certain circumstances investigate an employee's concerns, or refer them to a more appropriate investigative authority.
- Under the *Crimes of Torture Act 1989*, we examine and make recommendations to improve the conditions and treatment of detainees in prisons, immigration detention facilities, health and disability places of detention, child care and protection residences and youth justice residences.

We are also one of a number of agencies advising the Secretary of Transport on applications received under section 241 of the *Land Transport Act 1998* for authorised access to personal information on the motor vehicle register.

From October 2010, we will act as an independent mechanism protecting and monitoring implementation of the United Nations Convention on the Rights of Persons with Disabilities.

Outcomes and impacts sought by the Ombudsmen

The overall outcome we want to achieve is enhanced public trust and confidence in a fair, responsive and accountable government. There are six intermediate outcomes that contribute to the achievement of this overall outcome.

1. Improved administrative and decision making practices in state sector agencies

We seek to achieve improved administrative and decision making practices in state sector agencies, primarily by undertaking investigations under the Ombudsmen Act, and making suggestions or recommendations for specific corrective action or improvements to processes or procedures when appropriate to remedy identified shortcomings. This may be on complaint or on the Ombudsmen'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 investigate selected serious incidents in prisons. In relation to people with disabilities, we investigate issues relating to the implementation of the United Nations Convention on the Rights of Persons with Disabilities.

2. Increased transparency, accountability and public participation in government decision making

We seek to achieve increased transparency, accountability and public participation in government decision making, primarily by undertaking investigations under the official information legislation, ensuring compliance with the legislation and making recommendations necessary to remedy non-compliance, including, where appropriate, the release of official information.

3. Potential serious wrongdoing brought to light and investigated by appropriate authorities

Our aim is that:

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

We seek to achieve this by performing advisory, referral and investigative functions under the Protected Disclosures Act.

4. People in detention treated humanely

We seek to achieve humane treatment of people in detention by undertaking monitoring and inspection of 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.

5. Improved capability of state sector agencies in administrative, decision making and complaints handling processes and operation of official information legislation

Although the investigation of individual complaints is one way of driving improvements in state sector administrative, decision making and complaints handling processes, we also seek to be more proactive in assisting agencies to improve the quality of decision making, delivery of services, and administrative processes before incidents occur and we are asked to investigate. We do this by:

- monitoring trends and developments and identifying skill and knowledge gaps;
- reviewing legislative, policy and administrative proposals and practices to ensure consistency with principles of good administration and decision making and open and transparent government; and
- providing advice, training and information resources to build state sector capability in administrative, decision making and complaints handling processes, and in the operation of the official information legislation.

6. Improved public awareness and access to Ombudsmen services

We aim to improve awareness amongst New Zealanders of our role and services, and make access to our guidance and information resources and services easy for all New Zealanders. We undertake a range of public awareness-related activities, including making speeches and presentations, publishing information and resources, and maintaining a website so people can access information and resources electronically.

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Report on operations

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Official information

Protected Disclosures Act

Crimes of Torture Act

United Nations Convention on the Rights of Persons with Disabilities

Policy and professional practice

State sector capability

Public awareness and accessibility

International relations and development

Report on Operations

Ombudsmen Act

In this section we give an overview of our work under the Ombudsmen Act (OA), and discuss the following issues arising:

- Work in the corrections sector
- Complaint against the Securities Commission by the Hubbard Support Team
- Civil Aviation Authority air crash investigation
- District Health Boards and complaints about medical practitioners
- Release of building consent information
- Schools' obligations to be good employers

Overview

The numbers

We received fewer complaints in 2010/11 than in previous years – 6,163 compared with 8,488 in 2009/10, and 7,615 in 2008/09. The decrease is explained in part because this year we are separately reporting the number of 'enquiries' received by the Office (955). But even so, it is considerable. The decrease enabled us to focus on the almost 1,000 OA complaints that remained outstanding from 2009/10. This is significantly more than we normally bring forward from one year to the next. Historically, we have averaged around 500 OA cases on hand at the beginning of any financial year. The primary cause of the increase was the large number of complaints and enquiries received in 2009/10 (almost 10,000). We completed 6,411 cases in 2010/11, enabling us to finish the reporting year with 735 OA complaints on hand, compared with 1,032 complaints the previous year. Detailed statistics can be found at pages 113 - 115.

The complainants

The OA is overwhelmingly used by individual members of the public, even though corporate entities are equally entitled to do so. This reflects the intent of the legislation, which is to provide recourse for people personally affected by the administrative acts and decisions of state sector agencies. In 2010/11, 98 per cent of OA complaints came from individual members of the public. Sixty-two per cent were from prisoners or prisoner advocates (not all against the Department of Corrections), and 36.5 per cent were from other members of the public. Only 1.2 per cent of OA complaints were made by corporate entities and special interest groups.

The agencies

In line with previous years, most OA complaints (79.4 per cent) were made against central government departments. The agencies generating significant numbers of complaints tend to be ones that interact with and impact upon large numbers of New Zealanders, such as the Department of Corrections, the Ministry of Social Development, the Department of Labour (Immigration New Zealand), the Accident Compensation Corporation, and Inland

Revenue Department. Thirteen per cent of OA complaints were made against other state sector agencies, and seven per cent were made against local organisations.

The outcomes

Not all OA complaints we receive are formally investigated. In a significant proportion of cases (48.6 per cent) our role was to provide advice and assistance to complainants about the most appropriate way of addressing their concerns. We were able to resolve 8.6 per cent of the complaints received through informal intervention. In 411 cases (5.8 per cent), the agencies complained about agreed to reconsider the act or decision that was the subject of the complaint once we brought it to their attention.

We commenced formal investigations in 570 cases (eight per cent of the total under action during 2010/11). We managed to resolve 135 of these without needing to form a final opinion and recommendations. We formed final opinions in 217 cases, an increase of 13 per cent on the previous year. In 171 of these cases, the final opinion was that the complaint was not sustained. In only 46 cases – eight per cent of all those formally investigated – did we sustain complaints that the conduct of state sector agencies was administratively deficient. We made formal recommendations in only 10 cases. All recommendations were accepted, although in one case, not all of our recommendations were implemented (detailed discussion of this case can be found at pages 49 - 50).

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

In 697 cases, we declined to investigate complaints because the complainant had:

- a right of appeal or other alternative remedy available to them (662);
- known about their complaint for more than 12 months (14);
- insufficient personal interest in the subject matter of the complaint (10).

A further 201 complaints were against organisations not within the Ombudsmen's jurisdiction.

Timeliness

As noted in the Introduction (pages 10 - 13), this was our first year reporting against new and more meaningful timeliness targets. We aimed to complete 90 per cent of cases relating to matters outside our jurisdiction within one month of receipt, but achieved this in only 80 per cent of cases. We exceeded all other timeliness targets in the OA jurisdiction, completing:

- 95 per cent of cases that were within jurisdiction but did not warrant a formal investigation within three months of receipt;
- 93 per cent of urgent investigations within four months of receipt;
- 78 per cent of non-urgent but high public interest cases within six months of receipt; and
- 77 per cent of all other cases within 12 months of receipt.

Issues arising

Work in the corrections sector

Complaints and enquiries

OA complaints concerning the Department of Corrections (Corrections) continued to account for a very significant proportion of our overall OA workload (64 per cent). Last year we received 3,940 and closed 4,092 OA complaints concerning Corrections. The complaints were made predominantly by or on behalf of prisoners.

Around two-thirds of these complaints were able to be addressed by our Early Assistance Group, within an average of 4.17 working days. This was down from 5.44 working days the previous year. The remaining third required more in-depth consideration by the Ombudsmen and the prisons investigation team, and were completed in an average of 31.32 working days. This was down from 32.6 working days the previous year. Overall, we reduced the average working days required to complete prison complaints from 16 to 15 working days.

Each prison was visited five times during the reporting year, giving prisoners the opportunity to discuss matters face-to-face with investigators. The most common complaints related to prisoner property (16.7 per cent), prisoner phone calls and written communications (9.5 per cent), prisoner transfers and movements (9.4 per cent), prisoner health services (6.4 per cent), prison conditions (5.8 per cent) and OIA/Privacy Act matters (5.5 per cent).

Own motion investigations

Because of the number of complaints we receive about Corrections, there is often real value to be gained by investigating significant systemic issues of our “own motion”, as we are empowered to do by section 13(3) of the OA. In 2010/11 we completed three own motion investigations.

Disposable safety razor policy

This investigation stemmed from an incident of prisoner self-harm in the Remand Unit at New Plymouth Prison. A prisoner was found to have used a prison issued razor blade to self-harm by cutting his wrist in his remand cell. At the time, Corrections had recently introduced a “Disposable Safety Razor Policy”, which was intended to limit the opportunity for self-harm by misuse of razor blades. We investigated the circumstances and events surrounding the incident of self-harm, the implementation of the policy, and whether any change to policy or practice was required.

We found no concerns with the actions of Corrections staff in responding to the incident. We did find inconsistencies in how the policy had been implemented across prisons, and that insufficient practical guidance had been provided to staff. We recommended a review of best practice regarding the issue and collection of razors, and the provision of further advice and guidance to staff. Corrections advised that it has reviewed the implementation of the policy and established new effective audit processes. Recent statistics indicate a significant reduction in incidents involving razor blades, which suggests that the policy is having a positive impact.

Strip gowns

This investigation also stemmed from an incident of prisoner self-harm, this time at Christchurch Women's Prison. "Strip gowns" are a form of rip-resistant clothing issued to prisoners deemed to be at risk of self-harm. In this case, a prisoner held in a safe cell in the prison's at-risk unit had been separately issued with two strip gowns, and was able to rip both of them in attempts at self-harm. We investigated the circumstances and events surrounding the incident, and the policies, procedures and practices for issuing strip gowns to prisoners.

We again found no concerns with the actions of Corrections staff in responding to the incident. However, we found that the gowns issued to the prisoner were in poor condition and did not meet current specifications. We also found that incidents of prisoners ripping strip gowns regularly occur. We observed inadequate recording and auditing practices relating to the issue and inspection of strip gowns.

Corrections advised that it has projects underway looking at how it can better manage the at-risk process, and trialling new strip gowns. We recommended, among other things, that suitable specified designed tear resistant gowns are made available to prisoners at risk of self-harm, and that Corrections establishes effective procedures for the maintenance, replacement and auditing of suicide prevention clothing and bedding.

Corrections Inmate Employment (CIE) complaint procedures

CIE is a branch of Corrections that runs and employs prisoners in various prison industries. After receiving a number of complaints from prisoners employed by CIE, we decided to investigate the procedures by which prisoners employed by CIE may raise complaints about CIE and its staff. We found, amongst other things, that CIE provides little information to CIE employed prisoners on how it deals with complaints, and that not all CIE staff have a good knowledge of the complaints procedure. We also found that CIE provided employed prisoners with incomplete information on dismissal procedures. We made a number of recommendations directed at establishing clear complaints procedures, raising awareness of those procedures, and ensuring that dismissal procedures for CIE employed prisoners are complete.

All of our own motion investigation reports are available at www.ombudsmen.parliament.nz.

In 2010/11, we continued our own motion investigation into prison health services. We will report on that investigation in 2011/12.

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 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, but we do not direct or instruct the Inspector during the investigation process.

In 2010/11 we monitored investigations into 23 deaths in custody. This compares with 15 deaths in custody the previous year, and 16 the year before. We completed 24 investigations relating to deaths in custody, eight pertaining to deaths that occurred in 2010/11, 12 pertaining to deaths that occurred in 2009/10, and four pertaining to deaths that occurred in 2008/09. This is twice the number of death in custody investigations completed in 2009/10.

In 83 per cent of concluded cases we found the departmental investigation to be fully satisfactory, and it was unnecessary for us to make any further comments additional to the Inspectors' reports. In 17 per cent of concluded cases, we found the departmental investigations to be substantially satisfactory, but made comments additional to the Inspectors' reports.

Serious incidents

Also 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, such as incidents of self-harm, assaults and use of force.

In 2010/11 75 serious incidents received preliminary assessment as to whether further enquiries were warranted. In most cases this involved reviewing all incident and follow-up reports, and making informal enquiries. We commenced formal investigations in 10 cases. We concluded three investigations after receiving satisfactory information from Corrections. The remaining seven investigations are ongoing.

Civil Aviation Authority air crash investigation

A lengthy and highly technical investigation was completed during 2010/11, concerning the adequacy of the Civil Aviation Authority's (CAA's) investigation into an aircraft accident in 1999, which resulted in the death of the pilot and his passenger. The accident was caused by the failure of a newly installed engine after only 59 hours of flying operation.

It is not an Ombudsman's function to second guess a body such as the CAA, which Parliament has established by statute and invested with the authority and means to investigate these types of events. However, an Ombudsman will review administrative aspects of the investigation process, if it is warranted and appropriate.

In this case the CAA was, in a number of respects, able to provide satisfactory responses to the complainant's concerns. However, the Ombudsman identified two administrative deficiencies in the conduct of the CAA's investigation.

First, the company that had overhauled the engine was the same company that CAA engaged to ascertain the cause of the engine's failure. This clearly raised a potential conflict of interest that ought to have been recognised and managed. As a result of the Ombudsman's investigation, the CAA revised its procedures for examining wreckage, noting that if outside assistance is required, consideration must be given to whether potential conflicts of interest arise due to previous work carried out on the aircraft by the examining organisation.

Secondly, the CAA unreasonably omitted to interview the engineers who overhauled the engine. The Ombudsman considered that it should be standard practice for CAA investigators to consider interviewing the engineers where engine failure occurs so soon after the engine overhaul. There should be a presumption that the engineers will be interviewed in cases where engine failure occurs within 100 flying hours of the overhaul. If that procedure is departed from investigators should be required to document the reasons why. CAA advised that such practice is now entrenched in the investigation unit's practice guidelines.

Complaint against the Securities Commission by the Hubbard Support Team

In July 2010, we received a large number of complaints from the supporters of the late Allan Hubbard. Mr and Mrs Hubbard and a number of entities associated with them, including Aorangi Securities Ltd, had been placed under statutory management by an Order in Council made by the Governor-General on the advice of the Minister of Commerce, following a recommendation of the then Securities Commission (the Commission). Mr Hubbard's supporters alleged that a member of the Commission involved in making the recommendation to the Minister had an undisclosed conflict of interest. Because of the level of public interest in the matter, as reflected by the large number of complaints received, the report of the investigation was published on our website. The Chief Ombudsman found no evidence to suggest the Commission's recommendation had been affected by any undisclosed conflict of interest, potential or otherwise.

District Health Boards and complaints about medical practitioners

In 2010/11, we investigated a complaint against a District Health Board (DHB) by a medical practitioner. The DHB had received allegations from a member of the public against the practitioner, who ran a private medical practice. The DHB had effectively adopted the complainant's allegations as its own, and submitted a complaint in its own right to the Medical Council.

The Ombudsman found there was nothing to prevent DHBs from making complaints about medical practitioners, but it was unreasonable to do so in this case without first giving the practitioner an opportunity to comment. In the course of the investigation, the Ombudsman set out what he considered to be appropriate conduct in cases where complaints are made to DHBs about medical practitioners:

- A DHB is obliged to respond positively and helpfully to any member of the public drawing concerns about a medical practitioner to its attention.
- Its response should include advice about who to make a complaint to if this is a possible option.
- If the concerns that come to its attention involve services or facilities provided by the DHB itself, it is obliged to consider whether it should initiate any action of its own.
- If the concerns do not relate to a matter for which the DHB has any responsibility, it should usually confine its involvement to giving advice or information as to how the person raising the matter can proceed.
- But, exceptionally, the DHB may consider that the matter raised with it (even though it has no responsibility for it itself) is or appears to be of such a serious nature that it should be drawn to the attention of the proper authority.
- Normally, in this case, this should be done by the person raising the matter and the DHB may go beyond a mere advice role and urge the person to do this.
- If the person is not willing to raise it with the proper authority and the DHB thinks that, nevertheless, the matter cannot be ignored, it may assume responsibility for doing so itself.
- In any case in which a DHB decides on its own responsibility to lay a complaint (and this includes where its own responsibilities are involved) it should satisfy itself first that it has good grounds for doing so. This will involve seeking an explanation from any person against whom an allegation is to be made, unless that would be impracticable or otherwise undesirable (for example, if this would prejudice an investigation by the proper authority).

Release of building consent information

Also during the reporting year, we completed two complaints concerning access to personal details (names and addresses of individuals) that are part of building consent information held by local authorities. One complaint by a resident concerned Auckland City Council's practice of proactively releasing such information to a company, which then made it available to third parties on subscription. The other complaint, by the company itself, concerned the former Waitakere City Council's decision to cease voluntarily making such information available.

The first complaint concerned the reasonableness of the decision to *release* such information - a matter which fell for consideration under the OA. The second complaint concerned the reasonableness of the decision to *cease releasing* such information. As that complaint raised access to information issues, the Local Government Official Information and Meetings Act (LGOIMA) was clearly relevant. The Ombudsman approached both complaints by considering the legality (under the LGOIMA) and reasonableness (under the OA) of a local authority's actions in releasing building consent information.

The issue of access to personal details that are part of building consent information had been considered previously by former Chief Ombudsman Sir Brian Elwood¹ in the context of a Local Government Official Information and Meetings Act (LGOIMA) complaint. He concluded that local authorities were not permitted to withhold such information in order to protect personal privacy, primarily in light of provisions in the Building Act 1991, which provided for such information to be accessible as of right.

In the following years, local authorities developed a practice of proactively releasing such information to subscribers for a fee. Nevertheless residual concerns have remained about the privacy implications of this practice. Given that, and given also that the Building Act 1991 has been replaced by the Building Act 2004, the Ombudsman decided to consider the matter afresh in order to develop principles of broader application to inform the practice of local authorities in this area.

Application of the LGOIMA

The Ombudsman's starting point was to consider whether there would be a justifiable basis under the LGOIMA for withholding personal details contained in building consent information.

Whether withholding is necessary to protect personal privacy

The LGOIMA provides that information may be withheld if it is "*necessary to protect the privacy of natural persons*" (section 7(2)(a)).

The Ombudsman noted that section 217 of the Building Act 2004 provides a right of access to building consent applications and other documentation associated with building consents. This information includes personal details. In addition, section 44A of the LGOIMA permits anyone to require a territorial authority to issue a Land Information Memorandum (LIM) relating to a property. The LIM must include all building consent information held by the authority in relation to that property, including personal details.

The Ombudsman concluded that, where personal details are part of building consent information and are consequently available under the Building Act and on a LIM, it cannot be "*necessary*" to withhold such details in order to protect the privacy of the individual concerned. Parliament, in section 217 of the Building Act and section 44A of the LGOIMA, has provided that such information must be made available.

