

Annual Report 2015/2016



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Office of the Ombudsman
Tari o te Kaitiaki Mana Tangata

Presented to the House of Representatives
pursuant to s 29 of the Ombudsmen Act 1975



Mr Speaker

I submit to you our report for the year 1 July 2015 to 30 June 2016.

Judge Peter Boshier
Chief Ombudsman

2015/2016
Report of the Ombudsman
Tari o te Kaitiaki Mana Tangata
for the year ended 30 June 2016

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of the Ombudsmen Act 1975*



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Part 1

2015/16 at a glance

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Overview

- Received 12,595 complaints and other work,¹ the second highest amount ever received, and 4% more than the work received last year
- Completed 12,786 complaints and other work, 7% more than the work completed last year
- Finished the year with 1,591 complaints and other work on hand, 11% less than at the same time last year
- Overall net clearance rate of 105% for complaints and 100% for other contacts
- 91% of complaints and other contacts completed within 6 months
- Obtained remedies for the benefit of individuals and public administration in 581 cases

Ombudsmen Act (OA)

- Received 2,054 OA complaints and 7,740 other contacts concerning OA matters
- Completed 2,241 OA complaints and 7,751 other contacts concerning OA matters
- Net clearance rate of 109% for OA complaints
- Finished the year with 545 OA complaints and other contacts on hand, 26% less than at the same time last year
- 91% of OA complaints completed within 12 months
- Resolved 123 cases²
- Provided advice and assistance in 3,915 cases
- Formally investigated 221 complaints, and formed 121 final opinions
- Identified administrative deficiency in 28 complaints, or 23% of all complaints where a final opinion was formed
- Made 17 recommendations
- Obtained remedies for the benefit of the individual concerned in 159 cases
- Obtained remedies for the benefit of public administration in 12 cases

Official information (OIA and LGOIMA)

- Received 1,100 OIA complaints and 240 LGOIMA complaints
- Completed 1,084 OIA complaints and 247 LGOIMA complaints
- Net clearance rate of 99% for OIA complaints and 103% for LGOIMA complaints
- 74% of OIA complaints and 75% of LGOIMA complaints completed within 12 months
- Resolved 388 complaints, or 25% of all complaints completed
- Investigated 623 complaints, and formed 323 final opinions
- Identified administrative deficiency in 167 complaints, or 52% of all complaints where a final opinion was formed
- Obtained remedies for the benefit of the individual concerned in 387 cases
- Obtained remedies for the benefit of public administration in 23 cases

¹ Including complaints, other contacts and other work.

² 'Cases' refer to OA complaints and other contacts concerning OA matters.

Crimes of Torture Act

- Visited 42 places of detention, including 22 full inspections
- 90% of visits to places of detention were unannounced
- Made 198 recommendations for improvement, 143 of which were accepted or partially accepted

United Nations Convention on the Rights of Persons with Disabilities

- Received 81 complaints and other contacts which raised issues relevant to the Disability Convention
- Published a guide on *Reasonable accommodation of persons with disabilities in New Zealand*
- Provided input to the review of the *New Zealand Disability Strategy*

Policy and professional practice

- Advised on 65 legislative, policy and administrative proposals relevant to our jurisdiction (compared to 21 last year)
- Provided informal advice on 199 occasions to state sector agencies, mainly in relation to the processing of official information requests, 18% more than last year
- Advised the Secretary of Transport on 72 applications for authorised access to personal information on the motor vehicle register (compared to 7 applications last year)
- Conducted 38 workshops and training seminars, 90% more than last year
- Published 37 new guidance materials, twice as many as last year, including a suite of comprehensive new official information guides
- 17% increase in visitors to our website, compared to last year
- Delivered 51 speeches and presentations on the role of the Ombudsman and the operation of the official information legislation, twice as many as last year
- Nationwide survey showed 68% awareness of the Ombudsman by the New Zealand public





Part 2
Introduction

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Introduction



Judge Peter Boshier
Chief Ombudsman

Working to provide the best possible service

Just before she concluded her term as Chief Ombudsman in December 2015, Dame Beverley Wakem published her seminal report on central government compliance with the Official Information Act 1982, entitled *Not a Game of Hide and Seek*. It was a poignant way to end. Dame Beverley was able to reflect on how this constitutionally important Act was working, and being applied, and at the same time set out a roadmap for future improvement and work.

When I commenced as Chief Ombudsman on 10 December 2015, I knew that the fundamentals of good compliance were acknowledged, but I also knew that I had plenty to do to get this Act working better.

In addition to that challenge, I saw an office submerged in work and not always handling its expectations of time in assisting people. I noted that there was a substantial backlog of aged files which had not been resolved, sometimes for a number of years. But, more critically, we had too many unallocated files simply waiting their place in the queue to receive attention. I knew that we had to change our approach to our work.

For the first six months in my position, and therefore the second half of the year in respect of which this report applies, I absorbed the messages from staff but, just as importantly, those from the outside who rely on us to do our job promptly and efficiently, and I felt growing reassurance that change was inevitable.

As a result of a visit to Australia in February 2016, I learned that many Australian Ombudsman and Information Commissioner offices have faced similar challenges. They have changed their approach and methodology so as to achieve very quick front-end disposition, and ensure that the really hard cases that need considerable work can receive this but in a timely fashion. I began to think that no case that this office accepted should remain outstanding beyond 12 months from receipt. As other models were achieving fast results by changed techniques, I felt that achieving resolution of 70% of our complaints within three months was feasible.

We have already begun to make great strides in the 2015/16 reporting year. Despite overall intake once again increasing, we completed 7% more work than last year and finished the year with 11% less work on hand than at the same time last year. Our overall net clearance rate for complaints was 105%, meaning that we closed 178 more complaints than we received, and so started to make significant inroads into our backlog of aged complaints.

Our timeliness figures for 2015/16 also bode well for the future, with 58% of all complaints completed within 3 months and 85% completed within 12 months. Early resolution, particularly in the official information area, has seen a dramatic increase this year. Overall, we resolved 25% of official information complaints and, importantly, we resolved 54% more complaints without needing to undertake a formal investigation than in the 2014/15 year. Our practices around Ombudsmen Act complaints are already very tight, with only 10% proceeding to a formal investigation, and so the real area of efficiency gain for us will be in respect of official information complaints.

I regard the support of Treasury, Parliament and the Speaker as heavily influencing our ability to achieve change. The Officers of Parliament Select Committee completely supported the initiatives I felt we needed to take and ensured that we were adequately resourced to do so in the coming year 2016-17. And so, we have the belief and the basis to now make change and to provide an even better service for New Zealanders for the future.

Systemic interventions

Our office does not just handle complaints about administrative decision making and requests for official information. We also undertake a number of systemic interventions with the aim of contributing to wider administrative improvement in the state sector.

Along with major self-initiated investigations, we provide advice, guidance and training to state sector agencies and the wider public. Demand on us in these areas continues to increase, with requests for us to provide 89 formal training sessions and presentations doubling the demand compared to last year. We also experienced an ongoing increase in requests by agencies for informal advice, particularly on the processing of official information requests, and we gave such advice on 199 separate occasions this year.

We also saw a three-fold increase in our interventions to provide advice to agencies on 65 legislative, policy and administrative proposals, and a dramatic increase of 72 requests from the Ministry of Transport for our advice on statutory applications for authorised access to personal information on the motor vehicle register.

We published 37 new guidance materials this reporting year, including a suite of 9 comprehensive new official information guides as part of an ongoing project to review, develop and update our guidance in this area. In addition, we published a ground-breaking guide to *Reasonable accommodation of persons with disabilities in New Zealand*. All of these guides have been very well received by our stakeholders.

UN monitoring

The office, under official designation from Parliament, inspects certain places of detention in New Zealand, especially prisons and mental health facilities, to ensure against cruel and inhuman treatment. Our task is to ensure that people who have to be detained in these places are met with standards of care which New Zealand regards as acceptable.

So also is the case with New Zealanders who have disabilities. Our office monitors implementation of the *United Nations Convention on the Rights of Persons with Disabilities* and, I think, makes a fundamental contribution to policy and the implementation of proper, acceptable facilities and approaches.

There are two aspects of this work that I should highlight. The first is that the plight of those who are detained, and who are mentally unwell, is concerning. We have become increasingly concerned at the inadequacy of appropriate facilities, especially for prisoners who have high mental health needs. It is an issue I intend to pursue in the new reporting year with the relevant agencies. So, also, is my concern about the vulnerability of those detained in privately run dementia units, and who presently appear to have no independent oversight in the same way that publicly funded institutional patients have. The anomaly is worthy of careful discussion.



Our protected disclosures role

For the sake of completeness, I mention our role under the Protected Disclosures Act. We are a place that people can turn to if they feel that their complaint to an agency about improper conduct has not been taken seriously.

Our constitutional role

It can be seen that in all of these respects, the Office of the Ombudsman occupies a place of considerable constitutional importance. For New Zealand to be respected internationally for its good government, integrity and transparency, requires the independence and the oversight that this office is expected to provide. It is my intention to ensure that we do this to the highest standard.

But the change that there will be, is in the way that we will work. We have to work electronically so as to keep our work moving in a way that is expected in the present environment. Not only internally, but externally, we must work according to timeframes that are modern and geared to promptness and efficiency.

It follows that we must put much greater emphasis on early resolution whenever that can be achieved. There will always be cases that require a good deal of time and thought because of the issues they raise. They may be constitutionally important. However, there are many other cases that can and should be resolved in a quicker, business-like fashion. If the office is to work according to a proper sense of time, and by that I mean reasonable expectations of when we will complete our work, change in this respect is essential.

I would like to think that, in this way, those that come to us regard us as relevant and helpful. That is not to say always accommodating, but rather that the integrity and oversight that we bring to processes will be undertaken more quickly, so that actions we take, or recommendations we make, are directly relevant.

I reflect on what a very great privilege it is to head this office, and to succeed such distinguished past Chief Ombudsmen. My wish is that, as the office now proceeds, we continue to fulfil our place in the good government of New Zealand and that we do it fairly, firmly and efficiently.

Farewell to Dame Beverley Wakem and Professor Ron Paterson

In the reporting year, we said farewell to both Chief Ombudsman Dame Beverley Wakem and Ombudsman Professor Ron Paterson. They have both contributed significantly to the history and work of the office and I wish them the very best for the future.



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Part 3 Background

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Nature and scope of the Ombudsman's functions

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

Our purpose

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

Legislative functions

Our main functions under legislation are to:

- investigate state sector administration and decision making;³
- investigate and review decisions made on requests to access official information;⁴
- deal with requests for advice and guidance about alleged serious wrongdoing;⁵
- monitor and inspect places of detention for cruel and inhuman treatment;⁶ and
- provide comment to the Ministry of Transport on applications for authorised access to personal information on the motor vehicle register.⁷

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

What is the state sector?

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

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

³ Under the Ombudsmen Act 1975.

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

⁵ Under the Protected Disclosures Act 2000.

⁶ Under the Crimes of Torture Act 1989.

⁷ Under section 241 of the Land Transport Act 1998.

International responsibilities

Two of our functions have international responsibilities.

We carry out our function to monitor and inspect certain places of detention under the Crimes of Torture Act 1989 as a *National Preventive Mechanism*. The Crimes of Torture Act fulfils New Zealand's responsibilities under the *United Nations Optional Protocol to the Convention Against Torture*.

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

Other functions

To complement and support our main functions under legislation, we:

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



Outcomes and impacts sought by the Ombudsman

Our strategic direction is:

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

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

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



Figure 1: The overall impact of our work

Impacts

The impacts we seek to achieve are:

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

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

Our first impact measure is that the overall quality of public services improves over time. We measure this through the Kiwis Count Survey which is administered by the State Services Commission. Our target is for the public services to achieve an overall quality score higher than 70 points. The quality score in June 2015 was 74 points, increasing from the September 2014 score of 73 points.

Our second impact measure is that New Zealand is rated as one of the leading countries in public service probity as measured by the Transparency International Corruption Perceptions Index. Our target is for New Zealand to be in the top 3 ranked countries over the next 5 years. In 2015 New Zealand ranked fourth, and in 2014 New Zealand ranked second.

Outputs

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

Investigate state sector administration and decision making

We seek to improve administration and decision making in state sector agencies, primarily by undertaking investigations under the Ombudsmen Act 1975. Our investigations may be in response to complaints or may be self-initiated, particularly where systemic or wider public interest issues are raised. In relation to people with disabilities, we also investigate issues relating to the implementation of the Disability Convention.

Investigate and review official information decisions

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

Deal with requests for advice and guidance about serious wrongdoing

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

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

Monitor and inspect places of detention

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

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

Improve state sector capability in areas relevant to our jurisdiction

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

- reviewing and commenting on legislative, policy and procedural matters to ensure they:
 - reflect good administrative practice;
 - promote good decision making; and
 - are consistent with the principles of open and transparent government;



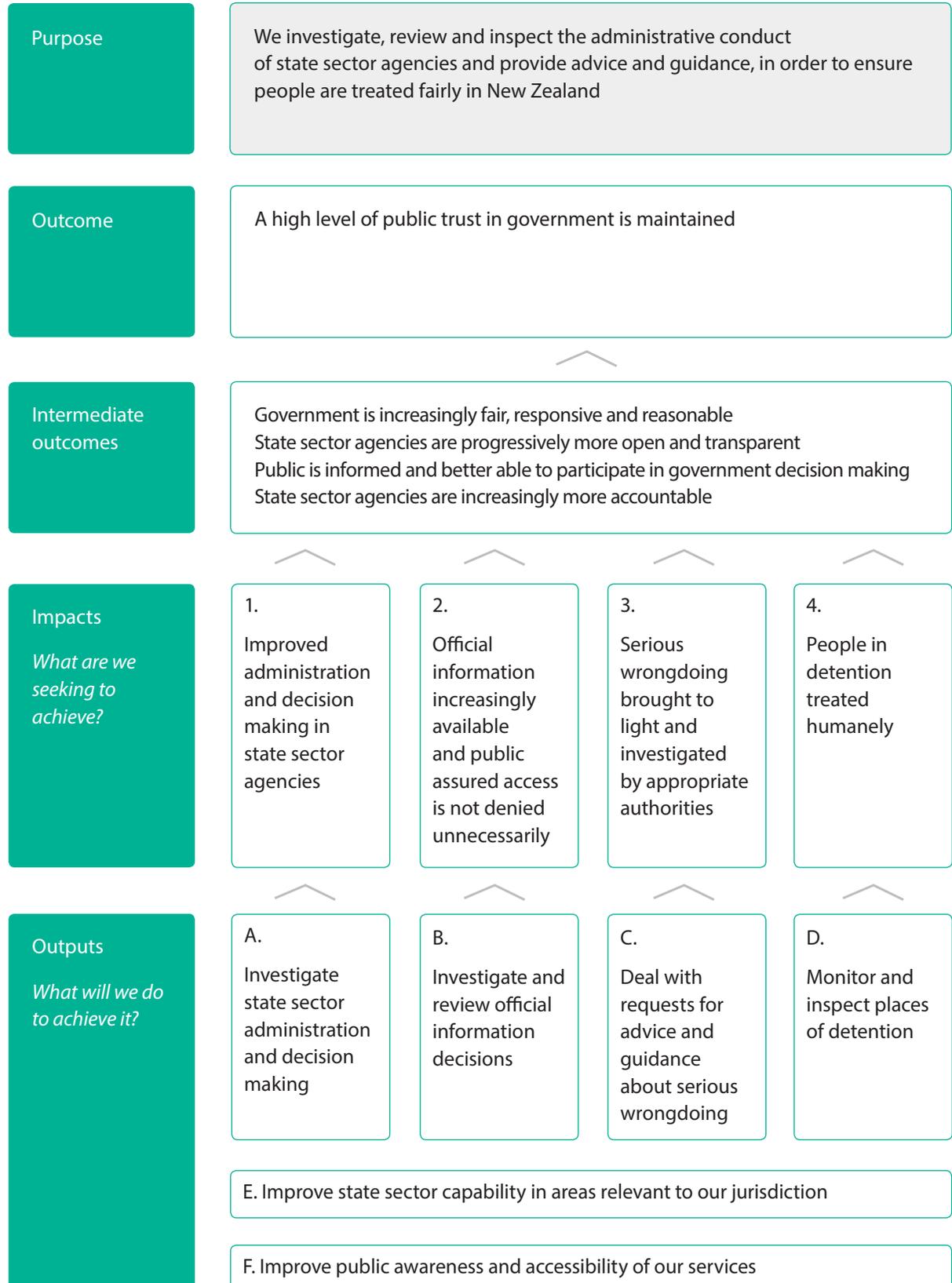
- providing advice, guidance and training to state sector agencies, and reviewing and monitoring compliance and good practice, to help agencies:
 - develop and implement good administrative and complaints handling practices;
 - develop and implement good official information handling processes, policies and systems; and
 - comply with their obligations under the official information legislation; and
- promoting the proactive disclosure of official information where appropriate to reduce the administrative burden and transaction costs of reacting to individual requests for the same or similar information.

Improve public awareness and accessibility of our services

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

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

Ombudsman outcomes framework







Part 4

Report on operations

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Ombudsmen Act

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

The numbers

We treat matters as formal '*complaints*' once they have been put in writing.⁸ However, we also deal with a large number of oral complaints and enquiries from members of the public, mainly over the telephone or by prison visits, prior to a complaint being made to us in writing. While we term these matters '*other contacts*', our staff spend a significant amount of time providing advice and assistance, and resolving these matters.

We received a total of 9,794 OA complaints and other contacts concerning OA matters in 2015/16, an increase of 3% on 2014/15 numbers. The total received is made up of:

- 2,054 complaints; and
- 7,740 other contacts.

We completed a total of 9,992 OA complaints and other contacts concerning OA matters in 2015/16, an increase of 6% on 2014/15 numbers. The total completed is made up of:

- 2,241 complaints; and
- 7,751 other contacts.

We finished the reporting year with 542 complaints and 3 other contacts on hand, 26% less than at the same time last year. This resulted in a net clearance rate for OA complaints of 109%.

The OA is primarily used by individual members of the public. This reflects the intent of the legislation, which is to provide recourse for people personally affected by the administrative conduct of state sector agencies. In 2015/16, 84% of OA complaints were from individual members of the public and 13% were from prisoners or prisoner advocates.⁹ Only 3% of OA complaints were made by corporate entities, media, government agencies, political party research units and Members of Parliament.

In terms of other contacts concerning OA matters, 45% were from individual members of the public and 54% were from prisoners or prisoner advocates.¹⁰ Over the past 3 years, both an increasing proportion and an increasing number of other contacts have come from prisoners. The high proportion of other contacts received from prisoners reflects the fact that many matters of concern to prisoners are raised with us and resolved immediately by telephone.

⁸ See section 16(1A) OA.

⁹ Not all against the Department of Corrections.

¹⁰ Above, n 9.

The agencies

Half of the OA complaints received (49%) were made against central government departments. Other state sector agencies accounted for 28% of OA complaints, and 13% were made against local government agencies.

