



Ombudsman Quarterly Review

The quarterly update of Ombudsman news, reports, investigations and more.

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 **Ombudsman**
Tuia kia ōrite · Fairness for all

From the Chief Ombudsman

Tēnā koutou

I doubt it's much of a stretch to say most of us will farewell 2020 with mixed feelings at best.

While we can't predict what 2021 holds, I believe that over the last year New Zealanders have shown we have the personal resilience, community strength, and trust in our leaders to enable us to meet challenges and get through extraordinary times.

As Chief Ombudsman, I take pride in how my Office has responded to the challenges of the year.

Timeliness in complaint handling and resolution has been maintained, during all lockdown levels.

Significant investigations and reports have been completed, including into the removal of newborn pēpi from their whanau by the state, and into the apparent 'invisibility' of the deaths of people with intellectual disability in residential care.

Both these investigations resulted in recommendations for significant change, and my focus now is on monitoring agencies' response.

Modern technology has enabled me to continue to meet my international obligations, albeit in a modified way, using Zoom and webinars to connect with colleagues offshore.

I extended my OPCAT monitoring and inspections programme to privately owned aged care facilities, bringing this programme of work forward to respond to the challenges of COVID-19; and started publishing the results of my OPCAT inspections of the treatment and conditions of people detained in mental health facilities.

During lockdown, I commenced 'bespoke'; COVID-19 OPCAT inspections in prisons and rest homes, to ensure that measures taken to ensure safety did not have an unreasonable impact on things such as the right to daily time in the fresh air.

Now, my OPCAT inspections have expanded once more, to include the treatment and conditions of people detained in Managed Isolation and Quarantine (MIQ) facilities. One of the case notes highlighted in this OQR concerns the potential impact of an MIQ facility on people living in the same building, and the need for careful consultation around this.

This is all to reinforce the fact that the work of integrity institutions such as the Ombudsman is even more vital at times such as this—times that are unprecedented in living memory.

My very best wishes for the Christmas season, and of course for the year ahead. Stay safe, stay well, and take care of yourselves and your loved ones.

Hei konā mai

Peter Boshier, Chief Ombudsman



International

APOR Conference meets via Zoom

The annual APOR (Australasian Pacific Ombudsman Region) conference took place in early November, representatives of integrity institutions from across the region meeting via Zoom rather than in person.

The theme of the 37th annual conference was, appropriately, *'The role of the Ombudsmen in times of crisis'*.

Much of the content shared was pre-recorded, to make the conference as accessible as possible to people in more remote pockets of the region. Feedback from attendees (from Australia, Cook Islands, New Zealand, Taiwan, Hong Kong, Samoa, Solomon Islands, Tuvalu, and Vanuatu) was overwhelmingly positive.

Panellists shared their views and experience in, as New South Wales Acting Ombudsman Paul Miller put it, *"looking out for vulnerable members of our society; vulnerable not only to COVID-19, but to government responses to COVID, especially in the corrective and youth justice systems and quarantine arrangements"*.

Inspections and monitoring

Inspection reports

In his capacity as an NPM (National Preventive Mechanism) under OPCAT (Optional Protocol to the Convention Against Torture), the Chief Ombudsman has published two inspection reports in the last quarter.

Te Whetu Tāwera is an adult acute mental health unit in the grounds of Auckland City Hospital. It provides assessment, treatment and care for people aged 18 and over who are experiencing overwhelming mental distress and require a period of acute hospital care.

[Unannounced inspection of Te Whetu Tāwera Adult Acute Mental Health Unit, Auckland City Hospital, under the Crimes of Torture Act 1989](#)



OPCAT monitoring and reporting: the New Zealand Model

Members of the Ombudsman's OPCAT team travelled to Jakarta last year, to deliver training on 'the New Zealand model' of OPCAT inspections and monitoring. This year, physical travel was out of the question, so further training was delivered via the web.

Around 50 inspections staff from the Indonesia National Commission of Human Rights and the Indonesia Ombudsman took part in the three-hour webinar in October. They reported that it was useful to learn about the New Zealand OPCAT model as they work towards ratifying the protocol.

Engagement

Right to Know

On International Right to Know Day on 28 September, the Chief Ombudsman joined Privacy Commissioner John Edwards and Chief Archivist Richard Foy to raise awareness of citizens' fundamental right to access personal information such as medical records.

[Your right to know](#)

Kia kaha te reo Māori

The Chief Ombudsman also introduced himself and his role in te reo Māori, for Te Wiki o te Reo Māori 2020 and to show his support for the kaupapa 'kia kaha te reo Māori/let's make the Māori language strong'.

[Kia kaha te reo Māori](#)

In November, Peter Boshier talked with Radio New Zealand reporter Emile Donovan for the podcast *The Detail* about his role and broadening mandate.

[The Detail: interview with Chief Ombudsman Peter Boshier](#)

*What I like about the breadth of this job is that we can go looking ourselves ... we can get a sense, particularly for someone who may be not that articulate or who is quite vulnerable, we can get a sense from looking at the base material that they haven't been treated fairly. And so we can do our own work, and they're not expected to do all the advocating for themselves. Peter Boshier on *The Detail**

Timeliness—the perennial issue

Releasing the latest six-monthly OIA and LGOIMA data in September, Chief Ombudsman Peter Boshier has urged agencies to pay attention to timeliness in their OIA responses, and to favour the principle of transparency in making decisions on requests.

"The number of complaints about delayed responses dropped slightly in the six months to 30 June 2020, compared to the same period last year, the overall results for the year to 30 June were less encouraging. Over the year as a whole, complaints about delays have risen five percent from the year previous", he noted.

"These results show we still have a long way to go".

[Latest OIA, LGOIMA data released](#)



Case notes and guides

Case notes

This quarter's case notes concern: a 'delay deemed to be refusal' of an official information request; lack of appropriate consultation around a Managed Isolation Facility in the community; and a refusal to accept a marriage certificate as proof of a name change.

[Delay in responding to request for information about the Invited Visitor Policy and sponsorship](#)

[Consultation on health and safety plans for Managed Isolation Facility](#)

[Early assistance in name change case](#)

Guides

[Privacy: a guide to section 9\(2\)\(a\) of the OIA and section 7\(2\)\(a\) of the LGOIMA](#) covers when section 9(2)(a) applies, factors to consider in assessing the privacy interest, and balancing this against the public interest.

[FAQs: official information requests during a general election period](#) set out tools, strategies and advice to help agencies and requesters dealing with official information requests during the 2020 general election period.

Disability rights

International Webinar

The Chief Ombudsman is part of New Zealand's IMM (Independent Monitoring Mechanism) for the United Nations Convention on the Rights of Persons with Disabilities. *Whakatūtu Ngā Tika Hauātanga Making Disability Rights Real* in New Zealand was the topic of an international webinar in October, sharing the work of the Ombudsman and his IMM partners, the Human Rights Commission and Convention Coalition Monitoring Group.

Disability rights—in NZSL

For New Zealand Sign Language Week, Chief Ombudsman took part in the NZSL Leaders' Challenge, using NZSL to state his support for NZSL and disability rights.

[NZSL Leaders' Challenge](#)



Tari o te Kaitiaki Mana Tangata Office of the Ombudsman

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