



2009/2010

Report of the Ombudsmen Te Tari-o-Nga Kaitiaki Mana Tangata for the year ended 30 June 2010



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Mr Speaker

We submit to you our report for the year 1 July 2009 to 30 June 2010.



Beverley Wakem
Chief Ombudsman



David McGee
Ombudsman

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2009/10 at a glance

Overview

Ombudsmen Act

Official information legislation

Crimes of Torture Act

Policy and professional practice

2009/10 at a glance

Overview

- Received almost 10,000 complaints and enquiries, up from 9,150 the previous year
- Just over half of these concerned the Department of Corrections
- Our recently-established Early Assistance Group dealt with 4,149 complaints and enquiries
- Finished the year with 1,720 complaints on hand, up from 1,330 the previous year, and 1,040 the year before
- Trialled a streamlined investigation process for official information complaints in the parliamentary sector and Ombudsmen Act complaints against Immigration New Zealand
- From 2010 we will record information about the kinds of administrative deficiencies identified during our investigations, and the kinds of remedies achieved for complainants through our interventions

Ombudsmen Act (OA)

- Received 8,488 OA complaints and enquiries, up from 7,615 the previous year
- Completed 8,250 cases, up from 7,435 the previous year
- Resolved 6,621 cases informally
- Investigated 557 cases formally
- Formed final opinions in 189 cases
- Sustained complaints in just seven per cent of all cases formally investigated
- Made recommendations in nine cases, all of which were accepted
- Completed 87 per cent of OA cases within six months of receipt
- Completed 98 per cent of all prisoner OA cases within six months
- Visited each of the 21 prisons five times
- Conducted five own motion investigations in relation to the Department of Corrections
- Investigated eight serious incidents in prisons
- Completed nine investigations relating to deaths in custody that occurred in 2008/09
- Monitored a further 15 investigations relating to deaths in custody that occurred in 2009/10
- Completed work on a Parliamentary petition referred by the Commerce Committee

Official information legislation (OIA and LGOIMA)

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- Received 920 OIA complaints, up from 809 the previous year
- Received 294 LGOIMA complaints, up from 231 the previous year
- Completed 1,082 cases, up from 956 the previous year
- Resolved 231 cases informally
- Investigated 648 cases formally
- Received the lowest number of delay complaints against central government agencies since 1993/94
- Formed final opinions in 335 cases
- Sustained complaints in 18.5 per cent of all cases formally investigated
- Made recommendations in 22 cases, all of which were accepted
- Completed 74 per cent of OIA cases within six months
- Completed 86 per cent of LGOIMA cases within six months

Crimes of Torture Act

- Inspected 17 places of detention
- Produced 10 inspection reports, including reports on double bunking and the use of modified shipping containers as cells
- Made 100 findings and 19 recommendations for improvement
- Eighty-one per cent of findings were positive

Policy and professional practice

- Provided advice on 35 legislative, policy and administrative proposals, up 75 per cent on the previous year
- Commented on the first five applications to the Secretary of Transport for standing authorisation to access the motor vehicle register under section 241 of the Land Transport Act
- Conducted 23 workshops and training seminars for state sector agencies on the role of the Ombudsmen and the operation of the official information legislation, up 30 per cent on the year before
- Delivered 20 presentations on the role of the Ombudsmen to community groups, students and media organisations
- Seconded an experienced investigator to the office of the Cook Islands Ombudsman and provided off-shore advice on implementing new freedom of information legislation
- Assisted Niue with the implementation of an Ombudsman-backed complaint handling scheme

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Introduction

The year in review

The year ahead



Beverley Wakem
Chief Ombudsman



David McGee
Ombudsman

Introduction

For nearly 50 years the Office of the Ombudsmen has served New Zealand by impartially investigating complaints against Ministers and state sector agencies. For many years, handling complaints was our primary output under three pieces of legislation. Our Office was that of a traditional Ombudsman, taking a mostly reactive approach. However, the Office has undergone major change in recent times and is nearing the completion of what, in essence, has been a repositioning process.

We have important new roles that take us beyond complaints investigation, including working collaboratively with other agencies to ensure New Zealand's adherence to international human rights instruments. In addition, we increasingly recognise that while complaints investigation is an important driver of policy and practice improvements, we need to be more proactive in assisting agencies to improve the quality of their administrative, decision making and complaints handling processes before things go wrong and we are asked to investigate.

We discuss below our main challenges and achievements in the reporting year and significant issues in the year ahead.

The year in review

Investigations

A challenging environment

At the close of the 2009/10 reporting year we find ourselves in a similar position to the agencies we oversee: endeavouring to deliver more and better services with the same (or in some cases fewer) resources. We received almost 10,000 complaints and enquiries last year. This represents an increase of eight per cent on 2008/09 numbers, and 11.5 per cent on 2007/08 numbers. While we aim to limit the number of open complaints at year's end to 800-900, we finished the reporting year with 1,720 complaints on hand. This represents an increase of 22.7 per cent on 2008/09, and 39.5 per cent on 2007/08. This has placed significant pressure on already stretched investigative resources, and is compounded by a loss of experienced investigating staff in recent years, as well as the increasing complexity of the matters we are asked to determine. Assuming demand does not diminish in the near future we expect those numbers to have significant flow-on effects for our reporting in the coming years. It becomes essential in this climate to identify efficiencies, both in our own operations, and in the operations of the agencies we oversee.

Early Assistance Group

We are beginning to realise gains from the restructure that established an Early Assistance Group (EAG) within the Office. Last year, EAG dealt with 4,149 enquiries and complaints – 41.7 per cent of the total received. EAG was able to provide timely responses to straightforward complaints and enquiries, freeing up investigators to focus on matters requiring more in-depth consideration and the exercise of the Ombudsmen's formal investigation powers.

Own motion investigations

As reported previously, we are repositioning the Office to identify significant systemic issues arising from complaints where resolution is most likely to result in wider improvements to administrative and decision making practices. We are doing this to best effect in the corrections sector – which accounts for a significant proportion of our Ombudsmen Act caseload – where we investigated a number of issues of our own motion during the reporting year.

A principles-based approach

We are increasingly investigating complaints with a view to establishing and disseminating principles of broader application. This approach is apparent in our report on operations under the official information legislation, which discusses principles established in relation to:

- Police witness statements and investigation costs information;
- weekly departmental briefings to Ministers;
- local authority events funding;
- confidential building plans;
- discretionary criteria for waiving parking infringement notices.

Streamlined investigation processes

We piloted a new approach to investigating official information complaints in the parliamentary sector and Ombudsmen Act complaints against Immigration New Zealand. The new approach aims to get to the heart of the complaint through early review of the relevant information followed by face-to-face meetings to discuss the issues. The intent is to reduce the number of reports that agencies have to prepare in the normal course of the Ombudsmen investigation and review process – that is, to move away from the time and resource-intensive “lawyers’ letters at a hundred paces” mode of working. Early indications are that this approach has significantly reduced the time to complete investigations and the administrative demands on the agencies involved. We intend to roll out this process further in the forthcoming year as capacity allows.

Reduction in delay complaints under the OIA

Last year we reported on changes to our investigation process in relation to complaints about delays in responding to requests under the official information legislation. Our standard practice introduced in 2008 is to undertake a formal investigation of such complaints (on an urgent basis where warranted), with a view to issuing a formal opinion and making appropriate recommendations. In 2009/10 we received 164 delay complaints against Ministers and central government agencies. This is down 23 per cent on 2008/09 numbers, and 43 per cent on 2007/08 numbers, and is the lowest number of delay complaints received since 1993/94. This suggests that our new approach has been effective, and that Ministers and central government agencies are taking the statutory time limits seriously and using the mechanisms available in the legislation to avoid breaching them.

Monitoring and inspecting places of detention

In our second full year of operation as a National Preventive Mechanism (NPM) under the Crimes of Torture Act 1989 (COTA), we made considerable progress in refining our inspection and reporting methodologies, and developing positive and productive working relationships with other NPMs and people working in places of detention. We appointed a second Inspector, who has considerable international experience in both the corrections and health sectors.

We met regularly and even conducted joint visits with other NPMs. This enabled us to learn from each others' experiences, and take a multi-disciplinary team-based approach to inspections, which we would not otherwise have been able to do within existing budgetary and staff constraints. Places of detention have been able to see how our inspections work in practice, and that – not only are they nothing to fear – they can provide real impetus for change for the better, both for detainees and staff.

Capability building

To achieve our aim of helping state sector agencies improve their capability in good administrative, decision making and complaints handling processes, we established a Policy and Professional Practice Advisory Group (PPPAG), comprising an Assistant Ombudsman and three senior advisers. Part of PPPAG's role is to provide advice on legislative, policy and administrative proposals relevant to the Ombudsmen's jurisdiction, and to assist state sector agency training, particularly on obligations under the official information legislation. In 2010, we provided advice on 35 proposals, up 75 per cent on the year before. We conducted 23 workshops and training seminars on the official information legislation and the role of the Ombudsmen, up 30 per cent on the year before.

By far the best way of achieving efficiency gains and building public confidence is for agencies to do things right the first time round, or put them right as soon as possible thereafter. This means following a fair process and making good decisions in the first place, and reviewing what was done with fresh eyes and an open mind when given the opportunity. Doing this ought to minimise the need for potentially costly external reviews or investigations. In the past year, a number of agencies approached us for advice on designing quality complaints handling processes, and we were only too happy to help.

It also means being proactive – particularly in the official information context. Agencies increasingly recognise that the only way to handle large volumes of information in which there is a clear and demonstrated public interest is to make it available proactively, often in electronic form, before being inundated with individual requests. This was well-illustrated in the past year by moves to release Ministers' and MPs' expenses and Chief Executives' credit card expenses on a quarterly basis.

We encourage agencies to consider at the start of significant policy and decision making processes what information will be generated and should be disclosed in the public interest, and when. This will minimise the need to respond reactively to individual requests and costly external reviews. A number of agencies approached us in the past year for advice on how best to manage their official information obligations in the context of significant public interest initiatives; once again, we were only too happy to help.

Finally, because we recognise that responding to official information requests can be time consuming and resource intensive, we suggest that agencies consider disseminating official information releases as widely as possible. Once individual requests have been met, is there any reason why the same information cannot be released to the world at large online? In most cases, we do not consider that there is. Doing so may minimise the burden of responding to requests of a same or similar nature from other requesters. An example of this was when the New Zealand Security Intelligence Service published information on its website after meeting individual requests (www.nzsis.govt.nz/Archives/release).

The year ahead

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UN Convention on the Rights of Persons with Disabilities

New Zealand ratified the UN Convention on the Rights of Persons with Disabilities (the Convention) in 2008. The purpose of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. Article 33 says that states should establish a framework, including designating one or more independent mechanisms, to promote, protect and monitor implementation of the Convention. We have been asked to bring our independence from government to monitoring and reporting on implementation of the Convention. Scoping of this proposed new role will begin from 1 July 2010, in collaboration with the Human Rights Commission and disabled people's organisations.

Getting better data

Biennial survey of agencies and complainants

In October 2010 we will conduct our second biennial survey of complainants and state sector agencies. The purpose of the survey is to assess the level of complainant satisfaction with the Office and identify areas where we can improve. We have adopted new output performance measures and standards based on the information we will derive from the survey, including the percentage of complainants and agencies satisfied with the standard of service regarding Ombudsmen Act and official information complaints. We are looking forward to having our first set of comparative data – seeing where we are today versus where we were in 2008.

Post-implementation review of Case Management System

Last year we reported on the redevelopment of our Case Management System (CMS) to better assist workflow management and highlighting of systemic issues. In the second half of 2010 we will conduct a post-implementation review to see whether it is meeting our expectations and the requirements of staff.

Administrative deficiencies and remedies

We have been reviewing the information we record about how we handle the complaints we receive. One of the purposes is to get better data about the impact we are having in the resolution of complaints, in order to give greater assurance to Parliament and the general public that they are getting value for money. Another purpose is to identify trends and common problems to inform our provision of training and guidance and assist agencies to effect systemic or cultural changes in administrative and decision making practices where warranted. In 2010, we plan to record information about the kinds of 'administrative deficiencies' we have identified as a result of our investigations and the kinds of remedies that come about as a result of our interventions.

'Administrative deficiencies' are things like: unreasonable delays in taking a decision; not providing adequate advice, explanation or reasons; making procedural, legal or factual errors; or making unreasonable or wrong decisions etc. A finding of 'administrative deficiency' will only be made after a full investigation has been completed, and the agency has had an opportunity to comment. This should mean relatively few findings of administrative deficiency, because most cases are resolved with the agency agreeing to reconsider the act or decision that gave rise to the complaint and implementing suggested changes to remedy defective conduct. The point is to focus on how to achieve administrative improvement rather than reprimanding the agency concerned. We plan to report the data in aggregate form to

show the general nature and incidence of administrative deficiencies occurring across the state sector, and to help identify systemic issues that warrant further consideration, and areas where training and guidance would be helpful.

Remedies are actions taken to try and resolve a complainant's grievance. They can include actions that benefit the individual complainant (such as providing a better explanation or reasons, changing a decision or agreeing to reconsider one, apologising, or providing a financial remedy); as well as actions that benefit wider state sector administration (such as changing laws, policies or procedures). Recording information about the types of remedies that come about as a result of an Ombudsman's intervention is another way of demonstrating the impact we are having in the resolution of complaints against state sector agencies.

Reviewing the legislation

We look forward to engaging with the Law Commission on its review of the official information legislation to identify ways it could be made to operate better. We will also give further consideration to whether the Ombudsmen Act requires modernisation to bring it into line with modern legislative drafting standards.

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Background

Nature and scope of the Ombudsmen's functions

Outcomes and impacts sought by the Ombudsmen

Background

Nature and scope of the Ombudsmen's functions

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

We provide Parliament and the New Zealand public with an independent and impartial check on the quality, fairness and integrity of administrative and decision making practices in the wider state sector. The wider state sector in this context includes government departments and ministries, local authorities, crown entities, state-owned enterprises, district health boards, tertiary education institutions and school boards of trustees and in the case of the Official Information Act, Ministers of the Crown.

We have functions under five pieces of legislation:

- *Under the Ombudsmen Act 1975*, we investigate the administrative acts, recommendations or decisions of state sector agencies that affect members of the public in their personal capacity.
- *Under the Official Information Act 1982* and the *Local Government Official Information and Meetings Act 1987*, we investigate the decisions of Ministers and state sector agencies on requests for official information.
- *Under the Protected Disclosures Act 2000*, we provide advice and guidance to employees concerned about serious wrongdoing in organisations, and may in certain circumstances investigate an employee's concerns, or refer them to a more appropriate investigative authority.
- *Under the Crimes of Torture Act 1989*, we examine and make recommendations to improve the conditions and treatment of detainees in prisons, immigration detention facilities, health and disability places of detention, child care and protection residences and youth justice residences.

From 1 July 2010, we will also begin scoping how we can work with other independent mechanisms to monitor implementation of the United Nations Convention on the Rights of Persons with Disabilities.

Outcomes and impacts sought by the Ombudsmen

The overall outcome we want to achieve is enhanced public trust and confidence in a fair, responsive and accountable government. There are six intermediate outcomes that contribute to the achievement of this overall outcome.

1. *Improved administrative and decision making practices in state sector agencies*

We seek to achieve improved administrative and decision making practices in state sector agencies, primarily by undertaking investigations under the Ombudsmen Act, and making suggestions or recommendations for specific corrective action or improvements to processes or procedures when appropriate to remedy identified shortcomings. This may be on complaint or on the Ombudsmen's own motion, particularly where systemic or wider public interest issues are raised.

2. Increased transparency, accountability and public participation in government decision making

We seek to achieve increased transparency, accountability and public participation in government decision making, primarily by undertaking investigations under the official information legislation, ensuring compliance with the legislation and making recommendations necessary to remedy non-compliance, including, where appropriate, the release of official information.

3. Potential serious wrongdoing brought to light and investigated by appropriate authorities

Our aim is that:

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

We seek to achieve this by performing advisory, referral and investigative functions under the Protected Disclosures Act.

4. People in detention treated humanely

We seek to achieve humane treatment of people in detention by undertaking monitoring and inspection of 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.

5. Improved capability of state sector agencies in administrative, decision making and complaints handling processes and operation of official information legislation

Although the investigation of individual complaints is one way of driving improvements in state sector administrative, decision making and complaints handling processes, we also seek to be more proactive in assisting agencies to improve the quality of decision making, delivery of services, and administrative processes before things go wrong and we are asked to investigate. We do this by:

- monitoring trends and developments and identifying skill and knowledge gaps;
- reviewing legislative, policy and administrative proposals and practices to ensure consistency with principles of good administration and decision making and open and transparent government; and
- providing advice, training and information resources to build state sector capability in administrative, decision making, and complaints handling processes, and in the operation of the official information legislation.

6. Improved public awareness and access to Ombudsmen services

We aim to improve awareness amongst New Zealanders of our role and services, and make access to our guidance and information resources and services easy for all New Zealanders. We undertake a range of public awareness-related activities, including making speeches and presentations, publishing information and resources, and maintaining a website so people can access information and resources electronically.

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Report on operations

Ombudsmen Act

Official information legislation

Protected Disclosures Act

Crimes of Torture Act

Policy and professional practice

Ombudsmen Act

In this section we give an overview of our work in the Ombudsmen Act (OA) jurisdiction, and discuss in more detail the following issues arising:

- Review of the OA
- Corrections
- Social services and assistance
- Immigration
- Education
- Veterans' Affairs
- ACC – tax on lump sum payments
- Queen Mary Hospital Hanmer
- Parliamentary petition

Overview

The numbers

It was an extremely busy year in the OA jurisdiction. We received 8,488 OA complaints, reflecting an increase of 10 per cent on the previous year, and 14.5 per cent on the year before. We completed 8,250 cases – 13 per cent more than the budgeted standard (7200), and 10 per cent more than the previous year (7,435). We finished the year with 1,032 OA complaints on hand, up 26.6 per cent on last year's numbers (757). Detailed statistics can be found at pages 96-99.

The complainants

The OA is overwhelmingly used by individual members of the public, even though corporate entities are equally entitled to do so. This reflects the intent of the legislation, which is to provide recourse for people personally affected by the administrative acts and decisions of state sector agencies. In the reporting year, 96 per cent of OA complaints came from individual members of the public. Fifty-eight per cent were from prisoners or prisoner advocates (not all against the Department of Corrections), and 38 per cent were from other members of the public. Only 1.8 per cent of OA complaints were made by corporate entities and special interest groups. Historically very few OA complaints have been made by the media, but there were 45 in the reporting year, compared with two in 2008/09 and 10 in 2007/08.

The agencies

In line with previous years, most OA complaints (79.7 per cent) were made against central government departments. As is apparent from the discussion on 'issues arising', the agencies generating significant numbers of complaints are ones that interact with and impact upon large numbers of New Zealanders, like the Department of Corrections, the Ministry of Social Development, ACC, educational agencies and institutions, and Immigration New Zealand. Twelve per cent of OA complaints were made against other state sector agencies. Seven per cent were made against local organisations, reflecting a slight increase on previous years (5 per cent in 2007/08 and 2008/09).

The outcomes

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Not all OA complaints we receive are formally investigated. In 2009/10 we were able to resolve 873 complaints through informal intervention. In a further 5,202 cases, we made informal enquiries with the agencies concerned and were able to provide advice and assistance to complainants. In 546 cases, the agencies complained about agreed to reconsider the act or decision that was the subject of the complaint once we brought it to their attention.

We commenced formal investigations in 557 cases, and managed to resolve 120 of these without needing to form a final opinion and make recommendations. We formed final opinions in 189 cases. In 148 of these cases, the final opinion was that the complaint was not sustained. In only 41 cases – seven per cent of all cases formally investigated – did we sustain complaints that the conduct of state sector agencies was administratively unreasonable. We made formal recommendations in only nine cases, and all of these were accepted.

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

In 465 cases, we declined to investigate complaints because the complainant had:

- a right of appeal or other alternative remedy available to them (453);
- known about their complaint for more than 12 months (5);
- insufficient personal interest in the subject matter of the complaint (7).

A further 171 complaints were against organisations not within the Ombudsmen's jurisdiction.

Timeliness

Timeliness of OA enquiries and investigations is important to both complainants and agencies. Overall, we took an average 69 working days to complete OA cases, which was over the budgeted standard of 62 working days. The increase in complaints received and work on hand has not substantially affected our timeliness statistics in respect of OA complaints closed during the reporting year. We aimed to complete 90 per cent of OA cases within 6 months and we completed 87 per cent within that time. However, the impact is visible in the age profile of open investigations. We aim for 90 per cent of OA complaints on hand at year's end to be less than six months old. However, in 2009/10 only 46 per cent of complaints on hand at year's end were less than six months old (336 out of 735). Twenty-eight per cent were less than a year old (208 out of 735), and twenty-six per cent were over a year old (191 out of 735). What this means, in essence, is that we are facing a growing backlog of aging cases, and we anticipate this will have flow-on effects for our reporting in the coming year. To address and reduce this backlog, we have introduced a system of prioritising all complaints having regard to urgency and the potential detrimental impact of delay. This system has been incorporated into new performance measures for the 2010/11 year.

Issues arising

Review of the OA

The OA was enacted in 1975. While there are no legislative problems with the Act, in our opinion, as is inevitable with legislation of that vintage, the drafting and language now looks very dated. During the reporting year, we flagged to the Speaker of the House our desire to review the legislation and suggest necessary amendments. The OA was also

the subject of academic research by public lawyer Mai Chen during the reporting year (*"Does New Zealand's Ombudsmen Legislation Need Amending After (almost) 50 Years?"* available at <http://www.anzoa.com.au/2010-Conference.html>, and to be published in the 41st volume of the Victoria University of Wellington Law Review). We agree that a number of Ms Chen's recommendations warrant further consideration.

Corrections

In line with previous years, enquiries and OA complaints concerning the Department of Corrections (Corrections) accounted for just over 50 per cent of our entire OA workload. This means there is often real value to be gained by investigating significant systemic issues of our "own motion", as we are empowered to do by section 13(3) of the OA. We also investigate selected serious incidents in prisons, and monitor all death in custody investigations by the Inspectors of Corrections.

Complaints and enquiries

Last year we received 5,081 enquiries and OA complaints concerning Corrections, predominantly by or on behalf of prisoners (4,944). This reflects a 15 per cent increase on the previous year's numbers, although this increase will at least in part be attributable to better recording internally.

Two-thirds of the complaints and enquiries received in 2009/10 were able to be addressed by our Early Assistance Group, within an average of 5.44 working days. The remaining third required more in-depth consideration by the Ombudsmen and the prisons investigation team, and were completed in an average of 32.6 working days. Overall, we took an average 16 working days to complete prisoner OA cases, which was over the budgeted standard of 10 working days.