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

Most other contacts concerned the Department of Corrections, which accounted for 57% of other contacts. Dealing with prisoner matters is a large part of the work we do in responding to and resolving matters by telephone.

Other central government departments accounted for 12% of other contacts, 11% concerned other state sector agencies, and 4% concerned local government agencies. Dealing with other contacts is less resource intensive than dealing with the complaints we receive, but we are still able to provide effective assistance and resolution of concerns.

The outcomes

Complaints

Not all OA complaints we receive require formal investigation. In 492 cases (22% of the total completed during 2015/16) our role was to provide an explanation, advice or assistance to complainants about the most appropriate way of addressing their concerns.

We advised complainants in 748 cases¹¹ to raise their complaint with the state sector agency of concern in the first instance. We also declined to investigate in 159 cases¹² where there was another remedy or right of appeal available to the complainant. A further 313 complaints¹³ were not within our jurisdiction.

We were able to resolve 117 complaints¹⁴ – in 86 cases before investigation and in 31 cases during an investigation.

We commenced formal investigations in 221 cases,¹⁵ and we formed final opinions in 121 cases.¹⁶ In only 28 cases (23% of all those cases where a final opinion was formed), did we identify administrative deficiency by the state sector agency that was the subject of complaint.

We made recommendations in 17 cases. Our recommendations have been accepted in 14 cases, not accepted in 1 case, and in 2 cases we are awaiting confirmation as to whether the recommendation is accepted.

¹¹ 33% of cases.

¹² 7% of cases.

¹³ 14% of cases.

¹⁴ 5% of cases.

¹⁵ 10% of cases.

¹⁶ 5% of cases.



Other contacts

In terms of other contacts concerning OA matters, we provided an explanation, advice or assistance in 3,423 cases (44% of the total completed during 2015/16).

We advised individuals in 2,774 cases¹⁷ to raise their complaint with the state sector agency of concern in the first instance. We referred individuals to other complaint agencies in 508 cases,¹⁸ including the Health and Disability Commissioner, the Independent Police Conduct Authority and the Privacy Commissioner. We referred 295 cases¹⁹ directly to a state sector agency for consideration by that agency, and we invited 451 individuals²⁰ to make a complaint to us in writing.

The administrative deficiencies identified

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

- 10 cases where there were procedural deficiencies;
- 10 unreasonable, unjust, oppressive or discriminatory acts, omissions or decisions;
- 7 instances of inadequate advice, explanation or reasons;
- 3 cases of unreasonable delay;
- 3 cases of legal error; and
- 2 cases of factual error or mistake.

¹⁷ 36% of cases.

¹⁸ 7% of cases.

¹⁹ 4% of cases.

²⁰ 6% of cases.

Immigration New Zealand - recording of reasons for decisions

Chief Ombudsman Judge Peter Boshier finalised an investigation into a complaint about the decision of Immigration New Zealand (INZ), part of the Ministry of Business, Innovation and Employment (Ministry), to refuse requests made under section 35A of the Immigration Act 1987 (now section 61 of the Immigration Act 2009) to regularise the complainant's unlawful status. Requests made to the Associate Minister of Immigration for a student permit had been considered and refused by Departmental Decision Makers (DDMs) who did not record reasons for their decisions.

The Chief Ombudsman formed the opinion that because DDMs had failed to record reasons for their decisions, it could not be determined that all relevant considerations had been addressed. For that reason, the decisions were found to be unreasonable. The Chief Ombudsman saw no reason why the decision of a DDM on a request for ministerial intervention should be treated any differently to that of other Ministry officials making determinations under section 35A (or section 61). Case notes prepared by INZ for the DDMs' consideration of requests were—except in rare cases—insufficient to demonstrate that the decisions were properly reached. The Chief Ombudsman found that, for the purposes of accountability and transparency, good administrative practice requires that proper records of decision-making processes should be created and retained, particularly where the decisions may have a significant impact on the person, such as their ability to remain in New Zealand.

The Chief Ombudsman considered that the record should enable an internal or external reviewer to understand why the decision was made, and should usually specify what information was relied upon, any resulting factual findings and what persuaded the decision maker to make the particular decision.

The Ministry accepted the Chief Ombudsman's opinion and agreed to commence recording reasons for DDM decisions. It also offered a remedy to the complainant. Accordingly, although the complaint was sustained, no recommendations were necessary.

The remedies obtained

We obtained remedies for the individual concerned in 159 OA complaints and other contacts concerning OA matters,²¹ including:

- 37 cases where a decision was reconsidered;
- 35 cases where a decision was changed;
- 21 cases where an omission was rectified;
- 21 cases where reasons or an explanation for a decision was given;
- 19 cases where an apology was given; and
- 14 cases where a financial remedy was provided.

We also obtained a public administration benefit in 12 cases, with:

- a change in practice or procedure in 6 cases;
- agency agreement to review a law, policy, practice or procedure in 3 cases;

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



- the provision of guidance or training to agency staff in 2 cases; and
- a change in law or policy in 1 case.

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

State Services Commission conduct of MFAT leaks inquiry

In June 2016 Ombudsman Ron Paterson published his opinion on an investigation into a complaint by Derek Leask, a former High Commissioner to the United Kingdom, about the State Services Commission's (Commission) inquiry into leaked Ministry of Foreign Affairs and Trade (MFAT) documents, undertaken by Paula Rebstock. The Ombudsman found that the Commission acted unreasonably in the conduct of the inquiry and in the findings it made about Mr Leask, who was not responsible for the leaks.

The Ombudsman found that:

- the findings in relation to Mr Leask in the final report exceeded the terms of reference for the inquiry;
- Mr Leask was not given fair notice prior to his interviews that his conduct (apart from any possible culpability for the leaks in question) would be examined;
- insufficient material was provided to Mr Leask in advance of the final report about the applicable standards against which his behaviour was being measured;
- in several respects, Mr Leask was not treated fairly, in accordance with the principles of natural justice;
- the evidence relied upon by the inquiry did not reasonably support some of the criticisms made about Mr Leask in the final report and some highly relevant evidence was not properly addressed;
- the manner in which the evidence was portrayed in the final report did not fairly represent Mr Leask's actions;
- the manner in which Mr Leask's actions were addressed in the final report was disproportionate when compared with the comments made about the actions of other MFAT staff, including a number of Tier 3 managers;
- the publication of the final report, in a manner that identified Mr Leask and contained unfair criticisms of him, was unjust; and
- the Commissioner's public statement about Mr Leask on 12 December 2013 was unreasonable.

The Ombudsman recommended that the Commission offer Mr Leask a public apology, reimburse him for actual and reasonable expenses, compensate him for harm to reputation, and review its guidance for future inquiries under the State Services Act 1988.

Timeliness and clearance rates

We met our target of completing 100% of OA other contacts within 3 months of receipt.

We also met our net clearance rate targets, achieving:

- a net clearance rate of 100% for OA other contacts (*target 100%*); and
- a net clearance rate of 109% for OA complaints (*target 105%*).

Given the continued large volume of work received across jurisdictions, we did not meet our timeliness targets for completing OA complaints. However, we came close to meeting our targets, completing:

- 81% of complaints within 6 months of receipt (*target 90%*); and
- 91% of complaints within 12 months of receipt (*target 95%*).

Since 2012, we have had a sustained high level of complaints and other contacts received in the Office. In order to effectively manage the number of complaints and other contacts on hand, we must continue to improve our timeliness.

Quality assurance

Following on from our quality assurance pilot in 2014/15, this year we performed formal quality assurance across a random sample of all OA complaints and other contacts completed in the 2015/16 year. The result was that 88% of the complaints and other contacts reviewed met our internal quality standards. The main reason for complaints not meeting quality standards was timeliness.

As well as conducting formal quality assurance sampling, we also ensure the quality of our work through review of all correspondence by senior staff with delegated authority from the Ombudsmen, and the participation by staff in our in-house training programmes.

Department of Corrections

The Department of Corrections, which manages up to 20,000 people through the prison system each year, continued to account for a significant proportion of our overall OA workload. In the 2015/16 year we completed 352 OA complaints and 4,417 other contacts concerning OA matters.

The complaints and other contacts were predominantly received from prisoners and prisoner advocates. Nearly all matters were dealt with by our Early Assistance and Early Resolution Teams.

The most common concerns raised by prisoners in 2015/16 related to:

- property (13%);
- transfers and movements (9%);
- welfare (9%);
- staff conduct and attitudes (7%);
- discipline and misconduct (7%);
- communications (7%); and
- health services (6%).

In May 2016, the Ombudsmen and the Department began discussions—which are still ongoing—on how our role as it relates to the Corrections sector might be better focused. In particular, our aim is to help ensure, through complaint handling and investigations, that prisoners are treated fairly, and detained in conditions



that are safe, secure, humane, fair, consistent with their rights, and conducive to reducing reoffending and assisting reintegration. The outcome of these discussions should ensure that Ombudsmen resources are targeted for maximum benefit.

Earthquake Commission

During the 2015/16 year, complaints and other contacts against the Earthquake Commission (EQC) have continued to decline, with the numbers halving from those received in 2014/15. The focus also continued to be on more complex complaints about the quality of remedial work.

Before the Canterbury earthquakes, we received around 10–15 complaints per year concerning EQC. In this reporting year, we received 237 complaints and other contacts concerning EQC, including:

- 91 OA complaints;
- 109 other contacts concerning OA matters;
- 19 Official Information Act (OIA) complaints; and
- 7 other contacts concerning OIA matters.

The total number of matters received this reporting year has eased off from a peak of 838 in 2012/13, 649 in 2013/14, and 474 in 2014/15.

We completed 116 OA complaints against EQC in the 2015/16 year, including:

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

We also completed 21 OIA complaints against EQC in the reporting year, including 9 complaints which we formally investigated.

Wider administrative improvement investigations

As part of our functions, we undertake interventions to achieve wider administrative improvement in the state sector. These interventions include focused investigations of significant and systemic issues.

OIA practices in government agencies

Chief Ombudsman Dame Beverley Wakem completed a major review of the OIA practices in government agencies, publishing in December 2015 a report of her findings under the title *Not a Game of Hide and Seek*. Her report included 48 recommendations and signalled the start of an ongoing programme of OIA practice reviews of individual agencies. For the purposes of this programme, we have been developing a maturity model and self-audit tool in conjunction with a review of the OIA practices of an initial 12 agencies.

As a part of the review programme, the current Chief Ombudsman, Judge Peter Boshier, instigated work on a strategy to increase transparency in the operation of the OIA, and announced that he would commence quarterly publication of OIA complaints data, with the first publication due by the end of the calendar year and covering data from July 2016 to September 2016.

The OIA review programme, and the *Not a Game of Hide and Seek* report, have already attracted a lot of constructive attention and prompted many illuminating discussions with a range of interested parties, which bodes well for the continuing value of this initiative as it gains momentum.

Consultation on school closures and mergers

Chief Ombudsman Judge Peter Boshier also continued Dame Beverley Wakem's wider administrative improvement investigation concerning consultation by the Ministry of Education in relation to school closures and mergers. The investigation concerns the Ministry's policy and practice in consulting with school communities when it is proposed that a school be closed or merged with another school.

This has been an investigation of unprecedented scope, in that it has surveyed closure and merger processes since the *'Tomorrow's Schools'* policy was implemented through the passing of the Education Act 1989. As the Education Act undergoes, in late 2016, its first major review since it was passed, the report's analysis is as current and timely as ever. The Chief Ombudsman now expects to publish a final report in the new reporting year.



Official information

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

The numbers

The high number of official information complaints we are receiving continued this year. We received 1,100 complaints under the OIA and 240 complaints under LGOIMA, a level comparable to the 2014/15 year. We expect this level of complaints to continue in the foreseeable future.

We completed 1,084 OIA complaints and 247 LGOIMA complaints this year, 10% more than we completed in the 2014/15 year. Our net clearance rate for OIA complaints also improved from 88% in 2014/15 to 99% in 2015/16, showing that we are now meeting the pressure of a continuing high volume of official information complaints.

We finished the year with 849 OIA complaints and 153 LGOIMA complaints on hand. With the extra temporary resource we have been given for the next three years, we expect to increase our clearance rate even further, and so significantly reduce the backlog of 561 complaints over 1 year old that we had on hand at the end of 2015/16.

The complainants

This year's statistics concerning the type of complainants who raised concerns about official information decisions are consistent with previous years. They continue to suggest that members of the public are making good use of their rights to request information under the OIA and LGOIMA, and to complain to the Ombudsman if dissatisfied.

Individuals accounted for 61% of OIA complaints and 80% of LGOIMA complaints. The next highest users were the media, who made 17% of OIA complaints, and 8% of LGOIMA complaints. Companies, associations and incorporated societies made 7% of OIA complaints and 11% of LGOIMA complaints. MPs and political party research units accounted for 8% of the OIA complaints received, a significant increase on 2014/15 figures where they made only 4% of the OIA complaints received.

The agencies

This year, 538 OIA complaints were made against government departments, making up 40% of all official information complaints received. Other state sector agencies accounted for 446 OIA complaints, or 33% of all official information complaints received. This shows an ongoing trend for official information complaints to be made against the wider state sector just as much as against central government.

Local government agencies subject to LGOIMA made up 18% of the official information complaints received, and 7% of official information complaints were against Ministers of the Crown.

Ministerial surface travel expenses

Chief Ombudsman Judge Peter Boshier investigated a complaint about the Department of Internal Affairs' refusal of a request for information relating to the surface travel expenses of Government Ministers. The Department's practice prior to this request had been to summarise the information and, in the interests of accountability, make it available on its website, on a quarterly basis.

The Department withheld the requested information under section 9(2)(ba)(i) of the OIA on the basis that the raw data was subject to an obligation of confidence. The Chief Ombudsman was not persuaded that information relating to the expenditure of public money, regardless of whether the travel was for private or official purposes, could be subject to an obligation of confidence.

Further, the Chief Ombudsman considered that even if an obligation of confidence could have been said to exist, this would have been outweighed in the circumstances of this particular case by the public interest in disclosure.

Consequently, the Chief Ombudsman formed the final opinion that the request should not have been refused and formally recommended release of the information at issue.

The complaints

This year, 56% of all official information complaints received concerned the partial or outright refusal of requests for official information, and 23% concerned delays by agencies in making decisions on official information requests or in releasing information.

These figures show the proportion of delay complaints received has not increased. We received 310 delay complaints in 2015/16, as compared to 313 in 2014/15 and 448 in 2013/14.

A comparison with the figures for 2011/12 shows a decrease of 47% in delay complaints this year as compared to 2011/12. However, other types of complaints, which can be more complex to progress, increased by 12% in 2015/16 as compared to 2011/12.



Surgical complications data

Ombudsman Ron Paterson investigated a complaint from the *New Zealand Herald* in relation to the refusal of five District Health Boards (DHBs) to release information about the nature and outcomes of public hospital work by cardiothoracic surgeons and neurosurgeons. The refusal was made in order to protect the privacy of the surgeons and because the information could not be made available without substantial collation or research.

The Ombudsman found that the DHBs should not have refused the request for the number and type of procedures performed by individual surgeons. Surgeons have a low privacy interest in such information, outweighed by public interest considerations favouring disclosure. Concerns about the limitations of the information could have been addressed by providing explanatory information.

However, the DHBs were entitled to refuse the request for standardised, risk-adjusted information relating to major complications, readmissions and deaths, since that information was not currently held. The DHBs were also entitled to refuse the request for numbers and crude rates relating to major complications, readmissions and deaths at individual surgeon level.

The Ombudsman found that releasing individual surgeons' outcomes data would do more harm than good, given the current state of information in the New Zealand health sector. Public reporting of data that is misleading, incomplete or otherwise of poor quality could erode public confidence in the health system, undermine teamwork and result in surgeons seeking to avoid complex procedures.

The Ombudsman commented that New Zealand lags behind other comparable healthcare systems in disclosure of performance and outcomes information. Professionalism in a 21st century doctor should include a commitment to the collection and publication of meaningful outcomes data. Professional colleges, such as the Royal Australasian College of Surgeons, have an important leadership role to play.

However, the Ombudsman was encouraged to note a greater commitment within the health sector to collect, analyse and publish data on the outcomes of healthcare interventions. He recommended that the DHBs release the numbers and types of procedures performed by individual surgeons, and that the Ministry of Health and Health Quality & Safety Commission provide publicly available annual updates, from June 2017, on progress towards publication of meaningful quality of care measures across specialties by June 2021.

The outcomes

In 2015/16, we resolved 25% of all official information complaints, with 165 resolutions achieved without formal investigation and 173 resolutions achieved during an investigation. In particular, with our increasing focus on 'early resolution' this year, we resolved 54% more complaints, without needing to undertake a formal investigation, than in the 2014/15 year.

We commenced formal investigations in 47% of all completed official information cases (623 out of 1,331), and we formed final opinions in 323 cases.²² In 167 of these cases²³ we identified administrative deficiency by the agency concerned in its official information decision making. This is a significant increase as compared to 2014/15, when we identified 98 cases of administrative deficiency.

²² 24% of all completed official information complaints.

²³ 52% of all complaints where a final opinion was formed.

We made 17 recommendations under the OIA and 9 recommendations under LGOIMA. Again, this is a significant increase as compared to 2014/15, when we made 5 recommendations.

All 26 of our official information recommendations have been accepted.

The administrative deficiencies identified

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

- 113 cases of delay (last year 64);
- 48 cases where the refusal of official information was not justified (last year 33);
- 1 case of factual error or mistake;
- 1 case of inadequate advice, explanation or reasons;
- 1 case of procedural deficiency;
- 1 case where there was an unreasonable extension; and
- 1 case of flawed agency processes or systems.

It is evident from these figures that while we are making greater efforts to resolve complaints as early as possible, this does not limit our ability to identify administrative deficiency where that is occurring and the matter has not been able to be resolved.

Text message between the Prime Minister and a journalist

Chief Ombudsman Judge Peter Boshier investigated two complaints about the Prime Minister's refusal of requests made under the OIA for communications that he or his Office had with a journalist for the *New Zealand Herald* regarding the pulling of a waitress's hair by the Prime Minister at Rosie, a cafe in Parnell.

At issue in this case was a single text message that was sent by the journalist to the Prime Minister on 22 April 2015. The Prime Minister's Office stated *'it is not the practice of the media team or the Prime Minister to divulge details of the communications from journalists'* and refused the request on grounds of privacy (section 9(2)(a)) and that it was subject to an obligation of confidence (section 9(2)(ba)). The Prime Minister asserted that he did not believe there was an overriding public interest in disclosure.

In the circumstances of this case, the Chief Ombudsman formed the opinion that it was not necessary to withhold the information to protect either the privacy interests of the individuals concerned or any obligation of confidence to the journalist.

The Chief Ombudsman said that there is no blanket protection for *'off-the-record'* communications between Ministers and members of the media. He was clear that each case must be considered on its own merits.

Further, the Chief Ombudsman considered that even if an obligation of confidence existed, this would have been outweighed in the circumstances of this particular case by the public interest in promoting accountability.

Consequently, the Chief Ombudsman concluded that the requests should not have been refused and recommended release of the content, timing and circumstances of the text message.



