



Report of

The Ombudsmen

Nga Kaitiaki Mana Tangata

for the year ended

30 June 2007

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



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Madam Speaker

We submit to you our report for the year 1 July 2006 to 30 June 2007.



John Belgrave
Chief Ombudsman



Beverley Wakem
Ombudsman



Mel Smith
Ombudsman

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DIRECTORY

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:

Wellington

Level 14
70 The Terrace
PO Box 10152
Telephone(04) 473-9533
Facsimile (04) 471-2254

Auckland

Level 10
55 – 65 Shortland Street
PO Box 1960
Telephone (09) 379-6102
Facsimile (09) 377-6537

Christchurch

Level 6
764 Colombo Street
PO Box 13-482
Telephone(03) 366-8556
Facsimile (03) 365-7935

New Zealand wide freephone
(0800) 802-602

AUDITOR

Audit New Zealand on behalf of
the Auditor-General
45 Pipitea Street
Private Box 99, Wellington
Telephone (04) 496-3099
Facsimile (04) 496-3195

BANKER

Westpac Government Business
a division of Westpac Banking
Corporation

INSURANCE BROKER

Marsh Limited

WEBSITE

www.ombudsmen.parliament.nz

EMAIL

office@ombudsmen.parliament.nz

STATEMENT OF PURPOSE

Ombudsmen are independent Officers of Parliament appointed by the Governor-General on the recommendation of the House of Representatives. Their functions and sole output are to investigate and:

- form opinions on the merits of complaints either received from the public or of the Ombudsmen's own motion about the administrative acts and decisions of government agencies at central, regional and local levels;
- conduct reviews of decisions to decline to release official information requested under the Official Information Act 1982 and the Local Government Official Information and Meetings Act 1987; and
- provide guidance and information to employees who have made, or are considering making, a protected disclosure pursuant to the Protected Disclosures Act 2000 and to fulfil the requirements of an "*appropriate authority*" pursuant to that Act.

RELEVANT OUTCOMES

The outcomes sought by the Ombudsmen are:

- resolution of grievances occurring in the process of public administration;
- improvement of the accountability of the public sector for its administrative acts and decisions;
- enhancement of public confidence in public sector administration;
- promotion of open and transparent government by effective review of responses to requests for information made under the Official Information Act and the Local Government Official Information and Meetings Act; and
- fulfilment of responsibilities under the Protected Disclosures Act.

SIGNIFICANT ISSUES

- (p 9) more agencies establishing internal review systems that are removed from the original decision making process.
- (p 10) when it is established that an agency is at fault, a meaningful apology may resolve many complaints.
- (p 28) withholding of advice to party leaders at the time of government formation.
- (p 10, 50) Ombudsmen identified as the National Preventive Mechanism for the prevention of torture and other cruel or inhumane treatment for prisons, asylum detention centres, health and disability places of detention and youth justice residences.
- (p 12) Official Information Act 25 years old in 2007.
- (p 13) Corrections Department and reintegrative needs of some women prisoners.
- (p 14) Earthquake Commission Act 1993 allows regulatory change to time limits for reporting damage. Present time-limits unreasonable.
- (p 16, 24) Public Records Act 2005 places duty on public offices to create and maintain full and accurate records.
- (p 17) expulsion or exclusion should be a last resort. Students entitled to natural justice.
- (p 18) own motion investigation of the Department of Corrections in relation to prison transport.
- (p 25, 26) attempts to exclude certain types of information from the Official Information Act are a threat to accountability and good governance and not in the public interest.
- (p 31) public interest not satisfied by the release of the information only. Sometimes the full transcript is required.
- (p 37) 14th Compendium of Case Notes of the Ombudsmen published.
- (p 42) new website launched.
- (p 45) informal resolution processes feature strongly in managing our workload.
- (p 48) Ombudsmen to become more active in both internal and external training.
- (p 50) from 2007 more information to be available concerning prisoner complaints.

EDITORIAL

One of the key outcomes of their work sought by the Ombudsmen is ongoing improvement and better performance by Government agencies. We continue to encourage agencies to set up their own internal review systems, where possible independent from original decision makers. Where we receive for example a range of complaints against specific agencies the agency itself is encouraged to learn from these complaints.

We can report that this is happening in a number of agencies e.g. Inland Revenue Department (“IRD”), Ministry of Social Development (“MSD”) and the Accident Compensation Corporation (“ACC”). We understand also that at least one other major department is in the process of setting up as part of the chief executive’s office, an independent group that will among other functions, provide a more structured process whereby lessons learned from complaints to our office and elsewhere can be translated into better decision-making with a consequent reduction in complaints.

Extending this analogy we would hope that as departmental performance continues to improve, the public, even where complaints against agencies are not sustained, will nevertheless be able to get clear explanations of the reasons for decisions which are of concern to them.

As agencies become more transparent and focussed in their decision-making it should be easier for the public to ask the right questions in order to get their concerns addressed. This is in the interests of better performance as a matter of course by government agencies.

We have spent some time this year with Immigration New Zealand (a business unit of the Department of Labour) about which we receive some 290 complaints discussing factors which we believe will help its performance with the objective of reducing the number of complaints that we receive as a consequence of better decision-making on its part. We can report a positive response from this agency. This is particularly encouraging given the complexity of issues it has to deal with and the considerable work pressures under which it operates. We have begun a similar exercise with MSD in respect of CYFS which also has to deal with complex situations under considerable pressure. As time permits it is our intention to extend this approach to other agencies offering suggestions from their performance based on complaints received by this office. We would expect any such suggestions to be taken seriously.

At the other end of the spectrum it is unfortunate to have to report that even where agencies have a sophisticated complaint handling system we still find examples where citizens have not had satisfaction in relation to grievances about which they complain to us. Sometimes dissatisfaction is based on the fact that initial decisions taken some time back, in relation to an individual, were based on incomplete or false information. Unless this is addressed, problems can extend at length. Positions can become hardened and solutions become that much more difficult.

We would simply urge agencies to consider, particularly in the case of so called “*difficult complainants*”, going back to the beginning to see if the original decisions on which subsequent action has been based were soundly made.

We will continue, in such circumstances, to investigate complaints made to us. However once we have arrived at a decision then it becomes the agency's responsibility to pick up the issue and get it settled. The role of our Office does not extend to being an ongoing back stop for agencies of government or an institution to which agencies can parcel off their difficult complainants. We are here to identify, where possible, solutions to issues. Once that is achieved we expect the agency to settle the matter and enable the complainant to move on.

These comments can sometimes apply to a number of agencies but there are particular examples in our recent experiences with Accident Compensation Corporation and to a lesser degree the NZ Immigration Service and Ministry of Social Development, which can develop into long term problems.

In a wider sense, the experience of our overseas counterparts suggests that many complainants just want an agency to listen to, understand and respect their concerns, and to give them an explanation and apology. Conflicts can ensue or the parties become intransigent where these are not available. Recent events in New Zealand have highlighted this issue, raising the question of when it may be appropriate for officials and officers of publicly owned entities to apologise or to express regret for actions that leave affected parties aggrieved.

In some circumstances, a complaint may be resolved, or stopped from escalating, by making a clear, sincere and timely apology, and, in appropriate cases, by providing an explanation for the action complained about. However, a general apology unconnected to the particular conduct complained of is unlikely to be accepted as genuine or sufficient. On the other hand, an apology for specific conduct runs the risk of being seen as an admission of liability in any potential civil litigation that may ensue and this often acts as a disincentive to making any apology.