The Ombudsman acknowledged that building consent applicants have genuine concerns about the potential availability of their personal details. These concerns are shared by the Privacy Commissioner, who was consulted as part of the Ombudsman's investigation. However, the Ombudsman agreed with Sir Brian's earlier observation that the appropriate means of addressing such concerns is by amending the legislation. The Ombudsman's role is to "*apply the present legislation as it is seen to be, rather than as might be seen by some to be desirable*".

¹ "*Is Building Consent Information Private?*", Ombudsmen's Quarterly Review, 1(2), June 1995.

Whether release would be contrary to other laws

The LGOIMA also provides that a request may be refused if release of the information would be contrary to the provisions of a specified enactment (section 17(c)(i)). The local authorities argued that release would be contrary to the Building Act, which sets out a regime for accessing building consent information, and the Privacy Act.

The Ombudsman concluded that the Building Act and the LGOIMA operate in parallel, providing different means of accessing building consent information. One does not exclude the other. Given the constitutional significance of the official information legislation, any implication that it is to be excluded from operation would only be drawn in a clear case. There is nothing in the Building Act that expressly or by implication excludes the LGOIMA.

In relation to the Privacy Act, the Ombudsman noted that section 7(1) of that Act clearly states that nothing in principle 11 (which relates to disclosure of personal information) derogates from a provision in another Act authorising or requiring personal information to be disclosed.

The Ombudsman therefore did not accept that release would contravene the provisions of any other enactment.

Whether the information is publicly available

The LGOIMA also provides that a request may be refused if the information is publicly available (section 17(d)). The local authorities claimed that, as the information can be obtained by exercising one's Building Act rights, it is "publicly available". The Ombudsman found that, in respect of a request for information relating to an individual property, a local authority would be justified in requiring a requester to exercise their Building Act rights. However, in respect of a request relating to a large or unspecified number of properties, requiring a requester to proceed under the Building Act would not be reasonable.

The Ombudsman therefore concluded that there was no justifiable basis under the LGOIMA for withholding personal details contained in building consent information.

Application of the OA

If there is no justifiable basis under the LGOIMA for withholding personal details contained in building consent information, can it be administratively unreasonable for an agency to make that information available proactively for a fee? In the Ombudsman's view, no.

Proactive release arose out of regular requests for this information under the LGOIMA, and following the former Chief Ombudsman's endorsement of the legality of providing the information under that Act. In this context it was not at all unreasonable for local authorities to adopt a practice of proactive release. To have required requests for such information to be submitted on an ongoing basis could rightly be criticised as unduly bureaucratic.

The Ombudsman therefore did not uphold the resident's complaint that Auckland City Council's decision to release such information was unreasonable. He upheld the company's complaint, noting it was unreasonable for the Council to cease providing information it would have been obliged to release under the LGOIMA and the Building Act.

However, the Ombudsman also noted that local authorities that choose to release information proactively and outside the scheme of the LGOIMA will not receive the benefit of protection from civil and criminal liability conferred by section 41 of that Act. Local authorities proactively releasing personal details that are part of building consent information will therefore need to consider their obligations under the Privacy Act. Whether they are complying with those obligations is ultimately a matter for the Privacy Commissioner and the Human Rights Review Tribunal to determine.

Wider issues

The Ombudsman informed the Department of Building and Housing that there are difficult questions concerning the right to access building information under the Building Act and the right to that information under the LGOIMA, and suggested the Department consider this issue in the context of its current review of the Building Act.

The Ombudsman also commented that local authorities should do what they can to promote a wider understanding of the potential dissemination of building consent information, both in terms of individual requests and the bulk supply of that information. This may be done by including such information in the privacy statement attached to building consent application forms.

Schools obligations to be "good employers"

In 2010/11, the Chief Ombudsman considered a complaint from a high school teacher's aide who was injured by a student she was supervising. As a result, she required considerable dental treatment. The cost of the treatment was partially met by ACC, but being unable to meet the residual amount on her own account, she looked to her employer to assist her. While initially making a contribution to her costs, the school board of trustees declined to make any further payment which would have enabled her to complete the treatment.

The Chief Ombudsman accepted that the board may not be legally liable to compensate the complainant for the cost of the dental work. However, she considered whether it was administratively unreasonable to decline to do so.

The Chief Ombudsman was of the view that in declining to assist the complainant the board failed to have proper regard to the statutory requirement to be a “good employer” (section 77A of the State Sector Act 1988). Instead the board had left its employee ‘in the lurch’, in circumstances where the employee’s performance of her duties (without fault on her part) had caused a loss to the employee.

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The Chief Ombudsman was of the view that the complainant was justified in thinking that the board had treated her very unfairly, particularly when her claim was for her treatment costs only, and not compensation for the trauma she experienced as a result of the incident.

In the event, the complainant was successful in obtaining financial assistance from Child, Youth and Family Services, who had some responsibility for the student concerned. Accordingly, it was not necessary for the Chief Ombudsman to form an opinion or make any recommendations. However, the Chief Ombudsman expressed her disappointment in the board’s approach, and invited the trustees to reflect on their position.

Irrespective of the legal position, there was, in the Chief Ombudsman’s view, a moral obligation for the board to restore the complainant to the position she was in before she was assaulted while doing her job.

Where significant numbers of OA complaints arose

	Year ended 30/06/10	Year ended 30/06/11
Central Government >=30 complaints		
Department of Internal Affairs	22	30
Ministry of Social Development	351	375
Department of Labour	301	243
Inland Revenue Department	110	121
Ministry of Justice	79	56
Local Government >=15 complaints		
District Councils – all ²	226	208
Tasman	14	23
City Councils – all ²	163	129
Auckland	65	60
Wellington	16	27
Christchurch	32	19
Regional Councils – all	51	46
Other Organisations >=15 complaints		
Accident Compensation Corporation	192	171
Educational institutions	140	146
Police	48	79
Earthquake Commission	10	72
District Health Boards	35	56
Housing New Zealand Corporation	46	37
New Zealand Transport Agency	27	36
Health and Disability Commissioner	34	25
New Zealand Teachers Council	4	17
Privacy Commissioner	14	16
Legal Services Agency	17	16

² Total for all Councils is inclusive of those detailed.

Official information

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

- Regulations overriding the OIA
- Obtaining contact information for the purpose of enforcing Tenancy Tribunal orders
- Register of pecuniary interests of Members of Parliament
- Unannounced inspection reports of rest homes and hospitals
- State sector expense information
- State sector salary information

An issue arising under the OA also raised access to information issues under the LGOIMA - see pages 27 - 30 of this report for discussion about "*release of building consent information*".

Overview

The numbers

Numbers of official information complaints have not diminished. We received 992 complaints under the OIA and 256 complaints under the LGOIMA. This is comparable with numbers of complaints received in 2009/10, but high in comparison with recent years past. In fact, it is the highest number of OIA complaints received since 2000/01. We completed 1,038 OIA cases and 271 LGOIMA cases. This is significantly more than in recent years – 17 per cent more than in 2009/10 – and the highest number of OIA complaints completed since 1999/00. Detailed statistics can be found at pages 116-119.

The complainants

This year's statistics continue to suggest that members of the public are making good use of their rights to request information under the OIA and the LGOIMA, and to complain to the Ombudsman if dissatisfied. Individuals accounted for well over half of all OIA complaints (58.4 per cent), and three-quarters of all LGOIMA complaints (76.9 per cent). The next highest users were the media, who made 17 per cent of all OIA complaints, and 14 per cent of all LGOIMA complaints. This year, MPs and political party research units accounted for a smaller proportion of OIA complaints received – 6.3 per cent, compared with 10.8 per cent last year.

The agencies

Thirty-nine per cent of official information complaints were made against government departments; a fifth were made against local authorities and other agencies subject to the LGOIMA; 11 per cent were made against Ministers of the Crown; and 30 per cent were made against other state sector agencies. The percentage of complaints against Ministers is disproportionately large, but reflective only of the fact that New Zealanders are keenly interested in understanding what executive government is doing and why.

The complaints

Seventy per cent of all official information complaints concerned the partial or outright refusal of requests for official information. After refusals, the most common complaint concerned an agency's failure to decide on a request, or extend the time period for deciding, within 20 working days. These are referred to as 'delay deemed refusal' complaints, because the delay is deemed by section 28(4) of the OIA and section 27(4) of the LGOIMA to be a refusal of the request. Twenty-two percent of all official information complaints received during the reporting year concerned delay deemed refusals. Last year we reported having received the lowest number of delay complaints against central government agencies since 1993/94. That trend has not continued. We received 219 delay complaints against central government agencies, compared with 164 received last year, representing an increase of 25 per cent.

The outcomes

Most official information complaints are formally investigated, however 302 cases were informally resolved in the reporting year. We commenced formal investigations in 54.5 per cent of all completed official information cases (713 out of 1309). We managed to resolve 202 of these without needing to form a final opinion and recommendations.

We formed final opinions in 366 official information cases. In most cases (234) the complaints were not sustained. In the remaining cases (132 or 18.5 per cent of all cases formally investigated) we formed the final opinion that the decision complained about was wrong or unreasonable. We made 17 recommendations under the OIA and one recommendation under the LGOIMA. All recommendations were accepted.

Timeliness

In our first year reporting against more meaningful timeliness targets, we failed to meet a number of the targets set. We aimed to complete 90 per cent of all matters outside jurisdiction within one month of receipt, but completed 66 per cent (OIA) and 67 per cent (LGOIMA) of such matters within that timeframe. For investigated complaints, we aimed to complete 90 per cent of all urgent cases within four months of receipt (**priority 1**), and 70 per cent of all other cases within either six months (**priority 2**), or 12 months (**priority 3**), depending on the level of public interest in the matter. In the LGOIMA jurisdiction, we completed 86 per cent of priority 1 cases within four months. We exceeded the targets for priority 2 and 3 cases, completing 73 per cent and 88 per cent respectively within the target timeframes. In the OIA jurisdiction we fell short, completing just 73 per cent of priority 1 cases, and 51 per cent of priority 2 cases, within the target timeframes. We met the target for priority 3 cases, completing 71 per cent within the year.

Issues arising

Regulations overriding the OIA

During the reporting year we considered a complaint by someone seeking information about the citizenship status of an individual. The Minister and Department of Internal Affairs argued that release of the information would be contrary to regulation 15 of the Citizenship Regulations 2002, which provides that information on the citizenship register can only be disclosed to certain people in certain circumstances.

The principle of availability under the OIA was never intended to override Parliament's clearly expressed legislative intention that specified information should not be made available to the world at large. Hence section 18(c)(i) of the OIA provides a reason for refusing a request if it would be contrary to the provisions of a specified "enactment" to make the information available. In addition, the OIA provides by way of a "savings" provision that it does not derogate from any provision in any other Act of Parliament or in regulations made before 1 July 1983 that imposes a prohibition or restriction on the availability of official information, or regulates the manner in which official information is made available.

The Ombudsman accepted that release to the requester would be contrary to regulation 15. However, he did not accept that a regulation made after 1 July 1983 could have the effect of overriding the OIA unless the empowering provision under which that regulation was made expressly or impliedly provides for the presumption of availability of official information under the OIA to be abrogated. To accept otherwise does not do justice to the constitutional status of the OIA. There was nothing in the empowering provisions in the Citizenship Act 1977 that justified the setting aside of one's obligations under the OIA. Accordingly, the Ombudsman did not accept that section 18(c)(i) of the OIA could apply.

In our view, Parliament must have made clear its intentions to override the OIA by way of primary or pre-existing secondary legislation in order to have that effect.

Obtaining addresses for the purpose of enforcing Tenancy Tribunal orders

An amendment to the Residential Tenancies Act 1986 (RTA) was enacted in October 2010, which establishes in legislation the formal process for requesting addresses for the purpose of enforcing Tenancy Tribunal orders.

This amendment follows Ombudsman investigations in 2003 into complaints by Tenancy Tribunal judgment creditors whose requests for the addresses of judgment debtors had been refused in order to protect the debtors' privacy. The Ombudsmen formed the view that there is an overriding public interest in release of the addresses to assist in the enforcement of civil judgment debts, and thereby maintain the proper administration of justice and promote respect for the law³.

³ See the Ombudsmen's Annual Reports for the years ended 30 June 2003, 30 June 2004, and 30 June 2008.

As a result of these investigations, a process was established whereby address information would be released to the Ministry of Justice by the Department of Building and Housing (DBH) or the Ministry of Social Development (MSD), where judgment creditors were seeking to enforce Tenancy Tribunal orders, and had taken all reasonable steps to locate the judgment debtors themselves.

That process has now been formally enacted in sections 112A to 112F of the RTA, under which the Chief Executive of DBH is responsible for liaising with MSD and the Ministry of Justice and responding to the judgment creditor when an application for address information is made.

Register of pecuniary interests of Members of Parliament

In the context of investigating a complaint about the withholding of information relating to Ministerial residences, it was asserted that correspondence to a Member of Parliament (MP) from the Registrar of Pecuniary Interests (the Registrar) could not be released as it would constitute contempt of the House of Representatives. Reliance was placed on section 18(c)(ii) of the OIA, which provides that a request for official information may be refused if release would constitute contempt of the House of Representatives. The Ombudsman took the opportunity to set out for future reference our position in regard to information of this nature and his finding in this particular case.

Whether such correspondence is official information

Correspondence between the Registrar and MPs relating to the returns required of members under the Standing Orders is not official information in the hands of the Registrar or the MP to whom the correspondence relates.

In the case of the Registrar and MPs who hold no ministerial office this is because the OIA does not extend to them at all.

In the case of MPs who are Ministers of the Crown this is because the correspondence is not held by them in their official capacities as Ministers. The requirement to register pecuniary interests, and dealings with the Registrar in fulfilment of this requirement, arise from one's position as an MP, not from one's ministerial office.

However, if correspondence between the Registrar and an MP comes into the possession of a body that is subject to the OIA (a department or organisation), or comes to be held by a Minister in an official capacity, it becomes official information held by that body or Minister. The letter in question had come into the Prime Minister's hands in his ministerial capacity, and was therefore official information.

Whether release would constitute contempt

It would be contempt of the House if the Registrar or staff of the Office of the Clerk were to release correspondence with MPs relating to the register, other than as authorised by the Standing Orders. (Clause 18 of Appendix B of the Standing Orders sets out the circumstances in which returns and information may be released.)

However, it would not be contempt of the House for an MP to release correspondence he or she has had with the Registrar. In fact, MPs commonly release copies of their returns or correspondence with the Registrar when questions arise as to their compliance with the rules. There can be no question of them thereby committing contempt.

Nor would a third party to whom such information is properly disclosed commit contempt of the House in disclosing that information in turn. There is nothing in the Standing Orders to suggest this, or to suggest that it would serve any parliamentary interest to attempt to utilise the contempt power in these circumstances. As many such disclosures by MPs are by tabling in the House and thus disclosing to the world at large, there is usually no intention on the part of the MP to maintain confidentiality. There may well be such an expectation of confidentiality in a disclosure to another person (such as in disclosure to the Prime Minister in this case). But that is a private matter between those parties, not a matter that can be enforced by invoking the House's power to punish for contempt.

If such information is obtained by a third party improperly (for example, by theft) that is a different matter. To obtain such material improperly is probably contempt in itself and disclosure of improperly obtained material would compound the contempt.

The Ombudsman did not accept that release would constitute contempt of the House. However, he did find that section 9(2)(ba)(ii) of the OIA provided good reason to withhold the correspondence.

Unannounced inspection reports of rest homes and hospitals

In another case the Ombudsman considered the Ministry of Health's refusal to release unannounced inspection reports of a number of rest homes and hospitals.

The Ministry considered that release would have a negative effect on the reputation of the providers, and consequently their commercial position. The Ministry relied on section 9(2)(b)(ii) of the OIA, which provides a reason for refusal where release of information would be likely unreasonably to prejudice a third party's commercial position.

The Ombudsman was not convinced that any such prejudice would be "unreasonable" because consumers have a right to know whether the facilities that they or their family members are considering using provide safe and responsible levels of service. They should have the opportunity to draw their own conclusions from information about the quality of the health care services provided by particular rest homes and hospitals.

The Ombudsman also commented that there is a strong public interest in assuring the public that facilities which receive public funding to care for vulnerable people are held properly accountable for the provision of a service that meets quality and safety requirements. The disclosure of inspection reports is a critical element in meeting that interest.

It is also necessary to ensure that the public has confidence in the unannounced inspection process. This would seem to be best achieved by making the process as transparent as possible, thereby helping to dispel any possible scepticism about whether a full and searching inspection has taken place and about the extent to which the provider has been made accountable and required to remedy the deficiencies in its service standards.

While the Ministry had attempted to address the public interest by releasing summaries of the reports, the Ombudsman found this was not sufficient. The summaries effectively asked consumers to accept on faith that certain deficiencies had been identified and would be remedied. They do not provide the detail which is contained in the inspection reports and which would enable consumers to be more confident that they are making a decision about the suitability of a particular facility for themselves or a family member with as much information as possible. The inspection reports contained much fuller details, disclosure of which would serve to enhance the public's perception of the transparency of the process and increase its confidence that providers are held to account.

The Ministry accepted the Ombudsman's opinion and released the information.

State sector expense information

In 2010 we received a number of complaints concerning requests for information about expenses incurred by state sector chief executives and elected officials. One of these complaints concerned a request to the former Manukau City Council for the names of guests who had been invited to a fundraising event at the Council's expense. The names were withheld in order to protect their privacy. In the course of investigating this complaint, the Chief Ombudsman set out some general principles that apply to requests for the names of beneficiaries of state sector hospitality.

At a minimum the following information should be disclosed:

- names of elected representatives, board members, directors, chief executives, and senior managers;
- number of other officials / employees;
- names of senior representatives of private sector, non-governmental or international organisations;
- any family relationships between officials / employees and guests (e.g. chief executive + partner); and
- number of guests.

In considering requests for the identities of guests, it is necessary to weigh their privacy interests against the public interest in disclosure.

The strength of the privacy interests will depend on factors such as:

- the purpose of the event;
- the location of the event (whether it was in a public or private place);
- who else attended;
- the public profile of the guests;
- the knowledge of the guests regarding who funded the event;
- the relationship between the agency and the guest i.e. whether there is a business relationship, even if the furtherance of that business is not the primary purpose of the event; and
- any special confidentiality needs.

The public interest in disclosure will depend on factors such as:

- the amount of expenditure incurred;
- the type of expenditure, for instance, whether it is “sensitive expenditure” as defined by the Auditor-General⁴;
- whether there are problems, difficulties or concerns in relation to the expenditure⁵; and
- whether sufficient information has been disclosed about the purpose of the event to assure the public of the propriety of the expenditure.

