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## PEOPLES' RIGHTS

### Investigations into state, secure care of intellectually disabled people with high and complex needs



*Mr Boshier says the ability of the Ministry of Health to resource, coordinate and plan forensic intellectual disability services will come under the magnifying glass this year.*

## New Year's honour

*A former Senior Investigator in the Office of the Ombudsman has been awarded a knighthood.*

*Sir Kim Workman, who worked in the Office from 1977 to 1984 investigating prisoners' and psychiatric patients' complaints, received the honour for services to prisoner welfare and the justice sector.*

*Sir Kim also had roles in the Police, State Services Commission, the Department of Māori Affairs, the Ministry of Health and as a Families Commissioner. A key tenet of his work has been tackling crime and reducing recidivism through rehabilitation, reintegration and restorative justice.*

*His citation can be found [here](#).*

The Chief Ombudsman Peter Boshier's scrutiny of vulnerable people in state-run secure care increases, with the recent announcement of two investigations into the Ministry of Health's oversight of facilities and services for intellectually disabled people with high and complex needs.

The Ministry contracts five District Health Boards (DHBs) to provide forensic intellectual disability services. The DHBs provide around 66 secure hospital beds nationwide.

The first investigation will look into the quality of the data collected by the Ministry relating to the deaths of intellectually disabled people in forensic and residential care. The second investigation concerns the facilities and services provided by the Ministry for people with an intellectual disability.

'I will consider the capacity of the health system to meet the needs of some of society's most vulnerable people,' he said. 'I am aware at times there is a shortage of beds. This has meant some people have faced lengthy delays before being assessed as ordered by the courts. I will also consider whether some have been unlawfully detained in prison or other unsuitable places because there has been nowhere else for them to go.'

Find more information, including the [terms of reference](#), on our website.

## EDITORIAL

### FROM THE CHIEF OMBUDSMAN

Tēnā koutou

When Nelson Mandela famously said *‘To deny people their human rights is to challenge their very humanity’*, I doubt he was thinking about private aged care facilities in New Zealand. But his tenet fits perfectly for my mandate from Parliament to monitor the treatment of patients detained in such facilities. The designation will enable me to monitor and inspect privately run care facilities where there are dementia units and where people, often the elderly, are detained.

My mandate is focused. It does not cover the monitoring of all aspects of privately run residential aged care facilities. I will be specifically looking at conditions and treatment from a human rights perspective, not facilities’ standards and systems. My focus is prevention, not complaints.

My team and I already work with the health and disability sector to build and maintain safeguards and good practice. We’ll build on this experience in respect of privately run aged care facilities. So what happens now? We’ve already done some scoping and engagement with the sector. I expect to have funding in place by 1 July 2019 after which more detailed planning and development will occur. Then we’ll build up our capability over a couple of years.

As the population ages, and the number of aged care facilities increases, it is so important for them to be independently inspected. We need to act now because the number of people with dementia is projected to nearly triple to around 170,000 by 2050. I’m excited at this opportunity, one I believe is a welcome addition to help safeguard vulnerable people.

We need to make sure New Zealand’s reputation for the good treatment of its citizens, whatever their circumstances, is protected and enhanced.

Last Friday’s atrocity Christchurch has shaken us, and our country’s reputation, to the core. The injustice and repugnance of this massacre strikes at the very basis of this Office’s ethic and motivation—fairness for all.

To the people of Christchurch and to all those who have lost loved ones, my thoughts are with you. Kia kaha.

I have been heartened by the messages of support that I have been receiving from colleagues across the world. Thank you. Know that this unprecedented act of violence has however galvanised us and strengthened our resolve to now, more than ever, contribute to a New Zealand that is fair to all.

E noho rā  
Peter Boshier



## PEOPLE’S RIGHTS ARE PROTECTED

### Staffing issues at privately-run prison compromise prisoners’ conditions

Staff shortages at one of New Zealand’s largest prisons — Auckland South Regional Facility — are causing prisoners to spend extended periods of time locked in their cells, and their rehabilitation needs are not being met.