Some overseas jurisdictions, including Australia and Canada, have sought to overcome the potential risk of incurring civil liability through an apology by enacting legislation that protects the giving of apologies in an attempt to resolve a complaint. An example of such legislation is the Civil Liability Act 2002 of New South Wales.

We believe it would be useful to give consideration to the appropriateness of such legislation in New Zealand.

Quite apart from our core purpose of investigation of complaints about maladministration, we have also been involved in the exercise of our wider investigative functions. We undertook an investigation of our own motion into prisoner transport operated by, or on behalf of, the Department of Corrections. We had a matter referred to us for investigation by a Select Committee of Parliament pursuant to section 13(4) of the Ombudsmen Act; the first time this role has been requested of us. Ombudsman Mel Smith commenced an investigation, on referral from the Prime Minister pursuant to section 13(5) in the Ombudsmen Act, into aspects of the New Zealand Criminal Justice system.

The breadth of an Ombudsman's wider investigative powers was also reflected in the decision in June to formally designate Ombudsmen as a National Preventive

Mechanism for the purposes of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (“OPCAT”). New Zealand ratified OPCAT in March of this year. The objective of OPCAT is to establish a system of regular visits by international and national bodies (namely National Preventive Mechanisms) to places of detention in order to examine and monitor the treatment of detainees. The role of the Ombudsmen as a National Preventive Mechanism extends not only to prisons but also to premises approved or agreed under the Immigration Act 1987, health and disability places of detention, and youth justice residences established under the Children, Young Persons and Their Families Act 1989.

We can report as a general comment that notwithstanding the increase in requests to this Office particularly from political party research units, to review decisions to withhold official information, responses by Ministers and core government departments show signs of improvement. In the year under review for example it was necessary in only three cases to make any formal recommendations under section 30 of the Official Information Act, imposing a public duty to release information. We regard this as encouraging.

However, on a less encouraging note, we have encountered several cases of agencies seeking to exclude the application of the OIA to certain types of information ostensibly because the OIA does not provide sufficient protection.

As discussed further at p 24 and 25, one of the purposes of the OIA set out in section 4(c) is to protect official information consistent with the public interest. It is somewhat bizarre to hear agencies argue that certain information is so sensitive that the only way to protect it is for the OIA not to apply. Consistent with section 4(c), the OIA identifies the interests that Parliament has accepted as needing protection. The OIA provides a mechanism to allow the need for protection to be identified with a degree of precision having regard to the circumstances of particular cases. Seeking to exclude the application of the OIA to a class of information or a particular agency is a blunt instrument that inherently risks allowing the withholding of information whether it needs protection or not. In practical terms, this risks negating the principle of availability in section 5 which requires information to be made available unless there is good reason for refusal. On a wider policy level, it could be seen as a means of avoiding the application of legislation that has been described by the Court of Appeal as a constitutional measure:

“... the permeating importance of the Act is such that it is entitled to be ranked as a constitutional measure.”

(Commissioner of Police v Ombudsman, 1 NZLR [1988] 385 at 391)

If there is a concern that the withholding provisions of the OIA do not provide adequate protection the appropriate step is to seek amendment of the Act. That allows open and transparent debate and proper accountability to be taken before withholding provisions are strengthened.

Significant issues considered under the OIA included the withholding of advice to party leaders from the Clerk of the Executive Council at the time of Government formation; the withholding of information about MMP negotiations between support parties and the Government on individual pieces of legislation, and withholding

information about negotiations between individual parties that have either coalition or other support arrangements with the Government. We supported the need to withhold information in these circumstances after considerable deliberation and consideration of all the issues involved. An overriding concern was the prime importance of the development and maintenance of stable government. Release of information that is likely to put government formation processes and ongoing government stability at risk is not in the public interest.

These decisions demonstrate that as the MMP environment evolves the OIA has shown it is sufficiently flexible to permit party negotiations and advice from constitutional officials to be assessed in the context of the need to maintain stable government. This we regard as encouraging. The Act is 25 years old. However, the original drafters of the statute were conscious of the need for flexibility in its application as circumstances change even though they would be unlikely to have envisaged some of the outcomes of MMP particularly in relation to the structures of government that have evolved.

Legislation providing rights of access to official information is a subject which challenges the governing institutions of a rapidly increasing number of countries. In recent years the agencies around the world that enforce laws similar to the Official Information Act have met annually to share their knowledge and ideas. To celebrate the 25th anniversary of the enactment of the Official Information Act, and to look towards the future of access to official information, we have decided to host the 5th International Conference of Information Commissioners. The conference, which takes place in November this year, will provide an opportunity to see what can be learnt from our experience by other countries and taken forward into the next 25 years. It is recognised that New Zealand is at the leading edge of a number of freedom of information issues, in particular public access to government policy papers. Several leading academics from around the world will lend their perspective to Commissioners' discussions. It is apparent that no matter how long-standing the rights of access are, new challenges always arise - from developments in technology to the evolution of governance arrangements and shifts in how public services are provided – and there are things we may learn from countries with newer access to information laws.

In this context, we note that during the course of the reporting year a major research project on the OIA was completed by a Senior Research Fellow of the Institute of Policy Studies at Victoria University. The overall objective of the project was to improve administration of the OIA across the state sector. Subsidiary aims included the undertaking of in-depth research into the current operation of the OIA and policy analysis in light of the research findings. The Chief Ombudsman was a member of the steering group for the project. The final report on the project is likely to be published later this year and will contribute to ongoing debate on what works well with the OIA and other areas where, depending on one's perspective as a holder or requester of official information, the Act may not work quite so well.

We continue to value the strong support that we receive from Parliament, the Speaker and the Officers of Parliament Committee. We also record our appreciation of the ongoing contribution from our dedicated and highly motivated staff. Without their strong support our office would not be able to function effectively. In particular, we note our appreciation of Joyce McEwan who retired in 2007 after 35 years of dedicated professional service in a number of roles in our office.

PART I – JURISDICTIONAL ISSUES

THE OMBUDSMEN ACT 1975 (OA)

Overview

The number of complaints received under the Ombudsmen Act decreased over the past year but at 7,593 still represent a considerable number of cases, some very complex. As would be expected most complaints received against departments related to main service delivery and regulatory areas of IRD, Social Welfare, ACC and Immigration.

At the heart of most complaints received under the OA is the perception, real or imagined, of individuals that they have not been treated fairly. Many complaints turn effectively on dissatisfaction with the processes followed by public sector agencies in making decisions and recommendations that affect individuals. Most agencies continue to take steps to implement, review and maintain clear administrative processes for decision-making that affects individuals.

However, good processes do not on their own guarantee good outcomes in all cases. Ineffective communication, failure to explain properly reasons for decisions and lack of sufficient trained staff can all lead to administrative outcomes that do not measure up to an agency's established policies and procedures. In particular, failure to adequately record actions taken in and around decision-making processes can hamper an agency's ability to answer the critical "*what happened and why?*" questions that lie at the heart of many complaints.

Internal review processes within agencies will often be only as good as their record-keeping in and around decision-making processes. Better administrative processes depend initially on adequate staff training in how to apply them and record actions taken together with regular review to update and remedy any deficiencies identified in specific cases. In this regard, such reviews need to take in the wider context of administrative actions or omissions. It is no excuse to say an outcome was unintended. Where individuals are adversely affected by actions or omissions of public sector agencies including Crown entities they are entitled to expect that their grievances will at least get a fair hearing.

