



Issue 18 / Summer 2017

This issue



EDITORIAL
Achieving excellence
in New Zealand



NEW GUIDE
Substantial collation of research



SPECIAL FEATURE
Monitoring places of detention



NEWS
The Kaikoura Earthquakes



NEWS
250th Anniversary of Global
Freedom of Information



NEWS
First release of OIA statistics



OPINION
Reduction of funded family care



EDITORIAL

Achieving excellence in New Zealand

Along with Denmark, New Zealand now leads the world in perceived lack of corruption. In the recently released Transparency International's 2016 Corruption Perceptions Index* what has led to New Zealand's return to the top spot having fallen to fourth a year ago? And why is this so important?

On the question of importance, being seen as blemish free, or virtually that, has a host of advantages. It enhances trust, creates confidence in dealing with us as well as ensuring

certainty in process and result. With overseas investors and business partners, the commercial return is demonstrable. But for our credibility and perception of integrity, it unquestionably enhances our mana at international meetings and gives us a voice of authority.

I do not find it that surprising that we have regained our number one position. Our two major integrity agencies, the Office of the Auditor-General and the Office of the Ombudsman are both high achievers in the integrity stakes, and both of us are committed to excellence. Given our recent work, it can hardly be a coincidence that our international ratings have increased. How so?

A year ago, we were facing some very real challenges in our Office. Delays were common and we were burdened by a toxic backlog. Our processes were seen as somewhat pedantic. This time last year, we were dealing with a large volume of complaints—with 1,812 complaints on hand, 637 of which were over 12 months old. Over the 2015/16 reporting year, we only managed to complete 58% of complaints within 3 months of receipt. In our Strategic Intentions for this present financial year (2016/17), we set out some bold objectives, which included ring-fencing and clearing our backlog of aged complaints within 3 years and completing at least 70% of new complaints within 3 months of receipt.

Right now, the position is this:

- we are completing more than 70% of new complaints within 3 months;
- we have reduced our complaints on hand to under 1,400; and
- we are on track to halving the number of complaints in our backlog** by 30 June 2017.

It is clear that soon, we will have no backlog, and I want our processes to be so streamlined that we always resolve the totality of our cases within 12 months and therefore make it well nigh impossible to once again develop a backlog.

But there is another aspect to our achieving excellence, in addition to our increasingly more efficient and faster complaints resolution process. On the 31st of January this year we published the results of complaints made to our Office under the Official Information Act (OIA). We published our statistics contemporaneously with the State Services Commission who publicised the result of OIA requests to public sector agencies, with a particular emphasis on timeliness and thoroughness. Our joint initiative involved not only this parallel publication, but our commitment to work more closely with each other in promoting openness and transparency, and therefore to enhance more open and democratic Government.

2017 will be a year of further development and growth for us. There will be even further emphasis on working in a fashion consistent with modern practice and technology, expectations of current day timeliness and being both helpful and firm where warranted.

I hope that our commitment, and the commitment of the State Services Commissioner, Peter Hughes and the Office of the Auditor-General, will help lay the groundwork for a continued number one Transparency International rating in coming years.

* Wednesday 25 January 2017; http://www.transparency.org/news/feature/corruption_perceptions_index_2016

** Defined as all complaints on hand received on or before 30 June 2015



Substantial collation or research

In February 2017 we published a new guide: Substantial collation or research—A guide to section 18(f) of the OIA and section 17(f) of the LGOIMA.

Section 18(f) of the OIA (section 17(f) of the LGOIMA) is one of a number of mechanisms under the Act for dealing with requests for information that are administratively challenging to meet.

It enables a request to be refused—as a last resort, once an agency has attempted or at least considered attempting all the other mechanisms that are available to manage the request—if it cannot be met without substantial collation or research.

The guide explains what is meant by '*substantial collation or research*'. It also provides guidance on some of the other mechanisms that are available to agencies to deal with administratively challenging requests.

It has practical resources including a step-by-step work sheet for dealing with administratively challenging requests, and template letters.

[You can view the new guide here.](#)

New guidance will be published on an ongoing basis throughout the year. To keep up to date with the new guidance, [like us on Facebook \(Ombudsman NZ\)](#).



Photo: Jacki Jones, Chief Inspector, Dr Sharon Shalev, Independent Expert, Anneliese Boston, Human Rights Commission

Monitoring places of detention

Established by Article 26 of the Optional Protocol to the Convention against Torture (OPCAT), the OPCAT Special Fund is the only fund established by an international human rights treaty currently in operation and serves as a model for engagement between the United Nations, State Parties, National Preventive Mechanisms and civil society in the prevention of torture. Since 2012, it has supported the implementation of the recommendations made by the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) following a visit to the State party to OPCAT.

Following the publication in 2014 of the [SPT](#) visit report, New Zealand became eligible for the SPT/OPCAT Special Fund for projects implemented between 1 January and 31 December 2016.