The remedies obtained

We obtained 387 remedies for complainants,²⁴ including:

- 232 cases where a decision was changed;
- 73 cases where reasons or an explanation for a decision were given;
- 33 cases where an omission was rectified;
- 47 cases where a decision was reconsidered; and
- 1 case where an apology was given.

We also obtained remedies with a public administration benefit in 23 cases, including:

- 19 cases where there was a change in practice or procedure;
- 2 cases where a law, policy, practice or procedure was reviewed; and
- 2 cases where guidance or training was provided to staff.

Overall, we obtained 27% more remedies for the benefit of both complainants and public administration than in 2014/15.

Legal opinions on interpretation of statutory term

Section 9(2)(h) of the OIA (section 7(2)(h) of the LGOIMA) is the only withholding ground that applies to a class or category of documents—ones that are legally privileged. Successive Ombudsmen have recognised the very strong public interest in maintaining legal professional privilege. That public interest is rarely overridden, except in exceptional circumstances. One such case arose in the reporting year, where Chief Ombudsman Judge Peter Boshier considered there to be a strong countervailing public interest in people knowing how the law is being interpreted and applied to them.

A health researcher complained about a decision made by the Ministry of Health to refuse her request for a copy of two legal opinions. The Ministry had sought this legal advice to clarify the interpretation of the statutory term ‘uses’, in section 5 of the Human Assisted Reproductive Technology Act 2004 (HART Act). The Ministry then provided the legal opinions to the Ethics Committee on Assisted Reproductive Technology (ECART). ECART considered, in light of this advice, whether a study proposed to be conducted by the researcher would involve the ‘use’ of embryos, and concluded that it would. ECART therefore declined the researcher’s application to proceed with the study until such time as guidelines had been agreed by the Advisory Committee for Assisted Reproductive Technology (ACART).

The Chief Ombudsman formed the opinion that the interest in withholding the legal opinions to maintain privilege was outweighed by the public interest in disclosure of information ‘*about the interpretation of a crucial term in the governing legislation*’. He recommended disclosure of the legal opinions in question. He considered that disclosure of the opinions would enable citizens, including human fertility researchers, to more effectively participate in the administration of the HART Act and any policy guidelines developed by ACART which impact significantly on them. Disclosure would also promote the accountability of officials for their decisions.

²⁴ In cases that we both investigated, and resolved informally without investigation.

Timeliness and clearance rates

We largely met or exceeded our net clearance rate targets, achieving:

- a net clearance rate of 101% for OIA other contacts (*target 100%*);
- a net clearance rate of 100% for LGOIMA other contacts (*target 100%*);
- a net clearance rate of 99% for OIA complaints (*target 100%*); and
- a net clearance rate of 103% for LGOIMA complaints (*target 100%*).

While we met our timeliness targets for completing other contacts, we did not, given the continued large volume of work received across jurisdictions, meet all of our timeliness targets for completing official information complaints. We completed:

- 98% of OIA other contacts within 3 months of receipt (*target 95%*);
- 97% of LGOIMA other contacts within 3 months of receipt (*target 95%*);
- 54% of OIA complaints within 3 months of receipt (*target 60%*);
- 47% of LGOIMA complaints within 3 months of receipt (*target 60%*);
- 74% of OIA complaints within 12 months of receipt (*target 75%*); and
- 75% of LGOIMA complaints within 12 months of receipt (*target 75%*).

Since 2012, we have seen a high level of complaints and other contacts received in the Office. In order to effectively manage the number of complaints and other contacts on hand, we are committed to continuing to improve our timeliness.

Quality assurance

Following on from our quality assurance pilot in 2014/15, this year we performed formal quality assurance across a random sample of all official information complaints completed in the 2015/16 year. The result was that 72% of the complaints reviewed met internal quality standards.

As well as conducting formal quality assurance sampling, we ensure the quality of our work through review of all correspondence by senior staff with delegated authority from the Ombudsmen, and the participation by staff in our in-house training programmes.



Handwritten notes on draft document

Chief Ombudsman Dame Beverley Wakem investigated a complaint about Upper Hutt City Council's decision to refuse a request for handwritten notes on a draft strategy document in order to maintain the effective conduct of public affairs through the free and frank expression of opinions (section 7(2)(f)(i) LGOIMA). The draft strategy itself was publicly available, so the information at issue consisted solely of the handwritten notes.

The notes had been generated through a process of consultation amongst staff, or in editing and undertaking quality assurance. Much of the notes related to suggested editorial changes, and the remainder were in the nature of questions and suggestions regarding content.

Section 7(2)(f)(i) of LGOIMA contemplates the effect that disclosure could have on the future generation of free and frank expressions of opinion. In some circumstances, release of information may affect the future willingness and ability of officials to canvas and test the full range of options and ideas, which is crucial to ensuring that the best and most considered advice is ultimately tendered to Council.

The Chief Ombudsman was satisfied that disclosure of the notes would be detrimental to the future willingness of Council staff to provide free and frank opinion on drafts circulated by colleagues, or to test the content and recommendations of such documents. To inhibit this process would be to undermine the accuracy and value of the material that eventuates.

In this case, the document in preparation was a strategy for presentation to the Council and for public consultation. The effective conduct of public affairs in this respect relied on accurate and comprehensive documentation, with well-founded propositions. To impair the quality of that advice would be to prejudice the basis on which the public was to engage.

There was nothing in the content of the handwritten notes that suggested to the Chief Ombudsman that disclosure would serve any wider public interest. She therefore concluded that section 7(2)(f)(i) of the LGOIMA provided good reason to withhold the notes.

Protected Disclosures Act

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

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

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

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

Since the PDA came into force in 2001, we have received an average of 10 requests per year for guidance and assistance in relation to possible protected disclosures.

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

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

Despite the high threshold, it is not clear why the PDA is not used more often. It could be due to a lack of awareness of the Act,²⁵ or a perception that the protections it provides are inadequate. It may also be a reflection of the fact that New Zealand enjoys such low levels of corruption.

In 2015/16, we received 6 and completed 9 requests for guidance and assistance. We completed 56% of all requests for guidance and assistance within 6 months of receipt (*target 95%*), and 78% within 12 months. We also responded to 35 informal contacts about PDA matters.

²⁵ The State Services Commission's Integrity and Conduct Survey 2013 found 'the [PDA] is not being widely referred to or used by State servants'. Available at www.ssc.govt.nz.



Crimes of Torture Act

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

Overview

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

- 18 prisons;
- 80 health and disability places of detention;²⁶
- 1 immigration detention facility;
- 4 child care and protection residences; and
- 5 youth justice residences.

The designation in respect of child care and protection and youth justice residences is jointly shared with the Children's Commissioner. This year we undertook a joint visit to the Mothers with Babies Unit at Arohata Prison.

We are funded for 3 Inspectors and specialist advisors to assist us in carrying out our NPM functions under COTA. In 2015/16 we committed to carrying out 32 visits to places of detention. We exceeded this commitment and carried out a total of 42 visits, including 21 formal inspections and 1 findings report arising from multiple formal inspections. Thirty-eight visits (90%) were unannounced.

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

This year we commenced a practice of extensive surveying of facilities as part of the visiting process.

The 21 formal inspections were at the sites set out in the table below. In addition, the findings report involved formal inspections at multiple sites throughout the year.

²⁶ This year, a new forensic youth facility has increased the number of health and disability facilities we visit from 79 to 80.

Name of facility	Type of facility	Recommendations made
Manaakitanga IPC, West Coast DHB	Adult Mental Health	2
He Oranga Kahurangi, West Coast DHB	Mental Health— Older Adults	1
Te Whetu Tawera, Auckland DHB	Adult Mental Health	11
Tiaho Mai, Counties Manukau DHB	Adult Mental Health	14
Arohata Prison	Prison	17
Ward 21, MidCentral DHB	Adult Mental Health	9
STAR 1, MidCentral DHB	Mental Health— Older Adults	10
Manawatu Prison	Prison	23
Purehurehu, Capital & Coast DHB	Forensic	6
Rangipapa, Capital & Coast DHB	Forensic	11
Tawhirimatea, Capital & Coast DHB	Regional Forensic Rehabilitation Unit	6
He Puna Wairoa, Waitemata DHB	Adult Mental Health	10
Waiatarau, Waitemata DHB	Adult Mental Health	6
Te Puna Waiora, Taranaki DHB	Adult Mental Health	9
Te Whare Hohou Roko, Canterbury DHB	Forensic	5
Alexander, Nelson Marlborough DHB	Mental Health— Older Adults	-
Wahi Oranga, Nelson Marlborough DHB	Adult Mental Health	5
Rolleston Prison	Prison	11
Otago Corrections Facility	Prison	16
Invercargill Prison	Prison	18
Whare Ahuru, 3 DHBs	Adult Mental Health	8

We reported back to 22 places of detention (100%) within 3 months of conducting an inspection. This brings the total number of visits conducted over the 9 year period of our operation as an NPM to 381, including 158 formal inspections and 1 findings report.

We made 198 recommendations, of which 143 were accepted or partially accepted (as set out in the table below).²⁷ We intend to report separately on the specific recommendations which were not accepted and not responded to.

Recommendations	Accepted	Not accepted	No comments received
Prisons	61	24	-
Health and disability places of detention	82	12	19

²⁷ Midcentral DHB did not respond to recommendations made following a visit to Ward 21 and STAR 1 (19 recommendations in total). These 19 recommendations, which were not responded to, have been deemed as not having been accepted for the purposes of calculating the overall percentage of recommendations accepted, which is why the performance measure is below the Budget Standard.



Of the 24 recommendations not accepted by the Department of Corrections, 16 concerned 4 common matters that were repeated across several sites, namely:

- the use of cameras and prisoners' right to privacy (6 recommendations);
- a lack of privacy screens around some toilets (3 recommendations);
- prisoner meal times (3 recommendations); and
- insufficient dental care (4 recommendations).

Prisons

In last year's annual report, we identified 2 key areas which raised concerns following our inspections:

- the use of cameras and prisoners' rights to privacy; and
- segregated prisoners being placed in unsuitable cells.

Both of these issues continued to be of particular concern in the 2015/16 reporting year and Inspectors will continue to monitor and make recommendations for improvement on a site by site basis if necessary.

This year, we identified further areas of concern. These relate to:

- the high number of unreported prisoner-on-prisoner assaults;
- a lack of purposeful activities and poor quality cell standards for remand prisoners;
- the use of tie-down beds and waist restraints to manage some prisoners considered to be at risk of suicide and self-harm; and
- a lack of adequate dental care for prisoners.

Prisoner safety

As part of the inspection process, Inspectors distribute an anonymous questionnaire to prisoners at the commencement of each visit. The table below details the responses on prisoner safety received from the 5 prisons surveyed in 2015/16.²⁸

Prisoner survey results - safety

	Arohata	Manawatu	Rolleston	Invercargill	OCF
Muster on the day of inspection	62	270	256	158	432
Number of questionnaires handed out	62	241	221	143	417
Number of questionnaires completed & returned	56 (90%)	140 (58%)	174 (79%)	126 (88%)	287 (69%)
% of prisoners reported being assaulted at that prison	18%	46%	13%	44%	32%
% of prisoners who did not report the assault	18%	80%	61%	84%	71%

²⁸ Prison inspections 2015/16: Arohata Prison, Manawatu Prison, Rolleston Prison, Invercargill Prison and Otago Corrections Facility.

	Arohata	Manawatu	Rolleston	Invercargill	OCF
% of prisoners who had felt unsafe in current prison	30%	55%	22%	53%	45%
% of prisoners who felt unsafe at the time of inspection	9%	25%	6%	23%	15%
% of prisoners who felt they had been victimised in prison	31%	56%	18%	42%	37%
% of prisoners who felt they had a member of staff they can turn to	77%	69%	74%	87%	72%

The number of prisoners advising that they had been assaulted is high, particularly in Manawatu and Invercargill Prisons (just under half of the respondents). The number who chose not to report the assault is even greater. The Department notes that it manages some of New Zealand's most difficult and challenging citizens and that not all assaults are reported as some prisoners fear further or escalated violence as retaliation.

Written and oral feedback from prisoners suggests they have little confidence in the complaints system, which was reflected in the questionnaire responses received (see table below).

Prisoner survey results - complaints process

	Arohata	Manawatu	Rolleston	Invercargill	OCF
% of prisoners that reported not knowing how to raise a complaint	<i>Question not asked</i>	<i>Question not asked</i>	27%	11%	13%
% of prisoners reporting it was difficult to access a complaint form (PCO1)	14%	32%	17%	45%	38%
% of prisoners reporting to have faith in the complaint system	11%	8%	26%	14%	25%

We made recommendations that Otago Corrections Facility, Manawatu Prison and Invercargill Prison carry out a safety survey to identify where prisoners feel least safe and address the findings in a context that includes prisoner representation.

Remand prisoners

We found that remand prisoners at both Invercargill Prison and Manawatu Prison were housed in unacceptable conditions. The majority of remand cells at these two prisons are double-bunked. We observed run-down accommodation and a lack of staff supervision, particularly at Invercargill Prison, and a culture of intimidation amongst prisoners, especially in the remand exercise yards. There was a lack of internal recreation space and purposeful activity. Remand prisoners had the option of either being locked in their cell or in the exercise yard (a basic yard-to-cell regime).

Remand prisoners at these sites were denied access to dining facilities and were required to eat their meals in their cell, next to uncovered toilets. A new dining facility is being built at Invercargill Prison. However, management has stated that remand prisoners will not be allowed access as they are all managed as high-security prisoners by default.



The lack of purposeful activity for remand prisoners was not unique to Manawatu Prison and Invercargill Prison. It was also evident at Otago Corrections Facility, and to a lesser degree at Arohata Prison, where Inspectors observed a small number of remand prisoners undertaking employment training.

The Department of Corrections advises that it has increased the courses available to remand prisoners. In relation to Invercargill Prison, it advises that it has increased the number of staff allocated to the remand unit.

Mechanical restraints

In April 2016 COTA Inspectors learned about the extended restraint of a male prisoner in the At Risk Unit (ARU) in Auckland Prison.²⁹ The prisoner was strapped to a tie-down bed by his legs, arms and chest following several episodes of self-harm. Chief Ombudsman Judge Peter Boshier raised concerns about the ongoing restraint of this specific prisoner with the Deputy Chief Executive of Corrections on 27 April 2016. The Department of Corrections confirmed that it would conduct a review into this case, given our concerns over the length of time and frequency the prisoner had been secured to the tie-down bed, and that it would release the report findings.

In addition, our COTA Inspectors undertook to examine the management of several prisoners in other ARUs and safe cells across the country who presented a high risk of self-harm.

In August 2016 the Chief Ombudsman released his *Findings Report* on the use of mechanical restraints in ARUs to the Department of Corrections for comment. He will finalise and publish the report upon receipt of the Department's comments.³⁰

Health services

Prisoners had mixed views on the overall quality of primary health services, but we found them to be reasonably good. Clinical governance was well advanced in most sites. The range of primary care services was appropriate, with acceptable waiting times for most clinics except dental and some GP clinics. Issues include:

- The limited availability of health promotion information in a range of accessible formats across all sites.
- The absence of a robust process for making confidential health care complaints.
- Poor medicine management in certain areas, including the supervision of medicine queues.

Secondary mental health services are provided by regional forensic psychiatry services (RFPS) to assess and treat prisoners with high and complex mental health needs. Prisoners may be transferred to a secure forensic mental health facility for treatment in a therapeutic environment. Although available, secondary mental health care was not always effective.

Acute forensic units accept referrals from a number of sources including the courts and community. At times, these admissions appear to take priority over prisoners being admitted for assessment and treatment (otherwise referred to as 'waitlisted' prisoners) on the basis that the prison environment is a relatively controlled and secure environment.

²⁹ Auckland Prison is the only prison in New Zealand that holds maximum security prisoners.

³⁰ *A Question of Restraint? Care and management for prisoners considered to be at risk of suicide and self-harm: observations and findings from COTA inspections July 2015-June 2016.*

We found there to be limited therapeutic engagement, either individually or in groups, for prisoners under the care of forensic mental healthcare within a prison setting. This may be because RFPS are only required to provide primary mental health care to those prisoners waitlisted for a forensic bed.

Service Level Agreements (SLAs) between RFPS and prisons were found to be out of date, and lacking in specificity. They are also managed regionally rather than at individual sites. The SLAs make no reference to prisoners with challenging behaviour such as personality disorders.

Prisoner survey results - health services

	Arohata	Manawatu	Rolleston	Invercargill	OCF
% of prisoners reported having difficulty accessing the nurse	13%	30%	2%	20%	37%
% of prisoners reported having difficulty accessing the dentist	59%	65%	40%	79%	73%
% of prisoners reported having difficulty accessing the doctor	35%	48%	16%	60%	62%
Overall quality of healthcare service					
Good	84%	62%	86%	42%	44%
Bad	16%	38%	6%	43%	42%
Don't Know	-	-	8%	15%	14%

Good practices at the prisons visited

- All prisoners at Rolleston Prison are unlocked for more than 12 hours a day. The majority of prisoners are involved in meaningful activity, including employment, training or rehabilitation programmes.
- Otago Corrections Facility operates a clear prisoner progression system. Prisoners can see a pathway through the prison from high-security units through to self-care units. This pathway incentivises pro-social behaviour and engagement in rehabilitation opportunities.
- At Invercargill Prison, 2 of the prison's 4 units are unlocked for more than 9 hours a day.
- Good staff-prisoner relationships were evident at Arohata Prison. Prisoners were complimentary about staff and felt there was a member of staff they could turn to if they had a problem.

Health and disability places of detention

Mental Health (Compulsory Assessment and Treatment) Act

We found areas of good practice and many positive findings across the older, adult acute and forensic services around New Zealand. Generally, service users³¹ were complimentary about the staff in their unit and felt there was someone they could turn to if they had any concerns.

He Oranga Kahurangi (West Coast DHB) and Alexander Unit (Nelson Marlborough DHB) provide assessment

³¹ The term 'service user' encompasses patients, clients and care recipients.



and treatment for older people with mental health needs. Generally, we observed service users receiving good quality care, led by managers with the required skills and knowledge to support continuous improvement. All service users had the necessary paperwork for their committal and treatment.

Accommodation in some adult inpatient units was considered to be unfit for purpose—the seclusion area in Purehurehu Unit (Capital & Coast DHB), the intensive care unit in Te Whare Ahuru Unit (3 DHBs), and Te Puna Waiora Unit (Taranaki DHB).

STAR 1 (Elderhealth) is a 15 bed ward that provides services for the treatment, assessment and rehabilitation of older people (over 65), including those with mental health issues. There are 9 beds in the open ward and 6 in the secure care unit (SCU). There was evidence of some service users being arbitrarily detained without documentation, and some service users were being subjected to prolonged and excessive use of mechanical restraints.

Ward 21 is a 24 bed ward with dedicated wings for both men and women. The High Needs Unit (HNU) is a secure, 6 bed unit for clients under the Mental Health (Compulsory Assessment and Treatment) Act who are exhibiting severe symptoms of mental illness. Inspectors found that the ward design, in particular the HNU, was not conducive with providing safe and effective mental health care; the DHB's complaints policy, including information on access to the District Inspectors, was not readily available in the ward; and the seclusion and restraint registers were incomplete and some seclusion records were missing.