Progress on Issues Raised as at 30 June 2006

Department of Corrections - Self-Care Units

Last year we reported that the Department had found it necessary to exclude women prisoners from Self Care Units whose offending had been against children, and that their reintegrative needs were not being met. We considered that women's prisons should keep available a separate and secure villa within the Self Care Units' facilities so that both mothers with children and other women, including those who have offended against

children, can benefit from the socialising and life skill programmes made possible within the Units, as well as being able to avail themselves of release to work opportunities.

Given that the forthcoming Corrections (Mothers and Babies) Bill may lead to even more mothers with babies being housed in the Self Care Units, it is of concern that a number of longer serving prisoners continue to be discriminated against because of their offending, and that the Department continues to ignore the reintegrative needs of these prisoners.

Earthquake Commission – Claim Declined because Time Limits for Reporting Damage are not Met

During the year we have again received complaints concerning the Earthquake Commission declining claims for damage which would in all respects have been accepted if they had been reported within the statutory time limits. The time limits for reporting damage on the occurrence of a natural disaster are 30 days extending to three months in certain circumstances (*“or such longer time as may be described by regulations made under this Act”*) (Third Schedule Clause 7 Earthquake Commission Act 1993).

Whilst most damage is able to be seen and reported accordingly, some damage is for various reasons not immediately apparent; people who are sight impaired have on occasion not seen cracks in their houses caused by earthquakes. Also claimants who have holiday homes, or who are absent from their properties for a long period of time may not have seen, or had damage reported to them, by occupiers. Under the Act, the Earthquake Commission cannot currently do other than decline the claim if the claims have not been reported to the Commission within the reporting times. With levies having been paid to the Earthquake Commission, but with some of their claims having been declined, claimants feel aggrieved.

The Earthquake Commission recently reported to us that *“any changes to the Earthquake Commission Act appear to be stalled”* and *“the latest informal advice from Treasury is that an amendment to the Act is unlikely to be promoted by them as being critical enough to be justified”*.

We draw attention to the fact that, while amending the Act may not be contemplated currently, there is an existing statutory authority in the Act for an amendment to the Regulations in respect to time limits and reporting times. This could be reviewed by the Regulations Review Panel. We have reported previously that the Earthquake Commission supports a change to the reporting time limits. We consider that action is long overdue.

Noise in Rural Communities

We referred to this issue in last year’s Annual Report. With the continuing intensification of horticultural and viticultural land uses alongside more traditional uses, such as dairy and sheep farming, it is inevitable that the relative peace and quiet of rural communities will be disturbed, and people will complain about increased noise. Some complaints can be dealt with on an individual basis, but others require more generalised intervention

through District Scheme changes to mitigate the effects of conflicting uses. We note with concern how slow some Councils are to initiate Scheme changes to that end.

OA Issues Arising in the Reporting Year

Accident Compensation Corporation (“ACC”)

The following table records a continuing decline in the number of complaints we received concerning ACC during the 12 months ending 30 June 2007:

2004/2005	2005/2006	2006/2007
190 ¹	161 ¹	111¹

We are pleased to see the continuing decline in the number of complaints to our Office, which we think is indicative of ACC’s approach to resolve matters, where possible, at an early date, and its increasing use of mediation to resolve difficult cases.

There will always be difficult ACC cases, particularly those involving brain-injured claimants, and there will always be aggrieved claimants whose claims are not covered by ACC legislation. With some prompting by our Office on occasion, we note ACC’s willingness to in certain cases appoint independent investigators, not in ACC’s employ, to take a fresh look at claimants’ grievances.

We will continue to monitor ACC’s handling of claims. It must be always remembered that ACC entitlements are statutory rights; ACC must tell people of those rights, and not leave claimants in the dark about them.

Department of Labour – Immigration New Zealand (“INZ”)

As at 30 June 2007, 290 OA complaints were received against INZ, a decrease of 6 percent from the previous reporting year. However, as the following table reflects the number of complaints is still significantly higher than those received in the 2004/2005 year.

2004/2005	2005/2006	2006/2007
229 ¹	309 ¹	290¹

Departmental Complaints Process

Since our last report, the Department has introduced a three-tiered complaints system that is intended to reduce the number of complaints made to the Minister of Immigration and the Ombudsmen. An initial meeting was held with the Department at which issues such as public awareness of the complaints process, and its transparency, efficacy and timeliness, were discussed. Further discussions are proposed.

¹ These figures relate to Ombudsmen Act complaints. They do not include complaints under the Official Information Act.

Investigation of Response to Statement of Reasons Request

We note with some concern the manner in which INZ responded to a request for a statement of reasons under section 23 of the OIA, and its subsequent handling of the investigation into the complaint about that response, which unnecessarily delayed completion of the investigation by some 10 months.

The complaint related both to a delay in providing reasons for the decision, and to their adequacy. Initially, INZ asserted that its officer had made the decision under delegated authority, and that the submissions made by the complainant's solicitor in respect of that decision had been considered and rejected. Papers on the departmental file suggested that this was inaccurate. Following a meeting with departmental officers, INZ provided a fresh report. Further inquiries disclosed that the second report also contained factual errors, and, further, that the original decision had been made at the direction of the Minister of Immigration. However, no records had been kept of that direction, or of the meeting. The departmental officers who had met with the Minister, while being clear about the Minister's direction, were unable to recall other details of that meeting.

As INZ stated that it did not intend to mislead the investigation, the only other conclusion that could be reached was that there had been a serious oversight, or a lack of knowledge, of relevant statutory obligations on the part of the officers who had handled the request and dealt with the investigation. That senior officials had failed to make any record of directions given by a Minister was also administratively unjustifiable. It should be noted that since the coming into force of the Public Records Act 2005 on 21 April 2005, public offices have been under a duty, pursuant to section 17 of that Act, to create and maintain full and accurate records of their affairs in accordance with normal, prudent business practice. This had not been done in the case in question.

The Department acknowledged its shortcomings in this case, and undertook to take steps to avoid a similar situation arising.

Immigration Advisers

In the immigration context, it is inevitable that some complaints – usually involving removals, turnarounds or imminent permit expiry dates – will require urgent consideration. Where such complaints are received, they are accorded appropriate priority to the extent our resources allow.

It is therefore a matter of concern to us that we also receive complaints where urgency has resulted because of delay on the part of advisers in referring the complaint, and where, on analysis, it becomes apparent that the complaint could have been made sooner. Such complaints stretch the limited resources of this Office, and leave complainants open to the risk of compliance action.

We are also concerned by the quality of complaints received from some immigration advisers where the substantive concerns have not been clearly identified and/or supported by material, or where statutory remedies have not been pursued. Our role

in investigating complaints about the actions or omissions of INZ does not extend to providing remedies against inept advice from immigration advisers (the cost of which is charged to complainants).

Student Suspensions and Expulsions

School Boards of Trustees (“BoTs”) appear on occasion too ready to exclude or expel students who are considered to create problems in the school. That is to say, there is little evidence that some BoTs are exploring alternative measures that may keep a student at school.