We exceeded our timeliness targets in respect of complaints and enquiries closed during the reporting year. We aimed to complete 95 per cent of prisoner OA cases within six months of receipt, and the remaining five per cent within the year. We completed 98 per cent of all prisoner OA cases within six months, and the remaining two per cent in under a year. We did not meet our timeliness targets in respect of complaints and enquiries open at year's end. We aim for 99 per cent of prisoner OA cases on hand at year's end to be less than six months old. In 2009/10, that percentage was 83, with the remaining 17 per cent of prisoner OA cases between 6 and 12 months old (43 cases out of 249). However, this can in part be explained by special investigations and deaths in custody, which take longer to complete than individual complaints.

Each prison was visited five times during the reporting year, giving prisoners the opportunity to discuss matters face-to-face with investigators. The most common complaints related to prisoner property (15.7 per cent), prisoner transfers and movements (6.5 per cent), prisoner phone calls and written communications (6.4 per cent), and case management and programmes (6.2 per cent).

Special investigations

In 2009/10 we continued own motion investigations into:

- the efficiency and effectiveness of procedures for prisoners to complain about Corrections Inmate Employment and its staff; and
- the provision, access and availability of health services to prisoners.

We also discontinued an own motion investigation into the treatment and conditions of segregated prisoners. We were advised during the investigation that Corrections intended to change its policy on protective segregation to try and reduce the numbers on segregation and increase efficiency in the management of prisoners. Corrections advised that it would be reviewing the new policy after 12 months. We intend to review the situation and determine whether any further action on our part is required once the new policy has had time to take effect and the Department's review is complete.

In 2009/10 we started own motion investigations into:

- the management of prisoners placed in the high medium units at Rimutaka Prison;
- policies concerning the issue of disposable safety razors;
- policies concerning the issue of strip gowns to prisoners at risk of self harm.

The last two investigations started as a result of serious incidents of self-harm at New Plymouth and Christchurch Women's prisons.

A further 18 serious incidents were considered for investigation by the Ombudsmen. In 10 cases we concluded that investigation was unnecessary because the incidents were isolated or not as serious as initially feared. We commenced investigations into eight serious incidents. In six cases, we reviewed the internal reports and any information received from the Police, and concluded that further investigation was unnecessary and / or would have trespassed on the criminal process. An example was the well-publicised hostage-taking incident at Auckland Prison. In the remaining two cases, we are awaiting final reports before deciding whether further investigation on our part is required.

Deaths in custody

Our role under the protocol agreed with Corrections is to monitor the investigation of deaths in custody by the Inspectors of Corrections, including deaths by natural causes. We are entitled to be present at all stages of the investigation, to participate in any interviews by the Inspectors, and to access all information held by the Department. In 2009/10, we completed nine investigations relating to deaths in custody that occurred in 2008/09. We monitored a further 15 investigations relating to deaths in custody that occurred during the reporting year. We completed three of these, and our enquiries in relation to the remaining 12 are ongoing. The monitoring process can take some time because it depends on the conclusion of the Inspector's investigation and any enquiries by the Police. Investigations concluded during the reporting year took on average 171 working days. In all cases we found the Inspectors' investigations to be satisfactory; in most cases (66 per cent) it was unnecessary for us to make any further comments separate from or in addition to the Inspectors' reports.

Social services and assistance

As noted earlier, government departments have been asked to do the same or more with fewer resources. At the same time, economic hard times mean citizens become more reliant on social services and assistance.

The Ministry of Social Development (MSD) is responsible for the provision of numerous and diverse social services, including employment, income support and superannuation services (Work and Income); the care and protection of at-risk children and young people and youth justice services (Child, Youth and Family); and student allowances and loans (StudyLink).

In 2009/10 we recorded 351 OA complaints against MSD and dealt with a further 56 enquiries. Whilst this appears to have been a substantial increase in complaints compared with 130 received in the previous year, it is not. The rise in numbers results from a more accurate recording system of work completed within our Office which now reflects all enquiries, formal complaints, and also matters on which we have given advice but which did not result in formal notification to the Department.

Fifty-three per cent of OA complaints received concerned Work and Income, and 38 per cent concerned Child, Youth and Family.

We also saw an increase in the number of complaints against the Accident Compensation Corporation (ACC). In total, we received 192 OA complaints against ACC during the reporting year, and dealt with a further 91 enquiries. This compares with 145 complaints received in the previous year. Again, the increase is likely to be related, in large part, to improvements in our recording systems.

Our role in relation to complaints against MSD and ACC is limited because there are rights of review and appeal in relation to many of the decisions made by these agencies. For example, decisions on benefit entitlements can be reviewed by a Benefit Review Committee and appealed to the Social Security Appeal Authority; decisions about the care and protection of children, and custody and access can be appealed to the Family Court; and there is a right to seek an independent review of ACC's decisions on personal injury claims and entitlements, followed by a further right of appeal to the District Court.

Nevertheless we play a significant role around the margins in helping people to address concerns about things like delays in processing applications or responding to telephone calls or correspondence, and the standard of service provided by staff. Effective internal complaints review mechanisms become very important in this context, which is what we mean by agencies 'putting right' things that have gone wrong as soon as possible. We recognise that both agencies have made great strides in recent years in implementing dedicated internal complaints review mechanisms. We have regular stakeholder meetings with MSD which provide a valuable opportunity to exchange information about common issues and trends.

Immigration

We usually receive a significant number of complaints against Immigration New Zealand (INZ). Last year we received 285 OA complaints and dealt with 26 enquiries, which is on par with numbers received in previous years. In an effort to deal more efficiently with the complaints received we introduced a streamlined investigation process during the reporting year. This involves reviewing the relevant file before calling for a report, and clarifying issues and resolving matters where possible by round table discussion. We are aiming to achieve quicker outcomes for complainants, and minimise the administrative burden on the agency of responding to Ombudsman requirements.

We would like to acknowledge an improvement in the working relationship between our Office and the Resolutions Branch of INZ, which has led to better information flows and is proving of real benefit in having remedies offered to complainants in a meaningful timeframe. In particular, discussions with INZ during the reporting year resulted in the terms of settlement being finalised for complainants affected by systemic deficiencies in the Pacific Division. In 2010, we will be working with INZ to develop a memorandum of understanding on the management of immigration complaints. We hope that more use can be made of INZ's internal complaints review mechanism in the first instance.

Education

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Access to education and government administration of the education sector affect a wide variety of New Zealanders and therefore this area attracts a large volume of complaints. Agencies in the education sector include school boards of trustees, tertiary institutions, the Ministry of Education, the New Zealand Qualifications Authority, the Tertiary Education Commission (TEC), the Education Review Office, and the New Zealand Teachers Council.

In 2009/10 we saw an increase in complaints concerning education agencies. There were 185 complaints in total, most of these against boards of trustees (71), tertiary institutions (69), and the Ministry of Education (35). This reflects a 40 per cent increase on last year's numbers (110), and compares with an average of 123 OA complaints each year for the last five. Complaints against boards of trustees rose 35.2 per cent on 2008/09 numbers; complaints against tertiary institutions rose 49.3 per cent on 2008/09 numbers; and complaints against the Ministry of Education rose 45.7 per cent on 2008/09 numbers. In addition, we dealt with a further 61 enquiries relating to education agencies, most of these again concerning boards of trustees (27), tertiary institutions (22) and the Ministry (10).

In conducting an investigation, we are conscious that there is usually an ongoing relationship between the complainant and the agency that extends beyond the matters brought before us. As such, our preference, where appropriate, is to encourage the parties to find a resolution that contributes positively towards this relationship. This approach is highlighted in two of our investigations during the 2009/10 year.

One of our more complex investigations involved a complaint about a decision taken by TEC to reduce the level of funding offered to an education provider. The decision was made on the basis that the provider had not met a critical performance measure. Our analysis of the relevant contractual documents involved drilling down through several layers of documents, each referring to and incorporating another. We considered this level of complexity to be unsatisfactory and that it contributed to the lack of understanding of what was expected. We were also concerned that a critical performance factor was not clearly set out in the main contractual document. For these reasons, we formed a provisional opinion that the complaint had merit. During subsequent discussions with the TEC, we identified a number of options to resolve the complaint. At our suggestion, the TEC decided to directly negotiate a way forward with the complainant. Some 15 months after receipt of this complaint, and following an extended written exchange with the parties, we were advised that the matter was resolved by way of a confidential settlement offered by the TEC.

We have also had instances where contentious matters, such as voluntary school donations, have been resolved quickly. For example, we received a complaint where a student of a state integrated school had been denied access to an upcoming school trip on the basis of unpaid donations. We commenced an investigation on an urgent basis and signalled at the outset that, based on the guidance published by the Ministry of Education, such donations are voluntary and no student should be denied privileges available to other students if the school donation remains unpaid. We are happy to record the ready assistance of the school in resolving this matter swiftly. Soon after we commenced an investigation a decision was taken to allow the student to participate in the trip. This case also highlighted that, apart from the ability to charge attendance dues, and notwithstanding their special character, state integrated schools are also subject to the similar constraints placed upon state schools in terms of voluntary donations.

Veterans' Affairs

In our 2007/08 report we raised an issue about our jurisdiction in respect of Veterans' Affairs New Zealand (VANZ):

"Veterans' Affairs New Zealand (although a semi-autonomous body within the Defence Force) was made subject to the OA and the OIA in its own name in 2006. Because Ombudsmen had investigated a number of complaints about it over the years and jurisdiction had never been questioned by the Secretary for War Pensions, there appeared to be no doubt about an Ombudsman's jurisdiction.

However, during the course of the reporting year it was noted that section 13 of the War Pensions Act 1954 deems the Secretary to be a Commission of Inquiry when carrying out the Secretary's functions under that Act. This seems effectively to exclude an Ombudsman's jurisdiction under both Acts to which Veterans' Affairs were ostensibly subject. This exclusion arises because:

- *under the OA, Ombudsmen may investigate complaints only in respect of conduct "relating to a matter of administration" (which excludes judicial functions) and commissions of inquiry perform judicial functions; and*
- *under the OIA, commissions of inquiry are specifically excluded from the definition of organisation or department.*

The Ministry of Justice agreed with this assessment but was not in a position to undertake a policy project to consider whether this jurisdictional limitation was appropriate. It suggested the issue be put to the Law Commission for consideration as it was reviewing the War Pensions Act. This was done."

In May 2010, the Law Commission published a report on its review of the War Pensions Act (*A new support scheme for veterans: A report on the review of the War Pensions Act 1954*, available at www.lawcom.govt.nz). The Commission concluded that the Ombudsmen should have jurisdiction to investigate the decisions of VANZ that are not covered by a right of appeal, and recommended that there should be no reference to the Commissions of Inquiry Act (or its successor) in the new veterans' legislation. We agree with the Commission that this would resolve the apparent limitations on the Ombudsmen's jurisdiction in this area.

ACC – tax on lump sum payments

In 2009/10 we dealt with two cases that raised the issue of tax on lump sum payments made by ACC. This issue has arisen on a number of occasions in the past. It seems unfair that recipients of lump sum payments have to pay tax on those payments in the year of receipt, when the lump sums relate to back payments extending over two or more years. This means they are taxed at the highest marginal tax rate, whereas if they could spread the lump sum over the tax years to which the payments relate, then in most cases the incidence of tax would be lower. The unfortunate tax consequences for a claimant in these circumstances have been acknowledged by the Taxation Review Authority and the Accident Compensation Appeal Authority. We understand that ACC has raised this issue with its Minister and await with interest his consideration of the matter.

Queen Mary Hospital Hanmer

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The Canterbury District Health Board had declared the former Queen Mary Hospital surplus. Opposition to its sale came from people wanting the previous hospital service to be reinstated and from those who thought the site should be protected as green space. They complained to this Office and an investigation was commenced into the Board's disposal process.

The hospital is set in extensively landscaped grounds that contain lawns, driveways and mature trees, as well as several buildings which now have Historic Places Trust classifications. World War I soldiers had been treated in "The Old Soldiers Block" which is the only surviving example worldwide of a World War I hospital, purpose built to an octagonal shape. Of the other buildings, the former Nurses' Home and the Chisholm Block also have significant heritage value as does the landscaping which was attributed to the foremost landscape designer in Canterbury in the early 19th century, Alfred Buxton.

The Department of Conservation had determined that the land had no "natural values" but we considered this was a misapprehension. The Department consequently carried out a reassessment and the Board was asked to place the sale process on hold pending the outcome of the Department of Conservation's re-assessment.

We drew the heritage issues to the attention of the then Minister of Arts, Culture and Heritage, and negotiations ensued between the Board, the Ministry for Culture and Heritage and the Council. Arising from that the Crown Health Financing Agency purchased the property in 2008 and has now vested 6 hectares in the Hurunui District Council as reserve with financial provision for the buildings to be maintained.

Parliamentary petition

In June 2009 Ombudsman David McGee reported to the Commerce Select Committee on the petition of John Dickson concerning the Commerce Commission's enforcement of conditions attached to a merger in the stock and station industry. The Ombudsman found some deficiencies in the Commission's dealing with Mr Dickson and recommended that the Committee hear from Mr Dickson in person.

The Commerce Committee reported in December 2009, recommending that the Government consider making an appropriate ex gratia payment to Mr Dickson in recognition of events that contributed to the loss of his opportunity to pursue his legal rights, and the considerable effort and legal expense he incurred in seeking clarification from the Commerce Commission and in petitioning Parliament.

The Government appointed Peter McKenzie QC to provide independent advice on the issues raised by the select committee's recommendation. Ultimately the Government decided an ex gratia payment was not warranted because, while the Commerce Commission may have failed as a matter of best practice, that failure was not exceptional (the Government's response is available at www.parliament.govt.nz).

Where significant numbers of OA complaints arose

	Year ended 30/06/09	Year ended 30/06/10
Central Government >=30 complaints		
Department of Labour	332	301¹
Ministry of Social Development	130	351²
Inland Revenue Department	126	110³
Ministry of Justice	52	79
Ministry of Education	19	35
Local Government >=15 complaints		
District Councils – all ⁴	197	226
Rodney	16	17
City Councils – all ⁴	169	163
Christchurch	25	32
Auckland	32	30
North Shore	20	16
Wellington	12	16
Regional Councils – all ⁴	34	51
Other Organisations >=15 complaints		
Accident Compensation Corporation	145	192
Educational institutions	80	140⁵
Police	34	48⁶
Housing New Zealand Corporation	6	46
District Health Boards	27	35
Health and Disability Commissioner	24	34
New Zealand Transport Agency	18	27
Civil Aviation Authority of New Zealand	-	17
Legal Services Agency	2	17
New Zealand Post	13	17

1 Two hundred and eighty five involving the New Zealand Immigration Service and 16 other.

2 One hundred and thirty concerning Child, Youth and Family, 185 concerning Work and Income and 36 other.
The increase from last year is largely due to better internal recording by our office of complaints received.

3 Thirty three concerning Child support services and 77 other.

4 Total for all Councils is inclusive of those detailed.

5 Comprises School Boards of Trustees (71), Universities, Polytechnics and Wananga (69).

6 Complaints concerning policing matters are referred directly to the Independent Police Conduct Authority or the complainant provided with guidance and assistance.

Official information legislation

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In this section we give an overview of our work under the Official Information Act (OIA) and the Local Government Official Information and Meetings Act (LGOIMA), and discuss in more detail the following issues arising:

Central government

- Police
- Political complaints

Local government

- Local authority events funding
- Confidential building plans
- Discretionary criteria for waiving parking infringement notices

Overview

The numbers

We were just as busy in the official information jurisdiction, receiving 920 complaints under the OIA and 294 under the LGOIMA. This reflects an increase of 12 per cent on last year's OIA numbers, and 21 per cent on last year's LGOIMA numbers. We completed 800 OIA cases, up from 754 the previous year. We completed 282 LGOIMA cases, 36 per cent more than the budgeted standard (180) and 28 per cent more than the previous year (202). We finished the year with 643 official information complaints on hand, up 22.4 per cent on last year's numbers (499). Detailed statistics can be found at pages 99-104.

The complainants

This year's statistics continue to suggest that ordinary members of the public are making good use of their rights to request information under the OIA and LGOIMA. Over half of all OIA complaints were made by individuals; 17.9 per cent were made by the media and 10.8 per cent were made by MPs and political party research units. Two thirds of LGOIMA complaints were made by individuals; 15 per cent were made by the media; and 18 per cent were made by corporate entities and special interest groups.

The agencies

A quarter of official information complaints were made against government departments; a quarter were made against local authorities and other agencies subject to LGOIMA; 14 per cent were made against Ministers of the Crown; and 37 per cent were made against other state sector agencies. The percentage of complaints against Ministers is disproportionately large, but reflective only of the fact that New Zealanders are keenly interested in understanding what executive government is doing and why.

The complaints

Roughly three quarters of all official information complaints concerned the partial or outright refusal of requests for official information. After refusals, the most common complaint concerned an agency's failure to decide on a request, or extend the time period for deciding, within 20 working days. These are referred to as 'delay deemed refusal' complaints, because the delay is deemed by section 28(4) of the OIA and section 27(4) of LGOIMA to be a refusal of

the request. Eighteen per cent of all OIA complaints and 16 per cent of all LGOIMA complaints during the reporting year concerned delay deemed refusals.

The outcomes

Most official information complaints are formally investigated, however 231 cases were informally resolved in the reporting year. We commenced formal investigations in 60 per cent of all completed official information cases (648 out of 1082). We managed to resolve 207 of these without needing to form a final opinion and recommendations.

As reported previously, we now formally investigate all delay deemed refusal complaints. There are promising signs in this year's statistics that this approach is having a positive impact, particularly in central government. There were 164 delay deemed refusal complaints under the OIA last year. This reflects a decrease of 23 per cent on the year before (213), and 43 per cent on the year before that (288), and is in fact the lowest number of delay complaints received since 1993/94. Delays as a proportion of overall OIA complaints received are also decreasing. Delays accounted for 32 per cent of all OIA complaints received in 2007/08, 26 per cent in 2008/09, and 17.8 per cent in 2009/10. This suggests that agencies are taking the statutory time limits seriously, and learning to use the mechanisms available in the legislation to avoid breaching them, including extending the time period for deciding on a request. While we might have expected to see an increase in extension complaints, the numbers are low (25 or 2.7 per cent of OIA complaints received) and remain steady. We have not yet seen a similar decline in delay deemed refusal numbers against local authorities. However, our formal investigation process was introduced to central government agencies first.

We formed final opinions in 335 official information cases. In most cases (205) the complaints were not sustained. In the remaining cases (130 or 20 per cent of all cases formally investigated) we formed the final opinion that the decision complained about was wrong or unreasonable. We made recommendations in four LGOIMA cases, two of which concerned delay deemed refusals. We made recommendations in 18 OIA cases, 13 of which concerned delay deemed refusals. In delay deemed refusal cases, we usually recommend that agencies review their internal policies and procedures for handling official information requests. Where a pattern of delay is identified we have requested a report on the steps taken to implement our recommendations. If that proves unsatisfactory, or if delays persist, we will consider conducting an administrative audit of the agency's policies and procedures for handling official information requests. All recommendations made under the OIA and LGOIMA were accepted.

Timeliness

Timeliness is again important, particularly to complainants. People usually require official information for a specific purpose, and often it will lose value over time. Overall, we took on average 120 working days to complete OIA cases, and 72 working days to complete LGOIMA cases, which was over the budgeted standard of 72 and 54 working days respectively.

The increase in complaints received and work on hand has not substantially affected our timeliness statistics in respect of official information complaints closed during the reporting year. We aimed to complete 80 per cent of official information cases within 6 months of receipt and completed 74 per cent of OIA cases and 86 per cent of LGOIMA cases within that time. We completed more complaints than expected within 7-9 and 10-12 months, and completed the expected 10 per cent of OIA complaints outside the year mark. Only four per cent of LGOIMA complaints took more than a year to complete, well below the expected 10 per cent.

However, the impact of an increased workload is visible in the age profile of open investigations. We aim for 80 per cent of OIA complaints on hand at year's end and 88 per cent of LGOIMA complaints on hand at year's end to be less than six months old. In 2009/10 the actual percentage was 45 for OIA (243 out of 548) and 70 for LGOIMA (66 out of 95). Realising how important timeliness is to give proper effect to the public's 'right to know', we have instituted a system of prioritising complaints on legitimate grounds of public or private interest. This system has been incorporated into our performance measures for the 2010/11 year.

Issues arising in central government

Police

There is significant personal and public interest in the law enforcement activities of the New Zealand Police. This is reflected in our complaint statistics. The Police consistently generate the most OIA complaints against a state sector agency. Last year 149 or 16.2 per cent of all OIA complaints received were against the Police.

The issues raised by OIA complaints against the Police can be complex. On the one hand, the Police often hold sensitive personal and operational information. Disclosure of this information could breach individual privacy or prejudice the maintenance of the law, including the prevention, investigation and detection of offences, or the right to a fair trial. On the other hand, there are extremely high expectations for transparency and accountability in the performance of vital public interest functions that impact directly or indirectly on all New Zealanders.

Last year, we completed a number of significant investigations involving the Police.

Witness protection

Ombudsmen have dealt with a number of complaints seeking access to information on the witness protection programme. Another complaint was received during the reporting year, and in line with past decisions, we concluded that releasing the detailed information requested would diminish the effectiveness of the programme, which assists in the maintenance of the law by ensuring that people are willing to come forward to perform their civic responsibilities as witnesses, and are not deterred from doing so by reason of intimidation or fear. However, we suggested that there may be merit in establishing some kind of monitoring system to provide public assurance about the appropriate ongoing operation of the programme. The Police Commissioner agreed, and advised that he had appointed a retired senior public servant to monitor the programme on an ongoing basis.

Witness statements

Requests to the Police routinely capture witness statements – meaning, in this context, statements made by people to the Police in the course of criminal investigations. We often receive complaints about the withholding of witness statements, and in the past year, have developed some general principles.

There is a high degree of confidentiality attaching to information provided by a person interviewed by the Police. As one Judge has said:

"Members of the public who volunteer information to the police are entitled to expect that it will be used only for the purposes of the investigation and subsequent criminal proceedings. Their expectations should be respected" (Taylor v Serious Fraud Office [1997] 4 All ER 887 at 904, per Millett LJ).

The confidentiality of witness statements outside Police investigations and criminal proceedings is not absolute, but breaching confidence without good reason is likely to damage the public interest. It would inhibit potential witnesses from cooperating with the Police, and contribute to the erosion of trust one can expect to obtain between the Police and the citizenry.

Considerations involved in requests for witness statements will depend on the stage investigations have reached: while investigations are proceeding, while court proceedings are underway, and after court proceedings are concluded or investigations have otherwise ceased.

While investigations are proceeding

Prevention of prejudice to the investigation of offences is expressly recognised by section 6(c) of the OIA as a conclusive reason to withhold information. There will therefore be a strong presumption that this ground applies to witness statements while police inquiries are underway. Determining when inquiries have concluded in situations where no charges are brought will always be a question of fact in the absence of an express acknowledgement by the Police. But we do not accept “a case is never closed” approach.