Visits to STAR 1 and Ward 21 (MidCentral DHB) in December 2015 resulted in 19 recommendations across both facilities.

Although MidCentral DHB did not comment on our report, it now advises that the issue of arbitrary detention in Star 1 has been addressed, a proposal to upgrade or rebuild Ward 21 has been initiated, and the seclusions register and records have been addressed.

In last year's annual report we expressed concern about bed occupancy rates, the lack of restraint training for staff, and seclusion rooms being used as long-term bedrooms—the latter issue generating much publicity during this reporting year. These key issues remain a concern for Inspectors who will continue to monitor and make recommendations for improvement on a site-by-site basis.

This year, there were further areas where improvements need to be made. These relate to:

- all DHBs adopting a zero-tolerance approach to violence (to service users, staff and visitors) by automatically referring assaults and other serious incidents to the Police;
- service users being asked, as a matter of routine, if they want to attend their multi-disciplinary team (MDT) review; and
- the number of acute adult facilities arbitrarily detaining informal service users.

During a visit to He Puna Waiora (Waitemata DHB), Inspectors came across a service user in the seclusion facility who had been seriously assaulted 10 days prior, while an inpatient at Waitarau Unit (Waitemata DHB). The incident was not reported to the Police, despite the service user's injuries requiring surgery. The Clinical Director for both units advised that the decision whether to involve the Police was:

...one that was very carefully considered. There has not been a decision that Police would at no stage be involved, but there was careful consideration of his mental and physical state and his fitness to participate in any interaction with the Police which would inevitably follow laying a complaint, whoever made such a complaint.

We recommended that the DHB should adopt a zero-tolerance approach to violence and refer all assaults to the Police.

Inspectors found that many service users, as a matter of routine, are not invited to attend their MDT meeting and do not always receive written feedback following the meeting. We recommended that service users should be routinely invited to attend their MDT meeting and provided with a copy of the minutes.

Of the 9 adult acute facilities inspected this year, only 1 was open. Few facilities had a locked door policy (otherwise known as environmental restraint), detailing when and why doors would be locked and the review process for unlocking doors. Signage was poor for informal service users wishing to exit the facility, who found themselves having to negotiate all leave requests with staff. A number of units held voluntary patients with 'no leave' status. Service users expressed concerns that they would be placed under the Mental Health (Compulsory Assessment and Treatment) Act if they wished to take leave. We were concerned that this could be considered coercive practice and not in keeping with recovery-based principles. It could also potentially amount to arbitrary detention. We recommended that locked door policy be developed, detailing the process for entry and exit into the Unit for informal (voluntary) service users (and visitors). This should be displayed in prominent areas, including the unit entrance.

At He Puna Waiora (Waitemata DHB) Inspectors found the doors to the internal courtyards locked due to several high profile absconders some months earlier. Service users were reliant on staff availability and facilitation to go outside, and so did not always receive their minimum entitlement to daily fresh air.

Follow-up to previous recommendations

In 2012/13 we reported on the practice of using outdated 'night safety procedures' in some units in the Mason Clinic (Waitemata DHB) to justify locking service users in their bedrooms overnight. We raised the issue at that time with the Director of Mental Health who confirmed that guidance for DHBs was currently being developed around reducing restrictive practices within the mental health area (including night safety orders). We followed up with the Director's office in June 2016, who confirmed that the restrictive practice guidance had not yet been completed.

In February 2016, we found a blanket policy approach being applied to service users in Purehurehu and Rangipapa units (Capital & Coast DHB) who are subject to a 'night safety order'. We recommended that if night safety orders are to continue in the Unit, they should be captured as seclusion events and reported as such.

Good practices at the health and disability facilities visited

- Manaakitanga Unit (West Coast DHB) was the only open facility where the doors were not routinely locked.
- At Te Puna Waiora Unit (Taranaki DHB) they operate and promote a zero-tolerance approach to violence. All violent incidents are reported to the Police.
- At Capital & Coast DHB, Vaka Pasifika and Maori Cultural Advisors provide one-on-one and group activities across several units. Clients are encouraged to participate in healthy lifestyles by engaging in sporting/leisure activities and choosing healthier food options.



Other activities

United Nations OPCAT Special Fund

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.

We were successful in an application this year for funding to provide training and monitoring skills to a group of people who have personal experience of using or caring for someone who uses mental health services in New Zealand. These *'Experts by Experience'* will assist our Inspectors to undertake visits to places of detention.

Locked dementia facilities

We are concerned about the vulnerability of those detained in privately run dementia units. Such units are not subject to independent oversight by any NPM. This is a matter that we will consider further.

United Nations Convention on the Rights of Persons with Disabilities

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

Overview

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

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

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

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

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

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



The Disability Convention Optional Protocol

During the reporting year, we received enquiries from individuals wanting to make a complaint to the *United Nations Committee on the Rights of Persons with Disabilities* (the Committee) under the Disability Convention's Optional Protocol. These enquiries came from individuals who felt that they had exhausted all available New Zealand remedies associated with their disability complaint.

The Optional Protocol has established an international complaints mechanism for the Disability Convention. It allows the Committee to consider complaints from individuals or groups who claim that their rights under the Disability Convention have been violated. The Committee can then investigate the complaint and make non-binding recommendations to the government of the country concerned. Although the Committee's recommendations are not obligatory, they hold considerable significance.

New Zealand has not yet acceded to the Optional Protocol and this means that individuals or groups are unable to take their disability-related complaints to the Committee. We consider it inequitable that persons with disabilities in New Zealand do not have recourse to the Committee and note that persons with disabilities in nearly 90 countries now do.

We have made public statements and submissions encouraging the New Zealand Government to accede to the Optional Protocol during the reporting period.

On 1 July 2016 the Minister for Disability Issues, Hon Nicky Wagner, announced that the Optional Protocol has been submitted for Parliamentary treaty examination. Given this step, we are hopeful that New Zealand will accede to the Optional Protocol in the next reporting year.

Working as an Independent Monitoring Mechanism

We continue to spend a considerable amount of time working with the Human Rights Commission and the Convention Coalition to identify and assess the key issues that persons with disabilities face in contemporary New Zealand.

The IMM continues to monitor the experiences of persons with disabilities in New Zealand, including the barriers that prevent the full realisation of the rights set out in the Disability Convention. The IMM also assists to protect disability rights in New Zealand and does so by:

- holding quarterly meetings of its executive members to discuss key disability issues and initiatives;
- scheduling regular working group meetings to coordinate projects and responses relevant to disability issues in New Zealand and the rights outlined in the Disability Convention;
- regularly meeting with government agencies and other key disability stakeholders to ensure our feedback is provided and considered;
- frequently making submissions on issues affecting persons with disabilities in New Zealand (for instance, in this reporting period, the IMM made submissions to government agencies on the importance of signing the *Marrakesh Treaty* and the Disability Convention's *Optional Protocol*, and also provided feedback on the revised *Disability Action Plan*); and

- publishing reports that highlight the importance of equal rights for persons with disabilities in New Zealand and providing guidance on how these rights can be safeguarded.

The IMM continues to keep a record of the most pressing disability issues in New Zealand and this information will be useful when we commence work on our third *Making Disability Rights Real* report in 2017.

Key publications

Reasonable accommodation

This year, we led an IMM project to publish a guide on *Reasonable accommodation of persons with disabilities in New Zealand*. This guide is now available on our website in a number of accessible formats, including Microsoft Word, PDF, Easy-Read, a summary brochure and in a New Zealand Sign Language video. A Braille version is also available on request.

The guide aims to assist persons with disabilities to understand their right to request reasonable accommodation. It also informs employers, state sector agencies and others providing services to the public of their obligation to provide reasonable accommodation to persons with disabilities in particular circumstances. The guide explores the concept of reasonable accommodation and disability in all facets of life, noting that previous literature has focussed almost exclusively on employment.

We have received very positive feedback from our stakeholders that the guide is providing practical guidance on the concept of reasonable accommodation to a broad audience throughout New Zealand.

Inclusive education

We assisted the Human Rights Commission to publish a report on behalf of the IMM entitled *Article 24: The Right to an Inclusive Education Interim Implementation Report*.

This report focuses on education for persons with disabilities and considers how inclusive education could become a reality for all New Zealanders (the right to inclusive education is explicitly set out in Article 24 of the Disability Convention).

The report acknowledges that some developments have been made in this area, but also recognises that many barriers still exist to prevent persons with disabilities from being able to fully participate in education. The report also includes recommendations to the Government so that it can successfully work to meet its obligations under the Disability Convention.



Lack of data around involuntary sterilisation of women and girls with intellectual disabilities

Ombudsman Ron Paterson received a complaint from a disability service provider about the lack of available data around the number of involuntary sterilisations performed on women and girls with intellectual disabilities in New Zealand. The provider had attempted to obtain statistics from both the Ministry of Health and the Ministry of Justice, but was advised that such information is not held, and that reporting on sterilisation procedures explicitly prohibits patient identification orders.

The Ombudsman made a number of enquiries of both the Ministry of Health and the Ministry of Justice, noting that the lack of data in this area makes it difficult to monitor important disability rights for an already vulnerable population group. He considered that the involuntary sterilisation of women and girls with intellectual disabilities is a *'matter of significant public interest'*, and noted that the *United Nations Committee on the Rights of Persons with Disabilities*, in its *Concluding Observations* following an examination of New Zealand in October 2014, had stated that New Zealand ought to:

...enact legislation prohibiting the use of sterilisation on boys and girls with disabilities, and on adults with disabilities, in the absence of their prior, fully informed and free consent.

The Ministry of Health and the Ministry of Justice undertook some research around the number of such orders that have taken place in the past five years and uncovered only a single example of the involuntary sterilisation of a female with an intellectual disability. However, the Ombudsman considered that the electronic information system for recording such information was inadequate and noted it was possible that other such orders have taken place but not been recorded (a manual review of a large number of physical files would be required to determine whether other such orders took place). The Ombudsman felt this was a *'surprising state of affairs in 2016 when electronic data can be easily collected and analysed'*, and suggested both agencies update their mechanisms for reviewing and recording sterilisation orders.

The Ombudsman reminded the Ministry of Health and the Ministry of Justice that New Zealand's updated *Disability Action Plan* includes a new priority to protect against non-therapeutic sterilisation and that there is internationally an expectation that New Zealand should pass legislation prohibiting such sterilisations altogether. The Ombudsman also reminded both agencies of Article 31 in the Disability Convention which requires that *'State Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention'*.

The Ombudsman asked the Ministry of Health and the Ministry of Justice to provide a written update, by the end of September 2016, addressing his suggestions for improvement in data collection.

Review of the New Zealand Disability Strategy

During the reporting period, the Office for Disability Issues (part of the Ministry of Social Development) commenced a review of the *New Zealand Disability Strategy* (the Strategy) with the assistance of an expert reference group. The Strategy is central to improving the lives of persons with disabilities in New Zealand and ensuring that their rights are protected. The review is of considerable importance as it is the first time the Strategy has been updated since 2001, and during the intervening period there have been fundamental changes in the way that society views disability. The revised Strategy will also need to take into account the fact that New Zealand ratified the Disability Convention in 2008.

The IMM has taken on the role of an observer on the expert reference group, ensuring both that the IMM is aware of issues associated with the revised Strategy and that the expert reference group is aware of the IMM's work and role.

The IMM has also provided feedback to the Office for Disability Issues on aspects of the Strategy during the public consultation process, and continues to keenly follow developments as the Strategy nears completion.

Complaints

In 2015/16 we identified 81 complaints and other contacts which raised issues relevant to the Disability Convention. The issues concerned various state sector agencies and covered a wide range of subject matters, with education and healthcare being two areas where a number of complaints or enquiries were made.

Looking forward, we will continue to identify complaints where a disability element is evident. We will maintain our focus on quickly recognising and referring to the specific Articles in the Disability Convention which are relevant in a particular case.

Disability training, including education on the Disability Convention, is now incorporated into the induction programme for all new staff who commence employment with us. We now also have two specialist advisors who work exclusively in the disability area and assist staff to take the Disability Convention into account in our work.

During the reporting year we undertook a stakeholder survey of complainants and, for the first time, asked whether respondents identified as having a disability or an ongoing health condition. Eighteen percent of those who completed the survey identified as having one or the other.



Stand-downs of a student with disabilities

Ombudsman Ron Paterson investigated a complaint about two decisions by a primary school to stand-down a student with an intellectual disability. The statutory provision relied on by the School for both stand-downs was section 14(1)(b) of the Education Act 1989, which provides:

(1) The Principal of a State school may stand-down or suspend a student if satisfied on reasonable grounds that—

(b) because of the student's behaviour, it is likely that the student, or other students at the school, will be seriously harmed if the student is not stood-down or suspended.

The Ombudsman found that both decisions to stand-down the student did not meet the criteria specified in section 14(1)(b) of the Education Act. He noted:

... I am not satisfied that [the student's] behaviour gave rise to a likelihood of serious harm. Although [the student's] behaviour was disruptive, non-compliant and, on occasion, caused staff and students distress, from an objective stand-point, the safety issues referred to in the stand-down letters were at a moderate level and not beyond the capability of [the School] to address.

The Ombudsman also noted that the decisions to stand-down the student were at odds with the Ministry of Education *Guidelines for Principals and Boards of Trustees on Stand-downs, Suspensions, Expulsions and Exclusions*, which state in unequivocal terms that:

You can only use [section 14(1)(b)] where a stand-down or suspension is the only valid response to a safety concern. This ground is truly a last resort measure. If you can manage a safety concern in other ways you may not suspend or stand-down using this ground.

The Ombudsman considered that there were other options available to address the student's behaviour, noting that an *Individual Education Plan* might have been arranged for the student at the start of the year when he was placed with a new teacher. The Ombudsman also noted that one of the stand-downs occurred shortly after the student was placed in a new classroom with a much larger number of students. There did not appear to be any adjustments made to the student's behavioural plan to reasonably accommodate their needs in this new environment.

The Ombudsman recommended that the School append a statement to the student's school record, and to the Ministry of Education record, noting his finding that both stand-downs were unreasonable. He also recommended that the School apologise in writing to the student's family for the distress caused by the stand-downs. The recommendations were accepted.

Policy and professional practice

In support of our legislative functions, we aim to:

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

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

State sector capability

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

Advice and comment

In 2015/16 we commented on 65 legislative, policy and administrative proposals relevant to our role. In particular, we commented on Cabinet papers, Bills and administrative policies and procedures.

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

We made formal submissions to:

- the Local Government and Environment Select Committee on the *Buildings (Earthquake Prone Buildings) Bill*;
- the Ministry of Transport on the *Small Passenger Services Sector Review*;
- the Ministry of Business, Innovation and Employment on the *Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled*;
- the Justice and Electoral Select Committee on New Zealand acceding to the Optional Protocol to the Disability Convention; and
- the Ministry of Social Development on the *Review of the Disability Strategy*.

We encourage agencies to consult with us at an early stage of policy development. In that way, we can, as far as possible, identify any unintended consequences or other issues that may not have been identified early, and these can be discussed before a paper is put before Cabinet or a Bill is introduced to Parliament. When we are asked to comment, the timeframes given for our response are often very short. This can make it difficult for us to manage our workflow in this area.

In addition to commenting on legislative, policy and administrative proposals, we also provided advice on 199 occasions to state sector agencies, mainly in relation to enquiries about the processing of official information requests. This can be compared to previous reporting years, where we provided advice on 168 occasions in 2014/15 and 103 occasions in 2013/14—amounting to a 93% increase in this area of work in just two years. Agencies are increasingly turning to us for advice on ‘live’ requests for official information and how best they can make a decision that will comply with the legislation.



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

We also provided advice to the Secretary of Transport on 72 applications for authorised access to the motor vehicle register, under section 241 of the Land Transport Act 1998. This is a statutory responsibility for which we have not received dedicated funding, and is a significant increase on the work required in 2014/15 when we were asked to provide comments on 7 applications.

Training

We offer training to agencies and other stakeholders who are seeking to improve their understanding of our role and functions, and the requirements of the OA and official information legislation. In 2015/16, we provided 38 workshops and training sessions on request,³² an increase in demand of 90% in just one year.

This year, we have seen a continuing trend for agencies to seek multiple training sessions from us, over a number of locations, as well as a new trend for agencies to group together to participate in our training. For example, Christchurch City Council hosted training sessions provided by our staff on processing LGOIMA requests, and managing unreasonable complainant conduct, to which 9 other South Island-based government agencies were invited. There were approximately 100 attendees at each of these sessions.

We continue to receive overwhelmingly positive feedback from the stakeholders who access our training services, with 99% of participants reporting the training would assist them in their work.

New Zealand organisations who received Ombudsman training in 2015/16

- Ashburton District Council
- Auckland District Health Board
- Ministry of Business, Innovation and Employment
- Canterbury and West Coast District Health Boards
- Christchurch City Council
- Commerce Commission
- Department of Corrections
- Counties Manukau District Health Board
- District Health Board Shared Services
- Environment Canterbury
- Ministry of Foreign Affairs and Trade
- Government Communications Security Bureau
- Government Legal Network
- Green Party
- Hurunui District Council

³² Including 2 training sessions in the Cook Islands and 3 training sessions in Tonga.

New Zealand organisations who received Ombudsman training in 2015/16

- Independent Police Conduct Authority
- Department of Internal Affairs
- Māori Television
- New Zealand Customs Service
- New Zealand Police
- Mackenzie District Council
- Ōtākaro Limited
- Ministry of Primary Industries
- Department of Prime Minister and Cabinet
- Selwyn District Council
- Serco
- Ministry of Social Development
- Southern District Health Board
- Te Puni Kokiri
- Timaru District Council
- Treasury
- Waitaki District Council
- Waitemata District Health Board

Information resources

The *Ombudsman Practice Guidelines* have for many years been our primary resource to assist agencies in complying with their obligations under the official information legislation. They are supplemented by case notes and opinions available on our website. In 2015/16 we began replacing these *Guidelines* with comprehensive new guidance materials, as part of a major ongoing project to review, develop and update our published official information guidance. To date, we have published 9 new guides on our website:

- *The OIA for Ministers and agencies—a guide to processing official information requests*
- *The LGOIMA for local government agencies—a guide to processing requests and conducting meetings*
- *Making official information requests—a guide for requesters*
- *Requests for internal decision making rules—a guide to section 22 of the OIA and section 21 of the LGOIMA*
- *Requests for reasons for a decision or recommendation—a guide to section 23 of the OIA and section 22 of the LGOIMA*
- *Requests by corporate entities for their personal information—a guide to Part 4 of the OIA and LGOIMA*
- *Requests made online—a guide to requests made through fyi.org.nz and social media*
- *Public interest—a guide to the public interest test in section 9(1) of the OIA and section 7(1) of the LGOIMA*
- *Charging—a guide to charging for official information under the OIA and LGOIMA.*

Other major publications this year, as previously mentioned, were:

- *Not a Game of Hide and Seek—report on an investigation into the practices adopted by central government agencies for the purpose of compliance with the Official Information Act 1982; and*
- *Reasonable accommodation of persons with disabilities in New Zealand.*



We also produced 27 other guidance materials in this reporting year, comprising:

- 14 opinions and 8 case notes on key complaints we investigated;
- guidance concerning complaints about motor vehicle licence ACC levy changes; and
- 4 e-newsletters to keep our stakeholders up to date with developments relevant to our jurisdiction, role and functions.