This can be especially problematic in the senior school where a student is near to completing certain qualifications. But it also affects children with troublesome backgrounds, who may simply go from one to school to another, from one disciplinary event to the next. There are now joint initiatives between the social and education sectors which may offer assistance in this area.

In individual cases an Ombudsman might have difficulty in upholding a complaint because the threshold for expulsions/exclusion appears to have been reached, with regard to the incident under consideration. But that alone does not, *in the spirit of the judicial guidelines*, justify an expulsion or exclusion where alternatives have not been sufficiently explored or considered. Overall schools could do more in this direction.

We continue to express concerns at meetings of the School Trustees Association about the degree to which issues surrounding natural justice continue to arise. The apparent difficulties in retaining institutional memory in the BoT sector requires attention. Individual students and their families should not be adversely affected because of BoT ignorance of established principles.

District Health Boards - Ministry of Health

We have considered several complaints involving eligibility for health funding of non-citizens. Complainants’ initial contact with the public health system appears to be somewhat inadequate in providing full and accurate assessment and information, that will inform a patient, in advance, of what costs they are likely to incur.

This has been highlighted particularly with regard to the free maternity and maternity related services for otherwise non-eligible women who are married to New Zealanders. This matter has arisen several times this year, with a particular issue involving the advice available on the Ministry of Health (“MoH”) website. While this states that such services are free to otherwise non-eligible women, the website fails to add that there is an implied requirement that the woman is, at the time of the services, lawfully in New Zealand. The immigration status is not checked by the hospital on admission of the patient, and no clarification is provided by the hospital at that time. It appears to be a common belief by the patient that the website’s silence means that there are no disqualifying factors.

We have been unable so far to get the MoH’s agreement to clarify the website. Nor is there any gatekeeping by the DHBs, who are also in a position to properly inform

patients. It appears that staff often give wrong advice, or give advice without asking the right questions.

Prisons

Ombudsmen's Investigation of the Department of Corrections in relation to Prisoner Transport and other matters

During the year the Chief Ombudsman and Ombudsman Mel Smith, undertook an investigation of their own motion into prisoner transport conducted by, or on behalf of, the Department of Corrections. We considered whether conditions were safe, secure and humane. The investigation was largely prompted by the murder of young prisoner, Liam Ashley. Liam died as a result of injuries inflicted by an adult prisoner, while both were being carried in the same prisoner transport vehicle.

We regret that we found many deficiencies, and concluded that prisoner transport by road is frequently not safe and not humane. We reported our findings to Parliament on 12 June 2007. We understand that the Department has many of the issues raised by us under action, and we shall monitor the outcome of its complete response.

On 2 December 2005, we reported to Parliament on our earlier own motion investigation of the detention and treatment of prisoners by the Department which had not included consideration of prisoner transport. We have been provided with regular updates by the Department on its response to the recommendations contained in our report and will continue to follow up further progress with the Department.

Destruction of Prison Visitor's Property

We received a complaint about a decision by the Department of Corrections to destroy property seized from a prison visitor. We were concerned that the property may have been destroyed without statutory authority. The Corrections Act 2004 does not allow the Department to destroy the visitor's property, at least until the person is convicted in Court. The Department's Policy and Procedure Manual expects the return of property to visitors, as B.12.03.R2 (6) states "*Where appropriate, any other item not permitted to be issued to a prisoner should be returned to the person who provided the item*". In this case, the Department maintained that the complainant was informed her property would be destroyed and that she understood this. However, the complainant disputed that she consented to the destruction of her property. We noted that it would have been prudent for the Department to have obtained her consent in writing. The end result was that the Department acknowledged it had destroyed the complainant's property without the statutory authority to do so and agreed to pay compensation.

Earthquake Commission – Land Slips

The Commission has statutory authority to settle claims for landslips by way of cash payments rather than reinstatement. When it settles a claim with a cash payment it does not have a statutory obligation to advise local authorities that the damage

has not been remediated and the information is not included in a land Information Memorandum (LIM).

If the landslip is no longer visible due to re-growth a purchaser in reliance on a LIM can, without knowing it, buy land which has sustained damage and yet the fact of the damage not being remediated is information held by a Crown Entity. A complaint arose from these circumstances. A requirement for the Commission to report settlements concerning landslips to local authorities would ensure that the information which is currently not available on LIMs will become available to purchasers and avoid the effects of unreported cash settlements.

New Zealand Defence Force

The role of the Ombudsmen with respect to the New Zealand Defence Force is limited, as we are not authorised to investigate the terms or conditions of service of members of the Defence Force, or any order, command, decision, penalty or punishment of such a member. However, a recent case shows that the jurisdiction can still allow us to play a useful role.

The complainant was concerned about the way the Army had processed his trades change applications, which he alleged had been lost or delayed. He complained to the Army about that issue and had also submitted a claim for compensation. The Army's response to his complaint was outside jurisdiction, but we made enquiries about a lengthy delay in responding to the compensation claim. At the same time, the attention of the Chief of Defence Force was drawn to the complainant's ongoing concerns about the trades change issue, which the complainant considered to remain unresolved.

The Chief of Defence Force then asked the Army to look into all the outstanding matters. After its investigation the complainant was given an apology for the way the matter had been handled, and a number of measures were taken to restore the career advantages that he had lost. The complainant was satisfied with this outcome.

Retirement Village Fees

A resident of a retirement village complained about the plight of existing retirees, and the potential impact of fees on them associated with the implementation of the Retirement Villages (General) Regulations 2006. There seems in the development of the Regulations not to have been any consideration given to the situation of residents already in retirement villages, who are perhaps already fully financially committed, and thus unable to bear the brunt of the additional costs associated with the new legislation.

At our request the Retirement Commissioner is to investigate the additional financial costs associated with compliance with the legislation and how that is being passed on to residents in retirement villages. The Commissioner has indicated that the Minister of Building and Housing is also concerned about this matter and has initiated an enquiry into the matter by the Department of Building and Housing. The Commissioner has promised to keep our Office informed.

Crown Entities

In the course of the last year we noted an increase in the number of complaints received against agencies which, until the enactment of the Crown Entities Act in 2005, had not previously been subject to the OA. While it was to be expected that there would be a lead in period before it became widely known that such agencies were now subject to an Ombudsman's jurisdiction, that period would now seem to be over. Where these agencies are themselves review bodies, the exercise of our investigatory powers reflects the scope of our jurisdiction. While the Ombudsmen's role is not to act as an appeal authority against decisions of other review agencies, the nature of our function may from time to time require us to ask those agencies to reconsider particular decisions.

Local Government

Organisations Contracting Out Functions to Third Parties

Difficulties can arise when a local authority contracts out its statutory functions to a third party not subject to either the OA or the Local Government Official Information and Meetings Act 1987 ("LGOIMA"). Contracting out agreements should be very clear as to the responsibilities of the parties for responding to information requests and handling investigations under the OA. Local authorities cannot contract out of those responsibilities.

In one case a complainant made a request for information about the income of a third party derived from functions it undertook for a Council under a contracting out agreement. Initially, the Council declined the request on the basis that the information was the third party's property and was not official information. However, section 2(6) of LGOIMA provides that, where a local authority enters into any contract (other than a contract of employment) with any person in relation to any matter, any information held by that person and to which the authority is by contract entitled to have access, is deemed to be held by the local authority.