During court proceedings

In the case of access to witness statements by defendants, the matter is wholly governed by the Criminal Disclosure Act 2008. Witness statements are not obtainable by defendants under the official information legislation during the currency of court proceedings (section 18(da) of the OIA, section 17(da) of the LGOIMA). Strangely, there is no similar restriction on access to witness statements during this period by third parties, but it is inconceivable that third parties could be in a more favourable position to access witness statements relevant to a pending trial than are the defendants in those trials themselves. In these circumstances, we are of the view that section 6(c) protecting the right to a fair trial is likely to give a conclusive ground to withhold witness statements requested by third parties while court proceedings are in train.

After court proceedings concluded or no court proceedings ensue

After court proceedings have concluded and in cases where police investigations do not lead to charges being preferred, the Criminal Disclosure Act no longer applies. Section 6(c) will continue to apply in particular cases where it can be shown that release of a statement or part of a statement would reveal a particular matter that would be likely to prejudice the maintenance of the law, such as information identifying an informant or police investigative techniques or practices. But we do not consider that section 6(c) will continue to apply as a general ground to deny access to such statements.

However, notwithstanding this, the Police’s general obligation of confidence in respect of witness statements continues. The Police are not only entitled, in our view they are obliged, to consider requests for third party access to witness statements against that background. Thus the application of section 9(2)(ba) (information held subject to an obligation of confidence) and section 9(2)(a) (protection of privacy) will be particularly relevant in assessing such requests. But unlike section 6(c) these are not conclusive grounds for withholding information, and whether it is possible to rely on them will depend upon an assessment of the overall public interest applying in the particular circumstances.

Tasercam footage

The trial and roll-out of tasers as a non-lethal weapon for law enforcement purposes has given rise to considerable public interest. A few tasers have cameras attached to them that are

activated at the same time as the taser. This led to a request to the Police during the reporting year for tasercam footage. Given the media interest in the matter, we released full details of the finding online. We found there was good reason to withhold the footage to protect the subject's right to a fair trial. However, once the proceedings concluded, the argument for withholding on maintenance of the law grounds was considerably weakened. We also found that, in the absence of the subject's consent to release, withholding was necessary to protect his privacy. We concluded that the public interest in release did not outweigh the privacy interest that any person in the subject's position has in such material about them being supplied to a third party.

Investigation costs

Over the years, we have received a number of complaints from people seeking details of Police investigation costs. While requesters see this information as a key accountability measure, the Police have difficulty providing it. We therefore developed some general principles applying to these kinds of requests.

As a starting point, we confirmed that the Police do not operate a system that records the costs of individual investigations. They have other financial accountability mechanisms by which they comply with the public finance requirements set by Parliament and audited by the Auditor-General.

However, in some cases, the Police assign a "project code" to an investigation, against which certain direct operational costs may be recorded. These costs may not necessarily be 100 per cent reliable, again because this is not the principal financial accountability mechanism used by the Police. A further limitation is that a project code may not capture staff costs, which are a significant component of the total cost of an investigation. This is because the Police stopped operating a staff time-recording system in September 2006. While Police may know roughly how many staff worked on a particular investigation and for how long, and could therefore estimate staff costs, this would amount to creation of information, rather than provision of information already held.

This means the extent to which investigation cost information is held will vary from case to case, depending on whether a project code was allocated and used consistently, and when the investigation took place. Cost information is unlikely to be held if an investigation occurred before 1 July 1999 (when the current Police financial system was implemented), and information on staff costs attributable to particular investigations is unlikely to be held if an investigation occurred post-2006.

When Police receive a request for the "total cost" of an investigation, they should evaluate what cost information is held. They may be justified in refusing a request on the basis that they do not hold the "total cost" (meaning all inclusive). However, they should be able to provide an aggregate of the available cost information (if any), along with a statement describing any limitations on the completeness and accuracy of that information. In some cases the limitations will be so significant that the cost information will be meaningless.

The fact that the Police have from time to time released investigation cost information has reinforced public expectations that such information will be available on request. In cases of particular public interest, Police may decide at the outset to record investigation costs systematically, or to estimate (or create) the costs retrospectively. However, this does not mean the information will be routinely available on request under the OIA. The development of guidelines by the Police would bring greater consistency to decision-making about when a project code is used, and help to manage public expectations about the availability of investigation cost information.

Political complaints

As noted above, New Zealanders are keenly interested in understanding what executive government is doing and why. We therefore receive a large number of complaints that go to the heart of the political process – relating to executive government advisory and decision making processes. Once again, this is an area where we are trying to develop a principles-based approach.

Weekly departmental briefings to Ministers

Most Ministers and government departments have a standard reporting arrangement where the department briefs the Minister on a weekly basis regarding issues in the Minister's portfolio. In 2009/10 we investigated two complaints about Ministers' refusals to release weekly departmental briefings, and found that withholding was necessary to maintain the constitutional convention protecting confidential advice tendered by Ministers and officials (section 9(2)(f)(iv) OIA refers).

The need to withhold weekly briefings arises not so much from their content as from the context in which they are generated. The information is often collected and reported under time pressure and there may be insufficient opportunity to provide it in context, or ensure its complete accuracy. The advice is often expressed in an informal and frank fashion and is a means of ensuring that Ministers and Cabinet are briefed in advance of a full report on the issues being received. An atmosphere of confidentiality is necessary to ensure that Ministers have time to receive and consider such briefings, before being obliged to share them with a wider audience.

However, the need to maintain the confidentiality of such advice is not necessarily ongoing. Whether the information needs to be withheld at a particular time in order to maintain the convention must therefore be determined on the facts of each case. Similarly, whether there is a countervailing public interest in disclosure will depend on the facts of the particular case.

We accept that section 9(2)(f)(iv) of the OIA will apply to weekly briefings at the time they are produced or shortly thereafter. However, the need for confidentiality will diminish over time and in light of other events. As a rule of thumb, we expect that three months after such reports are tendered, it is reasonable to ask Ministers or departments to reconsider whether ongoing withholding is necessary. Because this issue is likely to affect most departmental Chief Executives we reported on the outcome of the investigations at a regular Chief Executives' forum.

Consulting MPs

The OIA envisages that requesters will be consulted on their requests in certain circumstances. Ministers and agencies have a statutory duty to:

- provide reasonable assistance to any person who wants to make an OIA request (section 13 refers).
- consider consulting a requester if they are likely to refuse a request because the document does not exist or cannot be found, or the information cannot be made available without substantial collation or research (section 18B refers).

Departments have from time to time expressed discomfort with the idea of consulting MPs, feeling it may call into question their political neutrality. When this issue arose during the reporting year, we noted that the statutory duty to consider consulting applies to all requesters equally. Departments are not exempt from it because the requester is an MP.

In most cases, complying with the duty will not prejudice or appear to prejudice the political neutrality of the public service. However, departments may consider it necessary to consult with or inform the responsible Minister before engaging in such contacts. Any perceived risks can be managed by ensuring the request is dealt with by sufficiently senior officials; by corresponding with the requester in writing rather than over the phone; or by the consultation being undertaken through the Minister's office.

If there are factors in a particular case that mean consultation with a requester is likely to prejudice or appear to prejudice the political neutrality of the public service, this may be an indication that the information requested is more closely connected with the functions of the responsible Minister. In such cases, consideration should be given to whether the request should be transferred to the Minister in accordance with section 14(b)(ii) of the OIA.

The legislation must not be applied in a way that unreasonably deprives a requester of the benefit of the consultation requirement in section 18B. That section was incorporated by amendment in 2003. The intent of the amendment is clear. Substantial collation or research should not be a reason for refusal in situations where a requester would otherwise be willing to refine or modify the original request. Consultation is an essential means of clarifying this.

Issues arising in local government

Local authority events funding

Last year we reported that we had published guidance on the general principles applying to requests for information relating to funding of events by local authorities (available at www.ombudsmen.parliament.nz). This year we dealt with three cases that saw the application of those principles in practice. They concerned the withholding of information about funding arrangements in relation to:

- the LA Galaxy football game;
- the David Tua fight; and
- the Ellerslie Flower Show.

As noted in our general guidance, the section of the LGOIMA that is usually relevant is 7(2)(c)(ii), which provides a reason for withholding information:

- that is subject to an obligation of confidence;
- where disclosure would be likely to damage the public interest.

In the cases under consideration there were explicit confidentiality clauses, satisfying the first limb of the test. In two of the three cases, we found there was a public interest in the local authorities being able to attract major national and international events, and if the information was released there is a real risk event promoters would be reluctant to deal with the authorities in future.

However, section 7(2)(c)(ii) is subject to the public interest test in section 7(1), meaning the information must be disclosed if the public interest in disclosure outweighs the need to withhold it. We identified the following principles that apply in considering whether the public interest in disclosure outweighs the need to withhold:

- **Source:** All local authorities establish accounts or funds out of which disbursements can be made. These will be for different purposes (promoting tourism, community projects, developmental projects, etc). The means of authorising payments from these funds will be defined (who may approve a payment, up to what level, etc) and these rules may be

different depending upon the source of funds being accessed. Regardless of the quantum of a payment for an event there will in all cases be a strong public interest in knowing that the payment is made in accordance with established procedures. The fact that a payment was made from a fund that is established to make payments of that nature and that all procedures for authorising payments out of that fund have been followed, is of the highest public interest. It is unlikely that any withholding of information about event funding that denies the public the ability to establish that a payment was made in accordance with proper requirements will be upheld.

- **Size:** The larger that a grant or payment is, and the more significant it is in terms of the authority's financial position, the stronger are the public interest arguments in favour of disclosure. Indeed a certain size of payment becomes material in an accounting sense and will be required to be disclosed in the local authority's accounts by the Auditor-General. However, the accounting threshold for a disclosure of this nature is relatively high and it is not suggested that it equates to a threshold for overriding a withholding ground in the LGOIMA. This may be required at a far lower level. Rather, it illustrates that size is a relevant disclosure consideration in weighing the public interest.
- **Nature:** The nature of the payment is also significant in considering the public interest. A payment that is in the nature of a speculative investment in an event, especially an investment committing the local authority to a potential obligation to make further payments in the future, raises greater ongoing accountability issues than a one-off payment. Where a local authority assumes a financial risk or incurs a contingent liability the public interest in a full disclosure of that risk, notwithstanding section 7(2)(c)(ii), is thereby enhanced. Conversely, where a local authority gives a grant to assist with an event but assumes no ongoing liability as to that event's profitability or financial outcome, the public interest in a full disclosure (though still present) is less.

In the LA Galaxy case, we concluded that the public interest in accountability did not outweigh the need to withhold the amount of the funding to protect the local authority's ability to negotiate with promoters to secure national and international events. The public interest was served by knowing the source and nature of the funding, and the procedures that were followed in authorising it. In the David Tua case, a similar conclusion was reached. Another factor in that case was that the funding arrangement was re-negotiated after the request was declined. Hence the agreement in question no longer applied, and the public interest in disclosure of that agreement was diminished.

In the Ellerslie Flower Show case, we concluded that the public interest in disclosure of the purchase price outweighed any concern by the Council to preserve its ability to negotiate with promoters to secure events. The information related to a substantial payment of public money by the Christchurch City Council for a speculative venture. The size of the amount involved and the nature of the payment was such that the public interest was not met solely by compliance with financial reporting standards. We recommended disclosure of the purchase price.

Confidential building plans

We have investigated a number of complaints that have raised issues about the interrelationship between the rights of access to information under LGOIMA and section 217 of the Building Act 2004. An investigation in 2009/10 highlighted some of the difficulties and lack of clarity in this area.

Under section 217(1) of the Building Act, members of the public have the right to access certain information listed in section 216(1) and (2). This information includes building plans

and specifications. Section 217(2) qualifies this right by making it subject to LGOIMA, and provides that it does not extend to a plan or specification marked confidential by the applicant or owner for reasons relating to the security of the building (section 217(3)).

The complaint in question concerned a local authority's refusal to release copies of building plans on the grounds that section 217 of the Building Act gave applicants an "unfettered right" to mark the documents confidential on the grounds of security. We did not agree that the right is unfettered.

We concluded that the plans of the internal structure of the building could be withheld under section 17(c)(i) of the LGOIMA because release would be contrary to a specified enactment (section 217(2)(b) of the Building Act). The plans had been marked confidential on the grounds of security. However, we did not consider there could be security grounds for withholding the plans of the external structure, which was visible to neighbouring property owners and others in the vicinity. The plans of the external structure were released to the requester.

The following issues were raised during the course of the investigation. Section 216(1) of the Building Act states that local authorities must keep information reasonably available to enable members of the public to be informed of their obligations and participate effectively under that Act. The question arises whether a request for building information is confined to these two reasons. We do not consider the right to request information is restricted in this way; any person can exercise the right to access information under the Building Act without having to establish a particular interest in doing so.

The request also raised the issue of whether marking a plan as confidential is a complete answer to disclosure. If this is the case, any owner or applicant could mark a plan as confidential and this would restrict the availability of the plan to the public. This could have significant implications in terms of the availability of building plans and specifications. In our view, the marking of a plan as confidential is not a complete answer to disclosure. If there is evidence that security is not the owner's reason, the Council is obliged to consider releasing the plan, notwithstanding the provision in section 217. We acknowledge that this may place local authorities in a difficult position when making such judgments.

While the investigation did not turn on this specific issue, another area of uncertainty is where a request is made for a Land Information Memorandum or LIM under section 44A of the LGOIMA. If this situation arises, a local authority will have to consider how far it can give effect to an owner's wish for confidentiality for a plan or specification, consistent with its obligation to issue a LIM containing building consent information relating to the land. It would seem that if there is a conflict, the obligation under section 44A of the LGOIMA must prevail, but this is a matter for the local authority to decide.

At the conclusion of the investigation we wrote to the Department of Building and Housing, which was in the process of reviewing the Building Act. Although the focus of the terms of reference for the review did not cover these issues, we hope one of the outcomes of the review will be to get some clarity in this area.

Discretionary criteria for waiving parking infringement notices

Local authorities are empowered to make and enforce bylaws regulating the use of parking places. During the year, we dealt with a complaint about a local authority's decision to withhold the criteria used to decide whether or not to waive parking tickets.

The authority was concerned that release of the criteria would prejudice its ability to carry out its enforcement function. It relied on section 6(a) of the LGOIMA to withhold the information,

on the grounds that disclosure would prejudice the maintenance of the law. A related concern that was raised was that disclosure would impact negatively on the authority's ability to generate revenue from parking offences. The authority therefore relied on section 7(2)(h) of the LGOIMA, which provides a reason for withholding official information to enable local authorities to carry out commercial activities without prejudice or disadvantage.

In administering parking infringement bylaws, local authorities are carrying out a law enforcement role, not a commercial one. The fact that income may be generated from carrying out a law enforcement role is beside the point. We did not accept that section 7(2)(h) of the LGOIMA could apply at all in respect of such information.

In determining whether disclosure of the criteria would prejudice the authority's law enforcement activities, we observed that they fell into two distinct categories:

- The first is where *an offence has been committed* and the authority is deciding whether or not to prosecute.
- The second is where the authority is deciding *whether or not an offence has been committed* in the first place or whether it can be proved.

Criteria relating to waiver of offences

Release of the factors that authorities consider in deciding whether to waive an offence would not prejudice the maintenance of the law. These factors form part of the law as it operates in practice and citizens are entitled to know of them in determining how they interact with the authority.

Other state sector agencies disclose the basis on which they make prosecutorial decisions. For instance, the Crown Law Office publishes the factors to be taken into consideration in deciding whether or not to initiate a prosecution; and the Police publish the criteria under which they decide whether to deal with an alleged offender under the Adult Diversion Scheme. The maintenance of the law requires disclosure of such criteria, so that everyone knows the basis on which the law operates.

It is no answer to say that people may challenge their liability in a court of law. Their liability is not at issue in these cases. The issue is the authority's exercise of its discretion not to prosecute. Apart from judicial review, there is no means of challenging that exercise of discretion. The law is maintained, not prejudiced, by disclosing the basis on which the discretion is exercised.

Criteria relating to assessment of evidence

These criteria are different, and we accepted the authority's argument that disclosure would prejudice its enforcement functions. The infringement notices system is designed to resolve numerous low-level offences quickly and informally. It could not operate effectively if every notice was the subject of a full judicial hearing. Disclosure of the criteria used to assess evidence of whether or not an offence has been committed or can be proved would prejudice the efficient investigation of parking offences.

No injustice or unfairness to applicants would result from withholding the criteria. Unlike the first set of criteria, they are directed to whether there is sufficient evidence to justify enforcement action. If the authority considers there is sufficient evidence the alleged offender has a means of challenging that decision in a court of law by requesting that the offence proceed to a hearing. This means the authority's assessments of the arguments put forward by alleged offenders as to why no offence was committed are subject to judicial control by a prescribed statutory method (in contrast to the discretion to waive or not waive an offence,

which is not). The desirability of as little formality as possible at the point of assessment does not in itself lead to injustice or unfairness.

The criteria relating to waiver of offences were released, and the criteria relating to assessment of evidence were properly withheld.

Where significant numbers of OIA complaints arose

	Year ended 30/06/09	Year ended 30/06/10
Departments and organisations >=20 complaints		
Police	113	149
District Health Boards	43	62
Educational Institutions	45	50⁷
Ministry of Social Development	36	53⁸
Accident Compensation Corporation	39	41
Corrections Department	31	38
Ministry of Justice	19	29
Department of Labour	47	24⁹
Ministry of Education	17	20
Ministers of the Crown >= 15 complaints		
Ministers of Education	17	20

Where significant numbers of LGOIMA complaints arose

	Year ended 30/06/09	Year ended 30/06/10
>=10 complaints		
City Councils – all ¹⁰	89	121
Wellington	13	19
Auckland	16	14
Christchurch	11	14
North Shore	21	12
Dunedin	11	11
Invercargill	2	10
District Councils – all ¹⁰	107	136
Queenstown Lakes	18	12
Regional Councils – all ¹⁰	25	26
Auckland	2	10

⁷ Twenty three involving School Boards of Trustees, 27 involving Universities and Polytechnics.

⁸ Thirty concerning Child Youth and Family, nine concerning Work and Income and 11 other.

⁹ Eleven involving Immigration New Zealand and 13 other.

¹⁰ Total for all Councils is inclusive of those detailed.

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 in or by such organisations.

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, we have received an average of 10 requests per year for guidance and assistance in relation to possible protected disclosures.

In 2009/10, we received six and completed eight requests for guidance and assistance. This was fewer than the budgeted standard of 15. We met our target of completing 100 per cent of all requests for guidance and assistance within six months of receipt. We did not investigate any of the issues raised under the PDA during the reporting year.

A common trend in enquiries received 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:

- unlawful, corrupt, or irregular use of funds or resources of a public sector organisation;
- acts etc that constitute a serious risk to public health or safety or the environment;
- acts etc that constitute a serious risk to the maintenance of law, including the prevention, investigation, and detection of offences and the right to a fair trial;
- acts etc that constitute an offence;
- acts etc by public officials that are oppressive, improperly discriminatory, or grossly negligent, or that constitute gross mismanagement.

However, even if an issue does not reach the threshold of serious wrongdoing, it may relate to a matter of administration capable of investigation under the Ombudsmen Act.

Another trend is that the issues raised relate to a breakdown in the relationship between employer and employee, not serious wrongdoing in an organisation. In this case the parties need to use the system for resolving employment disputes under the employment relations legislation.

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, or a perception that the protections it provides are inadequate. It could also be a reflection of the fact that New Zealand enjoys such low levels of corruption¹¹.

¹¹ In 2009, New Zealand was ranked first in the annual Transparency International Corruption Perception Index, meaning perceived levels of public sector corruption are lowest among the 180 countries surveyed.

Crimes of Torture Act

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

Overview

Under COTA, the Ombudsmen are designated National Preventive Mechanism (NPM) with responsibility for monitoring and making recommendations to improve the conditions and treatment of detainees in prisons, immigration detention facilities, health and disability places of detention, child care and protection residences, and youth justice residences. The Ombudsmen are assisted in carrying out this role by two Inspectors, the second of whom was appointed in March 2010.

The 2009/10 year saw the expansion and reinforcement of the NPM's role as an independent monitor of humane treatment in places of detention. Regular inspection has had a demonstrable effect on the operation of secure facilities in all kinds of environments, and treatment of detainees. This has been possible because of the specialist nature of the NPM's role, the expertise and commitment of its Inspectors, and its human rights focus, methodology and values.

In 2009/10, we visited or inspected 17 places of detention (the budgeted standard was 10-15). This included:

- 8 men's prisons, 1 women's prison
- 2 mental health facilities
- 1 intellectual disability unit
- 1 youth unit (contained within a prison)
- 1 care and protection unit
- 2 district court cells.

We produced 10 inspection reports on:

- 8 prisons
- 1 mental health facility
- 1 intellectual disability unit.

The inspection reports highlighted 100 findings, with 19 recommendations for improvement. Eighty-one per cent of our findings, across all types of detention facilities, were positive, which is encouraging.

This brings the total number of scoping visits conducted to date to 97, and the total number of focused visits to 29.

Places of detention	Scoping visits
Immigration	2
Health and disability	75
Care and protection	1
Youth justice	1
Prisons	15
Court cells	3

Places of detention	Focused visits
Immigration	1
Health and disability	18
Prisons	10

We are pleased to report that the Inspectors continue to receive full co-operation from staff and management at the sites they visit. The feedback to date indicates that the visits are seen as very worthwhile, and the Inspectors are able to allay any misgivings or concerns and provide practical assistance in addressing issues relating to the humane treatment of detainees.

On a number of occasions we have participated in or accompanied other NPMs on their visits to the places of detention they are responsible for. This included police cells and child care and protection residences. In return, other NPMs have accompanied us on some of our scoping visits. These cooperative working arrangements ensure that NPMs benefit from each others' experiences and broaden the knowledge base across all the agencies. They also enable us to take a multi-disciplinary approach to inspections, in line with international expectations, but within existing budgetary and staff constraints.

We continue to meet with civil society groups to raise awareness of COTA, and also meet regularly with officials from the Ministries of Health and Justice, the Department of Corrections, the New Zealand Parole Board and the Mental Health Commission. We also conducted presentations on COTA at the request of organisations such as the Department of Corrections and the Mental Health Foundation. These meetings and presentations are a valuable source of information about the facilities we oversee, and provide an opportunity to explain the Ombudsmen's role under COTA and clarify any issues or concerns.

In 2010/11, the Inspectors are committed to carrying out 16 focused visits, five of which will be unannounced. We had anticipated carrying out up to 50 visits but were unsuccessful in obtaining funding for a third inspector. Our unannounced visits may occur outside normal business hours. District Health Boards and the Department of Corrections have been advised of this to ensure that the Inspectors are not prevented from gaining access to any of the sites.

Issues arising

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Prisons

Double bunking and use of modified shipping containers as cells

In May 2009, the United Nations Committee Against Torture asked to be updated in relation to measures taken to reduce overcrowding and improve conditions of detention in New Zealand prisons. In June 2009, the Department of Corrections confirmed its plan to permanently increase total capacity by 886 beds at its four newest facilities through use of double bunking.