Public awareness and accessibility

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

In 2015/16 we undertook our fifth nationwide public awareness survey to gauge the level of awareness of the Ombudsman in the community. The survey found 68% of the New Zealand public had heard of us, with levels of awareness tracking relatively evenly when compared with 67% awareness in 2014/15, 69% awareness in 2013/14, 72% awareness in 2012/13 and 69% awareness in 2011/12.

More older respondents had heard of the Ombudsman, with awareness levels in 2015/16 at:

- 93% for those aged 60 years or older;
- 79% for those aged 45-59 years;
- 70% for those aged 30-44 years; and
- 20% for those aged under 30 years.

The awareness levels amongst different ethnic groups were:

- 74% for non-Maori, non-Pacific Islanders and non-Asians;
- 50% for Maori;
- 48% for Asians; and
- 40% for Pacific Islanders.

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

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

- 31% believe that we handle complaints and disputes generally;
- 20% believe that we are a regulator or watchdog; and
- 16% believe that we consider complaints about central and local government services.



Delegations

In 2015/16 we received delegations from Ireland, Japan, Poland, South Korea and Taiwan. The comparative experience New Zealand has to offer in reviewing administrative practice, enforcing official information legislation, and monitoring places of detention continues to be of considerable interest to other countries.

Networks

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

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

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

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

Training and assistance

We continue to provide training and development assistance when possible, primarily to countries in the Pacific region.

This has generally been done through the Pacific Ombudsman Alliance, which has existed to strengthen Pacific Ombudsman Offices in their ongoing professional development, and support the building of integrity institutions in the wider Pacific. Funding for the Pacific Ombudsman Alliance ceased as of 30 June 2016, and we are now considering alternative ways to provide appropriate support in the Pacific region.

In 2015/16 we provided support to Tonga and the Cook Islands as described below.

Staff specialising in disabilities advice were seconded to the Cook Islands in December 2015 and May 2016. Both secondments were funded by the Pacific Ombudsman Alliance. The focus of these visits was to provide assistance to the Cook Islands community on disability issues, and to promote the *United Nations Convention on the Rights of Persons with Disabilities* (the Disability Convention). A number of formal workshops were arranged to increase engagement between stakeholders in the disability community, and to encourage ongoing collaboration in areas of mutual interest.

Our staff also worked with the Cook Islands Ombudsman's Office to assist them in handling disability-related complaints under the Cook Islands Disability Act 2008. Assistance was also provided on how the Disability Convention can be relevant during the complaints handling process, and the rights it affords to persons with disabilities.

The secondment resulted in increased awareness of the avenues available for people with disabilities in the Cook Islands to make complaints and seek assistance. The Cook Islands Office of the Ombudsman has now received a number of disability-related complaints. The Cook Islands Assistant Ombudsman is also liaising with key disability agencies in the community in order to constitute an *Independent Monitoring Mechanism*, as required under Article 33(2) of the Disability Convention.



In addition, one of our senior staff members travelled to Tonga in March 2016 in response to a request from the Pacific Ombudsman Alliance for assistance in providing a training programme for the Office of the Commissioner for Public Relations (Ombudsman). The focus of the training was to develop investigative skills and also to build guidance material for investigators.

The training covered a number of sessions held over two weeks and, with the use of local case scenarios, participants were very much engaged. The secondment was mutually beneficial, particularly in terms of learning through practical experience how we may adapt traditional investigative techniques in the unique Tongan environment. We continue to support the Tongan Ombudsman through ongoing advice and assistance in relation to investigation practice and procedure and we will host their senior investigators in the forthcoming year.





Part 5 Organisational health and capability

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Overview

In recent years, our Office has grown from its original classical model of an investigator of administrative conduct under the Ombudsmen Act, to that of a modern Ombudsman with multiple responsibilities and functions arising from a variety of pieces of legislation. We have seen an increasing demand for our services, with the number of complaints and other contacts concerning state sector agencies continuing to be at record levels.

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

We place considerable importance on having a strong foundation of highly skilled people working together towards our vision and applying our values in a well run and appropriately supported organisation. This year we have placed significant investment in the implementation of a 6-12 month investigations training programme for our investigators, an intensive review of the business support services resourcing needs and the commencement of key projects aimed at developing our organisational values and promoting positive health and safety policies and practices in the workplace.

In addition, given most of our work relies on information systems to support our collection, analysis and reporting of information, we have prioritised our ICT investment opportunities, risks and good practices with the launch of a three-year work programme via our *Information Systems Strategic Plan* and the establishment of a four-tiered governance and management framework.

As a result, we are confident that we are well positioned to continue to make considerable gains in meeting our performance targets during the 2016/17 year.

Financial and asset management

This financial year we continued to operate under tight fiscal conditions. Vote Ombudsmen is small, with an appropriation of \$12.281 million (excluding GST) for the year ended 30 June 2016. Personnel and accommodation costs accounted for 76% of the actual amount spent. The remaining spending was primarily on service contracts, travel, depreciation and communication.

There is little expenditure of a discretionary kind. What discretionary financial resources do exist are allocated in a contestable manner. The allocation of every dollar is closely scrutinised to ensure the investment is the best use we can make with the limited resources available. Discretionary funding may be spent on staff training or assigned to a specific project.

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

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

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

Our people

As at 30 June 2016, we had 66 employees³³ (plus 2 Ombudsmen). Our staff are distributed across 3 office sites:

- Auckland (15%);
- Christchurch (8%); and
- Wellington (77%).

In terms of working arrangements, as at 30 June 2016, 100% of our staff were on permanent contracts. In addition:

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

³³ There were 12 net vacant positions as at 30 June 2016. These figures do not include casuals or 1 staff on parental leave.



In terms of gender distribution, 65% of our staff are female and 35% male, with further details set out in the table below.

Role	Number	% of total staff	% Female	% Male
Senior Managers (including 2 Ombudsmen)	7	10%	71%	29%
Managers (with direct reports)	7	10%	57%	43%
Specialist staff (legal, policy and professional practice, wider administrative improvement, corporate)	12	18%	67%	33%
Investigations and inspections staff	36	53%	58%	42%
Administration and support staff (operations and corporate)	6	9%	100%	-

Our work is very interesting and attractive, but we are unable to compete with other better funded employers who offer better remuneration. Accordingly, some staff turnover is inevitable. Our investigating staff are highly trained and are in demand within the wider state sector. Thirteen staff left voluntarily in the reporting period, resulting in a voluntary staff turnover for the year of 18%.

In respect of people resourcing capability, we experienced an increased volume in recruitment activity due to the establishment of new positions resulting from the reorganisation of business support services resourcing, additional positions within the investigations and inspections area out of new funding by Parliament, and the business-as-usual backfilling of existing positions vacated during the course of the year.

People performance and capability

In 2015/16 we continued the capability development of our people in a variety of ways, including:

- our core investigations training programme for new and existing investigations staff; and
- the provision of opportunities to develop specific skills to support ongoing professional development, including opportunities for internal secondments.

The investment in the training and roll-out of our new Word Styles software during the year has positively impacted on how our people work day-to-day and has assisted with work flow efficiency and personal productivity.

We continued through the year to work on the development of our organisational values. The Executive Management Team led the way with the development of a new vision and this will overarch our new values once these have been rolled out to staff.

With the changes to the health and safety legislation becoming a key focus nationwide, we conducted a review of our own health and safety systems, policies and procedures and developed a health and safety action plan. This has focused on ensuring compliance with the new legislative requirements, provision of updated training for staff, and the revision and development of new policies and initiatives to embed a strong health and safety culture across all of our work sites.

Performance review and remuneration continued to be priority policy areas for review and consultation. We completed a review of our existing performance review policy and process and rolled out the revised policy and tools for the current performance year. Development work continues on a revised remuneration policy which will also help to confirm our remuneration practice for the next financial year.

Information management

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

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

In 2015 we launched a three-year work programme via our *Information Systems Strategic Plan (ISSP)* which is intended to ensure that we apply a more strategic approach to our IM and ICT systems so that we can be confident that we are able to effectively support the:

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

We also established a four-tiered³⁴ governance and management framework to oversight its implementation.

In the 2015/16 reporting year we have continued the process of identifying a preferred ECMS for the Office which will support the growth in our work, changing environment, increased staffing numbers and the need to be more mobile, agile and responsive. We also established a Chief Information Officer resource with responsibility for ensuring that ICT investment opportunities, risks and good practices are identified and managed appropriately.

³⁴ Made up of the Chief Ombudsman as Chief Executive, the *Executive Management Team*, the *Information Management Policy and Strategy Governance Group*, and Operational management and delivery.



Risk management

Our 2015/19 *Statement of Intent* identifies our key risks and sets out the strategies we use to manage these risks. In summary, our key risks are:

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

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

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

We have targeted measures in place to manage these specific risks. We have also commenced a risk assessment audit to support business continuity and disaster recovery planning and the development of an overall risk management strategy for our Office.



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Report of the Ombudsman
Part 5 | Organisational health and capability

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Part 6 Financial and performance information

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Financial and performance information

Statement of responsibility

I am responsible, as Chief Ombudsman, for:

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

In my opinion:

- these financial statements fairly reflect the financial position of the Office of the Ombudsman for the year ended 30 June 2016 and its operations for the year ended on that date; and
- the forecast financial statements fairly reflect the forecast financial position of the Office of the Ombudsman as at 30 June 2017 and its operations for the year ending on that date.

Judge Peter Boshier
Chief Ombudsman
30 September 2016

Meaw-Fong Phang
Finance and Business Services Manager
30 September 2016

Independent Auditor's Report

To the readers of the Office of the Ombudsman's annual report for the year ended 30 June 2016

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

- the financial statements of the Office on pages 81 to 103, that comprise the statement of financial position, statement of commitments, statement of contingent liabilities and contingent assets as at 30 June 2016, the statement of comprehensive revenue and expense, statement of changes in equity, and statement of cash flows for the year ended on that date and the notes to the financial statements that include accounting policies and other explanatory information;
- the performance information prepared by the Office for the year ended 30 June 2016 on pages 23 to 61 and 76 to 80, comprising the report on operations and the statement of objectives and service performance; and
- the statements of expenses and capital expenditure of the Office for the year ended 30 June 2016 on pages 102 to 103, comprising the appropriation statements.

Opinion

In our opinion:

- the financial statements of the Office:
 - present fairly, in all material respects:
 - > its financial position as at 30 June 2016; and
 - > its financial performance and cash flows for the year ended on that date; and
 - comply with generally accepted accounting practice in New Zealand and have been prepared in accordance with Public Benefit Entity Standards Reduced Disclosure Requirements; and
- the performance information of the Office:
 - presents fairly, in all material respects, for the year ended 30 June 2016:
 - > what has been achieved with the appropriation; and
 - > the actual expenses or capital expenditure incurred compared with the appropriated or forecast expenses or capital expenditure; and
 - complies with generally accepted accounting practice in New Zealand; and



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

Our audit was completed on 30 September 2016. This is the date at which our opinion is expressed.

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

Basis of opinion

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

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

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

An audit also involves evaluating:

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

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

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

Responsibilities of the Chief Ombudsman

The Chief Ombudsman is responsible for preparing:

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

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

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

Responsibilities of the Auditor

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

Independence

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

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

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



Statement of objectives and service performance for the year ended 30 June 2016

Performance Measures	2015/16		2014/15
	Budget Standard	Actual	Actual
Impact measures			
Overall quality of public services improves over time	Higher than 70 points in Kiwis Count Survey	74 points (as at June 2015)³⁵	73 points (as at September 2014)
New Zealand rated as one of the leading countries in public service probity as measured by the Transparency International Corruption Perceptions Index	On average over the next 5 years New Zealand in the top three ranked countries	In 2015, New Zealand ranked fourth³⁶	In 2014, New Zealand ranked second
Output A – Investigate state sector administration and decision making			
Demand driven measures			
# of complaints completed	2,500	2,241	2,226
# of other contacts completed	6,000	7,751	7,231
# of cases where monitoring of death in custody investigations commenced ³⁷	12-15	26	18
Proactive measures			
All complaints and other contacts considered	100%	100%	100%
# of wider administrative improvement investigations completed	2-3	1³⁸	0
% net clearance rate of complaints (new measure)	105%	109%³⁹	97% ⁴⁰
% of complaints completed within 6 months from date of receipt (new measure)	90%	81%⁴¹	84% ⁴²
% of complaints completed within 12 months from date of receipt (new measure)	95%	91%	94% ⁴³
% net clearance rate of other contacts (new measure)	100%	100%	100% ⁴⁴
% of other contacts completed within 3 months from date of receipt (new measure)	100%	100%	100% ⁴⁵
% of completed complaints and other contacts meeting internal quality standards, following random quality assurance check ⁴⁶	Baseline to be established	88%	86% ⁴⁷
# of successful appeals for judicial review of Ombudsman	Nil	Nil	Nil

Report of the Ombudsman
Part 6 | Financial and performance information

Performance Measures	2015/16		2014/15
	Budget Standard	Actual	Actual
Output B – Investigate and review official information decisions			
Demand driven measures			
# of complaints completed	1,000 OIA 250 LGOIMA	1,084 OIA 247 LGOIMA	960 OIA 253 LGOIMA
# of other contacts completed	400 OIA 40 LGOIMA	463 OIA 76 LGOIMA	548 OIA 72 LGOIMA
Proactive measures			
All complaints considered	100%	100%	100%
% net clearance rate of complaints (new measure)	100%	99% OIA⁴⁸ 103% LGOIMA⁴⁹	88% OIA 105% LGOIMA ⁵⁰
% of complaints completed within 6 months from date of receipt (new measure)	60%	54% OIA⁵¹ 47% LGOIMA	58% OIA 50% LGOIMA ⁵²
% of complaints completed within 12 months from date of receipt (new measure)	75%	74% OIA 75% LGOIMA	74% OIA 74% LGOIMA ⁵³
% net clearance rate of other contacts (new measure)	100%	101% OIA 100% LGOIMA	101% OIA 101% LGOIMA ⁵⁴
% of other contacts completed within 3 months from date of receipt (new measure)	95%	98% OIA 97% LGOIMA	99% OIA 100% LGOIMA ⁵⁵
% of completed complaints and other contacts meeting internal quality standards, following random quality assurance check ⁵⁶	Baseline to be established	72%	71%⁵⁷
# of successful appeals for judicial review of Ombudsman	Nil	Nil	Nil
Outputs A and B			
% of complainants satisfied with overall quality of our service delivery	60%	22%⁵⁸	-⁵⁹
% of state sector agencies satisfied with our communication overall	75%	69%	-
% of state sector agencies satisfied the Ombudsman's opinions are fair	75%	83%	-
Output C – Deal with requests for advice and guidance about serious wrongdoing			
Demand driven measure			
# of requests for advice and guidance completed in the reporting year	10	9⁶⁰	16
Proactive measures			
All requests for advice and guidance considered	100%	100%	100%
% of requests completed within 6 months from date of receipt	95%	56%⁶¹	75%



Performance Measures	2015/16		2014/15
	Budget Standard	Actual	Actual
Output D – Monitor and inspect places of detention			
Proactive measures			
# of full inspections to places of detention	22	22⁶²	22
# of other visits to places of detention	10	21⁶³	18
% of unannounced full inspections and other visits	At least 33% ⁶⁴	90%⁶⁵	73%
% of reports sent to places of detention within 3 months of visit	95%	100%	100%
% of reports peer reviewed, to meet internal quality standards	100%	100%	100%
% of formal recommendations accepted	80%	72%⁶⁶	83%
Output E – Improve state sector capability in areas relevant to our jurisdiction			
Demand driven measures			
# of requests for advice or comment by state sector agencies responded to	80-100	199	168
# of training sessions provided to stakeholders	20	38⁶⁷	20
Proactive measures			
# of guidance materials produced or updated	25	37⁶⁸	19
% of participants in Ombudsmen external training sessions who report that the training will assist them in their work ⁶⁹	95%	99%	100%
% of agencies which report that they use one or more of the Ombudsman’s information resources currently available	80%	98%	-70
% of overseas stakeholders who report value in the guidance and training received from our office (amended measure)	95%	100%	100%
Output F – Improve public awareness and accessibility of our services			
Demand driven measure			
# of external speeches and presentations given	25	51⁷¹	24
Proactive measures			
% of members of the public who have heard of the Ombudsman	65%	68%	67%
% of complainants who found our website useful	70%	80%	-72

Footnotes to Support Performance Measures table

- ³⁵ See <http://www.ssc.govt.nz/kiwis-count>.
- ³⁶ See <http://www.transparency.org/cpi2015?gclid=CPXtyJia-csCFQdxvAods4sDfQ#results-table>.
- ³⁷ Monitoring was undertaken of all deaths in custody.
- ³⁸ One significant wider administrative improvement investigation was completed during the 2015/16 reporting year, *Not a Game of Hide and Seek - Report on an investigation in the practice adopted by central government agencies for the purpose of compliance with the Official Information Act 1982*.
- ³⁹ 187 more OA complaints closed than received in 2015/16.
- ⁴⁰ The 2014/15 result was not audited, as this is a new measure for 2015/16.
- ⁴¹ Our ability to meet some timeliness targets this year was affected by the ongoing pressure of work and demands on our resources.
- ⁴² Above, n 40.
- ⁴³ Above, n 40.
- ⁴⁴ Above, n 40.
- ⁴⁵ Above, n 40.
- ⁴⁶ Along with quality assurance, we have other measures in place to ensure quality, including review of all letters by senior staff with delegated authority from the Ombudsmen.
- ⁴⁷ Quality assurance carried out in the 2014/15 year was more limited than the 2015/16 year. In 2014/15 we piloted a formal quality assurance process, concerning complaints and other contacts completed by investigating staff who had completed our in-house training programme.
- ⁴⁸ 16 fewer OIA complaints closed than received in 2015/16.
- ⁴⁹ 7 more LGOIMA complaints closed than received in 2015/16.
- ⁵⁰ Above, n 40.
- ⁵¹ Above, n 41.
- ⁵² Above, n 40.
- ⁵³ Above, n 40.
- ⁵⁴ Above, n 40.
- ⁵⁵ Above, n 40.
- ⁵⁶ Above, n 46.
- ⁵⁷ Above, n 47.
- ⁵⁸ Timeliness is a large contributor to complainant perceptions of our standard of service.
- ⁵⁹ This measure, and the next 2 measures, are assessed every second year on the basis of stakeholder surveys.
- ⁶⁰ We also completed 33 informal contacts about Protected Disclosures Act matters.
- ⁶¹ Of the 9 Protected Disclosures Act requests completed in 2015/16, 78% were completed within 12 months.
- ⁶² This included 21 standard inspections, plus 1 special inspection covering several sites concerning tie-down beds and restraint.
- ⁶³ We completed more visits than budgeted as these often took place at the same time as we were in a particular region of New Zealand to complete a full inspection.
- ⁶⁴ The internationally accepted standard is for at least 1/3 of inspections to be unannounced.
- ⁶⁵ We continued to increase the proportion of our unannounced visits this year, to gain a good perspective of day-to-day practice within the facilities visited.
- ⁶⁶ MidCentral DHB did not respond to recommendations made following a visit to Ward 21 and STAR1 (19 recommendations in total). These 19 recommendations, which were not responded to, have been deemed as not having been accepted for the purposes of calculating the overall percentage of recommendations accepted, which is why the performance measure is below the Budget Standard.