When that provision was pointed out to the Council, the Council accepted the requested information was official information, but was unable to comply with the request, as it did not have the information – the third party did. This led to significant delays in our investigation, because the Council could not make any decision on the request until it had the information. Although the complaint was eventually resolved, it highlights the need for Councils when contracting out services to ensure that contracting out agreements clearly set out Councils' LGOIMA and OA obligations.

Non-notified Applications under Resource Management Act 1991

Most applications for consents under the Resource Management Act 1991 (RMA) are dealt with on a "*non-notified*" basis, as most involve "*permitted*" or "*complying*" "*uses*". The first time that neighbours hear about RMA consents is often after a Council has granted them. Sometimes applications do not comply in all respects with a District Scheme, and applicants ask Councils to deal with applications on a non-notified basis. Councils can do so, where under sections 93 and 94 of the RMA, the adverse effects of non-complying applications on the environment are "*minor*" and Councils are satisfied that no one may be adversely affected by the applications.

In *Discount Brands v Westfield (New Zealand) Ltd* [2005] 2 NZLR 597 the Supreme Court underlined the significance of Councils' non-notification decisions. Non-notified decisions preclude *"the opportunity for anyone other than the applicant to seek such reassessment and from further appeal on a point of law to the High Court"* (per Elias CJ). Where adverse effects of a non-complying application are more than trifling, case law is clear that notification of an application must be given to those adversely affected, and, in certain cases, applications must be publicly notified. We have received complaints about Councils too readily deciding that people are not adversely affected by non-notifying applications. We cannot recommend the undoing of what has already been done in these situations; nor do complainants, realistically, have an adequate remedy – the complexity and cost of judicial review proceedings to the High Court is beyond the pocket of most. We express our concern that on occasions Councils are too willing to grant RMA consents to non-complying applications.

Another matter of concern to us is the possibly unintended effect of section 104(3)(b) of the RMA which reads:

"A consent authority must not ... when considering an application, have regard to any effect on a person who has given written approval to the application."

We are aware of situations where developers, for example, have owned neighbouring sections, and have given consent to themselves for what otherwise may be *"adverse"* effects on them, and, under that provision, the Council cannot consider the adverse effect. If this scenario is repeated on several occasions in the one area, it is possible that, almost by stealth, a character of a neighbourhood could change. A Council must still decide whether the effect of the non-compliance on the environment is no more than minor, but an ability to give consent to oneself, when such scenarios are repeated, can easily lead to a more intensely built up residential area than perhaps a District Scheme envisaged.

Resource Management Act: Hearings Commissioners and Non-notified Consents

When resource consents are granted on a non-notified basis there is no right of appeal to the Environment Court open to persons who believe they should have been identified as being *"adversely affected"*. In our last Annual Report we noted the trend of local authorities appointing commissioners to hear consent applications. Decisions of hearings commissioners, unless they are *"employees"*, are outside an Ombudsman's jurisdiction.

However, any person can request information held by a local authority. Reports provided to a commissioner, and recommendations made by Council officers, can be requested under the Local Government Official Information and Meetings Act, and can be the subject of complaint to an Ombudsman.

A complaint arose in one local authority's area where a very large retail development was planned adjoining residential housing zones with the retail development to take place on land zoned for business. An earlier application for consent had been granted

by a commissioner on a non-notified basis and as a consequence no right of appeal was open to the residents in the Environment Court.

When an amending application for consent was submitted the residents considered that the amenity value of their residential properties would be affected, and that the local authority reports had not taken into account the adverse effects on them of the development. However, the zoning of the business land meant that no adverse effects on the adjoining properties could be considered by the Council's officers. The effect was that the bulk, size and height of the retail development could not be considered as adversely affecting the approximately 30 residential properties that adjoined the land. This brings into question the City Plan. Local authorities may need to re-consider the impact of major retail developments on adjoining residential land.

Recommendations Not Accepted

All recommendations were accepted.

Where Significant Numbers of OA Complaints Arose

	Year ended 30/6/06	Year ended 30/6/07
<u>Central Government >=30 complaints</u>²		
Department of Labour	320	296 ³
Inland Revenue Department	120	125
Ministry of Social Development	168	140 ⁴
Ministry of Justice	54	49 ⁵
<u>Local Government >=15 complaints</u>		
District Councils – all ⁶	275	224
Tasman	25	24
Queenstown Lakes	15	20
City Councils – all ⁶	165	154
Auckland	26	27
Christchurch	18	27
North Shore	16	21
Manukau	15	16
Regional Councils – all	48	37

² Excludes complaints from prisoners. See page 112.

³ 290 involving the New Zealand Immigration Service and 6 other.

⁴ Includes complaints directed at former Ministry of Social Policy and Department of Work and Income and 52 concerning Child, Youth and Family.

⁵ Includes complaints directed at the former Department for Courts.

⁶ Total for all Councils inclusive of those detailed.

Other Organisations >=15 complaints		
Accident Compensation Corporation	161	111
Educational institutions	97	103 ⁷
District Health Boards	41	35
Police	38	15 ⁸
Health and Disability Commissioner	19	19

Detailed statistics are set out at pages 89-92

⁷ Comprises Schools Boards of Trustees (62), Universities and Polytechnics (41).

⁸ Complaints concerning policing matters are outside the Ombudsmen's jurisdiction. They are either referred directly to the Police Complaints Authority or the complainant provided with guidance and assistance.

THE OFFICIAL INFORMATION ACT 1982 (OIA)

Overview

The number of complaints received under the OIA increased by 6.3 percent over the last year. Our perception is that the increase is not so much a reflection of poor handling of OIA requests but rather the natural outcome of greater use by individuals and special interest groups of their right to request information and an Ombudsman's investigation and review in the event of refusal or administrative delay or charge.

Information, or more precisely, the ability to access information in a timely manner, is essential to the ability of individuals to participate effectively in decision-making that affects them. Promoting accountability, transparency and effective participation requires more than simply disclosing final decisions after they have been made. In order to influence the actions of the Executive and public sector agencies and hold them to account, adequate and timely disclosure of information throughout policy and decision-making processes is necessary. Information about what is being proposed, the reasons why it has been proposed and any policy assumptions or guidelines which are influencing consideration of proposals are equally important if accountability, transparency and effective participation are to be realised.

As noted in the context of the OA jurisdiction, the impact of the Public Records Act and the statutory obligation to create and maintain full and accurate records in accordance with normal, prudent business practice will increase public expectation about the nature and accessibility of official information relating to the *"making and administration of laws and policies"*. Agencies will face new administrative challenges in responding to requests where record-keeping practices have not kept pace with statutory requirements.

Two other themes that developed over the last year (discussed in more detail below) were:

- An increasing demand for the development of processes and guidelines which provide a degree of certainty for requesters and holders of information but not at the expense of the flexibility necessary to take account of the circumstances of particular cases; and
- A worrying trend in agencies seeking to exclude the application of the OIA to certain types of information ostensibly because the OIA does not provide sufficient protection.

In respect of the first theme, the Ombudsmen's general approach is that each case must be considered on its merits. However, *"rules of general application"* have developed over the years in respect of certain issues which, for all practical purposes, should afford adequate certainty for agencies. We draw attention to these in our practice guidelines and general publications.