The Human Rights Commission were successful in an application this year for funding to undertake a review of seclusion and restraint policies and practices within New Zealand detention facilities.

The review, which included a number of visits to places of detention, was conducted by Dr Sharon Shalev (independent expert). She was accompanied by Anneliese Boston, a legal officer at the Human Rights Commission and our Inspectors. Our Inspectors were pleased to have the opportunity to work alongside Dr Shalev during her visits to both mental health and prison facilities.

Dr Shalev's report will be published in the coming months on the [Human Rights Commissions website](#).



Top Row: Eric Fairbairn, Inspector, Simon Latimer, Senior Advisor Disability Rights, Wayne McIver, Investigator, Eddie Twist, Maori Advisor.

Bottom Row: Emma Roebuck, Inspector, Tessa Harbutt, Inspector, Jacki Jones, Chief Inspector, Sue de Silva, Youth Advisor.

Extended prison inspection of Hawkes Bay Prison

We conducted our first 7-day extended prison inspection during 28 November to 4 December 2016. Our team of Inspectors was bolstered by additional staff from our office and specialist contractors. The inspection involved early morning, late night and weekend visits to provide a comprehensive view of how the prison was operating.

This was also our first prison inspection conducted under a new comprehensive inspection methodology and will be the first inspection report to be published by us in the coming months.



Top Row: Jess Senior, Dr. Sarah Gordon, Sal Faid, Treena Martin, Deb Craig, Inspector Tessa Harbutt. Bottom Row: Leo McIntyre, Nick Harvey, Jak Wild, Chief Inspector Jacki Jones.

Enhancing our inspection team

Last year, we were awarded funding from the United Nations OPCAT Special Fund to provide training to a group of eight contractors in order to enhance our inspections of locked mental health facilities. This project has allowed us to provide the necessary training and monitoring skills to the contractors, all of whom have either lived-experience of being detained in a mental health unit or advocated on behalf of those using mental health services. By virtue of their experience and their familiarity with the detention environment, the new contractors can add great value and insight to the monitoring work we undertake.

The two-day workshop from 14 to 15 December was a great opportunity for the experts and our Inspectors to get to know each other, share their collective knowledge and discuss strategies for future inspections. Representatives from our office, the Office of the Children's Commissioner and the Human Rights Commission presented at the training and provided further context around our work as a National Preventive Mechanism.

We are looking forward to working alongside the experts in 2017, to achieve sustained, positive change in locked mental health facilities across New Zealand.

Putting prevention into practice: 10 years of OPCAT

The Association for the prevention of torture released a new booklet which offers a snapshot of the positive changes brought about by the Optional Protocol to the Convention against Torture (OPCAT). It provides an insight into what the prevention of torture and ill-treatment means in practice. [You can view the booklet here.](#)

IN THE NEWS



Kaikoura earthquakes

The 14 November 2016 Kaikoura earthquakes impacted on a number of central government agencies located in Wellington. Some agencies have still not been able to return to their offices while the safety of their buildings is being evaluated.

We recognise that this has had an impact on the ability of some agencies to meet OIA and LGOIMA response deadlines. We are taking these extenuating circumstances into account in relevant cases, when deciding how to deal with complaints that are received about delays or extensions of the timeframes for responding to OIA and LGOIMA requests.



250th Anniversary of Global Freedom of Information

On 2 December 2016 we joined with the Australian Ombudsmen and Information Commissioners to mark the 250th anniversary of the world's first freedom of information law in Sweden. [You can read the joint press release here.](#)



First release of OIA statistics

On 31 January 2017 the Chief Ombudsman published comprehensive data about complaints we have received relating to the way Ministers and other public sector agencies have dealt with official information requests. This first release covers the six months to December 2016 and future releases will happen every six months. Our data on OIA complaints completed between July and December 2016 shows that 23 percent of the complaints required a full investigation, and 10 percent of the complaints were upheld.

At the same time, the State Services Commission has published data about the volume of OIA requests received by government departments and statutory Crown entities in 2015/16, and the timeliness of responses. Over time the information on performance that is gathered and published will increase to provide a more comprehensive picture of compliance with the letter and spirit of the OIA.

[You can read our full media release here.](#)

[See the Ombudsman's complaints data here.](#)

[See States Services Commission's request data here.](#)



Reduction of funded family care

On 28 November 2016 Ombudsman Leo Donnelly released an opinion on a decision by the Ministry of Health to reduce weekly payments to a father for his care of his adult intellectually disabled son. The Ombudsman found that the Ministry acted unreasonably by awarding him 40 hours funding per week, then following an administratively unfair process to reduce it to 29 hours when the complainant appealed to a Review Panel. The Ministry agreed to reinstate the payments and review the procedure for appeals to the Panel. [You can read the full opinion here.](#)