⁴ “*Sensitive expenditure*” provides, or has the potential to provide, or the perceived potential to provide a benefit to an individual staff member of a public entity that is additional to the business benefit to the entity of the expenditure (*Controlling sensitive expenditure: Guidelines for public entities*, Controller and Auditor-General, 2007, p 7). As the Auditor-General notes “*there is heightened public sensitivity when individuals in the public sector are perceived to benefit personally, or do directly benefit, from sensitive expenditure incurred during the conduct of a public entity’s business*” (ibid, p 9).

⁵ According to the Auditor-General the most frequently occurring problems arise with expenditure that is:

- of a nature that is, or could be regarded as, extravagant or immoderate for the public sector;
- incurred without there being a justifiable and adequately documented business purpose;
- subject to poorly defined policies and procedures;
- not adequately substantiated by invoices, receipts or other relevant documentation to support claims or payments;
- committed before appropriate authority has been obtained; and
- made with proper scrutiny to ensure compliance with an entity’s policies and procedures (ibid, p9).

The Chief Ombudsman also identified the following general public interest considerations favouring disclosure of information about state sector expenses:

- it promotes accountability of agencies and officials for expenditure decisions;
- it facilitates public understanding of the purpose of expenditure;
- it provides public assurance about the propriety of expenditure; and
- it ensures proper and prudent expenditure of public money through transparency of decision making.

In the case in question, the Chief Ombudsman formed the view that the privacy interests of the guests were outweighed by the public interest in disclosure. The Council released the information so there was no need to make any formal recommendations.

The Ombudsmen are in the process of preparing a guide on requests for state sector chief executive expense information which will be published in 2011. The purpose of this guide will be to clarify the principles that apply to such information so that:

- requesters have realistic expectations about what they can reasonably expect to be properly available under the OIA; and
- agencies can respond to such requests in a more timely manner than has been the case to date.

State sector salary information

We also received a number of complaints from Council Watch, which had embarked on a research project analysing senior management salaries paid by local authorities. Council Watch requested salary details of second tier managers in \$10,000 bands. A number of local authorities resisted disclosure on the grounds of protecting personal privacy.

The Ombudsmen set out their position on requests for salary details of second tier managers as early as 2003⁶, stating:

“Subject to consideration of the individual factors involved, salaries of second-tier management, especially where that management has responsibility for the provision of services to the public and deals with the public, should be disclosed in financial bands. This will generally meet accountability requirements while preserving a reasonable degree of privacy.”

The issue in these cases was the appropriate width of the financial band.

⁶ “Requests for public sector salary information”, Ombudsmen’s Quarterly Review, 9(3), September 2003.

The Ombudsman acknowledged the privacy interest in salary information, which is highest in circumstances where the salary of an individual is likely to be identified. However, there is also a public interest in holding state sector agencies accountable for their spending, including the amount spent on salaries. The public interest is stronger the higher the position of the staff member involved, and the higher the salary of the manager. This is because the sum of money at issue is larger and the accountability interests are correspondingly increased.

The Ombudsman concluded that while release of salary information in \$10,000 bands is ideal, there will be situations where that is not appropriate on privacy grounds. Larger bands or aggregate release may be justified where the number of senior managers is small, and the managers and their salaries can therefore be identified. In such cases, the agency must be able to justify departing from \$10,000 bands, and clearly explain how it has balanced the competing private and public interests.

In a case involving four senior managers the Ombudsman suggested release in \$40,000 bands. In a case involving five senior managers, the Ombudsman suggested release in \$30-35,000 bands. In cases involving a relatively large number of senior managers, the Ombudsman formed the view that information could be released in \$10,000 bands. This is because the number of staff involved would mean it would be unlikely that any particular individual would be able to be identified.

Where significant numbers of OIA complaints arose

	Year ended 30/06/10	Year ended 30/06/11
Departments and organisations >=20 complaints		
Police	149	122
Department of Corrections	38	91
Ministry of Social Development	53	70
Department of Labour	24	48
District Health Boards	62	42
Accident Compensation Corporation	41	39
Educational institutions	50	36
Ministry of Justice	29	30
Department of Internal Affairs	14	23
Inland Revenue Department	10	23
Ministry of Education	20	22
Ministry of Foreign Affairs and Trade	5	18
Ministers of the Crown >= 15 complaints		
Prime Minister	17	21

Where significant numbers of LGOIMA complaints arose

	Year ended 30/06/10	Year ended 30/06/11
>=10 complaints		
City Councils – all ⁷	121	87
Auckland	34	37
Wellington	19	20
Dunedin	11	14
District Councils – all	136	88
Regional Councils – all	26	34

⁷ Total for all Councils is inclusive of those detailed.

Protected Disclosures Act

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

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

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

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

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

In 2010/11, we received seven and completed six requests for guidance and assistance. We exceeded our timeliness target of completing 95 per cent of all requests for guidance and assistance within six months of receipt, completing 100 per cent within that time. We commenced one investigation under the PDA which is ongoing.

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

- unlawful, corrupt, or irregular use of funds or resources of a public sector organisation;
- acts etc that constitute a serious risk to public health or safety or the environment;
- acts etc that constitute a serious risk to the maintenance of law, including the prevention, investigation, and detection of offences and the right to a fair trial;
- acts etc that constitute an offence;
- acts etc by public officials that are oppressive, improperly discriminatory, or grossly negligent, or that constitute gross mismanagement.

However, even if an issue does not reach the threshold of serious wrongdoing, it may relate to a matter of administration capable of investigation under the Ombudsmen Act (OA). In 2010/11, we commenced one investigation under the OA of a matter raised under the PDA, which is ongoing.

Despite the high threshold, it is not clear why the PDA is not used more often. It may be due to a lack of awareness of the Act⁸, or a perception that the protections it provides are inadequate. It could also be a reflection of the fact that New Zealand enjoys such low levels of corruption.⁹

⁸ 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.

⁹ In 2010, New Zealand was ranked first equal in the Annual Transparency International Corruption Perception Index, meaning perceived levels of Public Sector Corruption are among the lowest of the 180 Countries Surveyed.

Crimes of Torture Act

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

Overview

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

- prisons (19);
- health and disability places of detention (75);
- child care and protection residences (4);
- youth justice residences (5); and
- immigration detention facilities (1).

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

We are assisted in carrying out our functions under COTA by two Inspectors. In 2010/11 we committed to carrying out 11 announced and 5 unannounced visits to places of detention.¹⁰ We ended up carrying out a total of 23 visits, up from 17 the year before. Twelve of our visits were unannounced. These visits included:

Places of detention	Announced visits	Unannounced visits
Prisons	3	9
Health and disability places of detention	5	3
Aged care facilities	1	-
Child care and protection residences	1	-
Youth justice residences	1	-
Total	11	12

We produced 20 inspection reports, twice as many as the year before, and made 103 recommendations. We reported back to all places of detention within three months of conducting a visit, exceeding our target of doing so in 95 per cent of all cases. Seventy-six per cent of our recommendations were wholly or partially accepted. This can be broken down as follows:

¹⁰ While we had anticipated carrying out up to 50 visits, we were unsuccessful in obtaining funding for a third inspector.

Recommendations	Accepted	Not accepted
Prisons	54	22
Health and disability places of detention	24	3

Generally speaking, the rejected recommendations did not raise any significant or systemic issues; and in every case, the agency concerned provided adequate reasons for the decision not to accept the recommendation(s). However, the Inspectors will continue to monitor the situation in case further issues or problems arise in the future.

This brings the total number of scoping visits conducted to date to 100 and the total number of focused visits to 49.

Issues arising

Prisons

Smoking ban

In our 2009/10 report, we noted our concern that the Department of Corrections' (Corrections') decision to continue to allow staff to smoke whilst banning prisoners from doing so would impact adversely on prisoners' unlock hours. In 2010/11 we learned that staff and prison visitors will not be permitted to smoke inside the secure perimeter of the prison or bring cigarettes or other tobacco-related items inside the wire. Staff will be able to smoke in clearly designated areas outside the secure perimeter of the prison, but only during authorised breaks. This would appear to address our concerns about the possibility of reduced unlock hours. However, the Inspectors will continue to monitor the situation during the coming year.

Double cells

In our 2009/10 report, we reported having no immediate concerns regarding the proposed double-bunking of prisoners. In 2010/11 we conducted follow-up visits to see how double-bunking was working in practice. We identified some concerns around inadequate privacy screens surrounding some of the toilet facilities in shared cells. However, we are pleased to note that Corrections has initiated a significant programme of improvement to bring shared cells up to a new minimum standard across all prison sites.

At risk regimes

We also identified concerns with the management of prisoners with mental health issues in at risk units. The Inspectors spoke with a number of prisoners who had been detained in at risk units for several months, often in strip conditions, and with limited opportunities to interact with others. Prisoners in at risk units may be locked down for as many as 22 hours a day. This is because the units are focused on custody rather than treatment. In comparison, the same prisoner whilst in hospital care is usually unlocked for most of the day and has the opportunity to interact with others. This is because the hospital's management of the prisoner is treatment-focused, with custodial considerations being secondary. At risk regimes will be a primary focus for the Inspectors during 2011/12.

Cell temperatures

The expansion of the 8am to 5pm regime across the prison estate has exacerbated the issue of high temperatures in some cells. During the summer months cell temperatures have been recorded as high as 29 degrees (with cell doors open). Whilst Corrections has a suitable policy to address the issue in the form of providing small electric fans, the policy is not always complied with at some sites. Corrections has undertaken to ensure that all sites comply with the policy.

Food services

Another issue raised in the course of the year was the quality of the food provided to prisoners, and particularly the standard of the sandwiches provided to prisoners as lunch. While we received assurances that the quality would improve, significant improvement has yet to be seen. We will continue to monitor food services in the coming year.

Questionnaires

We have been trialling a short questionnaire for prisoners to get a better idea of their experiences of prison life. The confidential questionnaire is distributed and collected by the Inspectors and to date the response rate has been very good. We intend to continue the questionnaire during 2011/12.

Health and disability places of detention

Hybrid orders

In our 2008/09 and 2009/10 reports we identified significant information breakdown problems around the administration of the Criminal Procedure (Mentally Impaired Persons) Act 2003 and the impact these problems were having on offenders sentenced under what are known as hybrid orders. We asked the Ministry of Justice to investigate where the information breakdown was occurring and how it could be rectified. The Ministry has now advised that, subsequent to its discussions with Courts, Corrections and Health, a process has been developed to ensure that information about offenders subject to hybrid orders is captured electronically.

Intellectual Disability (Compulsory Care and Rehabilitation) Act

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At one particular mental health site the Inspectors were introduced to a client whose primary diagnosis was one of an intellectual disability, but who was being detained under the Mental Health (Compulsory Assessment and Treatment) Act 1992 (MH(CAT) Act). It soon became apparent whilst speaking with managers and staff on the unit, that the client should have been under the care of a specialist service for people with an intellectual disability.

Unfortunately, this client (along with other similar clients in the region), was unable to be provided with inpatient treatment under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003, because that legislation only applies to persons who have an intellectual disability and who are charged with, or convicted of, an offence. Because there are no inpatient beds in this particular region for the management of acutely disturbed, intellectually or developmentally disabled people, they are inappropriately admitted to the mental health unit.

Although managers and clinicians have raised their concerns, it would appear that the unit is being used as a default service for people with a primary intellectual disability diagnosis, and/or people who are exhibiting challenging behaviour and who are unable to be managed by Disability Support Services. This suggests that persons with an intellectual disability, who have not committed a crime and who do not meet the threshold for detention under the MH(CAT) Act, are not adequately covered by existing legislation and facilities. We have raised this concern with the Ministries of Justice and Health, and will continue to monitor the situation in 2011/12.

Definitive list of sites

We had some difficulty initially establishing a definitive list of mental health sites that potentially came under our jurisdiction. We subsequently wrote to each District Health Board and they have supplied us with a list of their mental health units. We will have completed scoping visits to each of the identified sites by the end of 2011/12.

Looking forward

In 2011/12, the Inspectors are committed to carrying out 22 visits to places of detention, at least 11 of which will be unannounced. Some unannounced visits may occur outside normal business hours. District Health Boards and the Department of Corrections have been advised of this to ensure that the Inspectors are not prevented from gaining access to any of the sites. We are confident that by the end of 2012 all places of detention under our remit will have been visited.

United Nations Convention on the Rights of Persons with Disabilities

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

Overview

New Zealand signed the Disabilities Convention on 30 March 2007 and ratified it on 26 September 2008. The purpose of the Disabilities Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities. Article 33 says that states should establish a framework, including one or more independent mechanisms, to “promote, protect and monitor” progress in implementation of the Disabilities Convention. In New Zealand the independent mechanisms are the Ombudsmen, the Human Rights Commission, and the Convention Coalition, a group comprising six major disabled peoples organisations. The Ombudsmen’s role is carried out under the Ombudsmen Act, pursuant to which we:

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

Budget 2010 made provision for the Ombudsmen to scope what would be required in order to give effect to their role in relation to the Disabilities Convention.

Issues arising

Complaints

One of our first steps was to apply a Disabilities Convention lens to all current complaints on hand, as well as incoming complaints going forward. At year’s end, we had approximately 20 complaints on hand which raised issues relevant to the Disabilities Convention. These complaints are mainly in the areas of health, education and social services. They are at various stages of investigation. Examples of concluded complaints are discussed below.

School exams – Special Assessment Conditions

Candidates with permanent or long-term medical or physical conditions or learning disabilities which they believe will significantly impair their performance in internal assessment and specified external assessments may apply to the New Zealand Qualifications Authority (NZQA) for an entitlement to Special Assistance Conditions (SAC) in the current year.

During 2010/11 a school was approached by the parent of a student with epilepsy requesting arrangements for the student to sit her exams in a private room. The school approached NZQA about whether a SAC might be granted, even though the application was out of time. The NZQA provided advice to the school which suggested that the late application could not proceed but also that a separate examination room could be provided at the parent's cost. The parent complained to the Ombudsman about the school's handling of the request. In the course of this investigation, the Ombudsman made informal enquiries with NZQA about the SAC late application process.

The Ombudsman found that the school had acted appropriately in this instance. However, NZQA acknowledged that the advice given to the school, while well-meaning, was not appropriate, and that no approval of a late SAC application should have been given at all, without a formal application being made by the school. In particular NZQA found that the school should not have been told that a parent could pay to have SAC provisions provided at the school. NZQA offered to resolve the matter by providing a private room for the student to sit her exams, free of charge. NZQA also noted that it is about to review its special assessment application processes for 2011, and its experience in this case will inform that review, and help to ensure greater clarity around approval and decline processes.

Ministry of Health and home modifications

The Ministry of Health (the Ministry) administers a policy regarding the provision of financial assistance for housing modifications for disabled persons. A woman whose husband was in hospital undertook some housing modifications so that she could bring him home. She later applied to the Ministry for reimbursement of the cost of the modifications. It appeared that her application met all the relevant criteria, apart from a requirement that applications may not be made retrospectively. Her application was declined and she complained to the Ombudsman. The Ombudsman made findings on the legal basis for the policy, and the reasonableness of the non-retrospectivity requirement.

The legal basis for the policy

Previously there was a statutory entitlement to housing modification assistance under the Disabled Persons Community Welfare Act 1975. Now it is a part of the New Zealand Disability Strategy, administered in accordance with Ministry policy. This means that the rules under which funds are disbursed are in practice determined wholly within the Ministry and with little need or opportunity for outside input into such decisions. The Ombudsman considered that the statutory entitlement to such assistance should be re-affirmed rather than being left at a high strategy level, and that the rules under which the scheme is administered should be set out in regulations rather than in departmental policy. This would emphasise the entitlement nature of the support, be transparent, and introduce an ability to debate the conditions of the scheme at a parliamentary level.

The non-retrospectivity requirement

The Ministry explained that it is essential to carry out a needs assessment in advance of housing modifications being undertaken. The Ombudsman agreed that this may be more efficient, but to insist on it is putting the interests of the policy above the interests of the potential beneficiaries of it. The objective of the policy is to assist persons with disabilities to make necessary modifications to enable them to live safely in a home environment, and it should not matter whether those modifications are made before or after a funding application. One must not lose sight of the objectives of providing this kind of support in the first place. If a claimant deserves such support then it is an unreasonable policy that discriminates solely on the basis of when that support is sought. The Ombudsman concluded the non-retrospectivity requirement was unreasonable, in that it unduly prefers administrative convenience over recognition of need.

Recommendations

The Ombudsman recommended that:

1. *The New Zealand Public Health and Disability Act 2000 be reconsidered with a view to it recognising an entitlement to housing modification assistance as an element of disability support services.*
2. *The rules under which housing modification assistance is available be contained in regulations made under the Act.*
3. *There be recognition (with appropriate safeguards) that reimbursement may be obtained retrospectively of expenses incurred on housing modifications made in accordance with the rules for obtaining such assistance.*
4. *The Ministry consider making a payment to the complainant for the amount she has claimed for housing modifications, if the Ministry is satisfied that the application would have met the relevant criteria for funding if it had not been made retrospectively.*

The Ministry's response

The Ministry accepted recommendations 3 and 4. It reimbursed the complainant \$7,900, the maximum amount payable under the policy without requiring prior income and asset testing. It revised its operational policy and recognised that, with appropriate safeguards, reimbursement may be obtained retrospectively for expenses incurred on housing modifications that have been made in accordance with the rules for obtaining such assistance.

The Ministry advised that it did not propose to give effect to recommendations 1 and 2:

"A review of the New Zealand Public Health and Disability Act 2000, predicated on the objective of establishing an entitlement to housing modification assistance, is not tenable given the administrative framework of providing other health and disability services, current fiscal constraints, ongoing concerns

about the growth in Vote: Health expenditure, and the need to balance funding fairly across all health and disability priorities (and indeed Government's priorities generally). Consistent with this approach, there are currently no powers under the New Zealand Public Health and Disability Act that would enable regulations of the sort that are proposed to be made."

International interest

There is considerable interest internationally in the roles the Ombudsmen are taking on in relation to both the Crimes of Torture Act and the Disabilities Convention. There is interest in the wider human rights element to our work and the way in which we are working collegially with other independent mechanisms in this sphere. The Chief Ombudsman has provided a briefing for the International Ombudsman Institute in this respect. The Ombudsmen's role under the Disabilities Convention is also likely to be a topic on the agenda of the 10th World Conference of the International Ombudsmen Institute, to be held in Wellington in November 2012.