In respect of the second theme, one of the purposes of the OIA set out in section 4(c) is to protect official information consistent with the public interest. It is somewhat bizarre

to hear agencies argue that certain information is so sensitive that the only way to protect it is for the OIA not to apply. If there is a concern that the withholding provisions of the OIA do not provide adequate protection the appropriate step is to seek amendment of the Act. That allows open and transparent debate and proper accountability to be taken before withholding provisions are strengthened. In this regard, the following words of then President of the Court of Appeal, Cooke P, are relevant:

“... the permeating importance of the Act is such that it is entitled to be ranked as a constitutional measure.”

(Commissioner of Police v Ombudsman, 1 NZLR [1988] 385 at 391)

The OIA contributes to transparency, accountability and ultimately good governance in the public sector. Proposals to exclude the OIA on the basis of a need for greater protection is inconsistent with one of the stated policy purposes of the legislation and should always be regarded with a healthy degree of suspicion.

Progress on Issues Raised as at 30 June 2006

District Health Boards New Zealand Incorporated (“DHBNZ”)

Last year we expressed our view that, given its role in relation to DHBs, DHBNZ should be subject to both the OA and OIA. We note that early in the reporting year a Private Members Bill, the Official Information (Openness of District Health Boards New Zealand) Amendment Bill was introduced. Prior to the introduction of that Bill we had raised the issue of the application of the OA and OIA to DHBNZ with the Ministry of Justice. The Ministry had deferred action in light of the Bill’s introduction. However, it was accepted that if the relevant parties agreed that DHBNZ should be subject to the OA and OIA, this could be achieved through the Order in Council procedure without the need for Parliament to consider the Bill. As at 30 June 2007 it seemed likely that the option of making DHBNZ subject to the OA and OIA by Order in Council would be actively pursued.

OIA Issues Arising in the Reporting Year

General Approach to Protection of Informants’ Identities

The general approach of the Ombudsmen to requests for informants’ identities in law enforcement situations is well settled. In situations where the prevention, investigation or detection of offences is dependent on persons coming forward with relevant information and they will only do so if their identity is protected then it has been accepted that section 6(c) provides good reason for refusal. This reflects the public interest in the maintenance of the law and the purpose in section 4(c) of the OIA to protect information consistent with the public interest. While each case is considered on its merits, the general rule of application is that informants’ identities are protected under the OIA. The focus of an Ombudsman’s investigation in such cases is to confirm whether:

- there is information held that would identify an informant;

- the informant has reasonable cause to believe that the agency undertook to keep his or her identity confidential;
- disclosure would inhibit other informants coming forward in future similar situations where their not coming forward with information would prejudice the “*maintenance of the law*”.

In such circumstances, both agencies and informants can be certain that section 6(c) provides a conclusive reason for refusal. There is no requirement to consider any countervailing public interest in disclosure. The Ombudsman’s investigation nevertheless provides an accountability safeguard against possible process corruption (not encountered in New Zealand to date but can occur in many overseas jurisdictions) where law enforcement or regulatory agencies have fabricated the receipt of allegations to justify actions they have taken. It also provides a check against information being withheld erroneously where in fact its disclosure would not reveal an informant’s identity at all.

Given that this approach is well-settled, it has surprised us over the last year to encounter proposals for legislative amendment to exclude the operation of the OIA to certain organisations on the basis that informants would not come forward because the agency is subject to the Act. We have strongly opposed such proposed amendments on the basis that:

- They are unnecessary because section 6(c) provides adequate protection under the OIA; and
- They undermine the public policy principles reflected in the purposes of the OIA that official information should be made available unless there is good reason under the Act.

As noted above, if there is a concern that section 6(c) as currently enacted does not adequately protect informant identities in circumstances where it is in the public interest to do so, then agencies should properly seek amendment of section 6(c) on the basis that it is not meeting the purpose set out in section 4(c). An argument that the only way to adequately protect informant identities is to exclude the application of the OIA lacks logic and favours administrative convenience over legislative integrity.

An Innovative Way to Maximise Information Availability

A requester made a broadly-framed request to the Minister for Biosecurity with the result that while some information was made available, the Minister initially proposed a charge of upwards of \$6,000 plus photocopying for the supply of other information (which was held by the Ministry of Agriculture and Forestry).

Following notification of the complaint some more, but still not all, the information was released without charge.

In the event, the Ombudsman formed the view that in relation to information that had still not been released, the Minister was in fact entitled to refuse the request pursuant to section 18(f) of the Official Information Act. In essence, this was because even imposing

a charge would not get around the problem that the information requested could not be made available without substantial collation or research.

However, despite this view the Minister made an offer to the requester that the Ombudsman regarded as a reasonable alternative approach. This approach recognised that information may be made available by giving a requester a reasonable opportunity to inspect documents (section 16(1)(a)); and that access to official information may be granted subject to specific conditions on the “*use, communication or publication*” of that information (see section 28(1)(c) of the Act). In addition, the public position held by the requester not only heightened the public interest in that person accessing the information, it also made the approach tenable.

The Minister proposed that the requester would be granted access to MAF’s relevant hard copy files, its electronic files, ministerial correspondence and an email folder. Such access would be subject to agreeing to limit further disclosure to information that MAF agreed to provide in hard copy form, following its assessment of whether any of that information may be properly withheld. With contracts between MAF and service providers, the requester would need to decide, from a list of brief identifiers, which of the files to peruse and MAF would decide whether or not to grant access and, if so, agree to provide information in hard copy form (which could then be publicly disclosed). If dissatisfied with any such decision by MAF, the requester could refer the matter to the Minister (as the person complained against) for review. If the Minister upheld any MAF decision, it was then open to the requester to make a fresh complaint to an Ombudsman.

While it is understood the requester did not in fact pursue the Minister’s offer, this case illustrates how an innovative use of the Act’s provisions can in certain circumstances maximise the availability of official information in the public interest, while minimising the amount of information that needs to be protected.

Not all Information held by a Minister of the Crown is Official Information

Two OIA complaints against the Prime Minister illustrate that while information held by a Minister of the Crown in that official capacity is ‘official information’ (see section 2 of the Act), information held by a Minister in any other capacity is not.

A Prime Minister may hold official information in their official capacity as Prime Minister alongside any other ministerial responsibility. However, information held as leader or member of their party, as a Member of Parliament or in their private capacity is not official information. An Ombudsman must form a view on the information at issue in terms of its nature, content and purpose, the context in which it came to be held and the use to which it has been put.

In the first case the information, which had not been generated within executive government, could be characterised as “*political intelligence*” held by Miss Clark relating to matters for which neither she as Prime Minister nor any other Minister had any ministerial responsibility. She had seen it in her capacity as Leader of the New Zealand Labour Party.

Reference to the information was made by her in response to a question in the House. Participation in Parliamentary proceedings is the function solely of Members of Parliament (who are not subject to the OIA) and is not an executive function. Accordingly, Miss Clark's reference to the information was in her capacity as a Member of Parliament. The Chief Ombudsman therefore concluded that the OIA did not apply to the information requested.

In the second case the information related to the 2005 parliamentary elections. The information came to Miss Clark from the Clerk of the Executive Council, a position held concurrently with that of Secretary of the Cabinet.

During a government formation process, the Clerk provides official, impartial support to the Governor-General, including facilitating the transition between administrations (in particular, assisting the outgoing and incoming Prime Ministers if there is a change of government). Consistent with this, the Clerk's advice on constitutional matters is available on an even-handed basis to the leader of any party (including the incumbent Prime Minister) involved in an attempt to form a government after an election.