The facilities identified were:

- Spring Hill Corrections Facility (368 additional beds)
- Auckland Women's Regional Corrections Facility (170 additional beds)
- Northland Corrections Facility (198 additional beds)
- Otago Corrections Facility (150 additional beds).

A further 60 beds came on stream at Rimutaka Prison in June 2010. The new unit was constructed from modified shipping containers.

In light of the potential human rights implications of increased double bunking, and housing prisoners in converted shipping containers, we instructed the COTA Inspectors to visit each of the sites to ensure that the necessary processes and procedures were in place to minimise any issues around the management of prisoners, and their safety, security, dignity and privacy. The Inspectors also reported on whether the new facilities contained the mandatory items and features required of new cells, as set out in Part A Schedule 3 of the Corrections Regulations 2005. At the time of the visit, the cells were unoccupied.

Double bunking is not a new concept in New Zealand prisons. The purpose of the visits was to inspect only those facilities that had fitted an additional bed to what was initially designed as a single cell.

The Department of Corrections has introduced a comprehensive assessment tool called Shared Accommodation Cell Risk Assessment (SACRA) to establish prisoner compatibility when double bunking is used. If properly implemented, this process will alleviate many of the concerns surrounding double bunking, including prisoner safety.

All four prisons have been able to secure varying degrees of employment and purposeful activity to occupy prisoners' time in a constructive manner. Furthermore, all four sites have acquired extra exercise yards/sports facilities on the units affected by double bunking. Prisoners will not be required to eat their meals in their cells as dining facilities are more than adequate in all the units.

Our inspection of the new container cells found they met the requirements in the Corrections Regulations 2005. The use of 'containers' as prisoner accommodation would seem to be a cost-effective, acceptable alternative to building new prisons.

On the basis of the inspections, we have no immediate concerns regarding the proposed management of the affected prisoners. It seems that appropriate measures are in place to protect their safety, security, dignity and privacy. However, further inspections will be carried out after the cells are occupied to ensure these measures operate effectively in practice.

The proposed no-smoking policy for prisons

The government recently announced that prisons will be going 'Smoke Free' from 1 July 2011. In considering its options, Corrections stated that it focused on the social, economic and health costs of exposure to cigarette smoke and smoking itself and determined that to be a good employer, and since it was the government department responsible for accommodating prisoners, it had an obligation to address the harm caused by tobacco.

The proposed policy means that prisoners will no longer be allowed to smoke within the confines of a prison. While the Government had indicated that staff will be allowed to smoke in designated areas on prison property, Corrections has stated that these areas will be outside of unit / prison fences and in a carefully considered area contingent on the size of the prison. The policy's primary intent is to improve staff and prisoner health and also to address the issue of non-smoking prisoners and staff taking legal action against Corrections for health problems that may arise from 'second-hand smoke'.

We raised a number of concerns with Prison Services; in particular, that the policy might adversely impact on prisoners by leading to further reductions in unlock hours. Prison Services has advised that our concerns will be monitored and addressed as the policy is implemented, and pragmatic solutions will be found for each site to protect prisoner and staff safety and prisoner entitlements.

New Plymouth Prison

New Plymouth Prison is New Zealand's oldest prison and manages a number of different categories of prisoners. This presents its own set of problems given the archaic design of the facility and the requirements to provide safe, fair and humane containment. For example, the cells in the old part of the prison are particularly small and the installation of toilets exacerbated the problems around cell space.

The Prison was the subject of a focused visit during the reporting year. We found that requiring prisoners to eat their meals in such close proximity to the toilets was unhygienic and possibly amounted to inhuman or degrading treatment, and almost certainly would be culturally unacceptable to Maori and other ethnic groups. We also found that the unlock hours in unit one, which averaged around two hours per day, were unreasonable given the extremely small cell dimensions and the limited access to outdoor exercise facilities.

We are pleased to report that the Department has acted on our findings and prisoners can now take their meals in the dining room. The unlock hours for affected prisoners have been increased to a minimum of three and up to seven hours per day. The Department has also agreed to investigate the division of the main exercise area into smaller yards to allow better use of the space available. The remedial action taken by the Department largely resolves our concerns.

Health and disability places of detention

Potential cruel and inhuman treatment

Last year we reported on the case of a mental health care recipient kept in seclusion in an intellectual disability unit for what we considered to be an unreasonably long period. We raised the matter with the Chief Executive of the District Health Board and were advised that the care recipient would be transferred to a more suitable facility. During a follow-up visit we discovered that the care recipient had only recently been transferred – 13 months later

than expected. While the issue is finally resolved as far as the care recipient is concerned, we now have in place processes to ensure that remedial actions taken voluntarily or following a recommendation are implemented.

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Criminal Procedure (Mentally Impaired Persons) Act 2003

The introduction of the Criminal Procedure (Mentally Impaired Persons) Act in 2003 allowed the court to sentence a convicted offender to a term of imprisonment whilst also ordering their detention in hospital as a special patient. These orders are referred to as hybrid orders because they combine aspects of compulsory treatment and imprisonment.

In the 2008/09 year, we highlighted two cases where offenders subject to hybrid orders had not been given the opportunity to appear before the New Zealand Parole Board as soon as practicable following the completion of the non-parole period of their sentence. The reason the two offenders missed their parole hearing was inconsistent and inaccurate electronic record-keeping by the courts, the Department of Corrections and subsequently, the Parole Board.

Despite assurances that the problem had been rectified, we have identified yet another offender recently convicted and subject to a hybrid order who had not been properly 'captured' electronically during this reporting period. Fortunately, we were able to intervene and alert the appropriate agencies to the existence of the offender in the system.

From our experience, it is evident that there is still a significant problem with the electronic recording of information for offenders who are subject to a hybrid order when they are sentenced and processed through the courts. We remain concerned that there may be other offenders subject to these hybrid orders who have entered the system and not been 'captured' correctly.

The Director of Mental Health has assured us that he is confident that an interim measure to ensure the capture of data relating to these offenders, which will necessitate enlisting the co-operation of prisons and the District Health Boards, can be implemented. We are advised that the Director remains committed to working with the other agencies to ensure accurate information is shared with those agencies to facilitate fair treatment of people under hybrid orders.

Policy and professional practice

Overview

In support of our legislative functions, we aim to:

- build state sector capability in areas relevant to our jurisdiction, including good administrative, decision making and complaints handling processes, and knowledge of official information legislation; and
- improve public awareness and accessibility of Ombudsmen services.

In July 2009 we established a Policy and Professional Practice Advisory Group (PPPAG) to assist us with this. PPPAG is headed by an Assistant Ombudsman and staffed by three senior advisors.

PPPAG works alongside our investigations and inspections staff in undertaking a range of capability-building and public awareness-related work. PPPAG also assists with our international relations and development work.

State sector capability

In order to build state sector capability we:

- provide advice on relevant legislative, policy and administrative proposals, and the operation of the official information legislation;
- offer training on the role of the Ombudsmen and the operation of the official information legislation; and
- produce resources to assist agencies to develop good administrative, decision making and complaints handling processes and improve compliance with the official information legislation.

Advice

In 2009/10, we provided advice on more than 35 legislative, policy and administrative proposals to ensure proper consideration is given to the operation of the Ombudsmen Act (OA), the official information legislation, the Protected Disclosures Act and the Crimes of Torture Act. This is an increase of 75 per cent on the previous year. The following examples give an idea of the kind of advice we provided.

Proposals that are relevant to or would impact on our jurisdiction

The Cabinet Manual provides that the Ombudsmen should be consulted in their areas of interest as appropriate. The Legislation Advisory Committee Guidelines also say that when a new public body is being established the Ombudsmen should be consulted about the application of the OA and official information legislation to it. In 2009/10, a number of agencies sought our views on applying the OA and official information legislation to new bodies, or making changes that would affect the application of that legislation to existing bodies. For instance, we provided advice to:

- the Ministry of Health regarding the review of the Health and Disability Commissioner Act, including possible changes to the application of the OIA to information obtained during investigations;
- MAF Biosecurity New Zealand regarding the application of the OA and official information legislation to pest management agencies that are not departments or local authorities; and

- the Ministry of Justice regarding the establishment of Learning State as a stand-alone entity and whether it should be subject to the OA and official information legislation.

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Complaints handling processes

Agencies are increasingly recognising the benefit of having effective internal complaints handling processes. In 2009/10 we assisted Housing New Zealand and the Ministry of Social Development with their internal complaint handling processes; and commented on the complaints process proposed by the Ministry of Justice in its Review of Victims' Rights, and the Ministry of Economic Development's complaints process for agencies and suppliers participating in procurement processes with government agencies.

Compliance with the official information legislation

Agencies often request our advice on 'live' requests for official information and how best they can comply with the legislation. We will not tell agencies what to do in relation to 'live' requests. This would be inappropriate given that 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 they ought to be taking into account. In 2009/10 we provided such advice on 67 occasions. Agencies also seek our advice on developing policies for handling official information requests. In 2009/10 we commented on the New Zealand Police policy.

Proactive disclosure of official information

We have no statutory role in relation to the proactive disclosure of official information. Our role under the official information legislation is to investigate and review decisions on requests. However, with more than 25 years experience enforcing the legislation we have built up a considerable amount of knowledge relating to the management and release of official information. We are happy to share that knowledge with agencies who decide not to wait for the requests, but to release information in the public interest of their own volition. In 2009/10 a number of agencies approached us for advice on how best to manage their official information obligations in the context of significant public interest initiatives. This included the State Services Commission in relation to the Performance Information Framework, and its Machinery of Government project; and the New Zealand Defence Force in relation to the Defence Review.

Changes to access to personal information about individuals held on the motor vehicle register

The Ministry of Transport has been putting in place transitional arrangements regarding changes to access to personal information about individuals held on the motor vehicle register. From 1 April 2011, the register will no longer be open to the public. Personal information about individuals will only be available:

- to the individuals themselves under the Privacy Act;
- if it is required for one of the purposes of the register (maintenance of the law or security of New Zealand, collection of charges imposed or authorised by an enactment, and administration and development of transport law and policy);
- to authorised persons for specified purposes (section 241 Land Transport Act refers);
- if it may be disclosed under an enactment, like the OIA.

We have provided the Ministry with advice on an ongoing basis during 2009/10 regarding implementation of the amendments, particularly in relation to the application of the OIA to requests for personal information about individuals.

Under section 241 of the Land Transport Act, the Chief Ombudsman has a role in advising the Secretary of Transport on applications for authorised access to personal information on the register. In 2009/10 the Chief Ombudsman commented on the first five applications to the Secretary. We anticipate that this will be a significant area of work in the coming year.

Law Commission reviews

In 2009/10 we contributed to the Law Commission's review of the Privacy Act and its review of the official information legislation.

Our interest in the Privacy Act stems from the fact that it applies to official information also (where the official information requested comprises or includes personal information about the individual requesting access). Often a request for official information will require agencies to consider the application of both the Privacy Act and the official information legislation. In our view, therefore, it is important that these pieces of legislation remain complementary and consistent.

We met with the Law Commission a number of times and provided information where requested to inform its review of the official information legislation. We anticipate that responding to the Commission's issues paper and recommendations will require a more significant commitment in the coming year.

Implementation of the UN Convention on the Rights of Persons with Disabilities

New Zealand ratified the UN Convention on the Rights of Persons with Disabilities (the Convention) in 2008. The purpose of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. Article 33 says that states should establish a framework, including designating one or more independent mechanisms, to promote, protect and monitor implementation of the Convention. The Office of Disability Issues (ODI) has been leading work on implementation of the Convention. During the year we met with ODI regarding the possibility of playing a role in monitoring and reporting on implementation of the Convention. We received an appropriation in Budget 2010 to scope the new role, in collaboration with the Human Rights Commission and disabled people's organisations.

Archives New Zealand Disposal Standard

In 2009/10 we were part of an advisory group helping Archives New Zealand develop a mandatory standard for the disposal of public records. Our interest was in ensuring that the standard provided appropriate protection for public records that ought to be retained for accountability and transparency purposes. At the same time we recognise that it is not possible or appropriate to retain all public records for all time, and therefore disposal of public records should take place within a clear and robust framework. Information about the standard can be accessed at www.archives.govt.nz.

Training

Last year we reported on the development of training programmes to be offered on request to agencies looking to improve their understanding of the Ombudsmen's role and functions, and the requirements of the OA and official information legislation.

In 2009/10, we conducted 23 workshops and training seminars around New Zealand, up 30 per cent on the year before. The agencies included the Department of Corrections, the New Zealand Defence Force, the Ministry of Foreign Affairs and Trade, the Ministry of Transport,

Housing New Zealand, Maritime New Zealand, the Earthquake Commission, the Office for Senior Citizens, the Charities Commission, the New Zealand Society of Local Government Managers and Horowhenua District Council. The training ranges from 30 minute general overviews to half day workshops. For some agencies, more than one session was involved.

The feedback received from all training provided to date has been encouraging. In January, we introduced an evaluation survey to be completed by those who attend our training sessions. Of those that responded, 100 per cent stated that our training would assist them in their work.

We will continue to offer this free service, along with materials and resources to support the training programme. We expect that the demand for this programme will increase as it becomes more widely known.

Resources

Our primary resource to assist agencies in complying with their obligations under the official information legislation is the Ombudsmen's Practice Guidelines. These are supplemented by fully searchable case notes available on our website www.ombudsmen.parliament.nz. In 2009/10 the Practice Guidelines page on our website was viewed 11,747 times. We also introduced an online working day calculator to facilitate easy and accurate calculation of maximum response times. The response calculator was viewed 848 times.

We did not publish any Ombudsmen's Quarterly Review newsletters in the reporting year. We are keen to develop communication programmes and products that are relevant, and deliver appropriately targeted guidance and information in fit-for-purpose formats. In the short term, we have begun to issue key findings and principles directly onto our website. Two findings and one principle were published this year.

We also produced:

- an introduction to our monitoring functions under the Crimes of Torture Act for dissemination to staff at places of detention;
- a recommended checklist for agencies processing official information requests, available on our website and handed out in conjunction with our training sessions;
- a quick guide to agencies' legal requirements and obligations under the official information legislation, which is also handed out in conjunction with our training sessions.

Public awareness and accessibility

One of our priorities is to improve public awareness of our role and the services we provide, and make access to our guidance and information resources and services easy for all New Zealanders. We undertake a range of public awareness-related activities, including:

- conducting presentations and workshops;
- publishing information and resources; and
- maintaining a website so people can access information and resources electronically.

Presentations and workshops

In addition to the training programme detailed above, we delivered 20 presentations and workshops on the role of the Ombudsmen to community groups, students, and media organisations. These included:

- Community Law Centres, Citizens Advice Bureaux, Community Legal Education, the Maori Women's Welfare League, the 2010 Residents' Association Conference, and the New Zealand Diversity Forum;
- Massey University School of Journalism, Auckland University of Technology, Otago University, Victoria University, and the Students' Association Advocates Conference;
- Fairfax Media and the Southland Times.

Publications and website

Building an effective online presence is one of the key ways we hope to improve public awareness of and access to our services. In 2009/10 26,461 visitors accessed our website 42,822 times. This represents a 12.4 per cent increase in visitor numbers, and an 11 per cent increase in the number of visits from 2008/09 numbers.

We hope numbers will increase further with the launch of Complaintline in March 2010 (www.complaintline.org.nz). Complaintline is a gateway website for disputes resolution and investigation agencies that provide complaint resolution services. It was an initiative of the Disputes Investigation Group – a group of public and private sector disputes resolution and investigation agencies – of which we are a member. Complaintline received 2,868 visits up to 30 June 2010.

We continued to publish pamphlets on *"Making complaints about government agencies"*, *"Making requests for official information"*, *"A guide to the Protected Disclosures Act"*, *"Making complaints about the prison service"*, and *"Making complaints about government agencies"*. These are available in English, Maori, Samoan and traditional and simple Mandarin.

We produced a number of other pamphlets and handouts in 2009/10, including:

- an introduction to our monitoring functions under the Crimes of Torture Act;
- a quick guide for requesters seeking official information from government agencies;
- *"It's OK to complain"*, a pamphlet with simple advice on how to complain to state sector agencies;
- guidance on making complaints about Immigration New Zealand;
- guidance on making complaints about local authorities.

These publications are currently only provided on request or at events where Ombudsmen staff are presenting. They have not been produced for more widespread distribution to allow the review of the Office positioning and communications platform to take place in 2010/11.

We also contributed information on the role of the Ombudsmen to other publications, including:

- the Office for the Community & Voluntary Sector's e-newsletters;
- the Institute of Director's Boardroom magazine;
- the 19th edition of Community Help – the New Zealand Directory of Services;
- the New Zealand Official Yearbook 2010.

Clinics and tertiary visits

Clinics are visits to the regions where members of the public can meet with investigators and discuss their difficulties with central or local government agencies. In 2009/10 we held two regional clinics in Invercargill and Gore. Visits to tertiary institutions were suspended

because of the pressure of increased work on limited resources and a change in the strategic approach in how we deliver our services in the tertiary education sector. In lieu of the visits, we carried out the presentations discussed above, and senior staff attended the Student Advocacy Conference, and spoke to representatives of University Students' Associations at Lincoln University.

International relations and development

Our commitments in this area include:

- hosting visiting international delegations;
- participating in international Ombudsmen and Information Commissioner networks; and
- providing training and assistance to international Ombudsmen or Ombudsmen-type organisations, particularly in the Pacific region.

Delegations

In 2009/10, we received delegations from Japan, India, Vietnam, the People's Republic of China, Tonga, Samoa, Cook Islands, Niue, United Arab Emirates, Korea and Australia. The comparative experience New Zealand has to offer in reviewing administrative practice, enforcing freedom of information legislation, and monitoring places of detention continues to be of considerable interest to other countries.

Networks

The Ombudsmen maintain their awareness of international developments and trends through membership of the Australasian and Pacific Ombudsman Region of the International Ombudsman Institute, the Australia and New Zealand Ombudsman Association, and the Pacific Ombudsman Alliance (POA). Up to four meetings were held with each organisation this year that the Ombudsmen attended, in person or by way of teleconference. Senior staff of the Office also met regularly with their counterparts in Australia to maintain knowledge of developments in related jurisdictions, including two Deputy Ombudsman conferences in 2009/10.

Training and assistance

The Ombudsmen continue to provide training and development assistance, when possible, to countries in the Pacific region. In 2009/10 most of our efforts were directed toward the Cook Islands and Niue.

Cook Islands

As reported last year, we assisted the Cook Islands in the implementation of recently-adopted freedom of information legislation. In 2009/10 we provided additional assistance in the form of:

- a two-day training course for departmental staff on handling official information requests;
- on-the-ground investigation training and support for Ombudsman staff;
- subsequent off-shore support for Ombudsman staff in delivering further training courses for officials and investigating official information complaints.

In addition, one of our experienced investigators was selected from an international pool of nominees for a three month secondment to the Cook Islands Office of the Ombudsman,

funded by the POA. This provided the opportunity for our Office to share experiences, processes and procedures, and establish strong professional working relationships that allow for ongoing communication and support to be provided to the Cook Islands Ombudsman on a regular basis. The investigator's secondment ran from 27 May to 14 August 2009. Her subsequent report to the POA included the following observations:

- The most pressing issue for the office is limited human resources and funding. This will continue to be the main cause for ongoing issues in the area of workflow and timeliness of investigations.
- A systematic approach to investigations was developed and implemented, in collaboration with the Assistant Ombudsmen and the Ombudsman, structuring the investigation process from receipt and assessment of a complaint to completion, tailored for the needs and requirements of the Cook Islands. This provided a consistent approach to complaints and improved timeliness.
- The investigative capacity of the office was increased and a system of reporting on a prioritised work plan for open complaints was developed.
- Consideration should be given to a future POA placement in 6-12 months to assess how the new processes are working for the office, to make any further adjustments for the unique environment, and to continue the development of sustainable business procedures.

We understand that the Cook Islands Ombudsman reported to the POA Board that this was a very helpful exercise, with staff strengthened in their abilities to conduct investigations professionally.

Niue

As reported last year, Niue has developed a pilot programme with the support of the POA for an internal complaints handling system which will have the support of an external Ombudsman. The trial Complaint Handling Ombudsman-backed Scheme (CHOBS) began on 1 February 2010. Under the scheme, complaints against Niue government agencies may be made to the Chief Complaints Officer located within the Niue Ministry of Justice. We received a formal request for assistance from the Niue Government. In particular, Niue asked for:

- a senior official from our office to provide external support for the CHOBS;
- access to complaints handling and investigation advice;
- training of the CHOBS staff and liaison officers within government agencies;
- assistance in developing a public awareness programme;
- a review of the handling of the complaints during the trial; and
- facilitation of communications with other key New Zealand organisations who could also assist them.

The POA agreed to fund New Zealand's assistance. Our Deputy Ombudsman will be Niue's external Ombudsman support for the CHOBS. Two senior advisors from PPPAG travelled to Niue to provide on-the-ground assistance in June 2010.

The POA has pledged continuing support in setting up a complaints process for Niue, and ongoing training and support will continue to be provided where possible and appropriate by our Office.

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Organisational health and capability

Managing performance

Financial and asset management

Human resource management

Information management

Risk management

Organisational health and capability

The new management structure introduced to the operational arm of the Office early in 2009 is continuing to assist management of the investigative workload. Improved quality assurance mechanisms are being implemented to increase capability within the Office to respond to the many demands made of it. In particular the new structure is allowing the Office to take a more proactive approach to complaint resolution by improving the range and quality of resources available to agencies and complainants and allowing Ombudsmen to target wider systemic issues. Notwithstanding improvements made to the management structure, the very heavy current investigative workload will take considerable time to correct without additional resources.

During the coming financial year a review of the Office corporate services will be undertaken to ensure its structure and resourcing is relevant and capable of delivering core services in support of the operational arm of the Office.

Managing performance

In 2009/10 significant work was done by the Practice Leadership Team and the Policy and Professional Practice Advisory Group to improve quality assurance within the investigative process and more generally other work performed by the Office. This has included:

- more robust planning structures flowing from the establishment of the Practice Leadership Team and Policy and Professional Practice Advisory group;
- improved internal staff training structures, planning and delivery;
- improvements to reference resources available within the Office and to external agencies, as well as complainants;
- the ongoing review of current practices and policies to ensure they are relevant and support a professional and timely investigative process;
- the development of improved work management and prioritising tools.

The new work management and prioritising tools are being incorporated into the office case management system to assist allocation of resources between competing work priorities.

Financial and asset management

Improved processes for the review and allocation of resources provided by Parliament have been implemented during the past year. In addition to the normal line by line review of all budget items there is now greater engagement with the operational arm of the Office to ensure resources are put to best use.

"GreenTree" accounting and reporting software remains our primary accounting tool. The financial reports generated by the system have been modified to deliver more detailed information on a business unit basis. This contributes to more timely and informed decision making. 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 contributed to the effective use of the financial, human and other physical assets provided to the Office and in identifying potential problems at an early stage.