Footnotes to Support Performance Measures table

- ⁶⁷ Training sessions are currently provided on request from our stakeholders. Five training sessions were provided overseas.
- ⁶⁸ We started to release a new suite of official information guidance in the 2015/16 reporting year.
- ⁶⁹ The percentage calculation is based on those participants who completed a feedback form.
- ⁷⁰ This measure is assessed every second year on the basis of stakeholder surveys.
- ⁷¹ Seven speeches were given overseas.
- ⁷² Above, n 70.

Statement of comprehensive revenue and expense for the year ended 30 June 2016

30/06/15 Actual		Notes	30/06/16 Actual	30/06/16 Main Estimates	30/06/16 Supp. Estimates	30/06/17 Unaudited Forecast * IPSAS
\$(000)			\$(000)	\$(000)	\$(000)	\$(000)
	Revenue					
10,401	Revenue Crown		12,101	11,927	12,101	14,380
<u>152</u>	Other revenue	2	<u>90</u>	-	<u>180</u>	-
<u>10,553</u>	Total revenue		<u>12,191</u>	<u>11,927</u>	<u>12,281</u>	<u>14,380</u>
	Expenses					
7,580	Personnel costs	3	8,280	8,237	8,260	9,851
2,741	Other operating costs	4	3,425	3,018	3,349	3,751
206	Depreciation and amortisation	5	344	518	518	595
<u>26</u>	Capital charge	6	<u>142</u>	<u>154</u>	<u>154</u>	<u>183</u>
<u>10,553</u>	Total expenses		<u>12,191</u>	<u>11,927</u>	<u>12,281</u>	<u>14,380</u>
-	Surplus/(deficit)		-	-	-	-
-	Other comprehensive revenue and expense		-	-	-	-
-	Total comprehensive revenue and expenses		-	-	-	-

Explanations of major variances against the original 2015/16 budget are provided in Note 18. The accompanying notes form an integrated part of these financial statements.

Statement of financial position as at 30 June 2016

30/06/15 Actual		Notes	30/06/16 Actual	30/06/16 Main Estimates	30/06/16 Supp. Estimates	30/06/17 Unaudited Forecast * IPSAS
\$(000)			\$(000)	\$(000)	\$(000)	\$(000)
	Assets					
	<i>Current assets</i>					
1,857	Cash and cash equivalents		2,437	1,164	1,865	2,301
<u>133</u>	Other current assets	7	<u>71</u>	<u>18</u>	<u>18</u>	<u>24</u>
<u>1,990</u>	Total current assets		<u>2,508</u>	<u>1,182</u>	<u>1,883</u>	<u>2,325</u>
	<i>Non-current assets</i>					

The accompanying notes form part of these financial statements

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



30/06/15 Actual \$(000)		Notes	30/06/16 Actual \$(000)	30/06/16 Main Estimates \$(000)	30/06/16 Supp. Estimates \$(000)	30/06/17 Unaudited Forecast * IPSAS \$(000)
1,809	Property, plant and equipment	8	1,771	1,614	1,717	1,839
164	Intangible assets — Software	9	153	193	200	232
1,973	<i>Total non-current assets</i>		1,924	1,807	1,917	2,071
3,963	Total assets		4,432	2,989	3,800	4,396
	Liabilities					
	<i>Current liabilities</i>					
573	Creditors and other payables	10	634	269	269	369
-	- Return of operating surplus	11	-	-	-	-
445	Employee entitlements	12	683	425	425	470
1,018	<i>Total current liabilities</i>		1,317	694	694	839
	<i>Non-current liabilities</i>					
19	Employee entitlements	12	27	18	18	18
1,110	Leasehold Incentives		1,012	201	1,012	914
1,129	<i>Total non-current liabilities</i>		1,039	219	1,030	932
2,147	Total liabilities		2,356	913	1,724	1,771
1,816	Net assets		2,076	2,076	2,076	2,625
	Equity					
1,816	General funds	13	2,076	2,076	2,076	2,625
1,816	<i>Total equity</i>		2,076	2,076	2,076	2,625

Explanations of major variances against the original 2015/16 budget are provided in Note 18. The accompanying notes form an integrated part of these financial statements.

Statement of changes in equity for the year ended 30 June 2016

30/06/15 Actual \$(000)		Note	30/06/16 Actual \$(000)	30/06/16 Main Estimates \$(000)	30/06/16 Supp. Estimates \$(000)	30/06/17 Unaudited Forecast * IPSAS \$(000)
329	Balance at 1 July		1,816	1,816	1,816	2,076
-	Total comprehensive revenue and - expense for the year		-	-	-	-
	Owner transactions					
1,487	Capital injections		260	260	260	549

The accompanying notes form part of these financial statements

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

30/06/15 Actual \$(000)		Note	30/06/16 Actual \$(000)	30/06/16 Main Estimates \$(000)	30/06/16 Supp. Estimates \$(000)	30/06/17 Unaudited Forecast * IPSAS \$(000)
	Return of operating surplus to the Crown		=	=	=	=
<u>1,816</u>	Balance at 30 June	13	<u>2,076</u>	<u>2,076</u>	<u>2,076</u>	<u>2,625</u>

Explanations of major variances against the original 2015/16 budget are provided in Note 18. The accompanying notes form an integrated part of these financial statements.

Statement of cash flows for the year ended 30 June 2016

30/06/15 Actual \$(000)		Notes	30/06/16 Actual \$(000)	30/06/16 Main Estimates \$(000)	30/06/16 Supp. Estimates \$(000)	30/06/17 Unaudited Forecast * IPSAS \$(000)
Cash flows from operating activities						
10,401	Receipts from Crown		12,101	11,927	12,101	14,380
152	Receipts from other revenue		90		180	
(7,757)	Payments to employees		(8,034)	(8,262)	(8,306)	(9,834)
(2,625)	Payments to suppliers		(3,400)	(2,993)	(3,613)	(3,727)
(26)	Payment for capital charge		(142)	(154)	(154)	(183)
(197)	Goods and services tax (net)		=	=	=	=
(52)	<i>Net cash from operating activities</i>	14	<u>615</u>	<u>518</u>	<u>208</u>	<u>636</u>
Cash flows from investing activities						
(626)	Purchase of property, plant and equipment	8	(259)	(388)	(388)	(677)
(73)	Purchase of intangible assets — software	9	(36)	(72)	(72)	(72)
(699)	<i>Net cash from investing activities</i>		<u>(295)</u>	<u>(460)</u>	<u>(460)</u>	<u>(749)</u>
Cash flows from financing activities						
1,487	Capital contribution		260	260	260	549
(189)	Return of operating surplus		=	=	=	=
<u>1,298</u>	<i>Net cash from financing activities</i>		<u>260</u>	<u>260</u>	<u>260</u>	<u>549</u>
547	Net increase/(decrease) in cash		580	318	8	436
<u>1,310</u>	Cash at beginning of the year		<u>1,857</u>	<u>846</u>	<u>1,857</u>	<u>1,865</u>
<u>1,857</u>	Cash at end of the year		<u>2,437</u>	<u>1,164</u>	<u>1,865</u>	<u>2,301</u>

Explanations of major variances against the original 2015/16 budget are provided in Note 18. The accompanying notes form an integrated part of these financial statements.

The accompanying notes form part of these financial statements

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



Statement of commitments as at 30 June 2016

Non-cancellable operating lease commitments

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

The agreements for the photocopiers have a non-cancellable period generally of 5 years. The accommodation leases are long-term and non-cancellable until expiry except if the premises become untenable under the terms of the lease agreement. The annual lease payments are subject to three-yearly reviews. The amounts disclosed below as future commitments are based on the current rental rate for each of the leased premises.

30/6/15 Actual \$(000)		30/6/16 Actual \$(000)
	Non-cancellable operating lease commitments	
895	Less than one year	1,002
856	One to two years	1,002
2,569	Two to five years	3,007
<u>5,427</u>	More than five years	<u>5,448</u>
<u>9,747</u>	Total non-cancellable operating lease commitments	<u>10,459</u>

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

The accompanying notes form an integrated part of these financial statements.

Capital commitments

Nil (2015 Nil).

Statement of contingent liabilities and contingent assets as at 30 June 2016

Unquantifiable contingent liabilities

As at 30 June 2016 the Office does not have any unquantifiable contingent liabilities. (2015 Nil). The nature of the item is the cost associated with proceedings. Future costs are unquantifiable but should be determined in the next twelve months.

Quantifiable contingent liabilities

As at 30 June 2016 the Office does not have any quantifiable contingent liabilities. (2015 Nil).

Unquantifiable contingent assets

As at 30 June 2016 the Office does not have any unquantifiable contingent assets (2015 Nil).

Quantifiable contingent assets

As at 30 June 2016 the Office does not have any quantifiable contingent assets. (2015 Nil).

The accompanying notes form an integrated part of these financial statements.



Notes to the financial statements

1. Statement of accounting policies for the year ended 30 June 2016

Reporting entity

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

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

The financial statements of the Office are for the year ended 30 June 2016. The financial statements were authorised for distribution by the Chief Executive on 30 September 2016.

Basis of preparation

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

STATEMENT OF COMPLIANCE

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

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

MEASUREMENT BASE

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

FUNCTIONAL AND PRESENTATION CURRENCY

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

Summary of Significant accounting policies

REVENUE

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

Funding from the Crown

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

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

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

Other revenue

During the year the Office has earned other revenue. A portion of this revenue was generated by staff secondment in Rarotonga and in the United Kingdom.

In addition, during the year one of our staff was involved in an accident and compensation was received from ACC for this person and two others injured in the previous year.

Capital charge

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

Leases

OPERATING LEASES

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

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

Cash and cash equivalents

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

OTHER CURRENT ASSETS

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

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

Property, plant and equipment

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

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



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

ADDITIONS

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

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

DISPOSALS

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

SUBSEQUENT COSTS

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

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

DEPRECIATION

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

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

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

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

Intangible assets

SOFTWARE ACQUISITION AND DEVELOPMENT

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

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

Staff training costs are recognised as an expense when incurred.

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

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

AMORTISATION

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

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

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

Impairment of property, plant and equipment, and intangible assets

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

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

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

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

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

Payables

Short-term payables are at face value.



Employee entitlements

SHORT-TERM EMPLOYEE ENTITLEMENTS

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

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

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

LONG-TERM EMPLOYEE ENTITLEMENTS

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

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

The Office’s terms and conditions of employment do not include a provision for retirement leave. Long service leave is available to 2 long serving staff under ‘grandparent’ employment terms. Long service leave is not otherwise available to staff of the Office.

PRESENTATION OF EMPLOYEE ENTITLEMENTS

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

Superannuation schemes

DEFINED CONTRIBUTION SCHEMES

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

Equity

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

Commitments

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

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

Goods and services tax (GST)

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

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

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

Commitments and contingencies are disclosed exclusive of GST.

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

Income tax

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

Statement of cost accounting policies

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

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

Critical accounting estimates and assumptions

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

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



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

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

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

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

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

LONG SERVICE LEAVE

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

Critical judgements in applying accounting policies

Management has exercised the following critical judgements in applying accounting policies for the year ended 30 June 2016.

LEASES CLASSIFICATION

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

Judgement is required on various aspects that include, but are not limited to, the fair value of the leased asset, the economic life of the leased asset, whether or not to include renewal options in the lease term, and determining an appropriate discount rate to calculate the present value of the minimum lease payments. Classification as a finance lease means the asset is recognised in the statement of financial position as property, plant and equipment, whereas for an operating lease no such value is recognised.

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

BUDGET AND FORECAST FIGURES

The budget figures are those presented in the Information Supporting the Estimates of Appropriations for the Government of New Zealand for the year ended 30 June 2016 (Main Estimates) and those amended by the Supplementary Estimates and any transfer made by Order in Council under the Public Finance Act 1989.

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

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

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

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

The main assumptions are as follows:

- Estimated year end information for 2015/16 is used as the opening position for the 2016/17 forecasts.
- There are no significant events or changes that would have a material impact on the BEFU forecast.
- Factors that could lead to material differences between the forecast financial statements and the 2015/16 actual financial statements include changes to the baseline budget through new initiatives, or technical adjustments.

Authorisation Statement

The forecast figures reported are those for the year ending 30 June 2017 included in BEFU 2016. These were authorised for issue on 5 April 2016 by the Chief Ombudsman who is responsible for the forecast financial statements as presented. The preparation of these financial statements requires judgements, estimations, and assumptions that affect the application of policies and reported amounts of assets and liabilities, and income and expenses. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances. Actual financial results achieved for the period covered are likely to vary from the information presented, and the variations may be material.

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



2. Other revenue

30/06/15 Actual \$(000)		30/06/16 Actual \$(000)	30/06/16 Main Estimates \$(000)	30/06/16 Supp. Estimates \$(000)	30/06/17 Unaudited Forecast* IPSAS \$(000)
46	ACC recovery	36	-	-	-
106	Secondment recovery	25	-	-	-
-	Other revenue	29	-	180	-
152	Total other revenue	90	-	180	-

3. Personnel costs

30/06/15 Actual \$(000)		30/06/16 Actual \$(000)	30/06/16 Main Estimates \$(000)	30/06/16 Supp. Estimates \$(000)	30/06/17 Unaudited Forecast* IPSAS \$(000)
7,102	Salaries and wages	7,648	7,901	7,945	9,383
353	Employer contributions to staff superannuation	356	336	336	423
125	Other personnel costs	276	-	(21)	45
7,580	Total personnel costs	8,280	8,237	8,260	9,851

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

4. Other operating costs

30/06/15 Actual \$(000)		30/06/16 Actual \$(000)	30/06/16 Main Estimates \$(000)	30/06/16 Supp. Estimates \$(000)	30/06/17 Unaudited Forecast* IPSAS \$(000)
759	Operating accommodation lease expenses	872	992	909	914
91	Accommodation costs — other	90	-	-	-
33	Audit fees - for audit of financial statements	34	33	38	33
72	Publications, books and statutes	71	93	93	93
238	Travel	307	394	394	394
142	Communication costs	120	200	200	200
1,406	Other operating costs	1,931	1,306	1,715	2,117
2,741	Total operating expenses	3,425	3,018	3,349	3,751

Other operating excludes depreciation and capital charge.

The accompanying notes form part of these financial statements

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

5. Depreciation and amortisation

30/06/15 Actual \$(000)		30/06/16 Actual \$(000)	30/06/16 Main Estimates \$(000)	30/06/16 Supp. Estimates \$(000)	30/06/17 Unaudited Forecast* IPSAS \$(000)
31	Furniture and fittings	50	53	53	63
59	Plant and equipment and other	104	85	85	92
82	Computer equipment	143	340	340	400
34	Intangible assets – software	47	40	40	40
206	Total depreciation and amortisation	344	518	518	595

6. Capital charge

The Office of the Ombudsman pays a capital charge to the Crown on its taxpayers' funds as at 30 June and 31 December each year. The capital charge rate for the year ended 30 June 2016 was 8.0% (2015, 8.0%).

7. Other current assets

30/06/15 Actual \$(000)		30/06/16 Actual \$(000)	30/06/16 Main Estimates \$(000)	30/06/16 Supp. Estimates \$(000)	30/06/17 Unaudited Forecast* IPSAS \$(000)
110	Receivables	26	-	-	-
23	Prepayments	45	18	18	24
133	Total receivables	71	18	18	24

8. Property, plant and equipment

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

2016	Plant and Equipment \$(000)	Leasehold improvements \$(000)	IT Equipment \$(000)	Furniture and Fittings \$(000)	Total \$(000)
Cost					
Balance at 30 June 2015	167	1,229	639	470	2,505
Additions	2	-	229	28	259
Disposals	-	-	-	-	-
Balance at 30 June 2016	169	1,229	868	498	2,764
Accumulated depreciation and impairment losses					
Balance at 30 June 2015	154	113	325	104	696
Depreciation	5	99	143	50	297
Balance at 30 June 2016	159	212	468	154	993

The accompanying notes form part of these financial statements

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



2016	Plant and Equipment \$(000)	Leasehold improvements \$(000)	IT Equipment \$(000)	Furniture and Fittings \$(000)	Total \$(000)
Carrying amounts					
At 30 June 2015	13	1,116	314	366	1,809
At 30 June 2016	10	1,017	400	344	1,771
2015	Plant and Equipment \$(000)	Leasehold improvements \$(000)	IT Equipment \$(000)	Furniture and Fittings \$(000)	Total \$(000)
Cost					
Balance at 30 June 2014	169	671	402	233	1,475
Additions	1	957	282	336	1,576
Disposals	(3)	(399)	(45)	(99)	(546)
Balance at 30 June 2015	167	1,229	639	470	2,505
Accumulated depreciation and impairment losses					
Balance at 30 June 2014	151	459	288	171	1,069
Depreciation	6	53	82	31	172
Accumulated depn on disposals	(3)	(399)	(45)	(98)	(545)
Balance at 30 June 2015	154	113	325	104	696
Carrying amounts					
At 30 June 2014	18	212	114	62	406
At 30 June 2015	13	1,116	314	366	1,809

9. Intangible assets

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

2016	Acquired Software \$(000)	Internally generated Software \$(000)	Total \$(000)
Cost			
Balance at 30 June 2015	155	165	320
Additions	36	-	36
Balance at 30 June 2016	191	165	356
Accumulated amortisation and impairment losses			
Balance at 30 June 2015	81	75	156
Amortisation	31	16	47
Balance at 30 June 2016	112	91	203
Carrying amounts			
At 30 June 2015	74	90	164
At 30 June 2016	79	74	153

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

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

10. Creditors and other payables

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

30/06/15 Actual \$(000)		30/06/16 Actual \$(000)	30/06/17 Unaudited Forecast* IPSAS \$(000)
384	Trade creditors	294	150
189	Other short-term liabilities	340	219
573	Total creditors and other payables	634	369

11. Return of operating surplus

There is no surplus to be repaid for the 2015 or 2016 financial years.