Having regard to the foregoing and to the overall content and context (including timing) of the Clerk's advice in this case, it was considered that Miss Clark received that advice as Leader of the Labour Party rather than as "*a Minister of the Crown in [her] official capacity*" and that it was therefore not, in her hands, 'official information'. This being so, the Chief Ombudsman concluded that the OIA did not apply to the request to Ms Clark.

We note that the same advice was requested from the Department of Prime Minister and Cabinet to which the OIA does apply. The Chief Ombudsman accepted that the advice was subject to an obligation of confidence and that only an atmosphere of complete confidentiality would allow the Clerk to give advice in a candid, impartial manner. To the extent that it is in the public interest that the Clerk should not be inhibited in giving such advice, section 9(2)(ba)(ii) provided good reason for withholding the information.

Request for Information Relating to Consultation in Preparation of Cabinet Papers

In the MMP environment, consultation with officials, Ministers and other political parties has come to occupy a much more significant part of the process of formulating policy and generating Cabinet papers. This particular case concerned a request by an opposition research unit for copies of all CAB 100 forms received or prepared by the Cabinet Office since the 2005 general election.

CAB 100s are the sheets on the front of Cabinet papers that disclose, among other things, four categories of consultation that have taken place (or not) in the preparation of the Cabinet paper:

- departmental consultation;
- ministerial consultation;
- government caucus consultation;
- political consultation.

Category 1 is normally included in the Cabinet paper but the other three are not. In this case the main concern centred around information that would disclose government caucus consultation and political consultation with other parties. The request was refused under several provisions but the reason for refusal considered most relevant was section 9(2)(f)(iv). That section provides good reason for withholding information if, and only if:

- it is necessary to “*maintain the constitutional conventions for the time being which protect ... the confidentiality of advice tendered by Ministers of the Crown and officials*”; and
- this interest is not “*outweighed by other considerations which render it desirable, in the public interest, to make that information available*”.

The Chief Ombudsman accepted that there is a convention of confidentiality surrounding the Government’s political consultation processes. The need for such confidentiality is heightened in the MMP / coalition and minority government environment, in which the Government of the day is reliant on negotiating sufficient political support in order to further its initiatives. On the other hand, he also noted that it will not always be “*necessary*” to withhold particular CAB 100 forms in order to maintain the convention of confidentiality surrounding the Government’s political consultation processes. CAB 100 forms are sometimes disclosed on an ad hoc basis. Furthermore the Government or the parties it chooses to consult on a particular initiative may disclose the fact or timing of that consultation publicly.

However, on balance, the Chief Ombudsman considered that a request for all CAB 100 forms would effectively open up the entire political consultation process. Disclosure, in such a systematic and wide-ranging fashion, of who the government chooses to talk to, about what, and when, is likely to have a negative effect on its relationships with the various support parties, and therefore undermine stable and effective government. Unlike departmental consultation, political consultation is not disclosed elsewhere to the extent it is discussed in the CAB 100 (while Cabinet Office coversheets will often say whether or not consultation will be required with government caucuses or other parties represented in Parliament, they contain no precise details about that consultation).

It was therefore accepted that section 9(2)(f)(iv) applies to the information requested; its withholding is necessary to maintain the constitutional convention protecting the confidentiality of advice tendered by Ministers of the Crown. It was also accepted that section 9(2)(g)(i) of the OIA is relevant (on the basis that the withholding is necessary to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or officers and employees of any department or organisation in the course of their duty). Ministers would be inhibited in recording their political consultation intentions on the CAB 100 form if those forms became systematically and widely disclosed.

In respect of any countervailing public interest in disclosure of all CAB 100 forms it was accepted that they are likely to be instructive about the way coalition minority government works. However, that consideration was not considered sufficiently compelling to outweigh the need to withhold the forms detailed above. Having said

that, the possibility was left open that there may be a strong public interest in disclosure of information about a particular initiative, including political consultation planned or undertaken in respect of that initiative but that would need to be assessed on a case by case basis. In a global sense, there is no countervailing public interest in disclosure of all CAB 100 forms generally.

Police Threat Assessments – Ahmed Zaoui

Over the past year, the Chief Ombudsman has been considering several complaints relating to matters concerning Ahmed Zaoui. A number of these have raised complex and important issues requiring careful consideration of the balance between:

- the legitimate needs of intelligence and law enforcement agencies to protect their ability to receive information in confidence; and
- the rights of individuals to be able to know, as far as possible, what information has been used to support decisions or recommendations about them and which have the capacity to influence other decisions taken about them.

As the following case illustrates, there is sometimes a danger that agencies involved in law enforcement and intelligence activities may focus too much on the type of document in which the information is held rather than considering the actual information itself and the likely harm from disclosure of that information.

Mr Zaoui's legal counsel requested copies of two threat assessments that had been prepared about him by the Police. The Police had refused the request under sections 6(a) and (b) on the grounds that disclosure would prejudice their ability to obtain confidential information from overseas law enforcement and intelligence agencies. The Police concern was not based on the content of the threat assessments; the Police had not identified any information within the assessments that was actually supplied by overseas intelligence and law enforcement agencies. The Police concern was based on the context in which threat assessments are produced; that is, overseas intelligence and law enforcement agencies commonly supply information used in threat assessments and disclosure of threat assessments – even where they do not contain any information supplied by those agencies – would undermine their willingness to supply information in confidence in the future.

In the circumstances, the Chief Ombudsman accepted that there was good reason under section 6(b)(i) of the OIA for withholding the threat assessment documents themselves. The predicted prejudice in this case would be likely to arise from disclosure of documents called "*threat assessments*", because of a perception held by our international partners that such documents are likely to contain sensitive intelligence supplied in confidence.

However, where the information requested is comprised in a document, section 16 of the OIA allows for consideration of disclosure in an alternative manner. In this case the prejudice is likely to arise from the form of disclosure rather than the content of the information. In this context, the Chief Ombudsman could see no good reason for withholding any of the content of those documents. He therefore formed the view that a

full summary of the documents could be disclosed to the requester, with the clear caveat that none of the content was supplied by New Zealand's international partners. The Privacy Commissioner concurred with this view. The Chief Ombudsman and the Privacy Commissioner prepared for Police consideration summaries of the threat assessments which contained all the information they believed could be disclosed to the requester without any risk of prejudice to the interests protected by the OIA. Following lengthy deliberation, the Police agreed to release the summaries in the format proposed.

Quantas and Air New Zealand

A website version of the application by Qantas and Air New Zealand to the Minister of Transport under Part 9 of the Civil Aviation Act 1990, for approval of a Trans-Tasman code-sharing agreement, contained a number of deletions. A request to the Ministry of Transport for an unedited version of the application was refused under section 9(2)(b)(ii) of the OIA – that disclosure would be likely unreasonably to prejudice the commercial position of the applicants.

The Chief Ombudsman concluded that the deleted information was limited but sensitive commercial information that included strategic views, cost structures and pricing criteria not available to competitors, and general competitive intelligence not publicly known, the possession of which by other airlines and customers would disadvantage Air New Zealand's negotiating position.

In assessing whether there was a public interest in disclosure that outweighed the interests in withholding, the Ombudsman had regard not only to the large amount of information that had been made publicly available, but also the public interest in applicants under Part 9 of the Civil Aviation Act providing information to the Minister in as much detail as possible if their application is to be decided expeditiously. Such information that is commercially sensitive needs to be protected.