Looking forward

The Ombudsmen are currently working with the Human Rights Commission and Convention Coalition to:

- develop a monitoring framework for the independent mechanisms to apply;
- produce a pamphlet promoting the monitoring work of the independent mechanisms;
- prepare an Annual Report to Parliament by the end of 2011; and
- place a notice in the Gazette regarding the new roles of the independent mechanisms.

In addition, we are scoping possible own motion investigations for 2011/12, and reviewing and planning our communications and outreach strategy for the Disabilities Convention role.

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 Ombudsmen services.

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

State sector capability

In order to build state sector capability we provide advice and training to state sector agencies, and produce resources relevant to the Ombudsmen's jurisdiction.

Advice

In 2010/11 we provided advice on 35 legislative, policy and administrative proposals relevant to the Ombudsmen's jurisdiction. In addition, considerable resources were expended providing advice to the Secretary of Transport on applications for authorised access to the motor vehicle register. Some examples of the advice we provided are set out below.

Applications for authorised access to the motor vehicle register

As a result of legislative changes which came into effect last year the motor vehicle register is no longer open to the public. People are able to apply to the Secretary of Transport under section 241 of the Land Transport Act 1998 for standing authorisation to access personal information on the register. Before deciding on an application, the Secretary is required to consult the Chief Ombudsman, the Privacy Commissioner and the Police Commissioner.

This regime required a significant commitment of resources during its first year of operation. In total, we provided comments on 112 applications, as well as class authorisations for financial service providers, motor vehicle traders and service stations. The exercise was akin to forming an opinion under the official information legislation whether the refusal of a request is justified in order to protect personal privacy, or whether the relevant privacy interests are outweighed by the public interest in disclosure.

Complaints handling processes

As agencies respond to the Government's call for a focus on efficient and effective frontline services, they are reviewing and amending or developing and implementing their own complaint handling systems. A number of these agencies have approached our Office for assistance on the key elements that are expected to be present in a best practice complaint handling system. In 2010/11 this included the Ministry of Education, the Occupational Safety and Health Service of the Department of Labour, the Earthquake Commission, and the Plumbers, Gasfitters and Drainlayers Board.

Compliance with the official information legislation

Agencies often request our advice on 'live' requests for official information and how best they can comply with the legislation. We will not tell agencies what to do in relation to 'live' requests. This would be inappropriate given that we may be called on to investigate and review the decision ultimately taken. However, we are happy to provide advice in general terms about the requirements of the legislation, and the types of considerations they ought to be taking into account. In 2010/11 we provided such advice on 43 occasions.

Agencies also seek our advice on developing policies for handling official information requests. In 2010/11 we assisted the Inland Revenue Department (IRD), the Ministry of Transport and the New Zealand Transport Agency with aspects of their official information policies. In respect of the IRD, we also reviewed two years worth of OIA complaints against that agency, and reported back on emerging issues and trends that might inform IRD's review of its official information policies and procedures.

Law Commission review of the official information legislation

The Law Commission published its issues paper *The Public's Right to Know: A review of the Official Information Act 1982 [OIA] and Parts 1–6 of the Local Government Official Information and Meetings Act 1987 [LGOIMA]* in September 2010. We made detailed submissions on the issues raised, which are available on our website www.ombudsmen.parliament.nz.

We agree with the Commission's overall impression "that the OIA and LGOIMA are central to New Zealand's constitutional arrangements, that their underlying principles are sound, and that they are generally working well" (page 5). However, we also agree that there is scope for the legislation to be improved. Our key contentions were that:

- A flexible case-by-case approach is preferable to a prescriptive rules-based approach, and that greater clarity should be achieved through enhanced guidance.
- A harm-based approach is preferable to a class-based approach, meaning official information should only be withheld because of the harm that would flow from release, and not because it falls within a particular class or category.
- There should be one Act covering both central and local government.
- The legislation should be self-contained, incorporating relevant provisions from the Ombudsmen Act (OA) explicitly rather than by reference, and that it should be redrafted and re-enacted.

Training

We offer training on request to agencies looking to improve their understanding of the Ombudsmen's role and functions, and the requirements of the OA and official information legislation. In 2010/11, we conducted 29 workshops and training seminars around New Zealand, up from 23 the previous year. The agencies included the Department of Corrections, the Ministry for the Environment, the Ministry for Culture and Heritage, the Ministry of Consumer Affairs, the New Zealand Transport Agency, the New Zealand Qualifications Authority, the Human Rights Commission, the Charities Commission, Maritime New Zealand, the Civil Aviation Authority, newly elected members of local authorities, and Greater Wellington Regional Council. The training ranges from 30 minute general overviews to half

day workshops. For some agencies, more than one session was involved. One hundred per cent of participants in our training reported that it would assist them in their work.

Resources

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

Public awareness and accessibility

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

In 2010/11 we signed up for the Office of Ethnic Affairs Language Line, which provides an interpretation service for people who have difficulty communicating in English as a second language. We also continued to publish pamphlets on "Making complaints about government agencies", "Making requests for official information", "A guide to the Protected Disclosures Act", "Making complaints about the prison service", and "Making complaints about tertiary education". These are available in English, Maori, Samoan and traditional and simple Mandarin.

We also initiated a real push to be more visible, active and engaged in community events. We delivered 29 presentations and workshops on the role of the Ombudsmen, up from 20 last year. Audiences included community law centres, citizens advice bureaux, community groups, universities, and students' associations, professional conferences, and media organisations. Particular initiatives included a presence at regional Consumer Rights Days and the National Agricultural FieldDays (FieldDays).

Consumer Rights Days

We attended Consumer Rights Days in South Auckland, Gisborne, Kaitaia, Whangarei, and West Auckland. Consumer Rights Days are an initiative of the Ministry of Consumer Affairs, which recognised an opportunity for the general public to find out more about how to solve a range of consumer problems. A number of agencies were involved, including the Commerce Commission, Disputes Tribunal, Motor Vehicle Disputes Tribunal, Electricity & Gas Complaints Commission, Financial Dispute Resolution, Insolvency & Trustee Service, Insurance & Savings Ombudsman, Banking Ombudsman, the Retirement Commission, and the Telecommunication Dispute Resolution Service. The Consumer Rights Days attracted a good number of attendees of diverse ages and cultures. The programme is ongoing and upcoming meetings will be held in Central Auckland, and the Turangi-Taupo and Wellington regions.

FieldDays

We attended FieldDays from 15 to 18 June 2011, along with other members of the Australia New Zealand Ombudsman Association, including the Insurance and Savings Ombudsman, the Banking Ombudsman and the Electricity & Gas Complaints Commission. The FieldDays attracted 117,495 visitors, and so provided an opportunity to reach a large number of people, particularly those from rural and regional areas.

International relations and development

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

Delegations

In 2010/11, we received delegations from Australia, Argentina, Uruguay, Botswana, Korea and Niue. The comparative experience New Zealand has to offer in reviewing administrative practice, enforcing freedom of information legislation, and monitoring places of detention continues to be of considerable interest to other countries.

Networks

The Ombudsmen maintain their 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; and
- Pacific Ombudsman Alliance.

In October 2010 the Chief Ombudsman was appointed President of the International Ombudsman Institute. She is the first woman and the third New Zealand Ombudsman to hold this position.

We received particular assistance in 2010/11 from the Western Australian and Victorian Ombudsmen and the Energy and Water Ombudsman Victoria. An insight into their systems and processes, particularly around intake and assessment of complaints, will be invaluable as we look to improve our own systems and processes.

Training and assistance

The Ombudsmen continue to provide training and development assistance, when possible, to countries in the Pacific region. This is primarily 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 2010/11, our efforts were directed primarily toward Niue and the Cook Islands.

Niue

Niue is currently piloting a “Complaint Handling Ombudsman-backed Scheme” (CHOBS). Under the scheme, complaints about Niue government agencies can be made to the Chief Complaints Officer located in the Ministry of Justice. External support for the scheme is provided by our Deputy Ombudsman on request. In March 2011, two of our senior advisors visited Niue to provide training to officials, and raise public awareness of the scheme. CHOBS officials received training on the investigation and resolution of complaints, while agency officials received training on good decision making practices and internal complaint handling processes. Our staff continue to provide remote support, by telephone and email, as requested by the Chief Complaints Officer.

Cook Islands

In March 2011, a senior advisor from our Office completed a two month secondment in the Office of the Cook Islands Ombudsman. The secondment was funded by the Pacific Ombudsman Alliance at the request of the Cook Islands Ombudsman. The senior advisor assisted with the investigation of complaints (including clearing a ‘backlog’ of complaints), building staff capacity in complaint handling and investigations, and formulating consistent investigation practices and procedures. Our staff continue to provide remote support, by telephone and email, as requested by the Office of the Cook Islands Ombudsman.

5

Organisational health and capability

Overview

Managing performance

Financial and asset management

Human resource management

Information management

Risk management

Organisational Health and Capability

Overview

In past reports we have commented about work done to clearly identify and articulate the outcomes sought from the Office of the Ombudsmen. We identified that the primary outcome we want to achieve is “enhanced public trust and confidence in a fair, responsive and accountable government”. We also identified intermediate outcomes and outputs including office level performance indicators that will for the first time be used in the 2011/12 reporting year to measure progress towards achieving the primary outcome. The measures will be reviewed and refined over time to ensure that they continue to be relevant and realistic.

During 2010/11 refinement of the Office’s organisational structure continued, and a detailed review of its work and information flows, and outputs as well as the usefulness of guidance resources and other communications with stakeholders was undertaken. The review identified opportunities to further strengthen quality assurance mechanisms and where improved policy and a wider range of guidance resources as well as closer engagement with stakeholders could strengthen and contribute to more timely resolutions of complaints and to minimising opportunities for complaints to arise in the first instance.

Implementation of these initiatives is essential to increasing capacity within the Office to respond to the many demands made of it and in particular to allow the Ombudsmen to target systemic issues within a particular agency or the wider public sector. The Office has the capability within its staff to develop improved ways to manage its workload and assist other agencies to implement improved administrative processes but its capacity to do the required work is severely limited by the resources provided. At present the Office is underfunded on an ongoing basis by approximately 12 percent or \$1 million per year.

The Office of the Ombudsmen has always operated within an environment of fiscal restraint. Both the Treasury and the Audit office have consistently advised that they consider the Office is not wasteful of the resources provided. The Office budget is very small comprising largely fixed costs with very limited discretionary expenditure. The Vote, always minimalist, is now so restricted that potential temporary savings arising from staff vacancies must be relied upon to pay some staff and fund core operating expenses such as electricity.

The Vote must be adequately funded on an ongoing basis to:

- support the Ombudsmen and the office to contribute meaningfully to the people of New Zealand having enhanced trust and confidence in a fair, responsive and accountable government;
- give people confidence in government administration; and
- contribute to savings throughout the wider public sector arising from improved government administration.

We appreciate the support of the Officers of Parliament Committee in securing some temporary financial assistance through to 30 June 2014 but we continue to be concerned that the assistance is of a temporary nature and is less than required.

Ombudsmen's interventions contribute directly to improved administrative processes including complaint handling within the wider public sector. The outcome of an investigation can resolve a problem affecting one person or agency or be of a more systemic nature with much wider application and consequently save agencies many thousands of dollars that can be better used to deliver government programmes. We have applied a new closure code structure to investigations completed in the 2011/12 year to show how the Ombudsmen contribute to improved government administrative systems and processes. If properly resourced the Office has the capability of contributing to direct and indirect savings equal to or greater than its annual cost of operations.

Managing performance

Last year we reported on the significant work done to improve quality assurance within the investigative process and more generally other work performed by the Office. During 2010/11 much of this work moved from policy and process development and design to actual roll out. A stocktake of all work on hand was undertaken to clarify or confirm the "state of play" of each investigation and identify where our internal processes could be further strengthened to achieve a more responsive and timely outcome to requests made for Ombudsmen assistance. Learnings from the stocktake have and are being incorporated into our work methodologies. Initiatives such as associating keywords, sub keywords, sectors and sub sectors and prioritising every complaint at the earliest opportunity with associated monitoring capability as well as much closer engagement between the operational and corporate arms of the Office all contribute to stronger management performance and overall better use of available resources.

Further improvements to managing performance are anticipated during the 2011/12 year. These will include applying a weighting system when assigning work to investigators to support more balanced work distribution, earlier identification of opportunities to resolve complaints using informal processes with consequent resource savings to both affected agencies and the Office of the Ombudsmen, and better tools for identifying the contribution made by individual staff.

Financial and asset management

Vote Ombudsmen is presently reliant on temporary funding and ad hoc one-off savings to fund core expenses such as rent, power, communications and some staff positions. Even in the current economic climate that is not a proper way to fund the Office and risks jeopardising its independence. The current arrangement undermines the ability of the Office to apply resources to best advantage and restricts its ability to achieve the desired outcome for the Vote. The operational arm of the Office plays a major role in resource allocation, and operational needs are the primary consideration when allocating resources. The allocation of every dollar to each budget item is closely scrutinised. Financial management is not simply a corporate process within the Office.

The re-establishment of our Christchurch office post the 22 February earthquake was beyond the financial resources available to the Office. It was necessary to request special funding of \$160,000 to meet basic expenses associated with provisioning the Office so that it could resume operations. This was exclusive of capital assets that required replacement. New assets such as desks, chairs, computers and telephone equipment had to be purchased but no provision was approved by Government for the associated cost of depreciation. The Office will need to seek additional funding in 2011/12 to meet these costs.

“GreenTree” accounting and reporting software remains our primary accounting tool. The financial reports generated by the system deliver detailed information on a business unit basis. This contributes to more timely and informed decision making. 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 contributed to the effective use of the financial, human and other physical assets provided to the Office and in identifying potential problems at an early stage.

Government procurement agreements and SupplyCorp’s range of service and supply contracts are used to gain benefit from group bulk purchase discounts wherever possible. Where goods or services are not available at contract rates, we seek the best price possible by negotiation or competitive quote. We also negotiate term supply arrangements where there is an identified potential for savings. A narrow range of products and services are used by the Office with most expenditure committed to personnel, accommodation and GST.

For the past three years the annual audit of the Office has been done by Deloitte. During 2010 the Officers of Parliament Committee agreed that the Controller and Auditor-General should resume responsibility for the audit for the Office commencing with the 30 June 2011 audit.

The audit of the Office’s financial and non financial performance for the year ended 30 June 2011 did not identify any area of activity requiring significant improvement. We are aware that there exist some opportunities to further improve financial and asset management within the Office and where practical we will work with Audit New Zealand to achieve these. Investment in management and oversight systems must however be responsible and reflect the size of the Office and associated risks and costs. Over management can quickly consume scarce resources to the detriment of the Ombudsmen’s work to ensure that people in New Zealand are treated fairly.

A great deal of work has been done to improve the quality and content of the Office Statement of Intent for 2011 and outyears. Audit New Zealand acknowledges the improvements made to the 2011 Statement relative to previous publications. It has suggested more work concerning the appropriateness of the performance measures and the targets set or proposed.

Our senior staff work closely with The Treasury and Audit New Zealand to ensure a “no surprises” policy. The liaison allows the Office to benefit from their advice and guidance in matters relating to improving transparency of performance and reporting systems and ensures that both agencies have a sound understanding of the Ombudsmen’s working environment and issues that may or will impact on performance and delivery of our functions.

Human resource management

Last year we commented on a review of corporate and human resource policies. The purpose of the review is threefold:

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

The draft policies have been in the staff consultation phase since last year. The PSA has made representations on behalf of its members and these are now under consideration. With decisions having been taken regarding some refinements to the Office organisational structure, we are now able to progress the consultation.

Nine staff departed the Office during the year. Two staff retired, two resigned to care for family or for personal reasons and five took up employment with other organisations.

The current downturn in the economy has assisted with the retention of our skilled workforce. However, during the past year it became increasingly clear that staff commitment to the work of the Ombudsmen alone was insufficient compensation and could not be relied on to retain our skilled staff. Our senior and most experienced investigating staff are now being ‘headhunted’ by larger better paying agencies within the wider public sector. We are unable to compete with larger better funded agencies or with agencies with greater flexibility in resource allocation. Staff remuneration has not been adjusted for four years whilst, over the same period, the cost of living has increased by over 10 percent. Staff are aware anecdotally and by media reports of various agencies increasing staff remuneration. At present the Office is very vulnerable to losing skilled and experienced staff.

Approximately 23 percent or 15 staff participate in job sharing or reduced hours of employment arrangements. Most requests are to allow a better balance between work and personal life. Wherever possible these requests have been agreed to, providing the performance objectives of the Office can continue to be met.

The employment agreement with our staff provides for an “open ended” sick leave entitlement, subject to the Chief Ombudsman’s review if the illness is one where the employee is unlikely to be able to return to work in the medium to long term future. The following table records sick leave taken during each of the past six calendar years:

	1 July to 30 June				
	2007	2008	2009	2010	2011
Total leave days taken	204	257	269.4	405	383
Employees in period (FTE's)	52	60	63	63	61
Average days/employee	3.93	4.1	4.28	6.43	6.28

The total sick leave days taken includes 145.5 days of extended sick leave where staff have suffered serious illness or injury. Excluding those periods would reduce the average days per employee to 3.89 days per year.

For the 12 months ended 30 June 2011 the absentee rate for staff was:

383 actual days sick leave

$$247 \text{ working days} \times 61 \text{ staff} = 15,067 \text{ possible working days}$$

$$= \mathbf{2.5} \text{ percent (last year 2.6 percent).}$$

We encourage staff health and wellbeing through proactive initiatives including offering annual influenza inoculations, access to professional counselling services and eyesight and "wellness checkups". The "wellness checkups" focus on general health and assist staff with identifying lifestyle changes that may be beneficial to them. We also encourage staff to take at least one period of 10 consecutive days leave for rest and revitalisation.

The Office comprised 68 individuals (63 Full Time Equivalents - includes the Ombudsmen). The distribution of staff on a FTE basis was as follows:

Staff	Auckland		Wellington		Christchurch		Totals	
	M	F	M	F	M	F	M	F
Corporate roles	-	2	1	9.7	-	1.9	1	13.6
Operational roles - Investigating, Policy and Professional Practice	<u>3</u>	<u>4</u>	<u>15</u>	<u>19.3</u>	<u>3</u>	<u>2</u>	<u>21</u>	<u>25.3</u>
Total FTEs by gender and office	3	6	16	29	3	3.9	22	38.9
Total FTEs	9		45		6.9		60.9	

The ratio of operations staff to corporate or support staff was 3.17:1.

The staff of the Office is relatively long serving with 46 percent (last year 44 percent) having completed five or more years service.