GSB SupplyCorp's range of service and supply contracts are used to gain benefit from group bulk purchase discounts wherever possible. Where a good or service is not available at contract rates, 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. A narrow range of products and services are used by the Office with most expenditure committed to personnel, accommodation and GST.

The audit of the Office accounts for the year ended 30 June 2010 did not identify any significant area of financial management requiring improvement but while that is so, the Office will work with our auditor, Deloitte, to enhance and improve financial and asset management wherever possible.

Previously Deloitte has commented on a need to improve the Office Statement of Intent. It noted a confusion between outputs and outcomes and between performance measures and activities. A great deal of work tied to outcomes modelling has been done during the reporting year to improve the quality and content of the Office Statement of Intent for 2010 and outyears. Deloitte has indicated that the 2010 Statement represents a significant improvement on previous publications. Further work is planned in relation to the appropriateness of performance measures and the application of those measures to the day to day activities of the Office. Our Office is open to suggestions about how to further improve its accountability, transparency and performance.

Our senior staff work closely with the Treasury and Deloitte to ensure a “no surprises” policy. The liaison allows the Office 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 the Ombudsmen’s working environment and issues that may or will impact on performance and delivery of our functions.

Human resource management

We commenced a major review of corporate and human resource policies late in the 2008/09 reporting year with the intention that the review would be completed before 30 June 2010. The purpose of the review is twofold:

- to ensure current best practice in human resource management;
- that human resource policies and delegations are harmonised with the new management structure – ultimately to ensure they contribute to and support the operational aims of the Office.

In the event the timeline for completion of the work proved too ambitious for the resources able to be committed. The draft policies are presently in staff consultation phase with the project expected to be completed by December 2010.

Only three staff departed the Office during the year. One investigator retired, one support person resigned to care for family, and another took up employment with an organisation offering full time employment. It was necessary that new appointments be made to all three positions.

From an organisational perspective the current downturn in the economy has assisted with the retention of our skilled workforce. However, employment pressures are building particularly in regard to staff remuneration expectations and a general awareness that salary ranges within the Office have not been adjusted for three years.

Approximately 20 per cent or 14 staff participate in job sharing or reduced hours of employment

arrangements. Most requests are to allow a better balance between work and personal life. Wherever possible these requests have been agreed to, providing the performance objectives of the Office can continue to be met.

The employment agreement with our staff provides for an “open ended” sick leave entitlement, subject to Chief Ombudsman’s review if the illness is one where the employee is unlikely to be able to return to work in the medium to long term future. The following table records sick leave taken during each of the past six calendar years:

	1 July to 30 June					
	2005	2006	2007	2008	2009	2010
Total leave days taken	279	217	204	257	269.4	405 ¹²
Employees in period (FTE's)	50	47	52	60	63	63 ¹³
Average days/employee	5.58	4.63	3.93	4.1	4.28	6.43

For the 12 months ended 30 June 2010 the absentee rate for staff was:

405 actual days sick leave

247 working days x 63 staff = 15,561 possible working days

= 2.60 per cent (last year 1.8 per cent).

We encourage staff health and wellbeing through proactive initiatives including offering annual influenza inoculations, access to professional counselling services and eyesight and “wellness checkups”. The “wellness checkups” focus on general health and assist staff with identifying lifestyle changes that may be beneficial to them. We also encourage staff to take at least one period of 10 consecutive days leave for rest and revitalisation.

The Office comprised 68 individuals (63 Full Time Equivalents - includes the Ombudsmen). The distribution of staff on a FTE basis was as follows:

	Auckland	Wellington	Christchurch	Totals
Staff				
Corporate roles	1.9	12	1.9	15.8
Investigating, Policy and Professional Practice	7	35.2	5	47.2
Total FTEs	8.9	47.2	6.9	63

The staff of the Office is relatively long serving with 46 per cent (last year 44 per cent) having completed five or more years service.

	<=1 year	>1 and <=2 years	>2 and <=5 years	>5 and <=10 years	>10 years	Total
Number of staff	5	18	14	15	16	68

Staff performance is formally reviewed as at 1 July each year. A more transparent performance review and development system has been prepared and staff are being consulted about its use. The performance measures being developed as part of the Office outcomes modelling project are intended to be more closely linked to personal performance indicators. Work is expected to be completed on this project during the 2010/11 reporting year.

¹² This includes periods of more serious illness affecting five staff that in aggregate total 120 days sick leave.

¹³ Includes the Ombudsmen.

Information management

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A comprehensive information management strategy aimed at supporting investigations staff to progress the work of the Office in a professional and timely manner has been developed and is in progressive implementation. The strategy includes projects in support of achieving best practice in record keeping and information retrieval and assisting the Office to achieve compliance with the requirements of the Public Records Act.

The replacement of the Office's 17 year old case management system was completed and rolled out during September and October 2009. Few problems were experienced during the roll out phase and since then changes made to the system have largely reflected the need to support the new management structure of the Office. The entire database of investigations held on the old case management system has been migrated to the new system. A post implementation review of the new system was delayed pending the integration of new requirements in support of the revised management structure and is scheduled to commence early in the new reporting year.

The Office's information technology systems are reasonably current. We generally maintain system software at the next most current version. This methodology allows time for users to identify problems and vendors time to correct bugs and similar faults that are routinely present in new software releases. Virus and system security updates are the general exception. System security must be maintained at the most current level possible.

We experienced very little system down time over the past year. When systems did fail, in most instances it was a consequence of an external fault at internet or communications supplier level.

Risk management

We have developed strategies and initiatives for the management and mitigation of risks that appear more probable. These include:

- The introduction of a Practice Leadership Team that meets regularly to assess new work, establish priorities, allocate work and act as a focal point for identifying professional practice issues.
- The ongoing review of professional practice and procedures within the Office, review and updating of support systems and information available to investigators and to external agencies.
- The implementation of staff training and development structures that lessen the risk of performance loss when subject knowledge is held by too few staff.
- The development and delivery of training modules to external agencies that assists their consideration of complaints and requests for official information. This helps to manage down the caseload of work that might otherwise be referred to our Office.
- A "code of conduct" by which all members of the Office are expected to abide, including amending employment agreements for new staff to include declarations concerning the truthfulness and accuracy of information they provide in support of their employment application.
- Physical security of our offices and for our staff when meeting with complainants. Some complainants are emotionally stressed by the time they request Ombudsman assistance or find it difficult to consider any discussion that runs counter or which they perceive to run counter to their own view of what the outcome of an Ombudsman investigation ought to be.

- Self funding of any minor equipment losses that might occur. Limited external insurance arrangements have been put in place to provide for the replacement of equipment, furnishings, fittings and additional operational costs that might be incurred in a disaster situation or because of major disruption.
- Computer database security through use of RAID 5 level redundancy for all computer network servers. Weekly and end of month backup tapes sent “off site” and “out of centre”. The weekly tapes are recycled at four weekly intervals and the monthly tapes on a six monthly cycle. Daily backups (excluding the weekly tape) are retained on site and recycled once each week. The tapes retained in Wellington and off site and out of centre are held in secure fireproofed storage. Computer code associated with the new case management system is held in escrow.
- Measures have been implemented to provide for the continuation of services in most circumstances should systems or facilities in one of our offices fail. Examples are:
 - An integrated national telephone system where work may be redirected between offices.
 - Reassignment of the Office’s electronic information database to virtual environments that allow speedy recovery of office electronic information systems in the event of hardware failure.
 - Work is underway to ensure backup data connectivity between Auckland, Christchurch and Wellington offices in the event of a major data carrier disruption – e.g. a data cable being accidentally severed. Scoping work is also underway to identify the practicality and costs associated with maintaining a ‘live’ backup of the Office’s computer system outside of Wellington. This is to enable ongoing operations at Auckland and Christchurch offices in the event of a fire at the Wellington office.
 - Insurance cover to meet additional costs incurred, including for temporary alternative accommodation, as a consequence of a fire or seismic event.

Regardless of these precautions, a major seismic or similar event could potentially disrupt power and communication capabilities in the Wellington, Auckland or Christchurch regions to such an extent that the Office could only operate on a partial basis until full services were restored.

- Computer hardware is replaced on a four yearly cycle. This reduces the risk of hardware failure and ensures the main elements of our computer network have supplier backup and support services available.
- Emergency First Aid and Civil Defence equipment and supplies are provided for each office and to all staff; and we maintain a pool of staff holding current First Aid qualifications at each of our offices.



Beverley Wakem
Chief Ombudsman



David McGee
Ombudsman

6

Financial and performance information

Statement of responsibility

Audit report

Statement of objectives and service performance

Statement of comprehensive income

Statement of financial position

Statement of changes in taxpayers' funds

Statement of cash flows

Statement of commitments

Statement of contingent liabilities and contingent assets

Statement of departmental expenses and capital expenditure
against appropriations

Statement of unappropriated expenditure and capital expenditure

Expenses and capital expenditure incurred in excess of appropriation

Expenses and capital expenditure incurred without appropriation
or other authority

Breaches of projected departmental net assets schedule

Statement of trust monies

Notes to the financial statements

Statement of responsibility

In terms of the Public Finance Act 1989, I am responsible, as Chief Executive of the Office of the Ombudsmen, for the preparation of the Office's financial statements and the statement of service performance and for the judgements made in them.

I have the responsibility of establishing, and have established and maintained, a system of internal control procedures that provide a reasonable assurance as to the integrity and reliability of financial reporting.

In my opinion, these financial statements fairly reflect the financial position and operations of the Office of the Ombudsmen for the year ended 30 June 2010.



Beverley A Wakem
Chief Executive
30 September 2010



Peter Brocklehurst
General Manager Corporate
30 September 2010

AUDIT REPORT TO THE READERS OF THE OFFICE OF THE OMBUDSMEN'S FINANCIAL STATEMENTS AND PERFORMANCE INFORMATION FOR THE YEAR ENDED 30 JUNE 2010

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The House of Representatives has appointed Deloitte as auditor of the Office of the Ombudsmen ("the Office"). We have audited the financial statements on pages 64 to 91. The financial statements provide information about the past financial performance and statement of service performance of the Office and its financial position as at 30 June 2010. This information is stated in accordance with the accounting policies set out on pages 76 to 82.

Unqualified Opinion

In our opinion:

- The financial statements of the Office on pages 64 to 91:
 - comply with generally accepted accounting practice in New Zealand; and
 - give a true and fair view of:
 - the Office's financial position as at 30 June 2010; and
 - the results of its operations and cash flows for the year ended on that date.
- The statement of service performance of the Office on pages 64 to 68:
 - complies with generally accepted accounting practice in New Zealand; and
 - fairly reflects for each class of outputs:
 - its standards of delivery performance achieved, as compared with the forecast standards outlined in the statement of forecast service performance adopted at the start of the financial year; and
 - its actual revenue earned and output expenses incurred, as compared with the forecast revenues and output expenses outlined in the statement of forecast service performance adopted at the start of the financial year.
- Based on our examination the Office kept proper accounting records.

The audit was completed on 30 September 2010, and 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 the Auditor, and explain our independence.

Basis of Opinion

We carried out the audit in accordance with the Auditor-General's Auditing Standards, which incorporate the New Zealand Auditing Standards.

We planned and performed the audit to obtain all the information and explanations we considered necessary in order to obtain reasonable assurance that the financial statements did not have material misstatements, whether caused by fraud or error.

Material misstatements are differences or omissions of amounts and disclosures that would affect a reader's overall understanding of the financial statements. If we had found material misstatements that were not corrected, we would have referred to them in our opinion.

The audit involved performing procedures to test the information presented in the financial statements. We assessed the results of those procedures in forming our opinion.

Audit procedures generally include:

- determining whether significant financial and management controls are working and can be relied on to produce complete and accurate data;
- verifying samples of transactions and account balances;
- performing analyses to identify anomalies in the reported data;
- reviewing significant estimates and judgements made by the Ombudsmen;
- confirming year-end balances;
- determining whether accounting policies are appropriate and consistently applied; and
- determining whether all financial statement disclosures are adequate.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements.

We evaluated the overall adequacy of the presentation of information in the financial statements and statement of service performance. We obtained all the information and explanations we required to support our opinion above.

Responsibilities of the Chief Ombudsman and the Auditor

The Chief Ombudsman is responsible for preparing financial statements and statement of service performance in accordance with generally accepted accounting practice in New Zealand. Those financial statements must give a true and fair view of the financial position of the Office as at 30 June 2010. They must also give a true and fair view of the results of its operations and cash flows for the year ended on that date. The statement of service performance must fairly reflect, for each class of outputs, the Office's standards of delivery performance achieved and revenue earned and expenses incurred, as compared with the forecast standards, revenue and expenses adopted at the start of the financial year. The Chief Ombudsman's responsibilities arise from sections 45A and 45B of the Public Finance Act 1989.

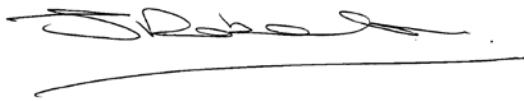
We are responsible for expressing an independent opinion on the financial statements and statement of service performance and reporting that opinion to you. This responsibility arises from section 45D(2) of the Public Finance Act 2001, section 15 of the Public Audit Act 2001 and section 31A of the Ombudsmen Act 1975.

Independence

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When carrying out the audit we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the Institute of Chartered Accountants of New Zealand.

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



DELOITTE
CHARTERED ACCOUNTANTS
WELLINGTON

Matters relating to the electronic presentation of the audited financial statements.

This audit report relates to the financial statements of the Office of the Ombudsmen for the year ended 30 June 2010 included on the Office's website. The Chief Ombudsman is responsible for the maintenance and integrity of the Office's website. We have not been engaged to report on the integrity of the Office's website. We accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the website.

The audit report refers only to the financial statements named above. It does not provide an opinion on any other information which may have been hyperlinked to/from these financial statements. If readers of this report are concerned with the inherent risks arising from electronic data communication they should refer to the published hard copy of the audited financial statements and related audit report dated 30 September 2010 to confirm the information included in the audited financial statements presented on this website.

Legislation in New Zealand governing the preparation and dissemination of financial statements may differ from legislation in other jurisdictions.

Statement of objectives and service performance for the year ended 30 June 2010

Quantity, quality and cost of the investigation and resolution of complaints about government administration

The following table is a summary of complaints and enquiries received and under investigation during the twelve months ended 30 June 2010 together with comparative statistics for the past four years:

	2005/06	2006/07	2007/08	2008/09	2009/10
On hand as at 1 July	854	994	918	1,040	1,330
Adjustment	-	-	105	(5)	14¹⁴
Received during the year	9,708	9,090	8,808	9,150	9,950
Total under investigation	10,562	10,084	9,831	10,185	11,294
Completed during the year	(9,568)	(9,166)	(8,791)	(8,855)	9,574
On hand at 30 June	994	918	1,040	1,330	1,720

Of the 9,950 complaints and requests for assistance received in the year ended 30 June 2010, 6,400 were enquiries made by the general public (1,271) or complaints concerning the Department of Corrections (5,129¹⁵). The Office's Early Assistance Group (EAG) dealt with 4,149¹⁶ enquires and complaints. Complaints and enquiries actioned by EAG are generally more open to an early resolution through use of informal processes. The remaining 5,801 complaints and requests often involve a higher level of resource commitment because they are more sensitive or complex or involve the review of significant amounts of information.

Demand for investigations in other areas of our jurisdiction and with regard to requests made under the official information legislation has increased relative to recent past reporting periods. The reasons for increased demand are unclear.

The bulk of the Office's financial and staff resources are committed to in-depth investigations under the Ombudsmen Act and official information legislation that require more time to complete.

The quality of investigation is maintained with the personal involvement of an Ombudsman in every investigation that requires a provisional or final opinion. An Ombudsman signs all correspondence that provides a provisional or final opinion on a particular matter.

¹⁴ These are complaints found to have been received prior to 30 June 2009 but were not counted as incomplete at the end of the 2008/09 reporting year.

¹⁵ Includes 1156 enquiries, 3095 OA complaints, 38 OIA complaints and 10 others.

¹⁶ Includes 3,387 concerning the Department of Corrections.

The following performance measures were applicable throughout the 2009/10 year:

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Performance Measures	Budget Standard	2009/10 Actual	2008/09 Actual
Raising Awareness and Increasing Accessibility			
Make operational visits (clinics) by staff and Ombudsmen to local authorities and smaller population centres	Meet	Met	Met
Make presentations to community groups on the role of the Ombudsmen and their jurisdiction	Meet	Met	Met
An average of 2 visits by investigating staff to each of the 40 public sector tertiary institutions throughout New Zealand	100%	Not Met¹⁷	Not Met
Publishing information pamphlets on the functional role of the Ombudsmen and their jurisdiction to schools, service groups, government bodies at central, regional and local level and to other users or potential users of the Ombudsmen's services	25	Met	Met
Publishing the Office's Annual Report to the House of Representatives and financial statements and any other reports appropriate for public release	Meet	Met	Met
Publishing the Ombudsmen's report as National Preventive Mechanism for prisons, immigration, child, youth and mental health detention centres	Meet	Met	Met
Maintaining a presence on the internet and providing information and resources relating to the Ombudsman role within New Zealand	Meet	Met	Met
Preparing and distributing the Ombudsmen's Quarterly Review (Te Arotake) and Practice Guidelines to make available information about the Ombudsmen's general approach to major issues which come before them	Meet	Not Met¹⁸	Not Met
Preparing and distributing the Case Notes of the Ombudsmen on a quarterly basis	4	Not Met¹⁸	Not Met
Quality, Professional and Unbiased Investigation of Complaints			
All complaints to be investigated by suitably qualified and trained staff	Meet	Met	Met
All final opinions on complaints are to be made or drawn by an Ombudsman ¹⁹	Meet	Met	Met

¹⁷ Visits to tertiary institutions were suspended because of the pressure of increased work on limited resources and a change in strategic approach in how we deliver our services in the tertiary education sector.

¹⁸ See page 49.

¹⁹ This is where an investigation is finalised with an Ombudsman forming a final opinion on whether or not the complaint is sustained. In 2009/10 the Ombudsmen formed final opinions in 189 OA cases and 335 official information cases. See the statistics on pages 97, 100 and 103 for more detail about how we disposed of complaints and enquiries received.

Report of the Ombudsmen

Part 6 Financial and performance information

Performance Measures	Budget Standard	2009/10 Actual	2008/09 Actual
Regularly conduct a survey of randomly selected complainants and government agencies about the perceived professionalism and timeliness of the Ombudsmen's investigations	Meet	Not Met²⁰	Met
Maintain an internal review process for particularly complex complaints or those identified as having policy implications	Meet	Met	Met
Quantity			
Complete investigations under the Ombudsmen Act 1975	7,200	8,250	7,435
Complete investigations under the Official Information Act 1982	1,300	800	754
Complete investigations under the Local Government Official Information and Meetings Act 1987	180	282	202
Provide guidance and information under the Protected Disclosures Act 2000	15	8	6
Complete between 10 and 15 inspections of detention facilities under the Crimes of Torture Act 1989 and United Nations Convention Against Torture and publishing of inspection reports	10 - 15	17²¹	108
Investigations open at year end	800 - 900	1,720	1,344
Conduct preliminary consideration or investigation of complaints later found to be outside the Ombudsmen's jurisdiction	505	234	458
Timeliness of Investigation - Average Number of Working Days to Complete an Investigation			
Ombudsmen Act 1975 - general complaints	62	69²²	59
Ombudsmen Act 1975 - prisoner complaints	10	16²³	7
Official Information Act 1982	72	120	97
Local Government Official Information and Meetings Act 1987.	54	72	61
Protected Disclosures Act 2000	-	105	26

²⁰ The next biennial survey is not scheduled to commence until late 2010.

²¹ Comprises 10 inspections and seven scoping visits to health and disability places of detention, prisons, court cells, and child care and protection residences.

²² 1,287 enquiries completed informally by EAG and investigative staff have been excluded from average "timeliness" calculations because the majority are resolved by telephone or email communication on the same day as they are received. They did not require any investigation by our staff.

²³ Excludes 1,129 enquiries by prisoners, prisoner advocates and prison staff. They did not require any investigation by our staff.

Performance Measures	Budget Standard	2009/10 Actual	2008/09 Actual
Timeliness of Investigation - Age Profile as at 30 June 2010 of Open (incomplete) Complaint Investigations from Date of Receipt			
Ombudsmen Act 1975 - general complaints			
- Open complaints 6 months and under	90%	46%	60%
- Open complaints 7 to 9 months	5%	14%	13%
- Open complaints 10 to 12 months	3%	14%	10%
- Open complaints >12 months	2%	26%	17%
Ombudsmen Act 1975 - prisoner complaints			
- Open complaints 6 months and under	99%	83%	84%
- Open complaints 7 to 9 months	1%	11%	9%
- Open complaints 10 to 12 months	- %	3%	6%
- Open complaints >12 months	- %	3%	1%
Official Information Act 1982			
- Open complaints 6 months and under	80%	45%	64%
- Open complaints 7 to 9 months	6%	13%	11%
- Open complaints 10 to 12 months	4%	17%	6%
- Open complaints >12 months	10%	25%	19%
Local Government Official Information and Meetings Act 1987			
- Open complaints 6 months and under	88%	70%	81%
- Open complaints 7 to 9 months	7%	13%	6%
- Open complaints 10 to 12 months	4%	4%	3%
- Open complaints >12 months	1%	13%	10%
Protected Disclosures Act 2000			
- Open requests for guidance and assistance 6 months and under	100%	- %	67%
- Open requests for guidance and assistance 10 to 12 months	- %	- %	- %
- Open requests for guidance and assistance >12 months	- %	100%	33%
Timeliness of Investigation - Age Profile as at 30 June 2010 of Completed Complaint Investigations from Date of Receipt			
Ombudsmen Act 1975 - general complaints			
- Completed complaints 6 months and under	90%	87%	94%
- Completed complaints 7 to 9 months	5%	5%	3%
- Completed complaints 10 to 12 months	3%	2%	1%
- Completed complaints >12 months	2%	6%	2%
Ombudsmen Act 1975 - prisoner complaints			
- Completed complaints 6 months and under	95%	98%	100%
- Completed complaints 7 to 9 months	3%	1%	- %
- Completed complaints 10 to 12 months	1%	1%	- %
- Completed complaints >12 months	1%	- %	- %

Report of the Ombudsmen

Part 6 Financial and performance information

Performance Measures	Budget Standard	2009/10 Actual	2008/09 Actual
Official Information Act 1982			
- Completed complaints 6 months and under	80%	74%	76%
- Completed complaints 7 to 9 months	6%	11%	12%
- Completed complaints 10 to 12 months	4%	5%	6%
- Completed complaints >12 months	10%	10%	6%
Local Government Official Information and Meetings Act 1987			
- Completed complaints 6 months and under	80%	86%	89%
- Completed complaints 7 to 9 months	6%	7%	7%
- Completed complaints 10 to 12 months	4%	3%	2%
- Completed complaints >12 months	10%	4%	2%
Protected Disclosures Act 2000			
- Completed requests for guidance and assistance within 6 months	100%	88%	100%
- Completed requests for guidance and assistance >12 months	-%	12%²⁴	-%

The cost of investigation and resolution of complaints concerning government agencies for the period under review was approximately \$8,018 million excluding GST.