12. Employee entitlements

30/06/15 Actual \$(000)		30/06/16 Actual \$(000)	30/06/16 Main Estimates \$(000)	30/06/16 Supp. Estimates \$(000)	30/06/17 Unaudited Forecast* IPSAS \$(000)
	<i>Current liabilities</i>				
382	Annual leave	407	300	300	340
-	Long service leave	-	15	15	-

The accompanying notes form part of these financial statements

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



30/06/15 Actual \$(000)		30/06/16 Actual \$(000)	30/06/16 Main Estimates \$(000)	30/06/16 Supp. Estimates \$(000)	30/06/17 Unaudited Forecast * IPSAS \$(000)
63	Superannuation, Superannuation Contribution Withholding Tax and salaries	276	110	110	130
445	Total current liabilities	683	425	425	470
	<i>Non current liabilities</i>				
19	Long service leave	27	18	18	18
464	Total for employee entitlements	710	443	443	488

Every 2 years the Office engages AON consulting actuaries to determine the present value of the long service leave obligations for 2 staff who retain the entitlement as a 'grandfather' provision. These figures are based on the 2015/16 revaluation. Key assumptions used in calculating this liability include the discount rate and the salary inflation factor. Any changes in these assumptions will impact on the carrying amount of the liability. Key assumptions are set out in the table below.

Projection Year	Discount Rate	Salary Growth
1	2.14%	3.00%
2	2.03%	3.00%
3	2.07%	3.00%
4	2.25%	3.00%
5	2.44%	3.00%
6	2.63%	3.00%
7	2.81%	3.00%
8	2.99%	3.00%
9	3.15%	3.00%
10+	3.30%	3.00%

- The discount rate is based on NZ government stock yields at 31 March 2016.
- A long term annual rate of salary growth of 3.0% per annum has been assumed. This is consistent with the results of the latest AON Economists' Survey
- A promotional salary scale that depends on age and is derived from the experience of New Zealand superannuation schemes has been applied.

The accompanying notes form part of these financial statements

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

13. Equity (Taxpayers' funds)

30/06/15 Actual \$(000)		30/06/16 Actual \$(000)	30/06/17 Unaudited Forecast* IPSAS \$(000)
General Funds			
329	Balance at 1 July	1,816	2,076
	- Net operating surplus	-	-
1,487	Capital injections	260	549
	= Provision for repayment of surplus to the Crown	=	=
1,816	Total Equity at 30 June	2,076	2,625

14. Reconciliation of net surplus to net cash flow from operating activities for the year ended 30 June 2016

30/06/15 Actual \$(000)		30/06/16 Actual \$(000)	30/06/16 Main Estimates \$(000)	30/06/16 Supp. Estimates \$(000)	30/06/17 Unaudited Forecast* IPSAS \$(000)
	= Net surplus/(deficit)	=	=	=	=
	<i>Add/(less) non-cash items</i>				
3	Write off of assets	-	-	-	-
207	Depreciation and amortisation expense	345	518	518	595
210	Total non-cash items	345	518	518	595
	<i>Add/(less) movements in working capital items</i>				
5	(Inc)/dec prepayments	(40)	-	-	-
(110)	(Inc)/dec debtors	101	-	113	(6)
192	Inc/(dec) creditors and payables	(90)	-	(102)	100
(185)	Inc/(dec) employee entitlements	246	-	(21)	-
74	Inc/(dec) short term liabilities	(79)	-	(395)	(53)
(41)	Inc/(dec) long term liabilities	(98)	-	(98)	-
(197)	Inc/(dec) GST	230	=	193	=
(262)	Net movement in working capital items	270	=	(310)	41
(52)	Net cash flows from operating activities	615	518	208	636

The accompanying notes form part of these financial statements

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



15. Financial instruments

Categories of financial instruments

Actual 2015 \$(000)		Actual 2016 \$(000)
	Loans and receivables	
1,857	Cash and cash equivalents	2,437
133	Debtors and other receivables (note 7)	71
1,990	Total	2,508
	Financial liabilities measured at amortised cost	
573	Creditors and other payables (note 10)	634
464	Employee entitlements (note 12)	710
1,037	Total	1,344

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

16. Related party information

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

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

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

Key management personnel compensation

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

Actual 2015 \$(000)		Actual 2016 \$(000)
	Leadership Team, including the Chief Ombudsman	
1,127	Remuneration and other benefits	1,223
4	Full-time equivalent staff	4



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Report of the Ombudsman
Part 6 | Financial and performance information

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 2016.

18. Significant variances from forecast financial performance

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



Appropriation statements

The following statements report information about the expenses and capital expenditure incurred against each appropriation administered by the Office for the year ended 30 June 2016.

Statement of expenses and capital expenditure against appropriations for the year ended 30 June 2016

30/06/15 Actual \$(000)		30/06/16 Actual \$(000)	30/06/16 Main Estimates \$(000)	30/06/16 Supp. Estimates \$(000)	30/06/17 Unaudited Forecast * IPSAS \$(000)
	Vote Ombudsmen Appropriation for output expenses				
9,868**	Investigation and resolution of complaints about government administration	11,495	11,237	11,568	13,712
684**	Remuneration of Ombudsmen (Permanent Legislative Authority)	696	690	713	668
10,552	Sub total	12,191	11,927	12,281	14,380
699**	Office of the Ombudsmen appropriation for capital expenditure (Permanent Legislative Authority)	295	460	460	749
11,251	Total	12,486	12,387	12,741	15,129

** End of year performance information is reported in the statement of objectives and service performance pages 76 to 80.

Statement of expenses and capital expenditure incurred without, or in excess of, appropriation or authority for the year ended 30 June 2016

There was no unappropriated expenditure for 2015/16 (2014/15 Nil).

The accompanying notes form part of these financial statements

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

Statement of the Office's capital injections for the year ended 30 June 2016

30/06/15 Actual		30/06/16 Actual	30/06/16 Main Estimates	30/06/17 Unaudited Forecast * IPSAS
\$(000)		\$(000)	\$(000)	\$(000)
1,487	Office of the Ombudsmen appropriation for capital expenditure (Permanent Legislative Authority)	260	260	549

Statement of the Office's capital injections without, in excess of, authority for the year ended 30 June 2016

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

The accompanying notes form part of these financial statements

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



Part 7 Analysis, statistics & directory

7

The throughput of complaints, other contacts and monitoring activities	106
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The throughput of complaints, other contacts and monitoring activities

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

	2011/12	2012/13	2013/14	2014/15	2015/16
On hand as at 1 July	1,359	1,746	2,072	1,602	1,787
Adjustment ⁷³	1	-	9	-2	-5
Received during the year	<u>10,636</u>	<u>13,684</u>	<u>11,044</u>	<u>12,151</u>	<u>12,595</u>
Total under consideration	11,996	15,430	13,116	13,753	14,382
Completed during the year	<u>(10,250)</u>	<u>(13,358)</u>	<u>(11,505)</u>	<u>(11,964)</u>	<u>(12,786)</u>
On hand at 30 June	<u>1,746</u>	<u>2,072</u>	<u>1,602</u>	<u>1,787</u>	<u>1,591</u>

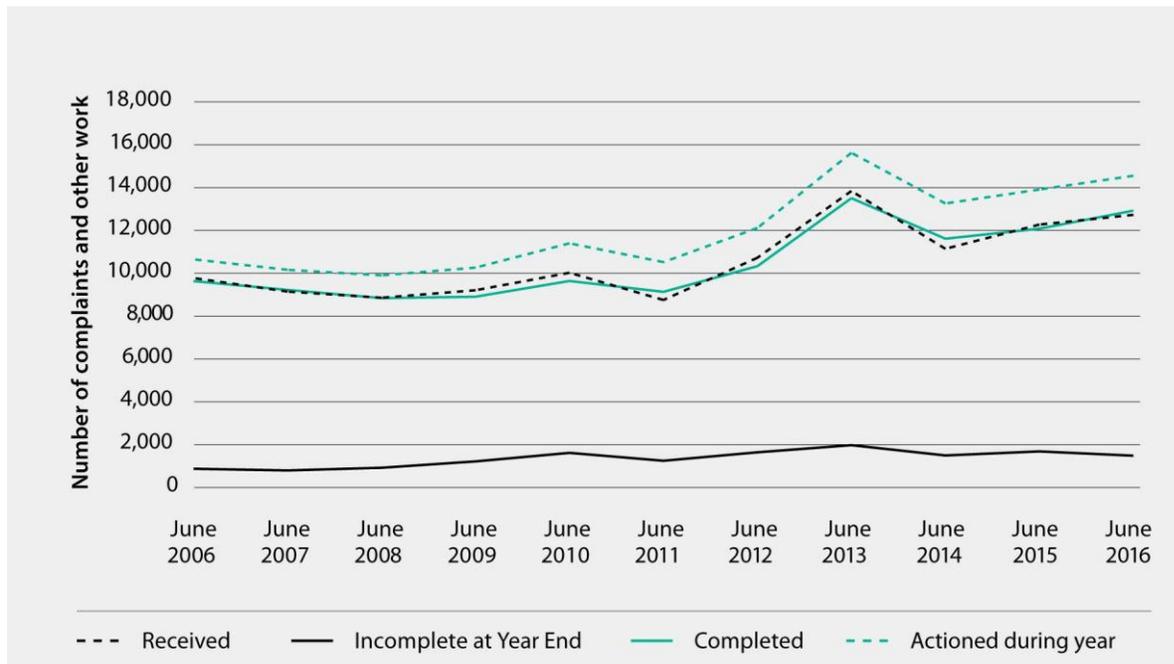


Figure 3: Overall throughput of work over the past 10 years

⁷³ Adjustments are changes made to reported statistics post completion of a reporting year.

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

	2011/12	2012/13	2013/14	2014/15	2015/16
On hand at 1 July					
Ombudsmen Act	727	821	690	649	729
Official Information Act	504	667	1,131	708	833
Local Government Official Information and Meetings Act	86	136	162	174	160
Protected Disclosures Act	2	5	2	7	5
Monitoring Death in Custody investigations	15	9	7	8	16
Other Contacts	11	100	75	51	34
Other work	14	8	7	3	5
Total	1,360	1,746	2,074	1,600	1,782
Received during the year					
Ombudsmen Act	2,459 ⁷⁴	2,745	2,478	2,304	2,054
Official Information Act	1,236	2,374	1,207	1,090	1,100
Local Government Official Information and Meetings Act	268	271	246	240	240
Protected Disclosures Act	9	7	14	14	6
Monitoring Death in Custody investigations	12	11	14	18	26
Other Contacts	6,491	8,263	7,081	8,480	9,166
Other work	161	13	4	5	3
Total	10,636	13,684	11,044	12,151	12,595
Disposed of during the year					
Ombudsmen Act	2,383	2,878	2,510	2,226	2,241
Official Information Act	1,076	1,913	1,623	960	1,084
Local Government Official Information and Meetings Act	217	245	233	253	247
Protected Disclosures Act	6	11	7	16	9
Monitoring Death in Custody investigations	18	13	13	10	16
Other Contacts	6,401	8,283	7,112	8,497	9,185
Other work	149	15	7	2	4
Total	10,250	13,358	11,505	11,964	12,786

⁷⁴ The apparent reduction in the number of Ombudsmen Act complaints received and completed in the 2011/12 reporting year onwards results from a change in recording practice. Previously Ombudsmen Act complaints and other contacts were aggregated.



On hand at 30 June					
Ombudsmen Act	803	687	647	727	542
Official Information Act	664	1,129	712	838	849
Local Government Official Information and Meetings Act	137	162	174	161	153
Protected Disclosures Act	5	1	8	5	2
Monitoring Death in Custody investigations	9	7	8	16	26
Other Contacts	101	80	50	34	15
Other work	<u>27</u>	<u>6</u>	<u>3</u>	<u>6</u>	4
Total	<u>1,746</u>	<u>2,072</u>	<u>1,602</u>	<u>1,787</u>	<u>1,591</u>

Contact type - who matters were received from

Contact type	2014/15	2015/16
General public – individuals	7,276	7,192
Prisoners and prisoner advocates	4,085	4,611
Media	286	244
Departments, government organisations and local authorities	173	225
Companies, associations and incorporated societies	230	179
Political party research units	28	55
Members of Parliament	25	48
Researchers	5	20
Special interest groups	10	5
Other	25	16
Total	<u>12,151</u>	<u>12,595</u>

Age profile of open and closed complaints and other contacts

Age profile – all complaints and other contacts closed in 2015/16

	Year ended			
	30/06/13	30/06/14	30/06/15	30/06/16
Aged 6 months or less from date of receipt	93%	88%	92%	91%
Aged between 7 and 12 months from date of receipt	3%	5%	4%	4%
Aged more than 12 months from date of receipt	3%	7%	4%	4%

Age profile – all complaints and other contacts remaining open at 30 June 2016

	Year ended			
	30/06/13	30/06/14	30/06/15	30/06/16
Aged 6 months or less from date of receipt	38%	51%	47%	39%
Aged between 7 and 12 months from date of receipt	36%	18%	30%	24%
Aged more than 12 months from date of receipt	26%	31%	23%	36%

Detailed analysis of complaints and other contacts

Ombudsmen Act (OA)

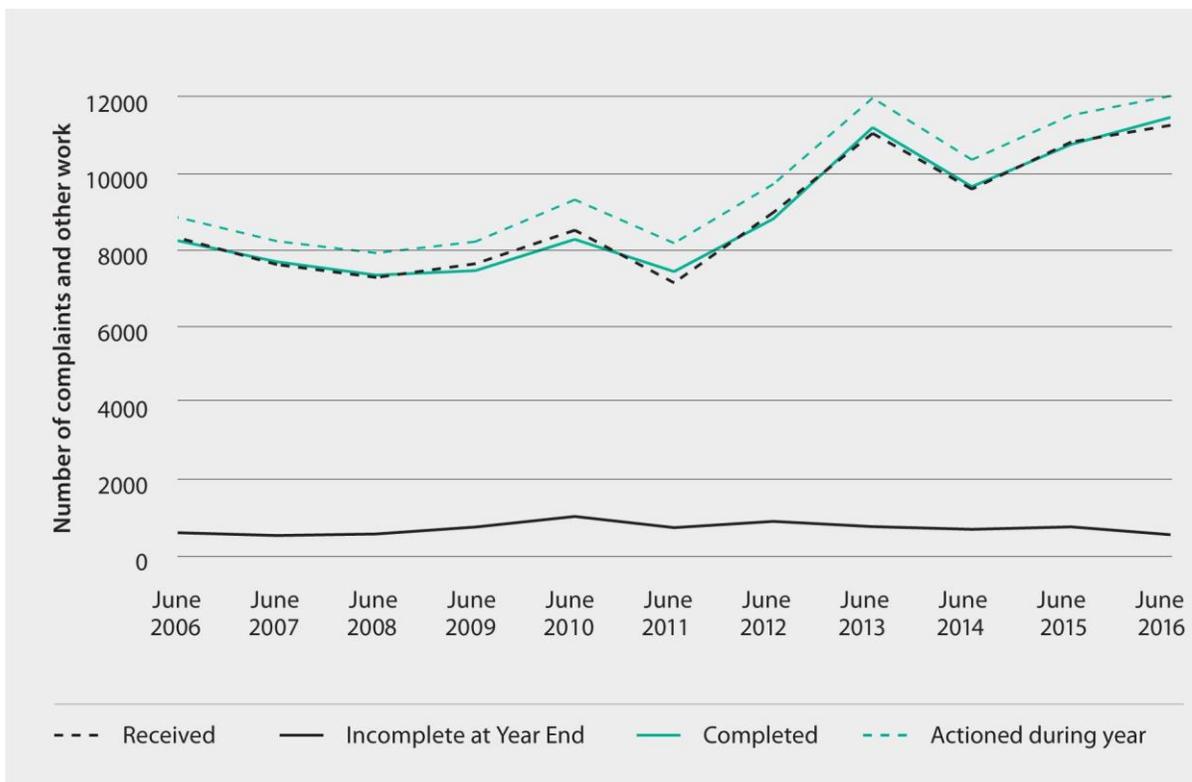


Figure 4: OA complaints and other contacts received and actioned over the past 10 years



OA complaints received from	2014/15	2015/16
General public – individuals	1,862	1,725
Prisoners and prisoner advocates	342	275
Companies, associations and incorporated societies	66	41
Media	13	7
Departments, government organisations and local authorities	3	2
Political party research units	2	3
Members of Parliament	-	1
Total	2,304	2,054

OA complaints received against	2014/15	2015/16
Government departments	1,073	998
Local authorities (all)	288	274
<i>District Councils</i>	131	127
<i>City Councils</i>	113	102
<i>Council controlled organisations</i>	23	19
<i>Regional Councils</i>	21	24
Other organisations state sector (all)	730	579
<i>Boards of Trustees (schools)</i>	48	48
<i>District Health Boards</i>	33	28
<i>Universities</i>	30	20
<i>Polytechnics</i>	30	22
Ministers	17	16
Not specified	196	187
Total	2,304	2,054

OA complaints received - greater than or equal to 15 complaints ⁷⁵	2014/15	2015/16
Government departments		
Department of Corrections	368	319
Ministry of Business, Innovation and Employment	237	226⁷⁶
Ministry of Social Development	174	182⁷⁷
Inland Revenue Department	124	118⁷⁸
Ministry of Justice ⁷⁹	27	23
Ministry of Health	14	15
Local authorities		
Auckland Council	44	46
Other organisations state sector		
Earthquake Commission	188	91
Accident Compensation Corporation	80	72
New Zealand Transport Agency	39	49
New Zealand Police	63	47
Health and Disability Commissioner	36	36
Education Council of Aotearoa NZ (EDUCANZ)	7	28
Housing New Zealand Corporation	28	27
Privacy Commissioner	25	19
New Zealand Post Limited	23	18

⁷⁵ Totals are not included in some tables, where they are not relevant.

⁷⁶ Includes 200 complaints concerning Immigration New Zealand.

⁷⁷ Includes 90 Work and Income, 65 Child, Youth and Family and 10 StudyLink matters.

⁷⁸ Includes 41 child support and 26 student loan matters.

⁷⁹ Not including courts and tribunals.



How OA complaints were dealt with	2014/15	2015/16
Outside jurisdiction		
• agency not listed in schedule	214	219
• scheduled agency otherwise outside jurisdiction	<u>68</u>	<u>94</u>
<i>Subtotal</i>	282	313
Referred		
• referred to Health and Disability Commissioner	19	5
• referred to Independent Police Conduct Authority	50	27
• referred to Privacy Commissioner	<u>25</u>	<u>26</u>
<i>Subtotal</i>	94	58
No investigation undertaken		
• withdrawn by complainant or no response from complainant	147	106
• right of appeal to Court or Tribunal	107	124
• adequate alternative remedy – complain to agency first	722	748
• adequate alternative remedy – complaint referred to agency by Ombudsman	16	3
• adequate alternative remedy – recourse to other agency	44	32
• investigation unnecessary ⁸⁰	-	34
• out of time	2	5
• trivial, frivolous, vexatious or not in good faith	1	1
• insufficient personal interest	6	17
• explanation, advice or assistance provided	<u>503</u>	<u>492</u>
<i>Subtotal</i>	1,548	1,562
Resolved without investigation		
• remedial action to benefit complainant	79	67
• remedial action to benefit complainant and improve state sector administration	-	2
• provision of advice/explanation by agency or Ombudsman which satisfies complainant	<u>6</u>	<u>17</u>
<i>Subtotal</i>	86	86
Investigation discontinued		
• withdrawn by complainant or no response from complainant	17	22
• further investigation unnecessary	<u>39</u>	<u>47</u>
<i>Subtotal</i>	58	69

⁸⁰ The new discretion to decline to investigate a complaint, on the basis that it is considered unnecessary, was added in March 2015.