	<=1 year	>1 and <=2 years	>2 and <=5 years	>5 and <=10 years	>10 years	Total
Number of staff (Not FTE's)	7	4	21	15	19	66

Staff performance is formally reviewed as at 1 July each year. A new and more transparent performance review and development system is in development. The performance measures being developed as part of the Office outcomes modelling project are intended to be more closely linked to personal performance indicators. Staff will be consulted about their use. The first full year using the new measures will be 2012/13. Work is expected to be completed on this project during the 2011/12 reporting year.

Information management

We have continued implementation of our information management strategy designed to support the Office's business needs as well as achieve progressive compliance with the Public Records Act. The strategy includes projects in support of achieving best practice in record keeping and information management and retrieval. Our first appointee to the role of information manager left the Office early in the New Year to take up alternative employment. The position could not be filled until August 2011. The effect was to slow or temporarily stop progress of various information management projects.

The Office's primary work and record management tool, the case management system, has had minor updates applied to reflect new business needs as these have been identified. The Office has started using the system to record and manage a wider range of work than solely investigations. This allows a more holistic overview and improved management of work being undertaken.

A post implementation review of the new system was undertaken during the year and we will take the results from this into account when rolling out future upgrades. The primary result of the review was that there was scope for better communication between developers and users.

The Office's information technology systems are reasonably current. We generally maintain system software at the next most current version. This methodology allows time for users to identify problems and vendors time to correct bugs and similar faults that are routinely present in new software releases. Virus and system security updates are the general exception. System security must be maintained at the most current level possible.

During the latter part of the year a new provider was engaged to supply data carrier services between our three offices. This was to achieve cost savings and more efficient use of bandwidth purchased. To date the service provided has met our expectations.

The Christchurch earthquakes provided a real world test of the resilience and flexibility of the Office's information systems. Although the Christchurch office of the Ombudsmen was made inaccessible by the earthquakes, we were able to remotely reconfigure our telephone and computer networks to continue operations with a minimum of disruption. No data was lost as a consequence of the earthquakes. Immediately after the 22 February earthquake and with new alternative accommodation secured close to Christchurch airport, Ombudsmen operations in Christchurch were recommenced via a microwave link to Wellington. Since the earthquake the Office has moved its disaster recovery server to Auckland.

We experienced very little system down time over the past year. When systems did fail, in most instances it was a consequence of an external fault at internet or communications supplier level.

Risk management

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We have developed strategies and initiatives for the management and mitigation of risks that appear more probable. These include:

- A Practice Leadership Team that meets to assess new work, establish priorities and act as a focal point for identifying professional practice issues.
- The ongoing review of professional practice and procedures within the Office, review and updating of support systems and information available to investigators and to external agencies.
- Staff training and development structures eg: broadening sector knowledge and increasing guidance advice available to investigators that lessen the risk of performance loss when subject knowledge is held by too few staff. Long serving staff contribute significantly to Office performance because their specialised knowledge and experience over many years enables investigations to progress with minimal delay and diversion. The investigators know the questions to ask and where to look for answers. The risk is that with such a high proportion of our staff being longer serving, when several leave to commence retirement or take up alternate employment, the loss is not made up by a simple numerical replacement. If the Office were to have an employment term profile common to most agencies, it is likely 3-5 additional investigators would be required to achieve the same throughput as at present.
- The development and delivery of training modules to external agencies that assists their consideration of complaints and requests for official information. This helps to manage down the caseload of work that might otherwise be referred to our Office.
- A "code of conduct" by which all members of the Office are expected to abide, including employment agreements for new staff that incorporate declarations concerning the truthfulness and accuracy of information they provide in support of their employment application.
- Physical security of our offices and for staff when meeting with complainants. Some complainants are emotionally stressed by the time they request Ombudsman assistance or find it difficult to consider any discussion that runs counter, or which they perceive to run counter, to their own view of what the outcome of an Ombudsman investigation ought to be.
- Self funding of any minor equipment losses that might occur. Limited external insurance arrangements have been put in place to provide for the replacement of equipment, furnishings, fittings and additional operational costs that might be incurred in a disaster situation or because of major disruption.

The aftermath of the 22 February Christchurch earthquake has resulted in claims on our insurers amounting to \$232,000. A response to the claims is awaited.

- Computer database security through use of RAID 5 level redundancy for all computer network servers. Daily and weekly backup tapes, daily NAS electronic backup of data and incremental daily backups to our disaster recovery server in Auckland as well as monthly backup tapes sent “off site” and “out of centre”. The weekly tapes are recycled at four weekly intervals and the monthly tapes on a six monthly cycle. Daily backups are recycled once each week.
- Measures have been implemented to provide for the continuation of services in most circumstances should systems or facilities in one of our offices fail. Examples are:
 - An integrated national telephone system where call answering etc may be redirected between offices.
 - Reassignment of the Office’s electronic information database to virtual environments that allow speedy recovery of Office electronic information systems in the event of hardware failure.
 - Architecting the Office’s IT based systems so that a fire or similar event in Wellington would not stop operations continuing at Auckland and Christchurch. The Office disaster recovery server which is capable of providing all core services, is based at Auckland. Throughout each day, data is incrementally uploaded to the server so that any data loss associated with such an event will be minimal.
 - Insurance cover to meet additional costs incurred, including temporary alternative accommodation, as a consequence of a fire or seismic event.

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

- Computer code associated with the new case management system is held in escrow.
- Computer hardware is replaced on a four yearly cycle. This reduces the risk of hardware failure and ensures the main elements of our computer network have supplier backup and support services available.
- Emergency First Aid and Civil Defence equipment and supplies are provided for each office and to all staff; and we maintain a pool of staff holding current First Aid qualifications at each of our offices. These were used to good effect when staff were compelled to abseil from our Christchurch Office immediately after the 22 February earthquake.



Beverley A Wakem
Chief Ombudsman



David McGee
Ombudsman

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Financial and performance information

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Statement of commitments

Statement of contingent liabilities and contingent assets

Statement of departmental expenses and capital expenditure against appropriations

Statement of unappropriated expenditure and capital expenditure

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Financial and performance information

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Statement of responsibility

In terms of the Public Finance Act 1989, I am responsible, as Chief Executive of the Office of the Ombudsmen, for the preparation of the Office's financial statements and the statement of 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 Ombudsmen for the year ended 30 June 2011.



Beverley A Wakem
Chief Executive
29 September 2011



Peter Brocklehurst
General Manager Corporate
29 September 2011

Independent Auditor's Report to the readers of the Office of the Ombudsmen's financial statements and statement of service performance for the year ended 30 June 2011

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 statement of service performance of the Office on her behalf.

We have audited:

- the financial statements of the Office on pages 78 to 107, that comprise the statement of financial position, statement of commitments, statement of contingent liabilities and contingent assets as at 30 June 2011, the statement of comprehensive income, statement of changes in taxpayers' funds, statement of cash flows, statement of departmental expenses and capital expenditure against appropriations, statement of unappropriated expenditure and capital expenditure and statement of trust monies for the year ended on that date and the notes to the financial statements that include accounting policies and other explanatory information; and
- the statement of objectives and service performance of the Office on pages 73 to 77.

Opinion

In our opinion:

- the financial statements of the Office on pages 78 to 107:
 - comply with generally accepted accounting practice in New Zealand; and
 - fairly reflect the Office's:
 - financial position as at 30 June 2011; and
 - financial performance and cash flows for the year ended on that date; and
 - 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 2011; and
 - unappropriated expenses and capital expenditure for the year ended 30 June 2011.
- the statement of objectives and service performance of the Office on pages 73 to 77:
 - complies with generally accepted accounting practice in New Zealand; and
 - fairly reflects for each class of outputs for the year ended 30 June 2011 the Office's:
 - service performance compared with the forecasts in the statement of forecast service performance at the start of the financial year; and
 - actual revenue and output expenses compared with the forecasts in the statement of forecast service performance at the start of the financial year.

Our audit was completed on 29 September 2011. This is the date at which our opinion is expressed.

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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 objectives and statement of service performance are free from material misstatement.

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

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

An audit also involves evaluating:

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

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

Responsibilities of the Chief Ombudsman

The Chief Ombudsman is responsible for preparing financial statements and a statement of objectives and service performance that:

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

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

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

Responsibilities of the Auditor

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

Independence

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

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

Karen Young

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

Matters relating to the electronic presentation of the audited financial statements.

This audit report relates to the financial statements of the Office of the Ombudsmen for the year ended 30 June 2010 included on the Office's website. The Chief Ombudsman is responsible for the maintenance and integrity of the Office's website. We have not been engaged to report on the integrity of the Office's website. We accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the website.

The audit report refers only to the financial statements named above. It does not provide an opinion on any other information which may have been hyperlinked to/from these financial statements. If readers of this report are concerned with the inherent risks arising from electronic data communication they should refer to the published hard copy of the audited financial statements and related audit report dated 30 September 2010 to confirm the information included in the audited financial statements presented on this website.

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

Statement of objectives and service performance for the year ended 30 June 2011

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

The following table is a summary of complaints and enquiries received and under investigation during the 12 months ended 30 June 2011 together with comparative statistics for the past four years:

	2006/07	2007/08	2008/09	2009/10	2010/11
On hand as at 1 July	994	918	1,040	1,330	1,720
Adjustment	-	105	(5)	14	10
Received during the year	9,090	8,808	9,150	9,950	8,706
Total under investigation	10,084	9,831	10,185	11,294	10,436
Completed during the year	(9,166)	(8,791)	(8,855)	(9,574)	(9,077)
On hand at 30 June	918	1,040	1,330	1,720	1,359

Of the 8,706 complaints and requests for assistance received in the year ended 30 June 2011, 955 were enquiries, 3,693 were complaints made by the general public and 4,058 were complaints made by prisoners concerning the Department of Corrections. The Office's Early Assistance Group (EAG) dealt with 3,737¹¹ enquires and complaints. Complaints and enquiries actioned by EAG are generally more open to an early resolution through use of informal processes. The remaining 4,969 complaints and requests often involve a higher level of resource commitment because they are more sensitive or complex or involve the review of significant amounts of information.

Demand for new investigations and requests for assistance reduced relative to past periods¹² but the decrease is expected to be only temporary. Many new complaints and requests are expected to be received during the 2011/12 year as a consequence of the Canterbury earthquakes and government agencies responding to high public expectations following the events.

The bulk of the Office's financial and staff resources are committed to in-depth investigations under the Ombudsmen Act and official information legislation that require more time to complete.

The quality of investigation is maintained with the personal involvement of an Ombudsman in every investigation that requires a provisional or final opinion. An Ombudsman signs all correspondence that provides a provisional or final opinion on a particular matter.

¹¹ Includes 2,645 concerning the Department of Corrections.

¹² Enquiries reduced from 2,427 in 2009/10 to 955 in 2010/11.

The following performance measures were applicable throughout the 2010/11 year:

Performance Measures	2010/11		2009/10
	Budget Standard	Actual	Actual
Improved administrative and decision making practices in state sector agencies (Ombudsmen Act 1975)			
% of complainants satisfied with standard of service	New measure 70%	Survey deferred to 2011/12¹³	NA
% of agencies satisfied with standard of service	New measure 70%	Survey deferred to 2011/12¹³	NA
All complaints and correspondence will be considered	Meet	Met	Met
# of complaints closed during the reporting year	Demand driven approximately 8,500	6,411	8,250
Monitor all death in custody investigations undertaken by the Department of Corrections	Incidence driven - approximately 12-15	23	NA
Priority D - Discretion whether to investigate - % completed within 3 months from date of receipt	New measure	95%	NA
Priority J - Outside jurisdiction - % completed within 1 month from date of receipt	New measure 90%	80%	NA
Priority 1 - Urgent - % completed within 4 months from date of receipt	New measure 90%	93%	NA
Priority 2 - High public interest - % completed within 6 months from date of receipt	New measure 70%	78%	NA
Priority 3 - Others - % completed within 12 months from date of receipt	New measure 70%	77%	NA
Increased transparency, accountability and public participation in government decision making (official information)			
% of complainants satisfied with standard of service regarding Official Information Act 1982.	New measure 70%	Survey deferred to 2011/12¹³	NA
% of agencies satisfied with standard of service regarding Official Information Act 1982.	New measure 70%	Survey deferred to 2011/12¹³	NA
% of complainants satisfied with standard of service regarding Local Government Official Information and Meetings Act 1987	New measure 70%	Survey deferred to 2011/12¹³	NA
% of agencies satisfied with standard of service regarding Local Government Official Information and Meetings Act 1987	New measure 70%	Survey deferred to 2011/12¹³	NA

¹³ A survey of agencies and complainants to assess satisfaction with the standard of service provided was originally planned for the latter part of 2010/11 but was deferred as a consequence of the Canterbury earthquakes. It was thought agencies did not need the distraction of a survey when under pressure to reinstate services etc in the city and surrounding area. Also, complainants based in Christchurch could not reasonably be expected to respond to a survey request. The surveys are now scheduled to occur during 2011/12.

Performance Measures	2010/11		2009/10
	Budget Standard	Actual	Actual
All complaints and correspondence will be considered	Meet	Met	Met
# of complaints closed during the reporting year - Official Information Act 1982	Demand driven - approximately 800	1,038	800
# of complaints closed during the reporting year - Local Government Official Information and Meetings Act 1987	Demand driven - approximately 250	271	282
Official Information Act 1982			
Priority D - Discretion whether to investigate - % completed within 3 months from date of receipt	New measure	73%	NA
Priority J - Outside jurisdiction - % completed within 1 month from date of receipt	New measure 90%	66%	NA
Priority 1 - Urgent - % completed within 4 months from date of receipt	New measure 90%	73%	NA
Priority 2 - High public interest - % completed within 6 months from date of receipt	New measure 70%	51%	NA
Priority 3 - Others - % completed within 12 months from date of receipt	New measure 70%	71%	NA
Local Government Official Information and Meetings Act 1987			
Priority D - Discretion whether to investigate - % completed within 3 months from date of receipt	New measure	91%	NA
Priority J - Outside jurisdiction - % completed within 1 month from date of receipt	New measure 90%	67%	NA
Priority 1 - Urgent - % completed within 4 months from date of receipt	New measure 90%	86%	NA
Priority 2 - High public interest - % completed within 6 months from date of receipt	New measure 70%	73%	NA
Priority 3 - Others - % completed within 12 months from date of receipt	New measure 70%	88%	NA
People in detention treated humanely (Crimes of Torture Act 1989)			
# of announced visits to places of detention under the National Preventive Mechanism designation	New measure 33	11	NA
# of unannounced visits to places of detention under the National Preventive Mechanism designation	New measure 17	12	NA
% of reports sent to places of detention with 3 months of visit	New measure 95%	100%	NA

Performance Measures	2010/11		2009/10
	Budget Standard	Actual	Actual
Potential serious wrongdoing brought to light and investigated by the appropriate authority (Protected Disclosures Act 2000 (Whistleblowers))			
% of requests for guidance and assistance completed within 6 months from date of receipt	New measure 95%	100%	88%
Improved capability of state sector in administrative, decision making, and complaint handling processes and official information legislation			
% of participants in Ombudsmen training who report that the training will assist them in their work	New measure 95%	100%	NA
% of agencies satisfied with information currently available from the Office	New measure	Survey deferred to 2011/12¹³	NA
# of training sessions provided to agencies during the reporting year	New measure - Demand driven approximately 30-40	29¹⁴	NA
# of practice guidelines, case notes, pamphlets produced or updated during the year	New measure - Demand driven approximately 10-15	12	NA
Improved public awareness and access to Ombudsmen services			
# of speeches and presentations given by the Office	New measure - Demand driven 25	29¹⁵	NA
# of non-English language pamphlets made available	4	4	4
# of general enquiries (non grievance based)	New measure - Demand driven	See footnote 16	NA
# of general enquiries (grievance based)	New measure - Demand driven approximately 500	955¹⁶	NA

The cost of investigation and resolution of complaints concerning government agencies for the period under review was approximately \$8.578 million excluding GST.

¹⁴ Relates only to training sessions provided to agencies within New Zealand.

¹⁵ Relates only to speeches and presentations within New Zealand.

¹⁶ During 2010/11 information held did not allow apportionment between complaint related and more general enquiries.

Statement of the cost of service for the year ended 30 June 2011

30/6/10 Actual \$(000)		30/6/11 Actual \$(000)	30/6/11 Main Estimates \$(000)	30/6/11 Supplementary Estimates \$(000)
8,018	Revenue Crown	8,591	8,568	8,592
-	Other Revenue	-	-	-
-	Interest	-	-	-
8,018	Total Revenue	8,591	8,568	8,592
(8,018)	Total Expenses	(8,578)	(8,568)	(8,592)
-	Net Surplus	13	-	-

Figures are GST exclusive.