The total cost of Vote: Ombudsmen

30/6/09 Actual \$(000)		30/06/10 Actual \$(000)	30/06/10 Main Estimates \$(000)	30/06/10 Supplementary Estimates \$(000)
7,638	Crown Revenue	8,018	8,018	8,018
1	Other Revenue	-	-	-
-	Interest	-	-	-
7,639	Total Revenue	8,018	8,018	8,018
(7,475)	Total Expenses	(8,018)	(8,018)	(8,018)
164	Net Surplus	-	-	-

Figures are GST exclusive.

²⁴ The 12 per cent relates to a file used for managing PDA matters and not an investigation.

Statement of comprehensive income for the year ended 30 June 2010

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30/6/09 Actual			30/06/10 Actual	30/06/10 Main Estimates	30/06/10 Supplementary Estimates (See Note 1)
\$(000)		Notes	\$(000)	\$(000)	\$(000)
	Revenue				
7,638	Crown		8,018	8,018	8,018
<u>1</u>	Other		<u>-</u>	<u>-</u>	<u>-</u>
<u>7,639</u>	Total Revenue		8,018	8,018	8,018
	Expenses				
5,399	Personnel costs	2	6,024	6,428	6,428
1,920	Other operating costs	3	1,800	1,427	1,427
131	Depreciation and amortisation	4	169	137	137
<u>25</u>	Capital Charge	5	<u>25</u>	<u>26</u>	<u>26</u>
<u>7,475</u>	Total Expenses		8,018	8,018	8,018
<u>164</u>	Surplus and Comprehensive Income for the year		<u>-</u>	<u>-</u>	<u>-</u>

The accompanying accounting policies and notes on pages 76 to 91 form part of these financial statements

Statement of financial position as at 30 June 2010

30/6/09 Actual \$(000)		Notes	30/06/10 Actual \$(000)	30/06/10 Main Estimates \$(000)	30/06/10 Supplementary Estimates \$(000)
	Assets				
	<i>Current assets</i>				
651	Cash		521	294	410
32	Prepayments		42	18	18
4	Debtors and other receivables		1	-	-
687	Total current assets		564	312	428
	<i>Non-current assets</i>				
489	Property, plant and equipment	6	412	478	421
	Intangible assets				
41	- Software	7	95	33	99
530	Total non-current assets		507	511	520
1,217	Total assets		1,071	823	948
	Liabilities				
	<i>Current liabilities</i>				
263	Creditors and other payables	8	241	159	159
164	Repayment of surplus	9	-	-	-
411	Employee entitlements	10	487	300	410
838	Total current liabilities		728	459	569
	<i>Non-current liabilities</i>				
50	Employee entitlements	10	14	35	50
888	Total liabilities		742	494	619
329	Net assets		329	329	329
	Taxpayers' funds				
329	General funds	11	329	329	329
329	Total taxpayers' funds		329	329	329

The accompanying accounting policies and notes on pages 76 to 91 form part of these financial statements

Statement of changes in taxpayers' funds for the year ended 30 June 2010

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30/6/09 Actual			30/06/10 Actual	30/06/10 Main Estimates	30/06/10 Supplementary Estimates
\$(000)		Notes	\$(000)	\$(000)	\$(000)
<u>329</u>	Taxpayers' funds as at 1 July 2009		<u>329</u>	<u>329</u>	<u>329</u>
164	Surplus and comprehensive income for the year		-	-	-
<u>164</u>	Repayment of net surplus to the Crown		<u>-</u>	<u>-</u>	<u>-</u>
<u>-</u>	Movements in taxpayers' funds for the year		<u>-</u>	<u>-</u>	<u>-</u>
<u>329</u>	Taxpayers' funds as at 30 June 2010		<u>329</u>	<u>329</u>	<u>329</u>

The accompanying accounting policies and notes on pages 76 to 91 form part of these financial statements

Statement of cash flows for the year ended 30 June 2010

30/6/09 Actual			30/06/10 Actual	30/06/10 Main Estimates	30/06/10 Supplementary Estimates
\$(000)		Notes	\$(000)	\$(000)	\$(000)
	Cash flow – operating activities				
	Cash provided from supply of outputs to:				
7,638	- Crown		8,018	8,018	8,018
<u>1</u>	- other revenue		<u>-</u>	<u>-</u>	<u>-</u>
<u>7,639</u>			8,018	<u>8,018</u>	<u>8,018</u>
	Cash disbursed to produce outputs:				
(5,317)	- payments to employees		(5,984)	(6,428)	(6,429)
(1,848)	- payments to suppliers		(1,829)	(1,427)	(1,517)
(25)	- payment for capital charge		(24)	(26)	(26)
<u>(7,190)</u>			(7,837)	<u>(7,881)</u>	<u>(7,972)</u>
<u>449</u>	<i>Net cash from operating activities</i>	12	181	<u>137</u>	<u>46</u>
	Cash flow – investing activities				
	Cash disbursed for the purchase of:				
(330)	- property, plant and equipment		(74)	(119)	(55)
(30)	- intangible assets - software	7	(72)	(4)	(68)
<u>(360)</u>	<i>Net cash from investing activities</i>		(146)	<u>(123)</u>	<u>(123)</u>
	Cash flow – financing activities				
	Cash provided from:				
-	- capital contributions		-	-	-
	Cash disbursed to:				
(52)	- repayment of net surplus		(165)	<u>-</u>	(164)
<u>(52)</u>	<i>Net cash from financing activities</i>		(165)	<u>-</u>	<u>(164)</u>
37	Net Increase /(decrease) in cash		(130)	14	(241)
<u>614</u>	Cash at beginning of the year		651	<u>280</u>	<u>651</u>
<u>651</u>	Cash at end of the year		<u>521</u>	<u>294</u>	<u>410</u>

The accompanying accounting policies and notes on pages 76 to 91 form part of these financial statements

Statement of commitments as at 30 June 2010

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Non-cancellable operating lease commitments

The Office leases accommodation space 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 lease agreements are long-term and non-cancellable until expiry. 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.

30/6/09 Actual \$(000)		30/6/10 Actual \$(000)
	Operating lease commitments	
639	Less than one year	700
639	One to two years	700
830	Two to five years	203
—	More than five years	—
<u>2,108</u>	Total operating lease commitments	<u>1,603</u>

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

Other non-cancellable commitments

Nil.

Capital commitments

The Office does not have any capital commitments as at 30 June 2010 (2009 Nil).

Statement of contingent liabilities and contingent assets as at 30 June 2010

Quantifiable contingent liabilities

The Office does not have any contingent liabilities or contingent assets as at 30 June 2010 (2009 Nil).

The accompanying accounting policies and notes on pages 76 to 91 form part of these financial statements

Statement of departmental expenses and capital expenditure against appropriations for the year ended 30 June 2010

30/6/09 Actual \$(000)		30/6/10 Actual \$(000)	Appropriation		
			30/6/10 Final Voted \$(000)	Supp. Estimates Changes \$(000)	Budget Night Voted \$(000)
	Vote Ombudsmen				
	Appropriation for Output Expenses Investigation and resolution of complaints about government administration				
6,854	Annual Appropriation for Office of the Ombudsmen	7,403	7,407	-	7,407
621	Other Expenses to be incurred by the Office: Ombudsmen remuneration	615	611	-	611
7,475	Sub Total	8,018	8,018	-	8,018
360	Appropriation for Capital Expenditure	146	123	-	123
7,835	Total	8,164	8,141	-	8,141

This includes adjustments made during Supplementary Estimates and transfers under section 26A of the Public Finance Act 1989.

Statement of unappropriated expenditure and capital expenditure for the year ended 30 June 2010

30/06/09 Actual \$(000)		30/06/10 Actual \$(000)	30/06/10 Appropriation Voted \$(000)	30/06/10 Unappropriated Expenditure Actual \$(000)
6,854	Investigation and resolution of complaints about government administration	7,403	7,407	-
360	Appropriation for Capital Expenditure	146	123	-

The appropriation Voted includes adjustments made in the Supplementary Estimates. No Supplementary Estimates were requested or approved for the 2009/10 financial year. Capital expenditure is funded by Permanent Legislative Authority and therefore is not unappropriated expenditure.

Expenses and capital expenditure incurred in excess of appropriation and subsequently approved under section 26B of the Public Finance Act 1989

Nil.

The accompanying accounting policies and notes on pages 76 to 91 form part of these financial statements

Expenses and capital expenditure incurred without appropriation or other authority

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Nil.

Breaches of projected departmental net assets schedules

Nil.

Statement of trust monies for the year ended 30 June 2010

The Office of the Ombudsmen did not manage or hold any trust monies in the reported financial year.

The accompanying accounting policies and notes on pages 76 to 91 form part of these financial statements

Notes to the financial statements

Statement of accounting policies for the year ended 30 June 2010

Reporting entity

The Office of the Ombudsmen 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 pages 16-17 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 for the purposes of New Zealand equivalents to International Financial Reporting Standards (NZ IFRS).

The financial statements of the Office are for the year ended 30 June 2010. The financial statements were authorised for distribution by the Chief Executive on 30 September 2010.

Basis of preparation

The financial statements of the Office have been prepared in accordance with the requirements of the Public Finance Act 1989, which includes 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 NZ GAAP. They comply with NZ IFRS, and other applicable financial reporting standards, as appropriate for public benefit entities. The financial statements have been prepared on the historical cost basis.

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 the New Zealand dollar.

Standards and interpretations effective in the current period

NZ IAS 1 (Revised) Presentation of Financial Statements (effective for accounting periods beginning on or after 1 January 2009)

Changes to NZ IAS 1 have impacted disclosures relating to recognised income and expenses for the Office. All recognised income and expenses have been recognised in the statement of comprehensive income, separately from taxpayers' funds. The revised standard also includes changes to presentation and disclosure requirements.

Early adoption of standards and interpretations

NZ IAS 24 (revised) Related Party Disclosures (effective for accounting periods beginning on or after 1 January 2011)

The Office has elected to adopt early NZ IAS 24. The amendments simplify the disclosure requirements for entities that are controlled, jointly controlled or significantly influenced by a government (referred to as government-related entities) and have been applied at Note 17.

Standards and interpretations in issue not yet adopted

At the date of authorisation of these financial statements, the following standards and interpretations were issued but not yet effective.

NZ IFRS 9 Financial Instruments

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The standard introduces new requirements for the classification and measurement of financial assets and is effective from 1 January 2013. All recognised financial assets that are currently in the scope of IAS 39 will be measured at either amortised cost or fair value. In order for financial assets to be measured at amortised cost certain criteria must be met.

Initial application of this standard is not expected to have any material impact on the amounts reported or disclosures made by the Office.

All other standards which are on issue but not yet effective are not expected to apply to operations of the Office.

Revenue

The Office derives revenue through the provision of outputs to the Crown for services to third parties. Revenue is measured at the fair value of the consideration received. Such revenue is recognised when earned and is reported in the financial period to which it relates.

Sale of publications

Sale of publications are recognised when the product is sold to the customer. The recorded revenue is the gross amount of the sale.

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.

Premises are leased for office accommodation at Auckland, Wellington and Christchurch. As all the risks and ownership are retained by the lessors, these leases are classified as operating leases and charged as expenses in the period in which they are incurred.

Finance leases

The Office is not party to any finance leases.

Financial instruments

Financial assets are all classified as 'Loans and Receivables'. Loans and Receivables are measured at amortised cost.

The Office is party to financial instruments as part of its normal operations. These financial instruments include bank accounts and debtors and creditors. The Office does not enter into derivative contracts.

A letter of credit exists between the Office and ASB Management Services Limited, a division of ASB Bank, to allow the bank to recover payroll costs from the Office Westpac bank account.

Loans and receivables

Debtors and other receivables are initially measured at fair value and subsequently measured at amortised cost using the effective interest rate, less impairment changes. Impairment of a receivable is established when there is objective evidence that the Office will not be able to collect amounts due according to the original terms of a receivable. The amount of the impairment is the difference between the assets carrying amount and the present value of estimated future cash flows, discounted using the original effective interest rate. The carrying amount of the asset is reduced through the use of an allowance account, and the amount of the loss is recognised in the statement of financial performance. Overdue receivables that are renegotiated are reclassified as current (i.e. not past due).

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 recorded as an asset if, and only if, 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 recognised at its cost. Where an asset is acquired at no cost, or at nominal cost, it is recognised at fair value as at the date of acquisition.

Disposals

Gains and losses on disposal are determined by comparing the proceeds with the carrying amount of the asset. Gains and losses on disposals are included in the statement of financial performance. When revalued assets are sold, the amounts included in property, plant and equipment 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.

Depreciation

Depreciation is provided on a straight-line basis on all property, plant and equipment, at rates that will write-off the cost 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:

Leasehold improvements	Balance of lease term	
Computer equipment	4 years	25%
Plant and other equipment	5 years	20%
Furniture and fittings	5 years	20%

The cost of leasehold improvements is capitalised and amortised over the unexpired period of the lease or the estimated remaining useful lives of the improvements, whichever is the shorter.

The residual value of 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 associated with maintaining computer software are recognised as an expense when incurred. Costs that are directly associated with the development of software for internal use by the Office, are recognised as an intangible asset.

Staff training costs 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 statement of financial performance.

The useful lives and associated amortisation rates of major classes of intangible assets have been estimated as follows:

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

Impairment of non-financial assets

Intangible assets that have an indefinite useful life are not subject to amortisation and are tested annually for impairment. An intangible asset that is not yet available for use at the balance sheet date is tested for impairment annually.

Property, plant and equipment and intangible assets 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 amount. The recoverable amount is the higher of an asset's fair value less costs to sell and value in use.

Value in use is depreciated replacement cost for an asset where the future economic benefits or service potential of the asset are not primarily dependent on the asset's ability to generate net cash inflows and where the entity would, if deprived of the asset, replace its remaining future economic benefits or service potential.

If an asset's carrying amount exceeds its recoverable amount, the asset is impaired and the carrying amount is written down to the recoverable amount.

The total impairment loss is recognised in the statement of financial performance.

Creditors and other payables

Creditors and other payables are initially measured at fair value and subsequently measured at amortised cost using the effective interest method.

Employee entitlements

Short-term employee entitlements

Employee entitlements that the Office expects to be settled within 12 months of balance date are measured at nominal values 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 entitlements expected to be settled within 12 months.

The Office recognises a liability and an expense for bonuses where it is contractually obliged to pay them, or where there is a past practice that has created a constructive obligation.

Long-term employee entitlements

Entitlements that are payable beyond 12 months, 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. A weighted average return on government stock in the range 6.73 per cent for year one to 6.39 per cent for ten years and a salary inflation factor of 3 per cent per year were used. The discount rate is based on the weighted average of government bonds with terms to maturity similar to those of the relevant liabilities. The inflation factor is based on the expected long-term increase in remuneration for employees.

The Office's terms and conditions of employment do not include a provision for retirement leave. Long service leave is available to eight long serving staff under "grandfather" employment terms. Long service leave is not otherwise available to staff of the Office.

Superannuation schemes

Defined contribution schemes

Obligations for contributions to KiwiSaver and other Cash Accumulation schemes are recognised as an expense in the statement of financial performance as incurred.

Defined benefit schemes

For part of the 2009/10 reporting year the Office made contributions to the National Provident Fund Local Government Superannuation Scheme on behalf of one employee. No contribution will be made during 2010/11 or subsequent reporting years. The scheme is a multi-employer defined benefit scheme that is government guaranteed and closed to new membership.

Taxpayers' funds

Taxpayers' funds are the Crown's investment in the Office and are measured as the difference between total assets and total liabilities. Taxpayers' funds are disaggregated and classified as general funds and property, plant and equipment revaluation reserves.

Commitments

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Expenses yet to be incurred on non-cancellable contracts that have been entered into on or before balance date are disclosed as commitments to the extent that there are equally unperformed obligations.

Cancellable commitments that have penalty or exit costs explicit in the agreement on exercising that option to cancel are included 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, including 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 GST pursuant to Part 1 s 6(3)(c) of the Goods and Services Tax Act 1985.

Income tax

Public authorities are exempt from the payment of income tax in terms of the Income Tax Act 1994. Accordingly, no charge for income tax has been provided for.

Budget figures

The budget figures are those included in the Office Estimates of Expenditure for the year ended 30 June 2010 published by the Government in May 2009. The Office did not request or receive any Supplementary Estimates for the 2009/10 financial year.

Statement of cost accounting policies

The Office has determined the cost of outputs using the cost allocation system outlined below:

Direct costs are those costs directly attributed to an output. Indirect costs are those costs that cannot be identified in an economically feasible manner, with a specific output.

Direct costs are charged directly to outputs. Indirect costs are charged to outputs based on cost drivers and related activity/usage information. Depreciation and capital charge are charged on the basis of asset utilisation. Personnel costs are charged on the basis of actual time incurred. Property and other premises costs, such as maintenance, are charged on the basis of floor area occupied for the production of each output. Other indirect costs are assigned to outputs based on the proportion of direct staff costs for each output.

Judgements and estimations

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 judgements 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:

Long service leave

Note (10) provides an analysis of the exposure in relation to estimates and uncertainties surrounding the long service leave liability.

Annual leave

The cost of annual leave is based on accumulated accrued annual leave due to staff as at 30 June 2010 and is calculated using expected salaries payable at that date. The Office terms of employment do not provide for anticipated annual leave.

Critical judgements in applying the Office's accounting policies

Management has not exercised any critical judgements in applying the Office's accounting policies for the period ended 30 June 2010.

Statement of cash flows

Operating activities include cash received from all income sources of the Office and record the cash payments made for the supply of goods and services.

Investing activities are those activities relating to the acquisition and disposal of non-current assets.

Financing activities comprise capital injections by, or repayment of capital to, the Crown.

Cash and cash equivalents

Cash includes cash on hand and funds held in banks and is measured at its face value.

Changes in Accounting Policies

There has been no change in accounting policies during the period.

In Note (6) Plant, Property and Equipment, the 2009 figures have been reclassified in order to be comparative with the current year. The reclassification is not material and there is no impact on the financial statements.

1. Budget composition

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	Notes	30/6/10 Budget Night Forecasts \$(000)	30/6/10 Supp. Estimates Changes \$(000)	30/6/10 Budget Total \$(000)
Revenue				
Crown		8,018	-	8,018
Other		—	—	—
Total revenue		8,018	-	8,018
Expenditure				
Personnel costs	(2)	6,428	-	6,428
Operating costs	(3)	1,427	-	1,427
Depreciation & Amortisation	(4)	137	-	137
Capital charge	(5)	26	—	26
Total expenses		8,018	—	8,018
Net operating Surplus/(deficit)		—	—	—

2. Personnel costs

30/6/09 Actual \$(000)		30/6/10 Actual \$(000)	30/6/10 Main Estimates \$(000)	30/6/10 Supp. Estimates \$(000)
5,077	Salaries and wages	5,677	6,064	6,064
219	Employer contributions to staff superannuation	240	319	319
16	Accrued long service leave	10	-	-
35	Accrued annual leave	27	-	-
25	ACC levy	25	25	25
27	Other Personnel costs	45	20	20
<u>5,399</u>	Total Personnel costs	6,024	6,428	6,428

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

For part of the 2009/10 financial year the Office contributed to the now closed National Provident Fund Local Government Defined Benefit plan in respect of one employee. No contributions will be made during 2010/11 or subsequent financial years.

There were two Ombudsmen and 66 supporting staff (61 Full Time Equivalents) as at 30 June 2010.

Report of the Ombudsmen

Part 6 Financial and performance information

The remuneration received by the two Ombudsmen and staff paid \$100,000 or more from the Office budget as at 30 June was:

30/6/09 Actual Number in Band	Remuneration Band	30/6/2010 Actual Number in Band
1	\$320,000 to 329,999	1
1	\$270,000 to 279,000	1
-	\$170,000 to 179,000	1
1	\$160,000 to 169,000	1
1	\$150,000 to 159,999	-
1	\$140,000 to 149,999	1
-	\$130,000 to 139,000	2
2	\$120,000 to 129,999	2
2	\$110,000 to 119,999	3
4	\$100,000 to 109,999	2

The remuneration reported includes annual salary, any bonus paid, employer superannuation contributions, airport lounge membership and partial cost of home phone rentals.

3. Other operating expenses

30/06/09 Actual \$(000)		30/06/10 Actual \$(000)	30/06/10 Main Estimates \$(000)	30/06/10 Supp. Estimates \$(000)
638	Operating accommodation lease expenses	665	663	663
32	Accommodation costs - other	45	32	32
26	Audit fees	29	28	28
94	Publications, books and statutes	97	73	73
217	Travel	192	212	212
135	Communication costs	149	199	199
778	Other operating costs	623	220	220
1,920	Total operating costs	1,800	1,427	1,427

Increased costs under "Other operating costs" relative to the Main Estimates arose principally from the restructuring of the Office over the past 12 months and engagement of associated external assistance and expertise to assist with this work as well as increased operating costs generally.

4. Depreciation and amortisation

30/06/09 Actual \$(000)		30/06/10 Actual \$(000)	30/06/10 Main Estimates \$(000)	30/06/10 Supp. Estimates \$(000)
14	Furniture and Fittings	17	8	8
71	Plant and Equipment and Other	103	58	58
34	Computer Equipment	31	67	67
12	Intangible Assets – Software	18	4	4
131	Total	169	137	137

5. Capital charge

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The Office pays a capital charge to the Crown on its average taxpayers' funds as at 31 December and 30 June each year. The capital charge rate for the year ended 30 June 2010 was 7.5 per cent (2009: 7.5 per cent).