Report of the Ombudsman
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How OA complaints were dealt with	2014/15	2015/16
Resolved during investigation		
• remedial action to benefit complainant	45	29
• remedial action to benefit complainant and improve state sector administration	3	1
• provision of advice/explanation by agency or Ombudsman which satisfies complainant	<u>1</u>	<u>1</u>
<i>Subtotal</i>	51	31
Investigation finalised (final opinion formed)		
• administrative deficiency identified – recommendation/s	11	17
• administrative deficiency identified – no recommendation	12	11
• no administrative deficiency identified	82	91
• issues cannot be determined	<u>1</u>	<u>2</u>
<i>Subtotal</i>	106	121
Administration - adjustment	1	1
Under consideration at 30 June	<u>727</u>	<u>542</u>
Total	<u>2,953</u>	<u>2,783</u>

Nature of deficiency identified where final opinion formed on OA complaints		2014/15	2015/16
Administrative deficiency in an individual case	Procedural deficiency	6	10
	Unreasonable, unjust, oppressive or discriminatory act, omission or decision	6	10
	Inadequate advice, explanation or reasons	4	7
	Unreasonable delay	1	3
	Legal error	1	3
	Factual error or mistake	-	2

Nature of remedy obtained for OA complaints		2014/15	2015/16
Individual benefit	Decision to be reconsidered	29	37
	Decision changed	48	35
	Apology	8	19
	Omission rectified	34	19
	Reasons/explanation given	14	19
	Financial remedy	11	14
Public administration benefit	Change in practice/procedure	3	6
	Law/policy/practice/procedure to be reviewed	5	3
	Provision of guidance or training to staff	3	2
	Change in law/policy	1	1



Official Information Act (OIA)

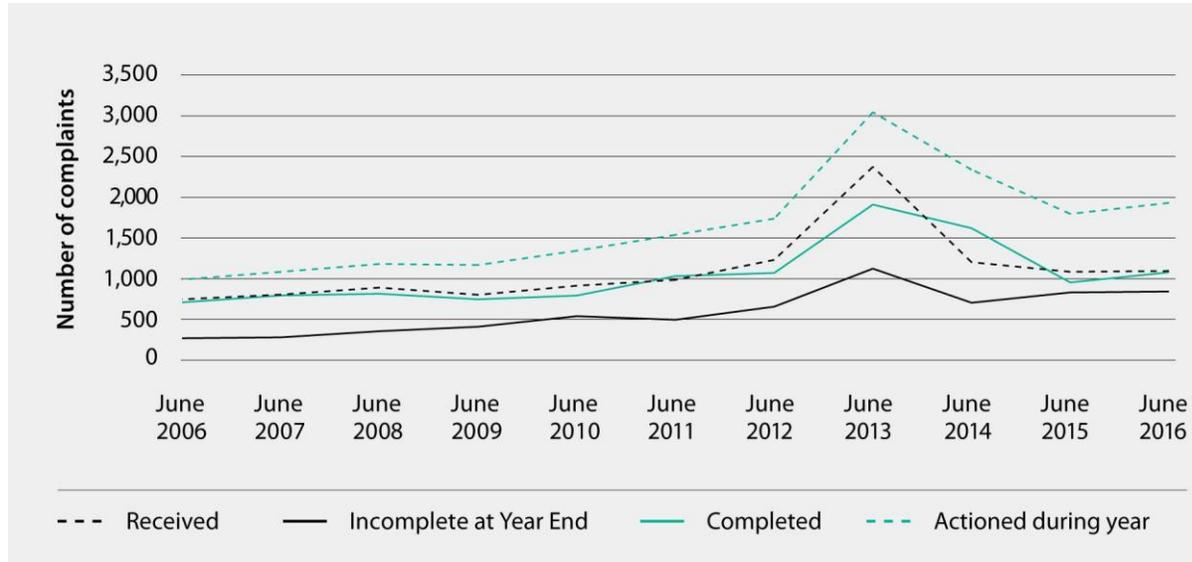


Figure 5: OIA complaints received and actioned over the past 10 years

Nature of OIA complaints made	2014/15	2015/16
Refusal - general information request	643	616
Delay in making decision	235	239
Incomplete or inadequate response	59	63
Refusal - personal information about individual	76	61
Extension	64	56
Charge	9	13
Delay in releasing information	11	10
Decision not made as soon as reasonably practicable	1	8
Manner or form of release	5	4
Refusal - personal information about body corporate	8	4
Refusal - statement of reasons	3	1
Other	47	25
Total	1,090	1,100

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OIA complaints received from	2014/15	2015/16
General public – individuals	697	676
Media	193	183
Companies, associations and incorporated societies	91	81
Political party research units	24	49
Prisoners and prisoner advocates	60	42
Members of Parliament	18	40
Researchers	-	18
Special interest groups	3	2
Departments, government organisations and local authorities	1	7
Other	1	2
Total	1,090	1,100

OIA complaints received against	2014/15	2015/16
Government departments	452	538
Other organisations state sector (all)	491	446
<i>District Health Boards</i>	<i>61</i>	<i>48</i>
<i>Boards of Trustees (schools)</i>	<i>26</i>	<i>28</i>
<i>Universities</i>	<i>35</i>	<i>20</i>
Ministers	130	98
Agencies not subject to jurisdiction	7	7
Not specified	10	11
Total	1,090	1,100

OIA complaints received - greater than or equal to 15 complaints	2014/15	2015/16
Government departments		
Ministry of Social Development	65	105
Department of Corrections	77	76
Ministry of Justice	35	42
Ministry of Foreign Affairs and Trade	28	40
Ministry for Primary Industries	30	39
Ministry of Education	32	39
Ministry of Business, Innovation and Employment	57	37
Ministry of Health	15	26
New Zealand Defence Force	13	22
Department of the Prime Minister and Cabinet	19	17
Other organisations state sector		
New Zealand Police	178	165
Accident Compensation Corporation	23	32
Earthquake Commission	20	19



How OIA complaints were dealt with	2014/15	2015/16
Outside jurisdiction		
• agency not listed in schedule	15	20
• scheduled agency otherwise outside jurisdiction	<u>59</u>	45
<i>Subtotal</i>	74	65
Referred		
• referred to Privacy Commissioner	<u>74</u>	75
<i>Subtotal</i>	74	75
No investigation undertaken		
• withdrawn by complainant or no response from complainant	182	148
• right of appeal to Court or Tribunal	1	1
• adequate alternative remedy – complain to agency first	6	5
• adequate alternative remedy – complaint referred to agency by Ombudsman	-	2
• adequate alternative remedy – recourse to other agency	2	2
• investigation unnecessary ⁸¹	-	16
• out of time	-	3
• explanation, advice or assistance provided	<u>103</u>	125
<i>Subtotal</i>	294	302
Resolved without investigation		
• remedial action to benefit complainant	61	94
• remedial action to improve state sector administration	-	1
• remedial action to benefit complainant and improve state sector administration	-	6
• provision of advice/explanation by agency or Ombudsman which satisfies complainant	<u>18</u>	31
<i>Subtotal</i>	79	132
Investigation discontinued		
• withdrawn by complainant or no response from complainant	47	39
• further investigation unnecessary	47	59
• agency to review	<u>2</u>	14
<i>Subtotal</i>	96	112

⁸¹ The new discretion to decline to investigate a complaint, on the basis that it is considered unnecessary, was added in March 2015.

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How OIA complaints were dealt with	2014/15	2015/16
Resolved during investigation		
• remedial action to benefit complainant	132	118
• remedial action to improve state sector administration	-	1
• remedial action to benefit complainant and improve state sector administration	-	11
• provision of advice/explanation by agency or Ombudsman which satisfies complainant	<u>8</u>	18
<i>Subtotal</i>	140	148
Investigation finalised (final opinion formed)		
• administrative deficiency identified - recommendation/s	5	17
• administrative deficiency identified - no recommendation	76	114
• no administrative deficiency identified	<u>122</u>	118
<i>Subtotal</i>	203	249
Other		1
Under consideration at 30 June	<u>838</u>	849
Total	<u>1,798</u>	1,933

Nature of deficiency identified where final opinion formed on OIA complaints		2014/15	2015/16
Administrative deficiency in an individual case	Delay deemed refusal	52	87
	Refusal not justified – in part	21	24
	Refusal not justified – in whole	8	14
	Unreasonable delay	-	3
	Factual error or mistake	-	1
	Inadequate advice, explanation or reasons	-	1
	Procedural deficiency	-	1
	Unreasonable extension	1	1

Nature of remedy obtained for OIA complaints		2014/15	2015/16
Individual benefit	Decision changed	161	189
	Reasons/explanation given	41	58
	Decision to be reconsidered	6	40
	Omission rectified	28	28
	Apology	4	1
Public administration benefit	Change in practice/procedure	-	18
	Provision of guidance or training to staff	-	1



Local Government Official Information and Meetings Act (LGOIMA)

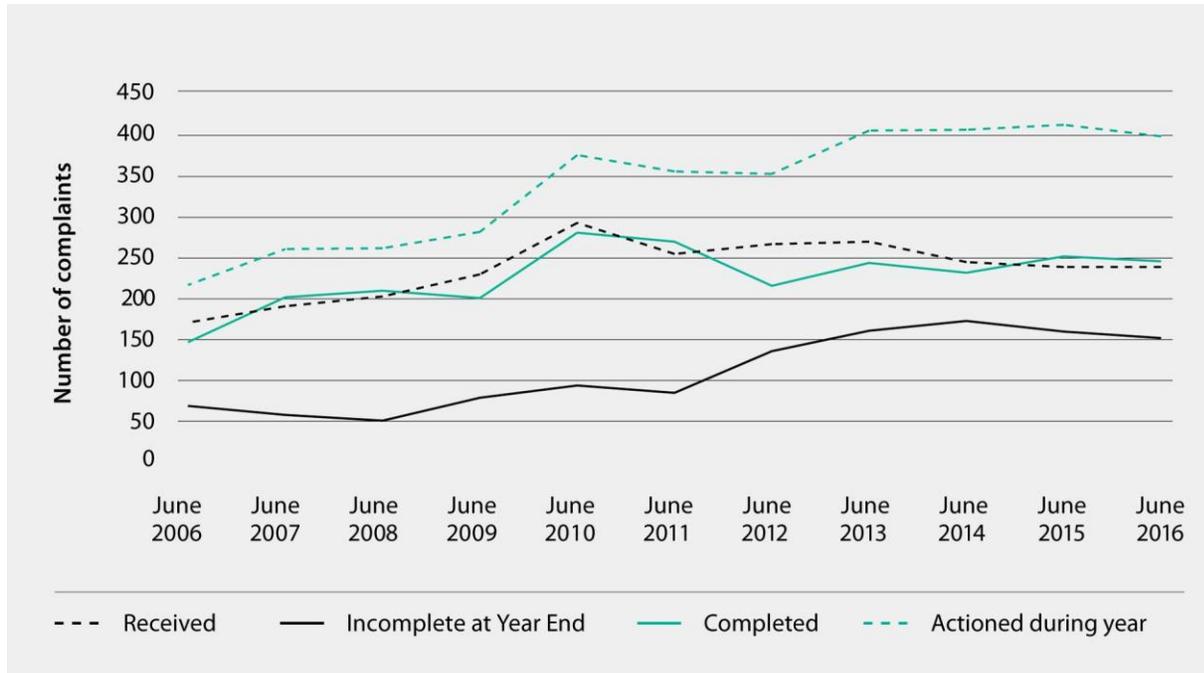


Figure 6: LGOIMA complaints received and actioned over the past 10 years

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

Nature of LGOIMA complaints made	2014/15	2015/16
Refusal - general information request	129	137
Delay in making decision	64	44
Incomplete or inadequate response	17	23
Charge	15	16
Delay in releasing information	1	5
Extension	5	5
Decision not made as soon as reasonably practicable	1	4
Manner or form of release	-	2
Refusal - personal information about individual	-	2
Other	7	2
Total	<u>240</u>	<u>240</u>

LGOIMA complaints received from	2014/15	2015/16
General public – individuals	196	192
Companies, associations and incorporated societies	23	26
Media	19	19
Members of Parliament	-	2
Researchers	-	1
Total	<u>240</u>	<u>240</u>

LGOIMA complaints received against	2014/15	2015/16
District Councils	76	84
City Councils	65	75
Auckland Council	54	31
Regional Councils	26	33
Council controlled organisations	19	16
Other	-	1
Total	<u>240</u>	<u>240</u>



How LGOIMA complaints were dealt with	2014/15	2015/16
Outside jurisdiction		
• agency not listed in schedule	-	1
• scheduled agency otherwise outside jurisdiction	<u>11</u>	<u>7</u>
<i>Subtotal</i>	11	8
Referred		
• referred to Privacy Commissioner	7	6
No investigation undertaken		
• withdrawn by complainant or no response from complainant	39	38
• adequate alternative remedy – complain to agency first	3	4
• adequate alternative remedy - recourse to other agency	-	1
• investigation unnecessary ⁸²	-	10
• explanation, advice or assistance provided	<u>30</u>	<u>33</u>
<i>Subtotal</i>	75	86
Resolved without investigation		
• remedial action to benefit complainant	24	27
• remedial action to improve state sector administration	-	1
• remedial action to benefit complainant and improve state sector administration	-	1
• provision of advice/explanation by agency or Ombudsman which satisfies complainant	<u>4</u>	<u>4</u>
<i>Subtotal</i>	28	33
Investigation discontinued		
• withdrawn by complainant or no response from complainant	25	6
• further investigation unnecessary	7	6
• agency to review	<u>2</u>	<u>3</u>
<i>Subtotal</i>	34	15
Resolved during investigation		
• remedial action to benefit complainant	52	21
• remedial action to benefit complainant and improve state sector administration	-	1
• provision of advice/explanation by agency or Ombudsman which satisfies complainant	<u>2</u>	<u>3</u>
<i>Subtotal</i>	54	25

⁸² The new discretion to decline to investigate a complaint, on the basis that it is considered unnecessary, was added in March 2015.

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How LGOIMA complaints were dealt with	2014/15	2015/16
Investigation finalised (final opinion formed)		
• administrative deficiency identified – recommendation/s	-	9
• administrative deficiency identified – no recommendation	17	27
• no administrative deficiency identified	<u>27</u>	38
<i>Subtotal</i>	44	74
Under consideration at 30 June	<u>161</u>	153
Total	414	400

Nature of deficiency identified where final opinion formed on LGOIMA complaints		2014/15	2015/16
Administrative deficiency in an individual case	Delay deemed refusal	11	22
	Refusal not justified - in whole	-	6
	Refusal not justified - in part	4	4
	Unreasonable delay	-	1
Administrative deficiency in the agency or system of government	Flawed agency processes or systems	-	1

Nature of remedy obtained for LGOIMA complaints		2014/15	2015/16
Individual benefit	Decision changed	67	43
	Reasons/explanation given	4	15
	Decision to be reconsidered	2	7
	Omission rectified	10	5
Public administration benefit	Law/policy/practice/procedure to be reviewed	-	2
	Change in practice/procedure	-	1
	Provision of guidance or training to staff	-	1



Other contacts

Other contacts received about	2014/15	2015/16
Ombudsmen Act matters	7,216	7,740
Official Information Act matters	542	457
Agency requests for advice	167	198
Copy correspondence, material sent for information only	173	185
Requests for information held by the Ombudsman	115	135
Local Government Official Information and Meetings Act matters	71	76
Protected Disclosures Act matters	43	35
Crimes of Torture Act matters	1	4
Other	152	336
Total	8,480	9,166

Other contacts received from	2014/15	2015/16
General public – individuals	4,508	4,591
Prisoners and prisoner advocates	3,661	4,269
Departments, government organisations and local authorities	169	216
Media	61	35
Companies, associations and incorporated societies	49	31
Members of Parliament	7	5
Political party research units	2	3
Special interest groups	5	3
Researchers	5	1
Review agencies	-	1
Other	8	11
Total	8,480	9,166

Other contacts concerned	2014/15	2015/16
Department of Corrections	3,832	4,494
Other organisations (state sector)	1,292	1,147
Other government departments	1,096	1,183
Agencies not subject to jurisdiction	920	939
Local authorities	459	432
Ministers	40	31
Not specified	841	940
Total	8,480	9,166

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How other contacts were dealt with	2014/15	2015/16
No response required (including copy correspondence, FYI)	573	632
Individual advised to complain in writing/send relevant papers	791	571
Complain to agency first	2,678	2,819
Matter referred to agency by Ombudsman	550	298
Complain to other agency – Privacy Commissioner	104	91
Complain to other agency – Health and Disability Commissioner	158	177
Complain to other agency – Independent Police Conduct Authority	115	83
Complain to other agency – other	408	260
Explanation, advice or assistance provided	3,038	4,189
Resolved – remedial action to benefit individual	20	4
Resolved – provision of advice/explanation which satisfies individual	8	7
Withdrawn	15	21
Protected disclosures enquiry	38	32
Matter to be transferred to Ombudsman by other review agency	-	1
Under consideration at 30 June	<u>34</u>	<u>15</u>
Total	8,531	9,200

Nature of remedy obtained for other contacts		2014/15	2015/16
Individual benefit	Reasons/explanation given	5	5
	Omission rectified	9	2



Geographical distribution of complaints and other contacts received in year to 30 June 2016

	Other contacts	OA	OIA	LGOIMA	Other work	All	All Last Year
Auckland	995	554	259	52	10	1,870	2,127
Bay of Plenty	49	57	17	12	2	137	176
Northland	89	93	23	9	0	214	254
Waikato	271	148	48	14	2	483	763
Taranaki	24	20	15	2	0	61	88
Hawke's Bay	97	47	12	10	1	167	245
Manawatu/Whanganui	147	95	36	11	2	291	337
Wairarapa	19	15	12	6	1	53	42
East Cape	10	18	2	6	0	36	35
Wellington	476	219	323	41	9	1,068	1,227
Total North Island	2,177	1,266	747	163	27	4,380	5,294
Nelson/Marlborough	40	44	24	12	0	120	153
Dunedin	33	33	18	11	0	95	89
Otago	75	41	19	7	2	144	238
Southland	38	30	8	5	1	82	112
Canterbury	95	57	26	21	2	201	290
Christchurch	249	190	123	18	0	580	869
Westland	17	28	13	7	0	65	63
Chatham Islands	0	1	0	0	0	1	4
Total South Island	547	424	231	81	5	1,288	1,818
Location not known	6,337	343	126	9	2	6,817	5,037
Overseas	133	126	9	0	1	269	281
Total	9,194	2,159	1,113	253	35	12,754⁸³	12,430

⁸³ Complaints and other contacts may be made jointly with other persons. As a consequence, the number of complaints and other contacts recorded on the basis of region exceeds the number of issues that were the subject of a complaint or other contact.

Directory

Legal authorities for establishing the Office of the Ombudsman

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

Contacting the Ombudsman

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Auckland

Level 10, 55-65 Shortland Street