Statement of comprehensive income for the year ended 30 June 2011

30/06/10 Actual			30/06/11 Actual	30/06/11 Main Estimates	30/06/11 Supp. Estimates
\$(000)		Notes	\$(000)	\$(000)	\$(000)
	Income				
8,018	Revenue Crown		8,591	8,568	8,592
—	Recovery from February 2011 Christchurch earthquake		160	—	160
8,018	Total income		8,751	8,568	8,752
	Expenditure				
6,024	Personnel costs	2	6,467	6,462	6,486
1,800	Other operating costs	3	1,910	1,900	1,900
—	Recovery from February 2011 Christchurch earthquake		133	—	160
169	Depreciation and amortisation	4	176	180	180
25	Capital charge	5	25	26	26
8,018	Total expenditure		8,711	8,568	8,752
—	Net surplus		40	—	—
—	Other comprehensive income		—	—	—
—	Total comprehensive income		40	—	—

The accompanying notes form part of these financial statements

Statement of financial position as at 30 June 2011

30/06/10 Actual \$(000)		Notes	30/06/11 Actual \$(000)	30/06/11 Main Estimates \$(000)	30/06/11 Supp. Estimates \$(000)
	Assets				
	<i>Current assets</i>				
521	Cash and cash equivalents		677	467	480
42	Prepayments		73	18	18
<u>1</u>	Debtors and other receivables		4	—	—
564	Total current assets		754	485	498
	<i>Non-current assets</i>				
412	Property, plant and equipment	6	378	304	295
	Intangible assets				
<u>95</u>	- Software	7	138	159	155
507	Total non-current assets		516	463	450
1,071	Total assets		1,270	948	948
	Liabilities				
	<i>Current liabilities</i>				
241	Creditors and other payables	8	340	159	159
-	Return of operating surplus	9	40	-	-
<u>487</u>	Employee entitlements	10	536	410	410
728	Total current liabilities		916	569	569
	<i>Non-current liabilities</i>				
<u>14</u>	Employee entitlements	10	25	50	50
14	Total non-current liabilities		25	50	50
742	Total liabilities		941	619	619
329	Net assets		329	329	329
	Taxpayers' funds				
<u>329</u>	General funds	11	329	329	329
329	Total taxpayers' funds		329	329	329

The accompanying notes form part of these financial statements

Statement of changes in taxpayers' funds for the year ended 30 June 2011

30/06/10 Actual \$(000)		Note	30/06/11 Actual \$(000)	30/06/11 Main Estimates \$(000)	30/06/11 Supp. Estimates \$(000)
329	Balance at 1 July		329	329	329
-	Total comprehensive income year		40	-	-
—	Return of operating surplus to the Crown		(40)	—	—
<u>329</u>	Balance at 30 June		329	329	329

The accompanying notes form part of these financial statements

Statement of cash flows for the year ended 30 June 2011

30/06/10 Actual \$(000)		Notes	30/06/11 Actual \$(000)	30/06/11 Main Estimates \$(000)	30/06/11 Supp. Estimates \$(000)
	Cash flows from operating activities				
8,018	Receipts from Crown		8,751	8,568	8,752
(5,984)	Payments to employees		(6,407)	(6,462)	(6,527)
(1,765)	Payments to suppliers		(1,919)	(1,900)	(2,117)
(24)	Payment for capital charge		(25)	(26)	(26)
(64)	Goods and services tax (net)		(22)	—	—
(7,837)			(8,373)	(8,388)	(8,670)
<u>181</u>	<i>Net cash from operating activities</i>	12	<u>378</u>	<u>180</u>	<u>82</u>
	Cash flows from investing activities				
(74)	Purchase of property, plant and equipment		(157)	(43)	(43)
(72)	Purchase of intangible assets - software	7	(65)	(80)	(80)
(146)	<i>Net cash from investing activities</i>		(222)	(123)	(123)
	Cash flows from financing activities				
-	Capital injections		-	-	-
(165)	Return of operating surplus		—	—	—
(165)	<i>Net cash from financing activities</i>		—	—	—
(130)	Net increase / (decrease) in cash		156	57	(41)
651	Cash at beginning of the year		521	410	521
<u>521</u>	Cash at end of the year		<u>677</u>	<u>467</u>	<u>480</u>

The GST (net) component of operating activities reflects the net GST paid and received with the Inland Revenue Department. The GST (net) component has been presented on a net basis, as the gross amounts do not provide meaningful information for financial statement purposes and to be consistent with the presentation basis of the other primary financial statements.

The accompanying notes form part of these financial statements.

Statement of commitments as at 30 June 2011

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 three 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.

30/6/10 Actual \$(000)		30/6/11 Actual \$(000)
	Non-cancellable operating lease commitments	
700	Less than one year	668
700	One to two years	141
203	Two to five years	-
-	More than five years	-
<u>1,603</u>	Total operating lease commitments	<u>809</u>

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

Other non-cancellable commitments

Nil. (2010 Nil).

Capital commitments

The Office has a capital commitment for the interior fit-out of new accommodation in Christchurch. This is a result of the 22 February Canterbury earthquake making the Office's former tenancy untenable. The cost of the fit-out is \$75,000 (2010 Nil).

The accompanying notes form part of these financial statements.

Statement of contingent liabilities and contingent assets as at 30 June 2011

Unquantifiable contingent liabilities

On 23 March 2011 the Office terminated its lease in the Forsyth Barr building as a consequence of the 22 February Canterbury earthquake rendering the building untenable. The Office's former landlord has since written advising it is reserving its position.

Quantifiable contingent liabilities

As at 30 June 2011 the Office does not have any quantifiable contingent liabilities.

Unquantifiable contingent assets

The Office's tenancy within the Forsyth Barr building in Colombo Street Christchurch was made untenable when the building stairwells collapsed during the 22 February Canterbury earthquake. A claim will be 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.

Quantifiable contingent assets

As at 30 June 2011 the Office does not have any quantifiable contingent assets.

(The Office did not have contingent assets or liabilities as at 30 June 2010).

Statement of departmental expenses and capital expenditure against appropriations for the year ended 30 June 2011

30/6/10 Actual \$(000)		30/06/11 Actual \$(000)	Appropriation		
			30/06/11 Final Voted \$(000)	Supp. Estimates Changes \$(000)	Budget Night Voted \$(000)
	Vote Ombudsman				
	Appropriation for output expenses				
7,403	Investigation and resolution of complaints about government administration	7,948	7,957	-	7,957
	Other expenses to be incurred by the Office:				
615	- Remuneration of Ombudsmen (Permanent Legislative Authority)	630	635	24	611
-	- Recovery from February 2011 Christchurch earthquake	133	160	160	-
<u>8,018</u>	Sub total	8,711	<u>8,752</u>	<u>184</u>	<u>8,568</u>
<u>146</u>	Office of the Ombudsmen Appropriation for capital expenditure (Permanent Legislative Authority)	222	<u>123</u>	-	<u>123</u>
<u>8,164</u>	Total	8,933	<u>8,875</u>	<u>184</u>	<u>8,691</u>

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

Statement of unappropriated expenditure and capital expenditure for the year ended 30 June 2011

30/06/10 Actual \$(000)		30/06/11 Actual \$(000)	30/06/11 Appropriation Voted \$(000)	30/06/11 Unappropriated Expenditure Actual \$(000)
	Appropriation for output expenses			
-	Investigation and resolution of complaints about government administration	7,948	7,957	-
	Other expenses to be incurred by the Office:			
-	- Remuneration of Ombudsmen (Permanent Legislative Authority)	630	635	-
-	- Recovery from February 2011 Christchurch earthquake	133	160	-
-	Sub total	8,711	<u>8,752</u>	-
-	Office of the Ombudsmen appropriation for capital expenditure (Permanent Legislative Authority)	222	<u>123</u>	-
-	Total	8,933	<u>8,875</u>	-

The appropriation Voted includes adjustments made in the Supplementary Estimates. Supplementary Estimates totalling \$184,000 were requested and approved for the 2010/11 financial year. Capital expenditure is funded by Permanent Legislative Authority and therefore is not unappropriated expenditure. The significant increase in actual capital expenditure relates to the reestablishment of the Christchurch office of the Ombudsmen post the 22 February Canterbury earthquake and requirement to purchase replacement furniture, fittings and equipment.

Expenses and capital expenditure incurred in excess of appropriation and subsequently approved under section 26B of the Public Finance Act 1989

Nil. (2010 Nil).

Expenses and capital expenditure incurred without appropriation or other authority

Nil. (2010 Nil).

Breaches of projected departmental net assets schedules

Nil. (2010 Nil).

Statement of trust monies for the year ended 30 June 2011

The Office of the Ombudsmen did not manage or hold any trust monies in the reported financial year. (2010 Nil).

Notes to the Financial Statements

1. Statement of accounting policies for the year ended 30 June 2011

Reporting entity

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

The primary purpose, functions and outcomes of the Office are discussed at pages 16 -18 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 New Zealand equivalents to International Financial Reporting Standards (NZ IFRS).

The financial statements of the Office are for the year ended 30 June 2011. The financial statements were authorised for distribution by the Chief Executive on 30 September 2011.

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 includes 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.

Standards and interpretations effective in the current period

NZ IAS 1 (Revised) Presentation of Financial Statements (effective for accounting periods beginning on or after 1 January 2009)

Changes to NZ IAS 1 have impacted disclosures relating to recognised income and expenses for the Office. All recognised income and expenses have been recognised in the statement of comprehensive income, separately from taxpayers' funds. The revised standard also includes changes to presentation and disclosure requirements.

Early adoption of standards and interpretations

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NZ IFRS 7 *Financial Instruments: Disclosures* – The effects of the early adoption these amendments are that the following information is no longer disclosed:

- the carrying amount of financial assets that would otherwise be past due or impaired whose terms have been renegotiated; and
- the maximum exposure to credit risk by class of financial instrument if the maximum credit risk exposure is best represented by their carrying amount.

NZ IAS 24 *Related Party Disclosures (Revised 2009)* – The effects of early adopting the revised NZ IAS 24 are:

- more information is required to be disclosed about transactions between the CSE and entities controlled, jointly controlled, or significantly influenced by the Crown;
- commitments with related parties require disclosure;
- information is required to be disclosed about any related party transactions with Ministers of the Crown.

Standards and interpretations in issue not yet adopted

At the date of authorisation of these financial statements, the following standards and interpretations were issued but not yet effective.

NZ IFRS 9 Financial Instruments

NZ IFRS 9 will eventually replace NZ IAS 39 *Financial Instruments: Recognition and Measurement*. 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 on the classification and measurement of financial assets 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 instruments (its business model) and the contractual cash flow characteristics of the financial assets. The new standard also requires a single impairment method to be used, replacing the many different impairment methods in NZ IAS 39. The new standard is required to be adopted for the year ended 30 June 2014.

Initial application of this standard is not expected to have any material impact on the amounts reported or disclosures made by the Office.

FRS-44 *New Zealand Additional Disclosures and Amendments to NZ IFRS to harmonise with IFRS and Australian Accounting Standards (Harmonisation Amendments)* - These were issued in May 2011 with the purpose of harmonising Australia and New Zealand's accounting standards with source IFRS and to eliminate many of the differences between the accounting standards in each jurisdiction. The amendments must first be adopted for the year ended 30 June 2012. The Ministry has not yet assessed the effects of FRS-44 and the Harmonisation Amendments.

As the External Reporting Board is to decide on a new accounting standards framework for public benefit entities, it is expected that all new NZ IFRS and amendments to existing NZ IFRS with a mandatory effective date for annual reporting periods commencing on or after 1 January 2012 will not be applicable to public benefit entities. This means that the financial reporting requirements for public benefit entities are expected to be effectively frozen in the short-term. 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. 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 are all classified as 'Loans and Receivables'. Loans and Receivables are measured at amortised cost.

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

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Cash includes cash on hand and deposits held on call with banks with original maturities of three months or less.

Debtors and other receivables

Debtors and other receivables are measured at fair value less impairment changes.

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. 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 an allowance 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 statement of financial performance. When revalued assets are sold, the amounts included in property, plant and equipment revaluation reserves in respect of those assets are transferred to general funds.

Subsequent costs

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

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:

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

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

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

Intangible assets

Software acquisition and development

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

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

Amortisation

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

The useful lives and associated amortisation rates of major classes of intangible assets have been estimated as follows:

- acquired computer software 4 years 25%
- developed computer software 10 years 10%

Impairment of non-financial assets

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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 statement of financial performance.

Creditors and other payables

Creditors and other payables are initially measured at fair 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.

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 eight long serving staff under "grandfather" employment terms. Long service leave is not otherwise available to staff of the Office.

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. Taxpayers' funds are disaggregated and classified as general funds and property, plant and equipment revaluation reserves.

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 s 6(3)(c) of the Goods and Services Tax Act 1985.

Income tax

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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 ending 30 June 2011, 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/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.

Judgments and estimations

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 (11) 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 2011 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 the Office's accounting policies

Management has not exercised any critical judgments in applying the Office's accounting policies for the period ended 30 June 2011.

Changes in accounting policies

There has been no change in accounting policies during the period.

2. Personnel costs

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30/6/10 Actual \$(000)		30/6/11 Actual \$(000)	30/6/11 Main Estimates \$(000)	30/6/11 Supp. Estimates \$(000)
5,677	Salaries and wages	6,064	6,075	6,099
240	Employer contributions to staff superannuation	249	300	300
10	Accrued long service leave	(7)	-	-
27	Accrued annual leave	43	-	-
25	ACC levy	32	28	28
45	Other personnel costs	86	<u>59</u>	<u>59</u>
<u>6,024</u>	Total personnel costs	6,467	<u>6,462</u>	<u>6,486</u>

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

There were two Ombudsmen and 64 supporting staff (60.9 Full Time Equivalents) as at 30 June 2011.

The remuneration received by the two Ombudsmen and staff paid \$100,000 or more from the Office budget as at 30 June 2011 was:

30/6/10 Actual Number in Band	Remuneration Band	30/6/2011 Actual Number in Band
-	\$330,000 to 339,999	1
1	\$320,000 to 329,999	-
1	\$270,000 to 279,999	1
1	\$170,000 to 179,999	1
1	\$160,000 to 169,999	-
-	\$150,000 to 159,999	2
1	\$140,000 to 149,999	-
2	\$130,000 to 139,999	-
2	\$120,000 to 129,999	2
3	\$110,000 to 119,999	4
2	\$100,000 to 109,999	5

The remuneration reported includes annual salary, any bonus paid, employer superannuation contributions, airport lounge membership and partial cost of home phone rentals.

3. Other operating costs

30/06/10 Actual \$(000)		30/06/11 Actual \$(000)	30/06/11 Main Estimates \$(000)	30/06/11 Supp. Estimates \$(000)
665	Operating accommodation lease expenses	693	710	710
45	Accommodation costs - other	50	53	53
29	Audit fees	25	32	32
97	Publications, books and statutes	99	91	91
192	Travel	175	237	237
149	Communication costs	152	147	147
<u>623</u>	Other operating costs	<u>716</u>	<u>630</u>	<u>630</u>
<u>1,800</u>	Total operating expenses	<u>1,910</u>	<u>1,900</u>	<u>1,900</u>

The estimate for "Other operating costs" expenditure was increased by \$160,000 to meet costs expected to be incurred as a consequence of re-establishing the Ombudsmen's Christchurch office following the 22 February Canterbury earthquake. The expenditure reported includes \$37,000 for assets written off as lost as a consequence of the earthquake.

4. Depreciation and amortisation

30/06/10 Actual \$(000)		30/06/11 Actual \$(000)	30/06/11 Main Estimates \$(000)	30/06/11 Supp. Estimates \$(000)
17	Furniture and fittings	19	8	8
103	Plant and equipment and other	97	65	65
31	Computer equipment	38	87	87
18	Intangible assets – software	22	20	20
169	Total depreciation and amortisation	176	180	180

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 2011 was 7.5 percent (2010: 7.5 percent).

6. Plant, property and equipment

Movements for each class of property, plant and equipment are as follows:

2011

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

2010

	Plant and Equipment	Leasehold improvements	IT Equipment	Furniture and Fittings	Total
	\$(000)	\$(000)	\$(000)	\$(000)	\$(000)
Cost or valuation					
Balance at 30 June 2009	184	357	245	134	920
Additions	-	42	15	17	74
Disposals	-	-	-	-	-
Balance at 30 June 2010	184	399	260	151	994
Accumulated depreciation and impairment losses					
Balance at 30 June 2009	38	140	174	79	431
Depreciation	32	71	31	17	151
Disposals	-	-	-	-	-
Accum Depn on disposals					
Balance at 30 June 2010	70	211	205	96	582
Carrying amounts					
At 30 June 2009	146	217	71	55	489
At 30 June 2010	114	188	55	55	412

7. Intangible assets

Movements for each class of intangible asset are as follows:

2011

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

2010

	Acquired Software \$(000)	Internally generated Software \$(000)	Total \$(000)
Cost or valuation			
Balance at 30 June 2009	86	-	86
Additions	-	72	72
Disposals	-	-	-
Balance at 30 June 2010	86	72	158
Accumulated amortisation and impairment losses			
Balance at 30 June 2009	45	-	45
Amortisation	14	4	18
Disposals	-	-	-
Balance at 30 June 2010	59	4	63
Carrying amounts			
At 30 June 2009	41	-	41
At 30 June 2010	27	68	95

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.

30/06/10 Actual \$(000)		30/06/11 Actual \$(000)
53	Trade creditors	94
127	GST payable	149
<u>61</u>	Other short-term liabilities	97
<u>241</u>	Total creditors and other payables	340

9. Return of operating surplus

Repayment of surplus is required by 31 October each year.

30/06/10 Actual \$(000)		30/06/11 Actual \$(000)
-	Net surplus	40
-	Add Other Expenses – Recovery from February 2011 Christchurch earthquake	133
-	Net surplus including Other Expenses	173
-	Approval to retain net operating surplus	(133)
-	Net operating surplus to be returned	40

10. Employee entitlements

30/06/10 Actual \$(000)		30/06/11 Actual \$(000)
	<i>Current liabilities</i>	
338	Annual leave	381
36	Long service leave	17
<u>113</u>	Superannuation, Superannuation Contribution Withholding Tax and salaries	138
487		536
	<i>Non current liabilities</i>	
<u>14</u>	Long service leave	25
<u>501</u>	Total for employee entitlements	561

In 2011 the Office engaged AON consulting actuaries to determine the present value of the long service leave obligations for a group of eight staff who retain the entitlement as a “Grandfather” provision. 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:

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

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

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

11. Taxpayers’ funds (General funds)

30/6/10 Actual \$(000)		30/06/11 Actual \$(000)
	General Funds	
329	Balance at 1 July	329
-	Net operating surplus	40
-	Capital contribution from the Crown	-
-	Provision for repayment of surplus to the Crown	(40)
<u>329</u>	<i>General Funds at 30 June</i>	<u>329</u>

12. Reconciliation of net surplus to net cash from operating activities for the year ended 30 June 2011

30/06/10 Actual \$(000)		30/06/11 Actual \$(000)	30/06/11 Main Estimates \$(000)	30/06/11 Supp. Estimates \$(000)
—	Net surplus/(deficit)	40	—	—
	<i>Add/(less) non-cash items</i>			
-	Write off of assets	37	-	-
<u>169</u>	Depreciation and amortisation expense	<u>216</u>	<u>180</u>	<u>180</u>
<u>169</u>	Total non-cash items	<u>253</u>	<u>180</u>	<u>180</u>
	<i>Add/(less) movements in working capital items</i>			
(10)	(Inc)/dec prepayments	(31)	-	24
3	(Inc)/dec debtors	(3)	-	1
(85)	Inc/(dec) creditors and payables	41	-	(15)
40	Inc/(dec) employee entitlements	60	-	(41)
-	Inc/(dec) short term liabilities	36	-	-
<u>64</u>	Inc/(dec) GST	<u>22</u>	-	(67)
<u>12</u>	Net movement in working capital items	<u>125</u>	<u>—</u>	<u>(98)</u>
<u>181</u>	Net cash flows from operating activities	<u>378</u>	<u>180</u>	<u>82</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.

