



Update

Fact sheet: the Chief Ombudsman's role examining and monitoring aged care facilities

March 2023

Why the Chief Ombudsman examines aged care facilities

New Zealand has made an international commitment to make sure detained people are being treated in the right way and are living in a humane environment. People can be detained because they are very unwell, have broken a law, or to keep themselves or others safe. They still have human rights.

One of the Chief Ombudsman's roles is to let Parliament know what is happening in 'places of detention', such as some health and disability facilities. This includes aged care facilities where people are unable to leave at will, such as secure dementia or specialised hospital (psychogeriatric) care.

This role is preventive, aiming to ensure that safeguards are in place to prevent a person being treated badly, and that any risks, poor practices, or systemic problems are identified and addressed promptly. The Chief Ombudsman makes recommendations for improvement where he considers this is necessary. He may also identify, promote and share good practice in the hope that this will also lead to improvements across the sector.

The Chief Ombudsman's examinations and monitoring provide an independent oversight of aged care facilities. To do this work, he authorises inspectors to carry out visits and inspections.

What the Chief Ombudsman looks at when he examines aged care facilities

The Chief Ombudsman's role is broad and flexible, and he can look at anything that impacts the conditions and treatment of residents.

The Chief Ombudsman has developed a set of expectations for the conditions and treatment of residents in aged care detention facilities. This provides residents, their whānau, any person or agency involved with aged care services, Parliament, and the public with an understanding of some of the matters he considers during his examinations.

His expectations are:

- Leadership and culture promote the rights of residents.
- Residents are safe and their independence is promoted.

- Residents are treated with dignity and respect.
- Residents enjoy the highest attainable standard of physical and mental health.
- Residents live in an environment that promotes their safety, independence, dignity, and wellbeing.
- Residents are cared for by skilled, motivated, and engaged people.

These expectations also guide the Chief Ombudsman’s staff when they are carrying out this role, including when they are conducting visits and inspections. More information about these expectations, including how you can provide feedback on them, is available on our website [Ombudsman Expectations for conditions and treatment of residents](#)¹

The Chief Ombudsman is an independent Officer of Parliament, not part of government. His role examining and monitoring aged care facilities is fully independent of government, the health and disability sector, and private interests.

Current government health sector audits and reviews play the important role of checking that a facility’s systems and practices comply with standards set by New Zealand authorities across all health and disability services.

The Chief Ombudsman’s role is to consider the conditions and treatment of residents where they are unable to leave whenever they want to (‘detained’). When someone doesn’t have this freedom they are more vulnerable, and those caring for them have some specific obligations to meet.

The Chief Ombudsman is focused on prevention, and seeking improvement, rather than reviewing practice. He has a human rights focus, meaning he is concerned about the experience of residents, and the outcomes for them.

What happens at an ‘inspection’

Visits, including inspections, are an important way for the Chief Ombudsman to examine the conditions and treatment of residents.

The Chief Ombudsman’s staff are able to visit an aged care facility at any time. Sometimes they may let a facility know beforehand, other times they may arrive unannounced. They are also able to access information, or speak to people, about the conditions and treatment of residents.

The term ‘inspection’ is used when the Chief Ombudsman intends to look more closely at a particular facility, service provider, area or matter.

Visits and inspections are carried out by teams that include inspectors with expertise and backgrounds in areas such as health, disability and social work. The team is authorised by the Chief Ombudsman to exercise his powers to enter premises, talk to people and gather

¹www.ombudsman.parliament.nz/resources/expectations-and-treatment-residents-health-and-disability-places-detention

information. Inspectors are also helped by specialist advisors with medical, cultural, disability, legal, and other expertise.

The team talks with those involved in a visit or inspection about the Chief Ombudsman's role, and the purpose of the visit or inspection. They provide feedback to those people about what they see or learn. This information informs the Chief Ombudsman's observations, and any recommendations he makes, which are shared, often in the form of a report. He may ask how his recommendations will be addressed, and follow up at a later date to find out if they have been achieved.

Individual facilities will never be charged for a visit or inspection. The Chief Ombudsman's programme is paid for by Parliament.

How to make a complaint about aged care

The Chief Ombudsman's role does not give him the power to investigate individual complaints relating to aged care facilities.

There are however a number of ways to report any concerns you might have about the care you, or someone you know, is receiving, or to make a complaint. The Ministry of Health has a list of who to contact on its website (health.govt.nz) – search for 'residential care complaint'.

Updates and more information

If you have any more questions about the Chief Ombudsman's aged care programme, please email us (info@ombudsman.parliament.nz). You can follow the Chief Ombudsman on Facebook (@ombudsmannz).

What is OPCAT?

The Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) is a unique international human rights agreement that New Zealand ratified in 2007.

The OPCAT establishes international and national monitoring mechanisms to visit places where people are detained, with the overall aim of preventing torture and other cruel, inhuman or degrading treatment or punishment. More about the purpose of OPCAT is available on our website.

In New Zealand, the Crimes of Torture Act 1989 (COTA) provides for the designation of 'National Preventive Mechanisms' (NPMs) to examine and monitor places of detention, as required by OPCAT. The Chief Ombudsman is an NPM and the Human Rights Commission is the Central NPM. More about New Zealand's human rights laws is available from the Ministry of Justice (justice.govt.nz).

In 2018, the Minister of Justice made explicit that the Chief Ombudsman's designation to examine and monitor health and disability places of detention included privately run aged care facilities. Parliament gave him funding in July 2019 to develop and implement this new programme of work, over three years.