6. Plant, property and equipment

2010

	Notes	Plant and Equipment \$(000)	Leasehold improvements \$(000)	IT Equipment \$(000)	Furniture and Fittings \$(000)	Total \$(000)
Cost						
Balance at 30 June 2009		184	357	245	134	920
Additions		-	42	15	17	74
Disposals		—	—	—	—	—
Balance at 30 June 2010		184	399	260	151	994
Accumulated depreciation and impairment losses						
Balance at 30 June 2009		38	140	174	79	431
Depreciation		32	71	31	17	151
Disposals		—	—	—	—	—
Balance at 30 June 2010		70	211	205	96	582
Carrying amounts						
At 30 June 2009		146	217	71	55	489
At 30 June 2010		114	188	55	55	412

2009

	Notes	Plant and Equipment \$(000)	Leasehold improvements \$(000)	IT Equipment \$(000)	Furniture and Fittings \$(000)	Total \$(000)
Cost						
Balance at 30 June 2008		102	282	201	81	666
Additions		151	75	49	55	330
Disposals		(69)	—	(5)	(2)	(76)
Balance at 30 June 2009		184	357	245	134	920
Accumulated depreciation and impairment losses						
Balance at 30 June 2008		95	81	145	67	388
Depreciation		12	59	34	14	119
Disposals		(69)	—	(5)	(2)	(76)
Balance at 30 June 2009		38	140	174	79	431
Carrying amounts						
At 30 June 2008		7	201	56	14	278
At 30 June 2009		146	217	71	55	489

7. Intangible assets

2010

	Acquired Software \$(000)	Internally generated Software \$(000)	Total \$(000)
Cost or valuation			
Balance at 30 June 2009	86	-	86
Additions	-	72	72
Disposals	—	—	—
Balance at 30 June 2010	86	72	158
Accumulated amortisation and impairment losses			
Balance at 30 June 2009	45	-	45
Amortisation	14	4	18
Disposals	—	—	—
Balance at 30 June 2010	59	4	63
Carrying amounts			
At 30 June 2009	41	-	41
At 30 June 2010	27	68	95

2009

	Acquired Software \$(000)
Cost or valuation	
Balance at 30 June 2008	56
Additions	30
Disposals	—
Balance at 30 June 2009	86
Accumulated amortisation and impairment losses	
Balance at 30 June 2008	33
Amortisation	12
Disposals	—
Balance at 30 June 2009	45
Carrying amounts	
At 30 June 2008	23
At 30 June 2009	41

During the 2009/10 year the Office had an internally generated case management system but the system used redundant technology and now has no value. The system was replaced during September/October of the 2009/10 reporting year.

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

8. Creditors and other payables

87

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.

30/06/09 Actual \$(000)		30/06/10 Actual \$(000)
138	Trade creditors	53
63	GST payable	127
62	Other short-term liabilities	61
263	Total	241

9. Repayment of surplus

The Office completed the year with a surplus of \$36 (2009: \$164,000). Repayment of surplus is required by 31 October each year.

10. Employee entitlements

30/06/09 Actual \$(000)		30/06/10 Actual \$(000)
Current liabilities		
309	Annual leave	338
10	Long service leave	36
92	Superannuation, Superannuation Contribution Withholding Tax and salaries	113
411		487
Non current liabilities		
50	Long service leave	14
461	Total for employee entitlements	501

In 2009 the Office engaged AON consulting actuaries to determine the present value of the long service leave obligations for a group of eight staff who retain the entitlement as a "Grandfather" provision. 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.

In determining the appropriate discount rate AON considered the interest rates on NZ government bonds which have terms to maturity that match, as closely to possible, the estimated future cash outflows. The salary inflation factor has been determined after considering historical salary inflation patterns and after obtaining advice from an independent actuary.

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

11. Taxpayers' funds

30/6/09 Actual \$(000)		30/6/10 Actual \$(000)
	General funds	
329	Balance at 1 July	329
164	Net surplus	-
-	Capital contribution from the Crown	-
(164)	Provision for repayment of surplus to the Crown	-
329	General funds at 30 June	329

12. Reconciliation of net surplus to net cash from operating activities for the year ended 30 June 2010

30/6/09 Actual \$(000)		30/6/10 Actual \$(000)	30/6/10 Main Estimates \$(000)	30/6/10 Supp. Estimates \$(000)
164	Net surplus/(deficit)	—	—	—
	Add/(less) non-cash items			
131	Depreciation and amortisation expenses	169	137	133
131	Total non-cash items	169	137	133
	Add/(less) movements in working capital items			
12	(Inc)/dec prepayments	(10)	-	14
(4)	(Inc)/dec debtors	3	-	4
76	Inc/(dec) creditors and payables	(85)	-	(104)
90	Inc/(dec) employee entitlements	40	-	(1)
20	Inc/(dec) short term liabilities	-	-	-
(40)	Inc/(dec) GST	64	—	—
154	Net movement in working capital items	12	—	(87)
449	Net cash flows from operating activities	181	137	46

13. Contingencies

The Office does not have any contingent assets or liabilities as at 30 June 2010 (2009 Nil).

14. Financial instruments

The Office's activities expose it to a variety of financial instrument risks, including market risk, credit risk and liquidity risk. The Office has a series of policies to manage the risks associated with financial instruments and seeks to minimise exposure from financial instruments. These policies do not allow any transactions that are speculative in nature to be entered into.

Currency risk

Currency risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in foreign exchange rates.

The Office is not exposed to currency risk.

Interest rate risk

Interest rate risk is the risk that the fair value of a financial instrument will fluctuate, or the cash flows from a financial instrument will fluctuate, due to changes in market interest rates.

The Office has no interest bearing financial instruments and, accordingly, has no exposure to interest rate risk.

Credit risk

Credit risk is the risk that a third party will default on its obligation to the Office, causing the Office to incur a loss.

In the normal course of its business, credit risk arises from debtors and deposits with banks and derivative financial instrument assets.

The Office is only permitted to deposit funds with Westpac Government Business Branch, a registered bank. This entity has a Standard and Poor's credit rating of AA. For its other financial instruments, the Office does not have significant concentrations of credit risk.

The Office's maximum credit exposure for each class of financial instrument is represented by the total carrying amount of cash and cash equivalents, and net debtors.

There is no collateral held as security against these financial instruments. None of these instruments are overdue or impaired.

Liquidity risk

Liquidity risk is the risk that the Office will encounter difficulty raising liquid funds to meet commitments as they fall due.

In meeting its liquidity requirements, the Office closely monitors its forecast cash requirements with expected cash draw-downs from the New Zealand Debt Management Office. The Office maintains a target level of available cash to meet liquidity requirements.

The table below analyses the Office's financial liabilities that will be settled based on the remaining period at the balance sheet date to the contractual maturity date. The amounts disclosed are the contractual undiscounted cash flows.

2010

	6 months or less \$(000)	6-12 months \$(000)	1-5 years \$(000)	more than 5 yrs \$(000)	Total \$(000)
Creditors and other payables	241	-	-	-	241
Repayment of surplus to Crown	-	-	-	-	-
Employee entitlements	451	-	50	-	501

2009

	6 months or less \$(000)	6-12 months \$(000)	1-5 years \$(000)	more than 5 yrs \$(000)	Total \$(000)
Creditors and other payables	263	-	-	-	263
Repayment of surplus to Crown	164	-	-	-	164
Employee entitlements	411	-	50	-	461

Categories of financial instruments

Actual 2009 \$000		Actual 2010 \$000
	Loans and receivables	
651	Cash and cash equivalents	521
4	Debtors and other receivables	1
655		522
	Financial liabilities measured at amortised cost	
263	Creditors and other payables (note 10)	241
461	Employee entitlements (note 12)	501
724	Total	742

15. Capital management

The Office's capital is its equity (or taxpayers' funds) which comprise general funds. Equity is represented by net assets. The Office manages its revenues, expenses, assets, liabilities, and general financial dealings prudently. The Office's equity is largely managed as a by-product of managing income, expenses, assets, liabilities, and the Budget process agreed with Parliament's Speaker and with Treasury Instructions.

The objective of managing the Office's equity is to ensure the Office effectively achieves its goals and objectives for which it has been established, whilst remaining a going concern.

16. Office accommodation statistics

Actual 2009 \$000		Actual 2010 \$000
1,683m ²	Area	1,683m ²
64	Number of staff (FTE's)	63
24.4m ²	Space allocation per person	24.7m ²
\$548,231	Total costs of leased office accommodation	\$604,490
\$7,945	Rent costs per person	\$8,889
\$446	Utility costs per person	\$501

17. Related party information

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

The Office enters into transactions with government agencies, Crown Entities and State-Owned Enterprises as required and on an arm's length basis. Those transactions that occur within a normal supplier or client relationship on terms and conditions no more or less favourable than those which it is reasonable to expect the Office would have adopted if dealing with that entity at arm's length in the same circumstance are not disclosed.

No provision has been required nor any expenses recognised for impairment of receivables from related parties.

All other transactions entered into are with private suppliers on an arm's length basis on a normal supplier and client relationship and on terms no more or less favourable than it is reasonable to expect the Office would have adopted if dealing with that entity at arm's length in the same circumstance are not disclosed.

18. Events after the balance sheet date

91

There were no post balance sheet date events in regard to the Office financial statements for the year ended 30 June 2010.

19. Significant variances from forecast financial performance

There were no significant variances from forecast financial performance.

7

Analysis, statistics and directory

The throughput of investigations

Cost of resolving complaints

Age profiles of open and closed complaints

Analysis of complaints by Act

Prisoner complaints

Geographical distribution of complaints and enquiries

Directory

Analysis, statistics and directory

The throughput of investigations

	2005/06	2006/07	2007/08	2008/09	2009/10
Complaints on hand at 1 July					
Ombudsmen Act	531	608	536	576	794
Official Information Act	241	278	289	364	428
Local Government Official Information and Meetings Act	46	70	59	51	83
Protected Disclosures Act	1	1	-	1	3
Other work for which files were opened	35	37	34	42	36
Adjustment	-	-	100	1	-
Total	854	994	1,018	1,035	1,344 ²⁵
Complaints received during the year					
Ombudsmen Act	8,293	7,593	7,257	7,615	8,488 ²⁶
Official Information Act	754	812	897	809	920
Local Government Official Information and Meetings Act	172	192	204	231	294
Protected Disclosures Act	8	8	14	8	6
Other work for which files were opened	481	485	436	487	242
Total	9,708	9,090	8,808	9,150	9,950
Complaints disposed of during the year					
Ombudsmen Act	8,216	7,665	7,317	7,435	8,250 ²⁷
Official Information Act	717	801	822	754	800
Local Government Official Information and Meetings Act	148	203	211	202	282
Protected Disclosures Act	8	9	13	6	8
Other work for which files were opened	479	488	428	458	234
Total	9,568	9,166	8,791	8,855	9,574
Complaints on hand at 30 June					
Ombudsmen Act	608	536	576	757	1032 ²⁸
Official Information Act	278	289	364	419	548
Local Government Official Information and Meetings Act	70	59	52	80	95
Protected Disclosures Act	1	-	1	3	1
Other work for which files were opened	37	34	42	71	44
Total	994	918	1,035	1,330	1,720

²⁵ Includes 14 complaints not counted in the previous reporting year and various complaints where the Act was changed post 30 June 2009.

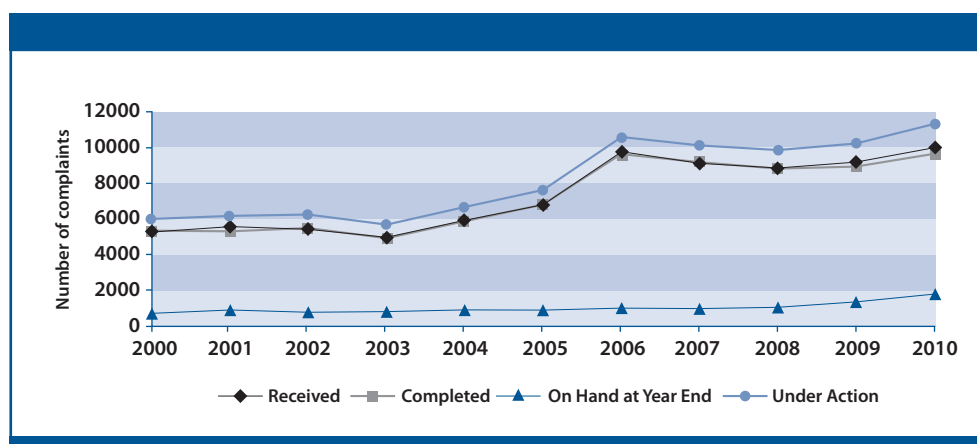
²⁶ Includes 5,129 complaints concerning the Department of Corrections and 1,271 general enquiries.

²⁷ Includes 5,013 complaints concerning the Department of Corrections and 1,260 general enquiries.

²⁸ Includes 4 complaints concerning the Department of Corrections and 319 general enquiries.

The following table shows the overall throughput of complaints over the past 10 years.

95



Cost of resolving complaints

We have not instituted accounting systems to record the actual cost of resolving each complaint or request referred to us. But information held on the office case management system does allow a generalised costing to be developed for each jurisdiction based on the total cost of operations and the accumulated number of working days for complaints and requests received and actioned.

	Estimated cost Year ended 30/6/2009	Estimated cost Year ended 30/6/2010
Ombudsmen Act		
Estimated average cost per completed complaint		
- rec'd from prisoners	\$108	\$186
- rec'd from non prison sources	\$605	\$791
Estimated average cost work in progress	\$2,358	\$2,278
Estimated cost of all investigations complete and incomplete	\$4.158 million	\$4.654 million
Official Information Act		
Estimated average cost per complaint		
- completed work	\$1,767	\$1,378
- work in progress	\$2,938	\$2,953
Estimated cost of all investigations complete and incomplete	\$2.564 million	\$2.720 million
Local Government Official Information and Meetings Act		
Estimated average cost per complaint		
- completed work	\$1,120	\$830
- work in progress	\$1,737	\$1,748
Estimated cost of all investigations complete and incomplete	\$0.365 million	\$0.400 million
Protected Disclosures Act		
Estimated average cost per approach		
- completed work	\$474	\$1,205
- work in progress	\$3,614	\$5,261
Estimated cost of approaches complete and incomplete	\$0.013 million	\$0.015 million
Other work where the matter is found to be outside the Ombudsmen's jurisdiction but information and assistance is given		
- completed work	\$407	\$329
- work in progress	\$2,643	\$3,459
Estimated cost of all 'other work' complete and incomplete	\$0.374 million	\$0.229 million

Age profiles of open and closed complaints

The following tables depict the age profile of all complaint investigations that were under action during the reported year:

Age profile – all complaints closed in the period

	Year ended			
	30/6/07	30/6/08	30/6/09	30/06/10
Aged 6 months or less from date of receipt	95%	95%	95%	94%
Aged between 7 and 12 months from date of receipt	3%	3%	3%	3%
Aged more than 12 months from date of receipt	2%	2%	2%	3%

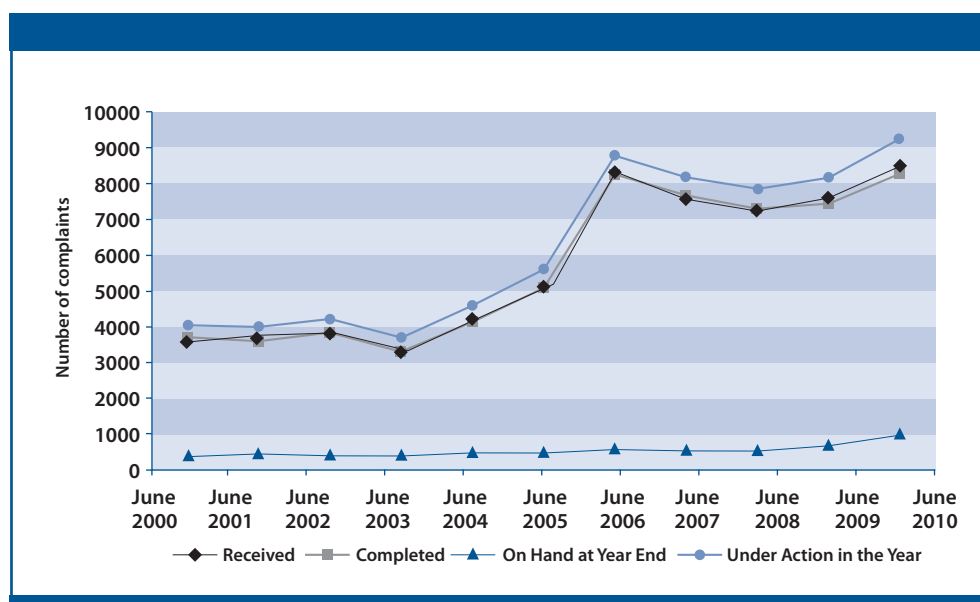
Age profile – all complaints remaining open at 30 June

	Year ended			
	30/6/07	30/6/08	30/6/09	30/06/10
Aged 6 months or less from date of receipt	69%	75%	69%	52%
Aged between 7 and 12 months from date of receipt	19%	15%	16%	26%
Aged more than 12 months from date of receipt	12%	10%	15%	22%

An analysis of complaints by Act

Ombudsmen Act (OA)

The following chart provides an overview of complaints received and actioned under the OA over the past 10 years.



How complaints and enquiries were resolved:

97

	Brought forward from last year	Received year ended 30/6/10	Total under action year ended 30/6/10
<i>Resolved (all)</i>	28	74	102
<i>Resolved (majority but not all)</i>	8	4	12
<i>Otherwise resolved</i>	5	1	6
<i>Sustained after formal investigation:</i>			
- no recommendation made	24	8	32
- recommendation made	8	1	9
	32	9	41
<i>Not sustained (all)</i>	85	53	138
<i>Not sustained (majority but not all)</i>	7	3	10
<i>Investigation discontinued:</i>			
- further inquiry not warranted	112	110	222
- returned to agency for reconsideration	3	23	26
	115	133	248
<i>Declined:</i>			
- organisation not within jurisdiction (explanation/assistance given)	12	159	171
<i>Declined pursuant to Ombudsman's discretion:</i>			
- right of appeal to Court or Tribunal	8	60	68
- adequate remedy under law or administrative practice reasonably available	27	358	385
- time lapse	1	4	5
- frivolous or vexatious	-	-	-
- insufficient personal interest	2	5	7
	38	427	465
<i>Formal investigation not undertaken:</i>			
- resolved by informal intervention	17	856	873
- informal inquiries – explanation, advice or assistance provided	210	4,992	5,202
- withdrawn by complainant or no response from complainant	14	140	154
- returned to dept for reconsideration	2	544	546
	243	6,532	6,775
Transferred to Privacy Commissioner	-	9	9 ²⁹
Transferred to Health and Disability Commissioner	-	1	1
Transferred to Independent Police Conduct Authority	-	4	4
Overview serious incidents – Corrections	-	6	6
Administration – adjustment	21	206	227
Other	-	35	35
Under investigation at 30 June	201	831	1,032
Total	795	8,487	9,282

²⁹ This number relates to matters that were formally transferred to the Privacy Commissioner. It does not include matters investigated by the Ombudsmen requiring consultation with the Privacy Commissioner.

Complaints and enquiries were received from:

	Year ended		
	30/6/08	30/6/09	30/6/10
Individuals	2,393	2,923	2,956
- via legal practices	314	321	287
Media	10	2	45
Members of Parliament and political party research units	4	5	7
Special interest groups	22	29	65
Companies, associations and incorporated societies	86	33	67
- via legal practices	15	9	24
Government departments/ organisations/ local authorities	59	-	80
Researchers	-	1	1
Prisoners - community work	-	-	7
Prisoners - home detention	13	3	17
Prisoners - parolee	14	4	22
Prisoners - remand	540	71	491
Prisoners - sentenced	3,570	4,183	4,369
Prisoners - unspecified	-	2	1
Prison staff	7	1	10
Prisoner advocate	208	23	37
Trade unions	2	-	-
Own motion	—	5	2
Total	7,257	7,615	8,488

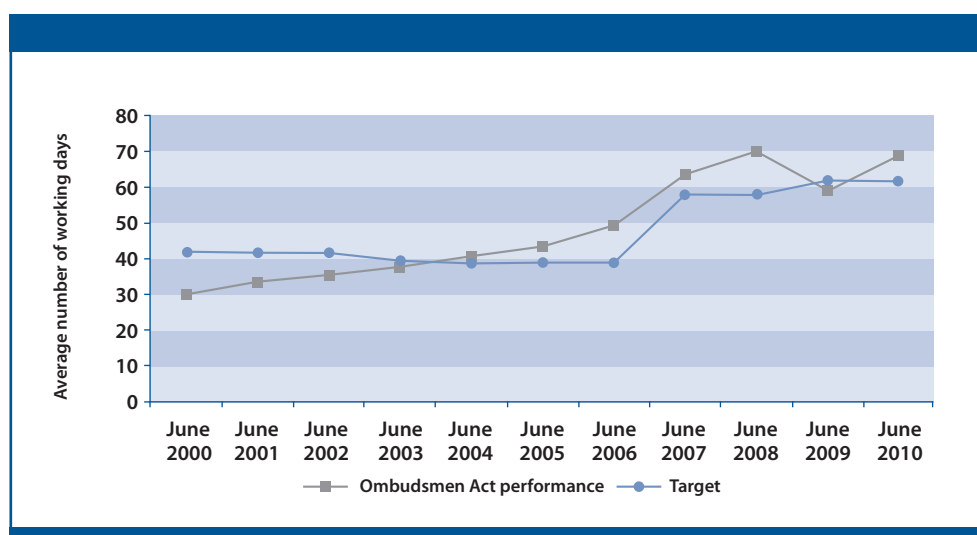
Complaints and enquiries were directed at:

	Year ended		
	30/6/08	30/6/09	30/6/10
Central government departments (Part I)	6,431	6,791	6,761
Organisations other than local organisations (Part II)	432	407	1,024
Local organisations (Part III)	394	417	607
Not specified	—	—	96
Total	7,257	7,615	8,488

Timeliness performance measures are detailed at page 66 to 68.

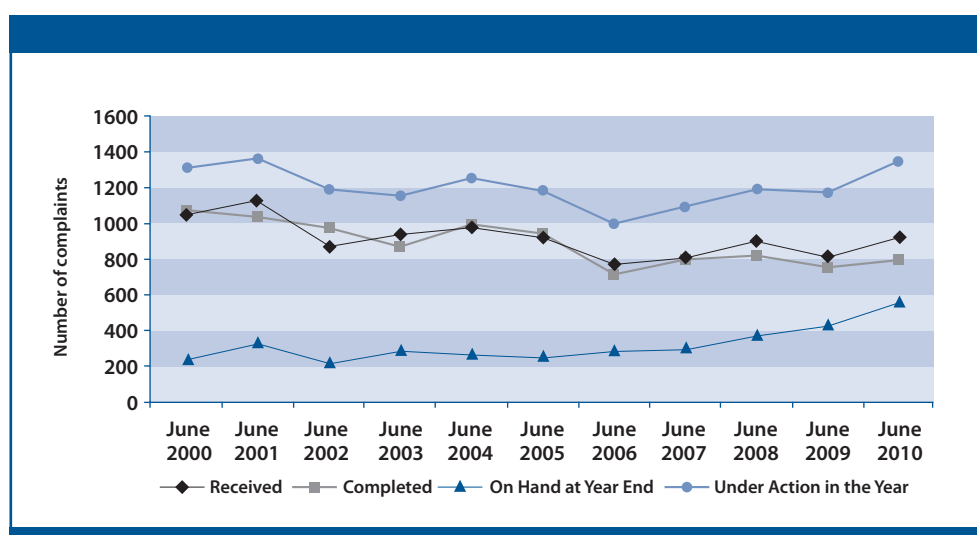
The following chart shows the average number of working days required to complete OA investigations.

99



Official Information Act (OIA)

The following chart provides an overview of complaints received and actioned under the OIA over the past 10 years.