2011

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

2010

	6 months or less	6-12 months	1-5 years	more than 5 years	Total
	\$(000)	\$(000)	\$(000)	\$(000)	\$(000)
Creditors and other payables	241	-	-	-	241
Return of operating surplus to Crown	-	-	-	-	-
Employee entitlements	451	-	50	-	501

Categories of financial instruments

Actual 2010 \$(000)		Actual 2011 \$(000)
	Loans and receivables	
521	Cash and cash equivalents	677
<u>1</u>	Debtors and other receivables	<u>4</u>
<u>522</u>		681
	Financial liabilities measured at amortised cost	
241	Creditors and other payables (note 8)	340
<u>501</u>	Employee entitlements (note 10)	<u>561</u>
<u>742</u>		901

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 and with Treasury Instructions.

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. Office accommodation statistics

Actual 2010		Actual 2011
1,683m ²	Area	1,683m²
65.4	Number of staff (FTEs)	65.4¹⁷
25.7m ²	Space allocation per person	25.7m²
\$665,000	Total costs of leased office accommodation	\$693,000
\$395	Average cost per square metre	\$412
\$10,168	Rent costs per person	\$10,596
\$688	Utility costs per person	\$764

¹⁷ Includes 4.5 FTE vacant positions.

16. 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 \$8.752m (2010 \$8.018m) 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 2011 totalled \$147,000. These purchases included the purchase of electricity (\$19,000), air travel from Air New Zealand (\$117,000), and postal services from New Zealand Post (\$11,000).

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

Key management personnel compensation

Salaries and benefits of the four senior management staff of the Office amounted to:

Actual 2010 \$(000)		Actual 2011 \$(000)
933	Salaries and other short-term employee benefits	951
-	Post-employment benefits	-
28	Other long-term benefits	18
-	Termination benefits	-
961	Key management personnel compensation	969

17. 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 2011.

18. Significant variances from forecast financial performance

There were no significant variances from forecast financial performance.

7

Analysis, statistics and directory

The throughput of complaints, enquiries and monitoring activities

Cost of resolving complaints

Age profiles of open and closed complaints

Analysis of complaints by Act

Prisoner complaints

Geographical distribution of complaints and enquiries

Directory

Analysis and Statistics

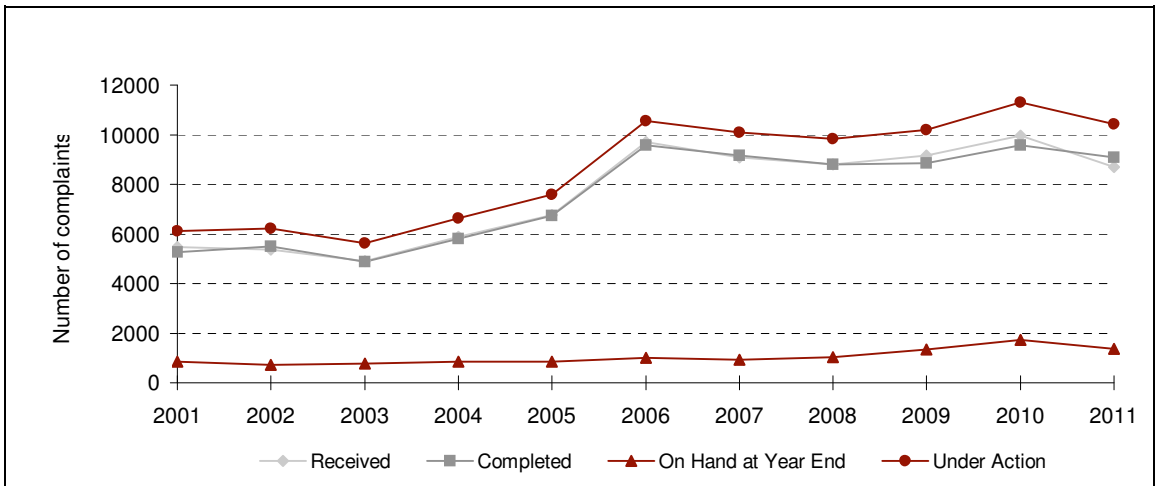
The throughput of complaints, enquiries and monitoring activities

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	2006/07	2007/08	2008/09	2009/10	2010/11
Complaints on hand at 1 July					
Ombudsmen Act	608	536	576	794	983
Official Information Act	278	289	364	428	550
Local Government Official Information and Meetings Act	70	59	51	83	101
Protected Disclosures Act	1	-	1	3	1
Enquiries	-	-	-	-	50
Other work for which files were opened	37	34	42	36	45
Adjustment	—	100	1	—	—
Total	994	1,018	1,035	1,344	1,730
Complaints received during the year					
Ombudsmen Act	7,593	7,257	7,615	8,488	6,163 ¹⁸
Official Information Act	812	897	809	920	992
Local Government Official Information and Meetings Act	192	204	231	294	256
Protected Disclosures Act	8	14	8	6	7
Monitoring Death in Custody	-	-	-	-	22
Enquiries	-	-	-	-	955
Other work for which files were opened	485	436	487	242	311
Total	9,090	8,080	9,150	9,950	8,706
Complaints disposed of during the year					
Ombudsmen Act	7,665	7,317	7,435	8,250	6,411
Official Information Act	801	822	754	800	1,038
Local Government Official Information and Meetings Act	203	211	202	282	271
Protected Disclosures Act	9	13	6	8	6
Monitoring Death in Custody	-	-	-	-	7
Enquiries	-	-	-	-	999
Other work for which files were opened	488	428	458	234	345
Total	9,166	8,791	8,855	9,574	9,077
Complaints on hand at 30 June					
Ombudsmen Act	536	576	757	1,032	735
Official Information Act	289	364	419	548	504
Local Government Official Information and Meetings Act	59	52	80	95	86
Protected Disclosures Act	-	1	3	1	2
Monitoring Death in Custody	-	-	-	-	15
Enquiries	-	-	-	-	6
Other Work for which files were opened	34	42	71	44	11
TOTAL	918	1,035	1,330	1,720	1,359

¹⁸ 2010/11 is the first reporting year when enquiries made to the Ombudsmen, have been separately identified for reporting purposes. For comparison to last year 7,158 OA matters were received (995 enquiries and 6,163 OA complaints).

The following table shows the overall throughput of complaints over the past 10 years.



Cost of resolving complaints, enquiries and monitoring activities

We have not instituted accounting systems to record the actual cost of resolving each complaint or request referred to us. But information held on the Office case management system does allow a generalised costing to be developed for each activity based on the total cost of operations and the accumulated number of working days for complaints and requests received and actioned as well as other work undertaken.

	Estimated cost Year ended 30 June 2010	Estimated cost Year ended 30 June 2011
Ombudsmen Act		
Estimated average cost per completed complaint		
- rec'd from prisoners	\$186	\$163
- rec'd from non prison sources	\$791	\$1,001
Estimated average cost work in progress	\$2,278	\$2,288
Estimated cost of all investigations complete and incomplete	\$4.654 million	\$4.693 million
Official Information Act		
Estimated average cost per complaint		
- completed work	\$1,378	\$1,656
- work in progress	\$2,953	\$2,735
Estimated cost of all investigations complete and incomplete	\$2.720 million	\$3.097 million
Local Government Official Information and Meetings Act		
Estimated average cost per complaint		
- completed work	\$830	\$1,895
- work in progress	\$1,748	\$1,878
Estimated cost of all investigations complete and incomplete	\$0.400 million	\$0.675 million
Protected Disclosures Act		
Estimated average cost per request for advice and guidance		
- completed work	\$1,205	\$166
- work in progress	\$5,261	\$5,380
Estimated cost of all advice and guidance complete and incomplete	\$0.015 million	\$0.012 million
Monitoring of death in custody investigations undertaken by the Department of Corrections		
Estimated average cost per monitoring of a death in custody		
- completed work	-	\$1,375
- work in progress	-	\$1,137
Estimated cost of monitoring all death in custody investigations complete and incomplete	-	\$0.027 million
Other work where the matter is found to be outside the Ombudsmen's jurisdiction but information and assistance is given		
- completed work	\$329	\$294
- work in progress	\$3,459	\$9,704
Estimated cost of all investigations complete and incomplete	\$0.374 million	\$0.208 million

Age profiles of open and closed complaints

The following tables show the age profile of all complaint investigations that were under action during the reported year:

Age profile – all complaints closed in the period

	Year ended			
	30/6/08	30/6/09	30/6/10	30/06/11
Aged 6 months or less from date of receipt	95%	95%	94%	89%
Aged between 7 and 12 months from date of receipt	3%	3%	5%	6%
Aged more than 12 months from date of receipt	2%	2%	3%	5%

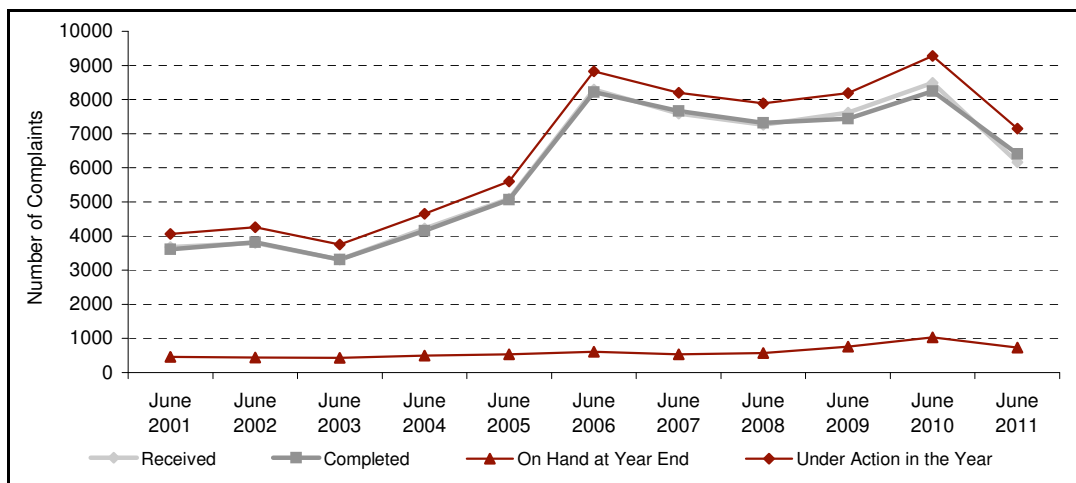
Age profile – all complaints remaining open at 30 June

	Year ended			
	30/6/08	30/6/09	30/6/10	30/06/11
Aged 6 months or less from date of receipt	75%	69%	52%	49%
Aged between 7 and 12 months from date of receipt	15%	16%	26%	24%
Aged more than 12 months from date of receipt	10%	15%	22%	26%

Analysis of complaints by Act

Ombudsmen Act (OA)

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



How complaints were resolved	B/f from last year	Rec'd year ended 30/6/11	Total under action year ended 30/6/11
<i>Resolved (all)</i>	73	52	125
<i>Resolved – (majority but not all)</i>	4	3	7
<i>Otherwise resolved</i>	2	1	3
<i>Sustained after formal investigation:</i>			
- no recommendation	27	9	36
- recommendation made	<u>9</u>	<u>1</u>	<u>10</u>
	36	10	46
<i>Not sustained (all)</i>	106	53	159
Not sustained (majority but not all)	9	3	12
<i>Investigation discontinued:</i>			
- further inquiry not warranted	133	75	208
- returned to agency for reconsideration	<u>8</u>	<u>2</u>	<u>10</u>
	141	77	218
<i>Declined:</i>			
- organisation not within jurisdiction (explanation/assistance given)	12	189	201
<i>Declined pursuant to Ombudsman's discretion:</i>			
- right of appeal to Court or Tribunal	10	90	100
- adequate remedy under law or administrative practice reasonably available	54	508	562
- time lapse	4	10	14
- frivolous or vexatious	2	9	11
- insufficient personal interest	<u>1</u>	<u>9</u>	10
	71	626	697
<i>Formal investigation not undertaken:</i>			
- resolved by informal intervention	43	574	617
- informal inquiries – explanation advice or assistance provided	176	3,298	3,474
- withdrawn by complainant or no response from complainant	53	157	210
- returned to dept for reconsideration	<u>15</u>	<u>396</u>	<u>411</u>
	287	4,425	4,712
Transferred to the Privacy Commissioner	1	10	11
Transferred to Health and Disability Commissioner	-	1	1
Transferred to Independent Police Conduct Authority	1	10	11
Overview serious incidents – Corrections	-	-	-
Administration – adjustment	33	13	46
Other	15	147	162
Under investigation at 30 June	<u>192</u>	<u>543</u>	<u>735</u>
Total	<u>983</u>	<u>6,163</u>	<u>7,146</u>

Complaints were received from:

	Year ended		
	30/6/09	30/6/10	30/6/11
Individuals	2,923	2,956	2,069
Via legal practices	321	287	208
Media	2	45	8
Members of Parliament and political party research units	5	7	1
Special interest groups	29	65	11
Companies, associations and incorporated societies	33	67	40
Via legal practices	9	24	20
Government departments/ organisations/ local authorities	-	80	3
Researchers	1	1	1
Prisoners - community work	-	7	2
Prisoners - home detention	3	17	26
Prisoners - parolee	4	22	8
Prisoners - remand	71	491	465
Prisoners - sentenced	4,183	4,369	3,301
Prisoners - unspecified	2	1	-
Prison staff	1	10	19
Prisoner advocates	23	37	41
Trade unions	-	-	1
Own motion	<u>5</u>	<u>2</u>	<u>6</u>
Total	<u>7,615</u>	<u>8,488</u>	<u>6,230</u> ¹⁹

Complaints were directed at:

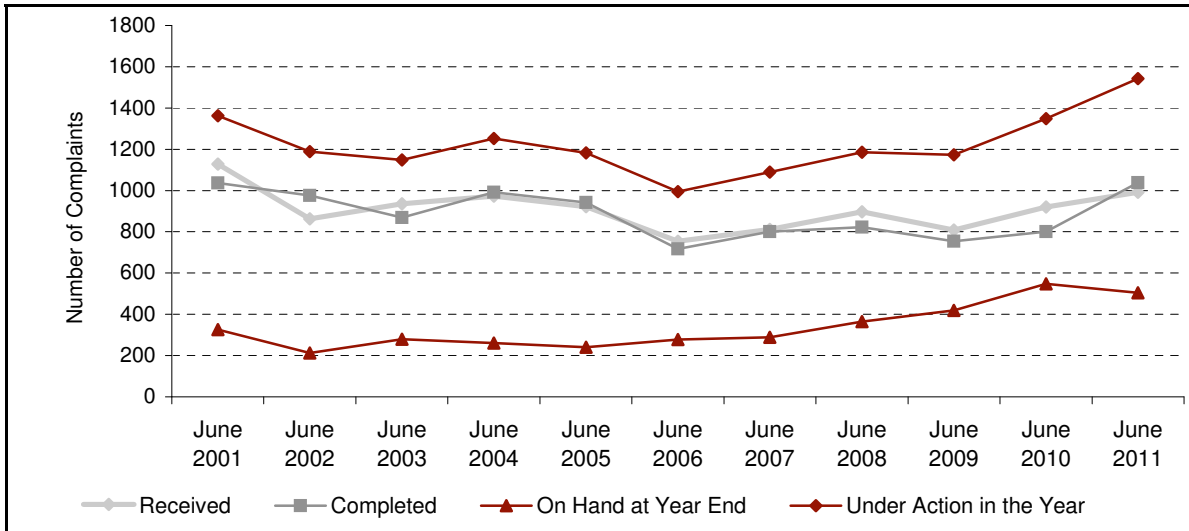
	Year ended		
	30/6/09	30/6/10	30/6/11
Central government depts (Part I)	6,791	6,761	4,896
Organisations other than Local organisations (Part II)	407	1,024	799
Local organisations (Part III)	417	607	449
Not specified	-	<u>96</u>	<u>19</u>
Total	<u>7,615</u>	<u>8,488</u>	<u>6,163</u>

Timeliness performance measures are detailed at pages 74 - 76.

¹⁹ 6,163 complaints were made by 6,230 complainants (i.e. sometimes two or more complainants are associated with the same complaint).

Official Information Act (OIA)

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



How requests for review were resolved:	B/f from last year	Rec'd year ended 30/6/11	Total under action year ended 30/6/11
<i>Resolved (all)</i>	64	77	141
<i>Resolved – (majority but not all)</i>	7	5	12
<i>Otherwise resolved</i>	1	5	6
<i>Sustained after formal investigation:</i>			
- no recommendation made	29	66	95
- recommendation made	<u>9</u>	<u>8</u>	<u>17</u>
	38	74	112
<i>Not sustained (all)</i>	77	71	148
<i>Not sustained (majority but not all)</i>	37	6	43
<i>Investigation discontinued:</i>			
- further inquiry not warranted	66	36	102
- returned to agency for reconsideration	<u>2</u>	<u>5</u>	<u>7</u>
	68	41	109
<i>Declined:</i>			
- organisation not within jurisdiction (explanation/assistance given)	5	27	32
<i>Declined pursuant to Ombudsman's discretion:</i>			
- right of appeal to Court or Tribunal		1	1
- adequate remedy under law or administrative practice reasonably available	-	9	9
- frivolous or vexatious	-	1	1
- insufficient personal interest	-	<u>1</u>	<u>1</u>
	-	12	12
<i>Formal investigation not undertaken:</i>			
- resolved by informal intervention	24	50	74
- informal inquiries – explanation, advice or assistance provided	25	115	140
- withdrawn by complainant or no response from complainant	41	60	101
- returned to dept for reconsideration	<u>1</u>	<u>7</u>	<u>8</u>
	91	232	323
Administration – adjustment	12	13	25
Other	2	10	12
Transferred to the Privacy Commissioner	11	51	62
Transferred to the Independent Police Conduct Authority	-	1	1
Under investigation at 30 June	<u>137</u>	<u>367</u>	<u>504</u>
Total	550	992	1,542

Why reviews were requested:

	Year ended		
	30/6/09	30/6/10	30/6/11
Refusals	501	675	698
Delay deemed refusals	213	164	219
Delays	17	13	7
Charges	25	19	18
Corrections	-	-	3
Deletions	26	18	9
Extensions	26	25	36
Conditions	-	2	-
Transfers	<u>1</u>	<u>4</u>	<u>2</u>
Total	<u>809</u>	<u>920</u>	<u>992</u>

The requests for review concerned decisions taken by:

	Year ended		
	30/6/09	30/6/10	30/6/11
Ministers of the Crown	119	170	139
Departments listed in Part I of Schedule 1 of the Ombudsmen Act	329	301	483
Organisations listed in Part II of Schedule 1 of the Ombudsmen Act and listed in Schedule 1 of the Official Information Act	<u>361</u>	<u>449</u>	<u>370</u>
Total	<u>809</u>	<u>920</u>	<u>992</u>

Requests for review were received from:

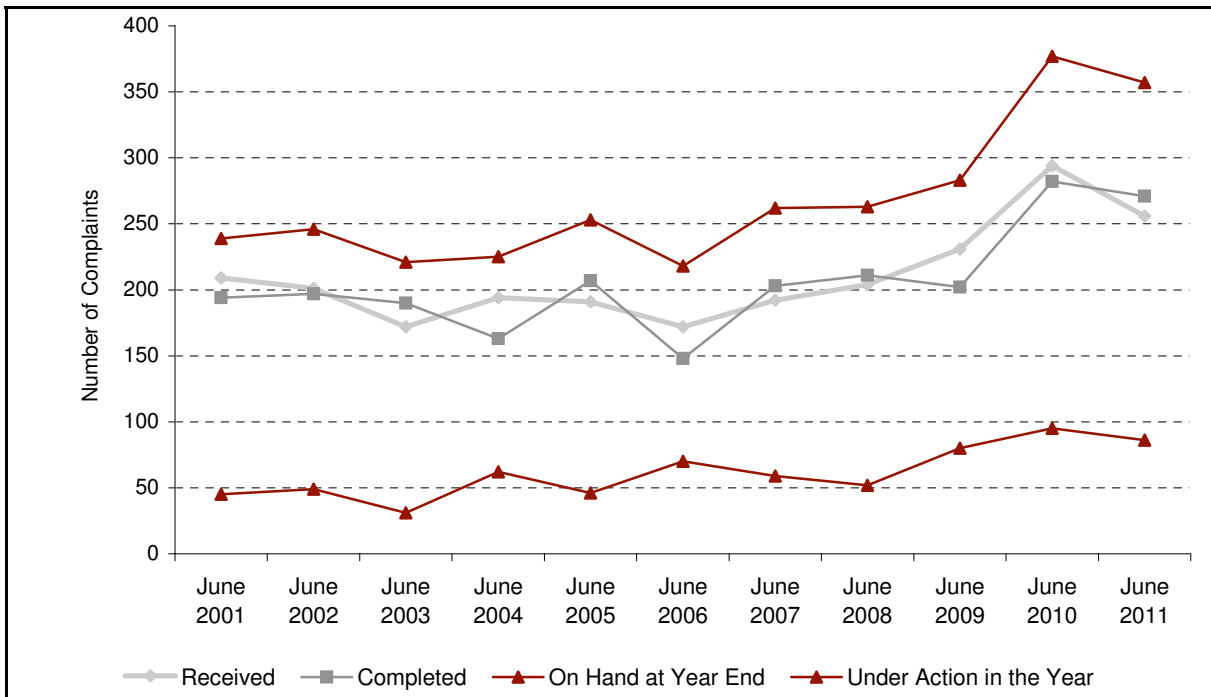
	Year ended		
	30/6/09	30/6/10	30/6/11
Individuals	363	448	543
- Via legal practices	66	51	43
Media	130	165	171
Members of Parliament and political party research units	83	99	63
Special interest groups	30	24	16
Companies, associations and incorporated societies	54	56	58
- Via legal practices	43	20	19
Government departments/ organisations/ local authorities	6	6	
Researchers	7	4	3
Prisoners – advocate	-	-	2
Prisoners – remand	1	7	2
Prisoners – sentenced	23	33	71
Prison – staff	-	-	3
Trade unions	<u>3</u>	<u>7</u>	<u>10</u>
Total	<u>809</u>	<u>920</u>	<u>1,004</u>²⁰

Timeliness performance measures are detailed at page 75.

²⁰ 992 complaints were made by 1,004 complainants.

Local Government Official Information and Meetings Act (LGOIMA)

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



How requests for review were resolved:	B/f from last year	Rec'd year ended 30/6/11	Total Under action year ended 30/6/11
<i>Resolved (all)</i>	17	24	41
<i>Resolved –(majority but not all)</i>	-	1	1
<i>Otherwise resolved</i>	1	-	1
<i>Sustained after formal investigation:</i>			
- no recommendation made	8	11	19
- recommendation made	<u>1</u>	-	<u>1</u>
	9	11	20
<i>Not sustained (all)</i>	21	16	37
<i>Not sustained (majority but not all)</i>	5	1	6
<i>Investigation discontinued:</i>			
- further inquiry not warranted	19	13	32
- returned to agency for reconsideration	<u>2</u>	<u>2</u>	<u>4</u>
	21	15	36
<i>Declined:</i>			
- organisation not within jurisdiction (explanation/assistance given)	-	3	3
<i>Declined pursuant to Ombudsman's discretion:</i>			
- right of appeal to Court or Tribunal	-	1	1
- adequate remedy under law or administrative practice reasonably available	-	5	5
- Insufficient personal interest	-	<u>1</u>	<u>1</u>
	-	7	7
<i>Formal investigation not undertaken:</i>			
- resolved by informal intervention	3	28	31
- informal inquiries – explanation, advice or assistance provided	4	44	48
- complaint withdrawn by complainant or no response from complainant	4	21	25
- returned to agency for reconsideration	-	<u>1</u>	<u>1</u>
	11	94	105
Administration - adjustment	2	-	2
Other	1	7	8
Transferred to the Privacy Commissioner	-	4	4
Under investigation at 30 June	<u>13</u>	<u>73</u>	<u>86</u>
Total	<u>101</u>	<u>256</u>	<u>357</u>

Why reviews were requested:

	Year ended		
	30/6/09	30/6/10	30/6/11
Refusals	162	219	175
Delay deemed refusals	48	49	59
Delays	6	3	3
Charges	12	21	17
Corrections	-	-	1
Deletions	1	-	
Extensions	<u>2</u>	<u>2</u>	<u>1</u>
Total	<u>231</u>	<u>294</u>	<u>256</u>

We received requests for review from:

	Year ended		
	30/6/09	30/6/10	30/6/11
Individuals	142	188	192
Via legal practices	11	8	5
Media	46	44	36
Special interest groups	12	25	5
Companies, associations	6	14	13
Via legal practices	9	14	3
Government departments/ organisations/ local authorities	1	1	
Members of Parliament and political party research units	3	-	2
Researcher	<u>1</u>	-	-
Total	<u>231</u>	<u>294</u>	<u>256</u>

Timeliness performance measures are detailed at page 75.

Prisoner complaints

During the year ended 30 June 2011 complaints received from and on behalf of prisoners concerning the Department of Corrections were received from:

Prison	Prisoner Sentenced	Prisoner Community Work	Prisoner Home Detention	Prisoner Remand Accused	Prisoner Remand Convicted	Prisoner Parolee	Prisoner Advocate	Prison Staff	Total	Total Last year
Arohata Women's	85	-	-	5	6	-	1	-	97	129
Auckland Prison	367	-	-	6	4	-	1	2	380	670
Auckland Region Women's	185	-	-	87	16	1	1	1	291	355
Christchurch	238	-	6	22	7	1	2	3	279	419
Christchurch Women's	13	-	-	2	2	-	-	-	17	42
CPPS	9	2	17	2	1	5	1	-	37	47
Dunedin	-	-	-	-	-	-	-	-	-	1
Hawke's Bay	215	-	-	13	10	-	2	1	241	411
Invercargill	43	-	-	4	1	-	1	-	49	48
Manawatu	62	-	-	15	2	-	-	-	79	169
Mt Eden	202	-	1	125	10	-	7	1	346	328
New Plymouth	24	-	-	3	1	-	-	-	28	18
Northland Region Corrections Facility	153	-	-	23	1	-	4	-	181	201
Otago Corrections Facility	168	-	-	6	1	-	3	-	178	179
Rimutaka	418	-	-	11	6	-	1	3	439	575
Rolleston	95	-	-	-	1	-	1	1	98	105
Spring Hill Corrections Facility	333	-	-	3	3	-	3	3	345	427
Tongariro/Rangipo	164	-	-	2	-	-	-	2	168	206
Waikeria	291	-	-	45	8	-	4	1	349	367
Wanganui	184	-	-	2	4	-	-	1	191	174
Wellington	45	-	-	-	-	-	2	-	47	72
Parole Board	2	-	-	-	-	-	-	-	2	-
Head Office	3	-	-	-	-	-	1	-	4	-
Not specified	18	-	-	2	-	1	6	3	30	186
Totals	3,317	2	24	378	84	8	41	22	3,876	5,129

During the year ending 30 June 2011 complaints concerning the Department of Corrections received from and on behalf of prisoners related to:

Prison	Food services	Temporary releases/ escorted outings	Prison conditions	Staff conduct and attitudes	Prisoner property	Prisoner transfers and movements	Prisoner telephone calls and written communications	Prison work and prisoner pay	Prisoner welfare	OIA/ Privacy Act and general information	Prisoner discipline and misconduct	Use of force	Security classification	Prisoner health services	Recreation, exercise and sport	Case management and programmes	Personal and official visitors	Culture and religion	Serious incident	Death in custody	Other	Total
Arohata Women's	1	1	9	10	10	6	11	2	3	3	9	-	7	6	1	1	4	4	-	-	10	98
Auckland Prison	18	6	27	32	76	23	35	3	5	33	10	2	20	24	1	19	6	2	3	2	45	392
Auckland Region Women's	7	-	26	12	56	18	40	1	7	8	14	-	4	12	1	6	10	7	-	-	67	296
Christchurch	10	-	17	8	57	25	16	5	12	8	19	1	2	26	2	12	21	-	-	4	41	286
Christchurch Women's	1	1	2	1	2	4	3	-	2	-	-	-	-	-	-	-	1	-	1	-	2	20
CPPS	1	4	3	3	1	1	3	1	1	7	1	-	-	5	-	10	-	2	-	-	24	67
Hawke's Bay	8	1	12	16	31	35	19	12	15	24	7	1	14	6	1	9	6	7	3	-	23	250
Invercargill	1	-	1	2	5	8	5	3	1	4	3	-	-	10	-	-	1	-	-	1	5	50
Manawatu	1	-	5	-	9	12	9	2	2	5	4	-	3	12	-	1	3	-	-	1	11	80
Mt Eden	13	2	14	9	108	30	44	1	14	4	13	1	1	12	3	8	25	2	1	1	52	358
New Plymouth	1	-	1	1	2	3	3	-	-	-	2	-	1	6	-	-	5	-	1	-	3	29
Northland Region Corrections Facility	5	3	10	5	31	19	17	4	9	10	15	-	7	13	1	11	4	-	-	2	24	190
Otago Corrections Facility	5	3	12	10	25	27	10	10	5	3	10	-	4	11	-	12	15	3	-	3	17	185
Rimutaka	9	1	15	28	75	35	78	8	6	24	14	3	21	34	2	19	12	4	1	4	58	451
Rolleston	7	2	8	6	10	7	7	3	3	7	3	1	4	11	1	5	5	1	-	1	7	99
Spring Hill Corrections Facility	2	12	16	16	67	43	19	12	4	14	21	-	17	12	3	20	12	5	-	1	57	353
Tongariro/Rangipo	7	11	11	5	33	14	7	6	4	6	6	-	11	12	2	11	6	1	-	-	17	170
Waikeria	20	3	13	18	54	43	38	9	12	11	13	1	10	29	3	12	10	13	1	2	43	358
Wanganui	6	-	32	15	16	23	14	4	4	-	11	-	5	14	1	25	5	2	1	2	15	195
Wellington	2	1	-	2	8	2	6	1	-	4	3	-	-	3	-	8	3	-	-	-	6	49
Corrections – other	2	-	-	2	-	3	2	2	1	49	2	-	-	1	-	3	2	1	-	-	12	82
Totals	127	51	234	201	676	381	386	89	110	224	180	10	131	259	22	192	156	54	12	24 ²¹	539	4,058 ²²

²¹ Includes both monitoring of Department of Corrections investigations into prisoner deaths in custody and complaints made by prisoners concerning deaths in custody.

²² 3,990 complaints were made by Prisoners concerning 4,058 matters.

During the year ended during 30 June 2011 complaints made by and on behalf of prisoners concerning the Department of Corrections were resolved as follows:

125

	Complaint closure codes																				Total
	1(a)	2(a)	2(b)	3(a)	4(a)	4(b)	5	6(a)	6(b)	6(c)	6(d)	7(a)	7(b)	7(c)	7(d)	A1	A2	A5	A6	A8	
Arohata Women's	-	1	-	-	7	-	1	-	6	-	-	11	61	1	10	-	-	1	1	-	100
Auckland Prison	1	7	-	9	10	1	9	-	21	-	2	44	227	6	39	3	-	5	10	-	394
Auckland Regional Women's	1	-	-	-	-	-	4	-	11	-	-	45	190	4	34	-	-	2	4	-	295
Christchurch	1	1	1	3	5	-	1	-	9	-	-	37	196	5	22	1	-	3	6	-	291
Christchurch Women's	-	-	-	-	1	-	-	-	4	-	-	3	13	1	1	-	-	-	3	-	26
CPPS	-	-	-	-	-	-	-	-	1	-	-	-	27	1	2	-	-	2	1	-	34
Hawke's Bay	2	-	-	7	1	-	2	-	8	-	1	31	156	8	11	-	-	3	9	-	239
Invercargill	-	-	-	-	1	-	1	-	1	-	-	2	34	-	8	1	-	-	2	-	50
Manawatu	1	-	-	1	-	-	1	-	8	-	-	5	53	-	4	1	-	2	5	-	81
Mt Eden	2	-	-	1	1	-	1	-	11	-	-	56	214	5	56	-	-	1	8	-	356
New Plymouth	-	-	-	-	-	-	-	-	1	-	-	3	21	-	3	-	-	-	1	1	30
Northland Region Corrections Facility	5	3	-	1	5	-	1	-	6	-	-	27	110	6	19	-	-	-	5	-	188
Otago Corrections Facility	1	-	-	-	1	-	2	-	5	-	-	20	132	3	10	-	-	-	-	-	174
Rimutaka	3	1	-	2	5	-	5	-	16	1	1	59	275	12	48	-	-	-	11	-	438
Rolleston	-	-	-	1	1	-	2	-	6	-	-	12	66	6	6	-	-	1	2	-	103
Spring Hill Corrections Facility	6	-	3	6	4	-	1	1	4	-	-	40	229	7	42	-	-	3	9	-	355
Tongariro / Rangipo	-	-	-	3	2	-	-	-	9	-	-	12	130	7	7	-	-	1	5	-	176
Waikeria	-	2	-	6	1	-	2	-	9	-	1	33	261	6	27	-	1	3	8	-	360
Wanganui	2	1	-	2	7	-	2	-	6	-	2	15	147	2	11	-	-	1	8	-	206
Wellington	1	-	-	1	-	-	-	-	3	-	-	5	34	3	1	1	-	1	4	-	54
DPB/NZPB	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	2
Corrections – other	1	2	-	2	1	-	2	-	1	-	2	3	16	3	-	1	-	2	2	-	38
Totals	27	18	4	45	53	1	37	1	146	1	8	463	2,594	86	361	8	1	31	104	1	3,990

Key

1(a) Resolved (All)

2(a) Sustained - no recommendation made

2(b) Sustained - recommendation made

3(a) Not sustained (All)

4(a) Discontinued - further inquiry not warranted

4(b) Discontinued - returned to agency for reconsideration

5 Not within jurisdiction

6(a) Declined - right of appeal

6(b) Declined - adequate remedy available

6(c) Declined - time lapse

6(d) Declined - frivolous or vexatious

7(a) No formal investigation - complaint resolved through informal intervention

7(b) No formal investigation - complaint assessed and advice/explanation given

7(c) Investigation not undertaken - no reply by complainant or complaint withdrawn

7(d) No formal investigation - returned to department for reconsideration

A1 Transferred to Privacy Commissioner

A2 Transferred to Health and Disability Commissioner

A5 Administration closed (for system purposes - re-opened in subsequent FY with e.g. a different Act)

A6 General enquiry

A8 Own Motion

Geographical distribution of complaints and enquiries received in year to 30 June 2011

	JURISDICTION						All	All Last Year
	OA	OIA	LGOIMA	PDA	Other Work			
Auckland	1,756	270	61	-	318	2,405	2,833	
Bay of Plenty	476	42	19	1	61	599	597	
Northland	268	19	11	-	40	338	356	
Waikato	600	47	19	1	88	755	901	
Taranaki	61	4	2	1	11	79	89	
Hawke's Bay	256	25	1	-	27	309	527	
Manawatu/Wanganui	360	52	10	1	47	470	508	
Wairarapa	28	15	2	-	9	54	44	
East Cape	18	4	1	-	9	32	35	
Wellington	916	308	49	1	186	1,460	1,862	
Total North Island	4,739	786	175	5	796	6,501	7,752	
Complainants based in the North Island as a percentage of total complaints received								
Nelson/ Marlborough and Golden Bay	103	14	16	-	21	154	152	
Dunedin	57	24	24	-	16	121	123	
Otago	213	14	12	-	24	263	269	
Southland	82	17	9	-	24	132	144	
Canterbury	183	28	5	-	40	256	244	
Christchurch	621	72	10	2	184	889	841	
Westland	26	15	3	-	17	61	69	
Chatham Islands	-	-	-	-	-	-	-	
Total South Island	1,285	184	79	2	326	1,876	1,842	
Complainants based in the South Island as a percentage of total complaints received								
Location not known	109	22	2	-	146	279	248	
Overseas	98	12	-	-	21	131	109	
Complainants based overseas/address unknown as a percentage of total complaints received								
Totals	6,231	1,004	256	7	1,289	8,787²³	9,951	

²³ The variation between the number of complaints and complainants arises because some complaints have more than one complainant.

Directory

Legal authorities for establishing the Office of the Ombudsmen

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 s 3 of the Ombudsmen Act 1975 and the Public Finance Act 1989.

The Offices of the Ombudsmen are found at:

Wellington

Level 14
70 The Terrace
PO Box 10152
Telephone: (04) 473-9533
Facsimile: (04) 471-2254

Christchurch

Level 1
545 Wairakei Road
Harewood
Telephone: (03) 357-4555
Facsimile: (03) 357-4552

Auckland

Level 10
55 Shortland Street
PO Box 1960
Telephone: (09) 379-6102
Facsimile: (09) 377-6537

New Zealand wide freephone: (0800) 802-602

Website: www.ombudsmen.parliament.nz

Email: office@ombudsmen.parliament.nz

Auditor

Audit New Zealand on behalf of
the Auditor-General
Level 8, St Paul's Square, 45 Pipitea Street
PO Box 99
Wellington 6140
Telephone (04) 496 3099 or (0508) 283 486 (0508 AUDIT NZ)
Facsimile (04) 496 3095
Email: enquiry@auditnz.govt.nz

Banker

Westpac Government Business a division of Westpac Banking Corporation

Insurance Broker

Marsh Limited