“I am most concerned by the prison’s practice of locking prisoners in their cells for extended amounts of time — across all parts of the prison — as a way of managing staff shortages or rostering issues,” Mr Boshier says. “My concern is that prisoners do not have sufficient time out of their cells to promote mental wellbeing.”

Mr Boshier found that the facility was well designed and maintained, operating on a Responsible Prisoner Model — promoting increased self-responsibility as part of a prisoner’s rehabilitation.

“While the operating model is commendable, I found that it had been undermined by the prison’s staffing situation,” he says. In the 12 months before the inspection, staff turnover was 21 percent.

“I do acknowledge the good practices in place at the prison. In particular it appeared to be genuinely intent on being culturally responsive to its high numbers of Māori and Pasifika inmates.

“However, the prison’s potential has yet to be fully realised due to a number of operational issues, which negatively influenced prisoners’ day-to-day routines and sentence progression,” says Mr Boshier.

Read the Chief Ombudsman’s first OPCAT [inspection report](#) into the treatment and conditions of prisoners at the Serco-run prison.



## HIGH PUBLIC TRUST IN GOVERNMENT

### Increase in complaints about handling of OIA requests

The number of OIA complaints received against Ministers and agencies has increased by 34% over the past 2.5 years.

In the six months to 31 December, the Office received 1,194 complaints, with 471 of these complaints from one individual.

Individuals made up 70% of complaints (discounting the 471) followed by the media at 20%, with political parties or research units accounting for 6%.

As in the past, the three main areas of complaint (discounting the 471) were delays in decision making (20%), refusal of information in part (21%) and refusal in full (30%).

The Office completed 662 complaints, with 41% either not requiring investigation, or being resolved before an investigation began. Only 20% required the Ombudsman to form a final opinion.

All OIA complaints data is [here](#).



## PERFORMANCE

### Our guidance materials: survey results

#### What you told us

*Your feedback on our guidance materials shows what helps, and what needs improvement.*

*Thank you to everyone who answered our survey between December and February. Your feedback and comments are invaluable as we work on new improvements to our guidance materials and set the plan for the next year.*

*We were glad to see that you're using a lot of the different kinds of guidance we put out, especially the OIA guide and our repository of case notes.*

*Your interest in following best practice was also clear, and you gave us a lot of ideas for guidance about handling specific situations.*

*It's helpful to hear what we can improve on too. We now have a better idea of what's missing, what gets in the way, and what's hard to understand.*

*Those responses give us a clear sense of the improvements we should focus on first.*

#### Improvements

*Some of these are already underway — when we release our new website mid-year, you'll find new specific and topical example cases in both Ombudsmen Act and official information jurisdictions, improved search and a quicker way to find the guidance you need.*

*But there's still more to do. Our goal in the next few months is to turn the rest of your requests into a plan for tangible improvements.*

### Annual review focuses on monitoring and future needs



*Pictured above are Deputy Ombudsman, Bridget Hewson (on the left), Chief Ombudsman, Peter Boshier (centre), and Finance and Business Services Manager, Meaw-Fong Phang (on the right), answering questions from Parliament's Governance and Administration Committee as part of our annual review. Image sourced from: Zoom, NZ Parliament.*

Our widening monitoring scope and future role were the focus of this year's review hearing by the Governance and Administration Committee at New Zealand Parliament.

The hearing is a chance for Committee members to ask us some questions about our performance in 2017/18. The Chair, Brett Hudson, congratulated us on clearing our backlog of complaints and encouraged us to keep ensuring that New Zealanders had access to official information. Here are summaries of answers we provided about:

#### How we will monitor privately-run aged care detention facilities

Once our budget is confirmed, we will be starting slowly with some orientation visits that will help us determine our inspection criteria and develop our programme, ramping up to start our programme within three years.

Our inspections of aged care facilities— including privately-run dementia units— will be different to Ministry of Health audits. We will focus on the treatment and conditions of the people who are detained in secure facilities.