How requests for review were resolved:

	B/f from last year	Rec'd year ended 30/6/10	Total under action year ended 30/6/10
<i>Resolved (all)</i>	45	68	113
<i>Resolved (majority but not all)</i>	16	12	28
<i>Otherwise resolved</i>	3	9	12
<i>Sustained after formal investigation:</i>			
- no recommendation made	25	47	72
- recommendation made	<u>13</u>	<u>10</u>	<u>23</u>
	38	57	95
<i>Not sustained (all)</i>	55	78	133
<i>Not sustained (majority but not all)</i>	21	11	32
<i>Investigation discontinued:</i>			
- further inquiry not warranted	40	32	72
- returned to agency for reconsideration	<u>10</u>	<u>1</u>	<u>11</u>
	50	33	83
<i>Declined:</i>			
- organisation not within jurisdiction (explanation/assistance given)	-	16	16
<i>Declined pursuant to Ombudsman's discretion:</i>			
- adequate remedy under law or administrative practice reasonably available	-	11	11
- time lapse	<u>—</u>	<u>1</u>	<u>1</u>
	-	12	12
<i>Formal investigation not undertaken:</i>			
- resolved by informal intervention	18	50	68
- informal inquiries – explanation, advice or assistance given	13	69	82
- withdrawn by complainant or no response from complainant	11	45	56
- returned to dept for reconsideration	<u>—</u>	<u>4</u>	<u>4</u>
	42	168	210
Administration – adjustment	10	15	25
Other	4	6	10
Transferred to Privacy Commissioner	2	29	31 ³⁰
Under investigation at 30 June	<u>142</u>	<u>406</u>	<u>548</u>
Total	<u>428</u>	<u>920</u>	<u>1,348</u>

30 This number relates to matters that were formally transferred to the Privacy Commissioner. It does not include matters investigated by the Ombudsmen requiring consultation with the Privacy Commissioner.

Why reviews were requested:

101

	Year ended		
	30/6/08	30/6/09	30/6/10
Refusals	522	501	675
Delays deemed refusals	288	213	164
Delays	11	17	13
Charges	21	25	19
Corrections	-	-	-
Deletions	28	26	18
Extensions	23	26	25
Conditions	-	-	2
Transfers	4	1	4
Total	897	809	920

The requests for review concerned decisions taken by:

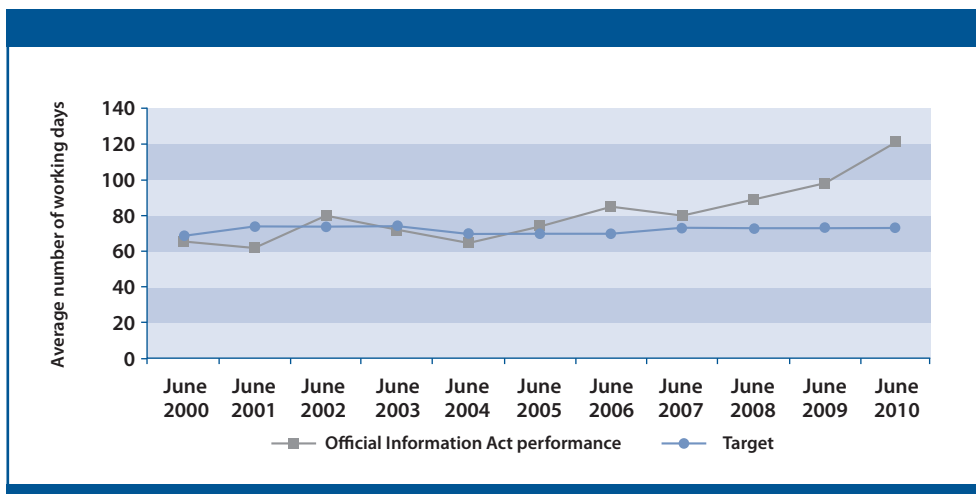
	Year ended		
	30/6/08	30/6/09	30/6/10
Ministers of the Crown	212	119	170
Departments listed in Part I of the Ombudsmen Act	371	329	301
Organisations listed in Part II of the Ombudsmen Act and listed in First Schedule to the Official Information Act	314	361	449
Total	897	809	920

Requests for review were received from:

	Year ended		
	30/6/08	30/6/09	30/6/10
Individuals	352	363	448
- via legal practices	45	66	51
Media	113	130	165
Members of Parliament and political party research units	202	83	99
Special interest groups	32	30	24
Companies, associations and incorporated societies	91	54	56
- via legal practices	34	43	20
Government departments/ organisations/ local authorities	3	6	6
Researchers	11	7	4
Prisoners - remand	-	1	7
Prisoners - sentenced	14	23	33
Trade unions	-	3	7
Total	897	809	920

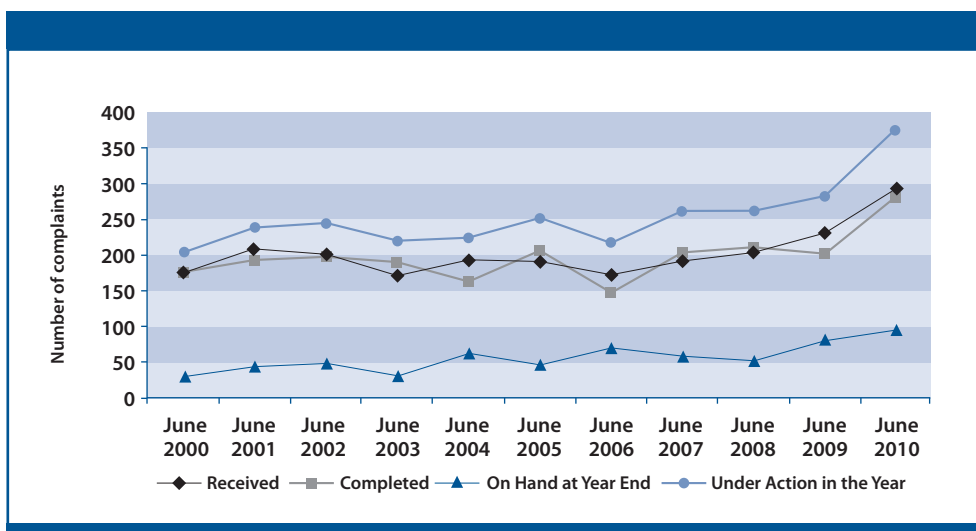
Timeliness performance measures are detailed at page 66 to 68.

The following chart shows the average number of working days required to complete OIA investigations.



Local Government Official Information and Meetings Act (LGOIMA)

The following chart provides an overview of complaints received and actioned under the LGOIMA over the past 10 years.



How requests for review were resolved:

103

	B/f from last year	Rec'd year ended 30/6/10	Total under action year ended 30/6/10
<i>Resolved (all)</i>	13	34	47
<i>Resolved (majority but not all)</i>	5	2	7
<i>Sustained after formal investigation:</i>			
- no recommendation made	8	23	31
- recommendation made	<u>2</u>	<u>2</u>	<u>4</u>
	10	25	35
<i>Not sustained (all)</i>	16	20	36
<i>Not sustained (majority but not all)</i>	3	1	4
<i>Investigation discontinued:</i>			
- further inquiry not warranted	14	8	22
- returned to agency for reconsideration	<u>—</u>	<u>1</u>	<u>1</u>
	14	9	23
<i>Declined:</i>			
- organisation not within jurisdiction (explanation/assistance given)	-	4	4
<i>Declined pursuant to Ombudsman's discretion:</i>			
- adequate remedy under law or administrative practice reasonably available	1	18	19
<i>Formal investigation not undertaken:</i>			
- resolved by informal intervention	2	24	26
- informal inquiries – explanation, advice or assistance given	4	46	50
- withdrawn by complainant or no response from complainant	-	13	13
- returned to dept for reconsideration	<u>—</u>	<u>1</u>	<u>1</u>
	6	84	90
Administration – adjustment	-	6	6
Other	2	3	5
Transferred to Privacy Commissioner	-	6	6
Under investigation at 30 June	<u>13</u>	<u>82</u>	<u>95</u>
Total	<u>83</u>	<u>294</u>	<u>377</u>

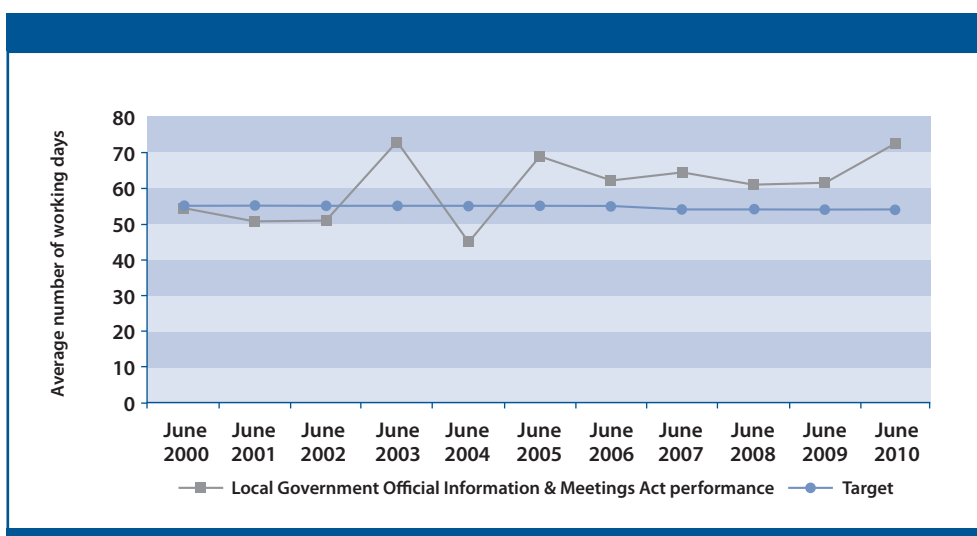
Why reviews were requested:

	Year ended		
	30/6/08	30/6/09	30/6/10
Refusals	130	162	219
Delays deemed refusals	58	48	49
Delays	6	6	3
Charges	8	12	21
Deletions	1	1	-
Extensions	1	2	2
Total	204	231	294

Requests for review were received from:

	Year ended		
	30/6/08	30/6/09	30/6/10
Individuals	129	142	188
- via legal practices	6	11	8
Media	24	46	44
Special interest groups	9	12	25
Companies, associations and incorporated societies	17	6	14
- via legal practices	18	9	14
Government departments/ organisations/ local authorities	1	1	1
Members of Parliament and political party research units	-	3	-
Researcher	-	1	-
Trade unions	-	-	-
Total	204	231	294

The following chart shows the average number of working days required to complete LGOIMA complaints.



Timeliness performance measures are detailed at page 66 to 68

Prisoner complaints

105

Complaints concerning the Department of Corrections were received from:

Prison	Prisoner Sentenced	Prisoner Community Work	Prisoner Home Detention	Prisoner Remand Accused	Prisoner Remand Convicted	Prisoner Parolee	Prisoner Advocate	Prison Staff	Unspecified	Total
Akld Central Remand	68	-	-	79	20	-	3	-	4	174
Akld Prison	475	-	1	1	3	1	6	2	7	496
Akld Regional Women's	245	-	1	82	20	1	1	-	5	355
Arohata Women's	103	-	-	19	3	-	-	-	4	129
Chch	373	-	2	10	16	1	9	-	8	419
Chch Women's	39	-	-	1	-	-	-	1	1	42
CPPS	9	7	7	1	3	10	1	-	9	47
Dunedin	1	-	-	-	-	-	-	-	-	1
Hawke's Bay	387	-	-	8	8	1	-	-	7	411
Invercargill	41	-	1	3	1	1	-	-	1	48
Manawatu	150	-	-	12	6	-	-	-	1	169
Mt Eden	220	-	-	75	16	1	3	-	13	328
New Plymouth	10	-	-	5	1	1	-	-	1	18
Northland Region Corrections Facility	160	-	1	24	4	-	2	-	10	201
Otago Corrections Facility	170	-	-	4	4	-	1	-	-	179
Rimutaka	552	-	-	12	4	-	2	-	5	575
Rolleston	101	-	-	-	1	-	-	-	3	105
Spring Hill Corrections Facility	406	-	-	-	4	-	4	1	12	427
Tongariro/Rangipo	200	-	-	-	-	-	-	2	4	206
Waikeria	331	-	-	21	6	-	-	2	7	367
Wanganui	162	-	-	4	1	-	2	2	3	174
Wellington	68	-	-	-	2	2	-	-	-	72
Not Specified	142	-	4	16	5	3	3	2	11	186
Totals	4,413	7	17	377	128	22	37	12	116	5,129

Complaints received from and on behalf of prisoners concerned:

Prison	Food services	Temporary releases/ escorted outings	Prison conditions	Staff conduct and attitudes	Prisoner property	Prisoner transfers and movements	Prisoner telephone calls and written communications	Prison work and prisoner pay	Prisoner welfare	OIA/ Privacy Act and general information	Prisoner discipline and misconduct	Use of force	Security classification	Prisoner health services	Recreation, exercise and sport	Case management and programmes	Personal and official visitors	Culture and religion	Serious incident	Deaths in custody	Other	Total
Akld Central Remand	-	2	16	19	74	5	19	-	7	4	10	-	-	14	-	-	11	-	-	1	68	250
Akld Prison	2	4	21	29	65	34	35	9	25	18	10	2	32	34	1	31	13	1	2	1	144	513
Akld Regional Women's	4	4	16	19	62	18	35	3	15	7	7	-	3	11	1	19	15	-	-	-	120	359
Arohata Women's	2	-	8	13	15	4	14	1	5	3	10	-	3	7	2	5	3	-	1	1	25	122
Chch	7	2	20	26	65	24	21	6	21	5	27	3	9	24	-	16	23	1	-	3	115	418
Chch Women's	-	1	3	2	3	2	8	4	-	3	2	-	-	6	-	2	1	-	-	-	5	42
CPPS	-	1	-	6	-	-	2	-	2	1	1	-	-	-	-	5	-	-	-	-	14	32
Dunedin	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Hawke's Bay	9	2	20	29	75	51	21	12	15	6	21	1	33	11	2	20	11	1	2	-	99	441
Invercargill	-	-	2	-	2	3	-	3	3	1	6	-	4	4	-	3	1	-	-	1	10	43
Manawatu	3	-	7	9	26	13	17	2	10	5	10	-	5	11	3	5	3	2	-	-	38	169
Mt Eden	2	1	3	3	115	16	20	5	10	2	7	-	1	13	-	1	3	1	1	2	46	252
New Plymouth	1	-	2	2	1	1	-	-	-	-	3	-	-	2	-	-	1	-	-	-	4	17
Northland Region Corrections Facility	5	2	8	13	18	12	7	5	16	5	11	-	3	7	-	7	6	-	1	-	70	196
Otago Corrections Facility	1	4	8	16	20	10	12	9	8	3	17	-	9	11	-	8	4	-	-	-	45	185
Rimutaka	8	4	13	27	102	63	52	11	24	8	36	-	20	41	1	21	19	2	-	-	150	602
Rolleston	1	-	6	5	13	3	-	2	7	4	8	1	3	8	-	7	4	-	-	-	31	103
Spring Hill Corrections Facility	5	12	18	16	63	24	15	12	23	11	25	-	17	23	-	141	14	3	1	1	123	547
Tongariro/Rangipo	4	3	6	9	30	9	13	16	15	5	11	-	7	6	1	11	4	-	-	2	66	218
Waikeria	4	6	12	24	45	37	24	12	21	5	19	-	14	25	2	4	6	3	-	-	112	375
Wanganui	3	-	3	9	20	9	14	1	12	6	11	-	6	14	1	16	6	-	-	3	45	179
Wellington	-	-	3	4	15	9	3	1	5	6	1	1	2	5	2	8	-	1	-	-	7	73
Corrections - other	-	-	1	2	2	1	2	1	1	1	4	-	1	5	-	-	1	-	-	-	16	38
Not Specified and other agencies	-	-	3	7	4	-	3	1	2	7	2	-	-	1	-	1	-	1	2	-	110	144
Totals	61	48	199	289	835	348	338	116	247	116	259	8	172	283	16	331	149	16	10	15	1,463	5,319 ³¹

31 A complaint may concern multiple issues. During the reported year the Office received 5,129 complaints from prisoners, prisoner advocates and others concerning the Department of Corrections about 5,319 issues.

Complaints made by and on behalf of prisoners were resolved as follows:

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	1(a)	1(c)	2(a)	3(a)	3(b)	4(a)	4(b)	5	6(a)	6(b)	6(e)	7(a)	7(b)	7(c)	7(d)	8(a)	8(c)	8(d)	A1	A2	A3	A4	A5	A6	Total
Akld Central Remand	-	-	-	-	-	1	-	2	-	2	-	31	63	3	17	-	-	-	-	-	-	-	10	45	173
Akld Prison	8	1	2	5	-	14	3	4	-	13	-	65	198	6	39	1	1	-	1	-	-	-	17	101	479
Akld Regional Women's	-	-	-	-	-	1	-	1	-	5	-	81	151	5	38	-	-	-	-	1	-	-	8	63	354
Arohata Women's	-	-	-	-	-	-	-	1	-	-	-	24	68	1	10	-	-	-	-	-	-	1	3	20	128
Chch	1	-	2	1	-	4	-	-	1	5	-	47	175	7	44	-	-	-	-	-	1	-	16	101	405
Chch Women's	-	-	-	3	-	-	-	1	-	-	-	5	13	-	1	-	-	-	-	-	-	-	-	9	32
CPPS	-	-	2	-	-	-	1	-	-	1	-	5	31	1	13	-	-	-	1	-	-	-	3	10	68
Dunedin	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1
Hawke's Bay	1	-	1	2	-	2	-	3	1	3	-	53	149	7	39	-	-	-	-	-	-	2	7	130	401
Invercargill	-	-	-	-	-	-	-	-	-	1	-	6	21	2	6	-	-	-	-	-	-	-	1	9	46
Manawatu	1	-	-	1	-	4	-	-	-	1	-	24	90	7	10	-	-	-	-	-	-	-	2	35	175
Mt Eden	-	-	-	-	-	3	1	-	-	9	-	79	102	5	37	-	-	-	-	-	-	-	21	61	318
New Plymouth	-	-	-	-	-	-	-	-	-	1	-	1	7	-	2	-	-	-	-	-	-	-	-	4	15
Northland Region Corrections Facility	-	-	-	1	-	3	2	2	-	3	-	42	70	1	18	-	-	-	-	-	-	-	5	42	189
Otago Corrections Facility	-	-	-	1	-	5	1	2	-	4	-	9	76	1	23	-	-	-	-	-	-	-	9	50	181
Rimutaka	3	-	-	4	-	5	3	2	-	15	-	87	245	3	76	1	-	-	2	-	-	-	23	110	579
Rolleston	4	-	-	-	-	2	-	-	-	1	-	18	44	1	9	-	-	-	-	-	-	-	4	18	101
Spring Hill Corrections Facility	7	-	-	1	-	8	1	2	-	7	-	51	194	4	35	-	-	-	-	-	-	-	9	107	426
Tongariro/Rangipo	5	-	-	1	-	2	1	-	-	2	-	25	85	3	20	-	-	-	-	-	-	1	10	82	217
Waikeria	1	1	2	3	1	5	-	6	2	-	-	55	165	5	35	-	-	1	-	-	-	-	9	85	376
Wanganui	-	-	-	-	-	4	-	-	-	-	-	12	92	2	9	-	-	-	-	-	-	1	3	41	164
Wellington	1	-	-	-	-	3	-	-	-	3	-	11	38	-	4	-	-	-	-	-	-	-	-	6	66
DPB/NZPB	-	-	-	-	-	-	-	2	-	-	2	-	3	-	1	-	-	-	-	-	-	-	-	3	11
Corrections - other	3	-	2	2	-	5	1	3	-	1	-	10	19	3	4	-	1	-	-	-	-	-	4	50	108
Totals	35	2	11	25	1	70	14	31	4	77	2	741	2,099	67	490	2	2	1	4	1	1	5	164	1,164	5,013

Key

1(a)	Resolved (all)	7(d)	No formal investigation - returned to department for reconsideration
1(c)	Otherwise resolved	8(a)	PDA enquiry - information and guidance given
2(a)	Sustained - no recommendation made	8(c)	PDA enquiry - preliminary assessment, referred to another agency for investigation
3(a)	Not sustained (all)	8(d)	PDA investigation undertaken - sustained in part or full
3(b)	Not sustained (majority)	A1	Transferred to Privacy Commissioner
4(a)	Discontinued - further inquiry not warranted	A2	Transferred to Health and Disability Commissioner
4(b)	Discontinued - returned to agency for reconsideration	A3	Transferred to Independent Police Conduct Authority
5	Not within jurisdiction	A4	Overview of serious incidents
6(a)	Declined - right of appeal	A5	Administration closed
6(b)	Declined - adequate remedy available	A6	General enquiry
6(e)	Declined - insufficient personal interest		
7(a)	No formal investigation - complaint resolved through informal intervention		
7(b)	No formal investigation - complaint assessed and advice/explanation given		
7(c)	Investigation not undertaken - no reply by complainant or complaint withdrawn		

Geographical distribution of complaints and enquiries received in year to 30 June 2010

	OA	OIA	JURISDICTION		Other Work	All	All Last Year
			LGOIMA	PDA			
Auckland	2,478	242	69	-	44	2,833	1,991
Bay of Plenty	544	21	18	2	12	597	189
Northland	314	19	11	-	12	356	238
Waikato	<u>820</u>	<u>45</u>	<u>16</u>	<u>-</u>	<u>20</u>	<u>901</u>	<u>1,236</u>
	4,156	327	114	2	88	4,687	3,654
Taranaki	74	8	4	-	3	89	75
Hawke's Bay	489	19	6	-	13	527	418
Manawatu/Wanganui	444	42	13	-	9	508	369
Wairarapa	28	11	2	-	3	44	48
East Cape	27	3	1	-	4	35	11
Wellington	<u>1,425</u>	<u>334</u>	<u>60</u>	<u>-</u>	<u>43</u>	<u>1,862</u>	<u>1,304</u>
	2,487	417	86	-	75	3,065	2,225
Total North Island	6,643	744	200	2	163	7,752	5,879
Nelson/ Marlborough and Golden Bay	114	16	11	-	11	152	124
Dunedin	84	24	11	-	4	123	135
Otago	230	17	16	-	6	269	251
Southland	109	9	16	-	10	144	49
Canterbury	216	8	9	2	9	244	125
Christchurch	741	65	23	1	11	841	672
Westland	54	9	3	-	3	69	50
Chatham Islands	-	-	-	-	-	-	-
Total South Island	1,548	148	89	3	54	1,842	1,406
Location not known	206	16	5	1	20	248	1,768
Overseas	91	12	-	-	6	109	97
Total	8,488	920	294	6	243	9,951	9,150

Directory

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Legal authorities for establishing the Office of the Ombudsmen

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 s 3 of the Ombudsmen Act 1975 and the Public Finance Act 1989.

The offices of The Ombudsmen are found at:

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Banker

Westpac Government Business a division of Westpac Banking Corporation

Insurance Broker

Marsh Limited