#### How we will be meeting the needs of New Zealand's population

We're working towards becoming a more outward looking and less Eurocentric office, accessible and responsive to iwi and ethnic communities, youth, and people with disabilities. We are working with the Ministry of Education on a school leavers tool kit to help younger people understand our role. We are launching a new website this year that will help people get the information they need faster.

Watch the full [video](#) of our session, and find out more about the [Committee](#).

### OIA outreach to the West Coast

We recently visited the Department of Conservation's Hokitika office.

Inviting the Chief Ombudsman (pictured left) to address staff is one of the steps the Department is taking to help build a positive culture around official information, transparency and public engagement. This follows our 2018 [report](#) into OIA compliance and practice at the Department.



## Association assures Australasian access to information



The Chief Ombudsman hosted the February meeting of the Association of Information Access Commissioners (AIAC) in Wellington, shown above.

AIAC members are responsible for freedom of information oversight in their jurisdiction. They meet regularly to share their oversight experiences and promote best practice and consistency in the implementation of information access policies and laws. The New Zealand Ombudsman is part of the Association, mostly comprised of Commissioners from Australia. More at [www.oaic.govt.au](http://www.oaic.govt.au).

## HIGH PUBLIC TRUST IN GOVERNMENT

### New Zealand remains in trusted top five

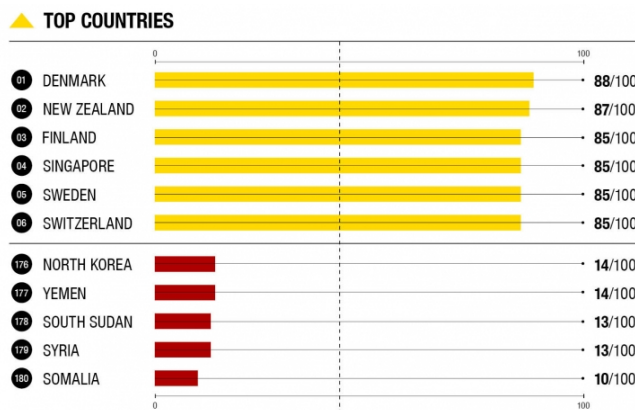
New Zealand continues to rank in the top five countries of the annual Corruption Perception Index, as it has since the index was first published in 1995. This year it is second to Denmark, dropping from first place last year.

The index measures perceived corruption in public sectors and judiciaries around the world and is released each year by Transparency International.

Chief Ombudsman Peter Boshier says, "New Zealand is trusted and respected internationally, because of our integrity. I am pleased

that we are still seen as one of the best performers in the world in this respect. But the fact that we have dropped our place slightly means that we are vulnerable, and that we can take nothing for granted. As long as we maintain our absolute commitment to our integrity, and do the right thing at all times, we will continue to hold a high international place. I know that my office has a vital part to play in this respect."

Read all the results on [Transparency International's website](http://Transparency International's website).



## No grounds for holding tasered goat footage

A TVNZ complaint about the NZ Police's refusal to release its full video footage of an incident in which a feral goat was tasered has been upheld.

The Chief Ombudsman did not agree that the full video could be withheld on the basis that its distressing content could harm the public.

He observed that Police had previously released footage of animals being tasered, which were subsequently published by the media, with no resulting prejudice to measures protecting public health and safety.

Read his latest [case note](#).

## Australian Royal Commission underway

The [Royal Commission into Aged Care Quality and Safety](#), announced last September, has started its hearings.

It will cover care for people in aged care facilities, in-home care services and care for young Australians with disabilities living in a residential aged care environment.

The Commission is in response to a number of cases involving abuse and mistreatment in nursing homes.

The commissioners are required to produce an interim report by the end of October, and a final report by the end of April 2020.

## In case you missed it ...

Keep checking our online [Newsroom](#) for the latest news and information or follow us on [Facebook](#) for updates.

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