The Chief Ombudsman also considered the complainant's argument that disclosure was warranted because of legal doubts surrounding the competition elements of the application.

It was not an Ombudsman's function in this case to determine whether breaches of the Commerce Act, or any other legislation were involved. The public interest in that respect is met by the functions performed by the Commerce Commission or the courts.

Transcripts of Police Conversations with Iraena Asher

During the course of the reporting year the Chief Ombudsman concluded an investigation and review of the decision by the NZ Police to withhold from Iraena Asher's parents the transcripts of Police conversations recorded in the course of the Police response to Ms Asher's 111 emergency calls.

The Police had released the transcripts of the calls between the Police and Iraena Asher and the taxi company. However, the recorded conversations between Police employees were withheld pursuant to sections 6(c) and 9(2)(g)(i) of the Official Information Act.

The substance of the arguments for the application of these sections was that Police employees, in the knowledge that their conversations might well be released publicly, would fail to express themselves with the openness required for effective operation of the emergency call system.

The Police stated that it was the “*actual conversation*” between its employees and not the “*nature*” of them which they sought to withhold. The issue was whether the manner in which the Police had expressed themselves could be withheld.

The Police were concerned that disclosure of the exchanges would be likely to inhibit full and frank discussion between Police members and this would be likely to affect officer safety, investigation outcomes and change the way Police carried out their day to day business. Nevertheless, they also acknowledged that the language used, and the attitude demonstrated by it, was inappropriate; and that it may have contributed to a “*mindset*” which adversely affected the Police response.

The Chief Ombudsman accepted the way officers express themselves in the future might be affected by knowledge of release of the information, but he considered this would be a positive outcome. As the Police Complaints Authority emphasised there is a “*need for members of the Police to consider their language, and to remain professional, at all times*”.

The Chief Ombudsman noted that even if he were to accept that section 9(2)(g)(i) applied, he would tend to the view that the withholding of the information was outweighed by other considerations which meant that it was desirable, in the public interest, to make that information available. These were the accountability of the Police for the operation of the 111 system, and accountability to Ms Asher’s family. The public interest considerations would not adequately be met by partial disclosure of the transcripts.

Furthermore, the Chief Ombudsman considered that there was a wider public interest consideration favouring disclosure in the context of the circumstances of this case. He said:

“The Police occupy a very important position in New Zealand society. There is clearly a public interest in maintaining the ability of the Police to carry out their functions effectively. However, the nature of Police functions and powers and the impact they can have on individual New Zealanders require the Police to act responsibly, professionally and with integrity.

Where there are apparent lapses, such as in this case, there is equally a public interest in transparency not only of any corrective measures taken but also of the acts or omissions that gave rise to corrective measures. Such transparency is critical to maintaining public confidence in the Police. In cases such as the present, maintaining public confidence through adequate transparency of Police actions may require disclosure of information even though that information may invite criticism”

The Police had expressed concern that disclosure of the information would be likely to lead to “*industrial action formal or informal disrupting the activities of communication Centres at a critical time*”.

The Chief Ombudsman noted that the information at issue was generated prior to an independent review of Police Communications, and its nature had subsequently been discussed publicly. This rendered the actual dialogue not “*likely*” to have the effect predicted.

Ultimately, the Chief Ombudsman concluded that the causal link between the information at issue and damage to any protected interest was missing. In particular, he did not consider that it was likely that the Police would refrain from fulfilling their duties properly as a result of the release of the information.

The Police responded to the Chief Ombudsman’s view by releasing the transcripts in full.

Fees of ACC Consultants

A complaint was received about the refusal of ACC to release the amount earned by occupational physicians it had engaged to prepare independent reports on whether claimants were fit to work. ACC refused to disclose that information on the basis; first, that the information requested could not be made available without substantial collation or research (section 18(f) OIA), and, secondly, that withholding disclosure of the information was necessary to protect the privacy of the consultants (section 9(2)(a) OIA).

At the time of the request ACC said it did not hold the information requested in the one place – the information was held on the individual files of many claimants whom the consultants had seen. The view was formed that, in today’s age of computers, having regard to the principle of availability in section 5 of the OIA, ACC should be able to make such information available simply and quickly, and it was not therefore appropriate for ACC to withhold the information on the ground of substantial collation and research.

Both ACC and the consultants made strenuous submissions concerning this ground. Particularly taking into account the sums paid to the consultants amounted to several hundred thousand dollars each year, the view was formed that the public’s right to know how much money ACC paid to those consultants outweighed the consultants’ privacy.

In accordance with the Ombudsman’s final recommendations, ACC released to the requester the total amount paid by ACC to the consultants for the years in question.

Recommendations Not Accepted

All OIA recommendations were accepted.

Where Significant Numbers of OIA Complaints Arose

The following table shows the more significant areas where complaints arose:

	Year ended 30/6/06	Year ended 30/6/07
<u>Departments and organisations >=20 complaints</u>		
Police	103	98
Ministry of Social Development	27	64⁹
District Health Boards	58	47
Educational Institutions	20	40¹⁰
Department of Labour	32	37¹¹
Ministry of Justice	23	33
Ministry of Health	17	28
Land Information New Zealand	7	23
<u>Ministers of the Crown >= 15 complaints</u>		
Minister of Justice	3	24¹²
Minister of Education	8	22¹³
Minister of Social Development and Employment	-	20¹⁴
Minister of Health	9	19¹⁵

More detailed statistics are available at pages 92-96

9 11 concerning Child Youth and Family

10 19 involving Boards of trustees - schools

11 26 involving the New Zealand Immigration Service and 11 other

12 1 concerning the Assoc. Minister of Justice

13 1 concerning the Assoc. Minister of Education and 1 the Minister for Tertiary Education

14 3 concerning the Assoc. Minister of Social Development and Employment

15 2 concerning the Assoc. Minister of Health

THE LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987 (LGOIMA)

Overview

We are pleased to record that overall the local government sector appears to be giving rise to a relatively low number of complaints. In the 2006/07 year we received 192 LGOIMA complaints and 425 under the OA. While some of the larger local authorities featured more significantly in the number of complaints received, overall the sector seems to manage its responsibilities well. As a sector, we have noted that local authorities have shown commendable interest in pursuing training opportunities for staff on LGOIMA issues.

As was the case in our previous Report, we note that the local government sector continues to give rise to relatively low numbers of official information complaints. It is encouraging that members of the public express little dissatisfaction with the performance of local authorities in this regard. In our experience requests are most commonly made for information that impacts on private interests, for example resource management matters and applications by neighbours for consents.

Recommendations Not Accepted

All LGOIMA recommendations were accepted.

Where Significant Numbers of LGOIMA Complaints Arose

	Year ended 30/6/06	Year ended 30/6/07
>=10 complaints		
District Councils - all	96	90
Queenstown Lakes	7	11
City Councils – all	61	81 ¹⁶
Auckland	16	22
Christchurch	13	18
Wellington	12	11
Regional Councils - all	15	14

¹⁶ Total for City Councils includes Councils listed.

THE PROTECTED DISCLOSURES ACT 2000 (PDA) – “*Whistleblower Legislation*”

Overview

Further progress has been made by officials towards introduction of the Bill to amend the PDA. It is hoped that the Bill will be introduced in the near future. We remain of the view that if the PDA is to function successfully it is important that the proposed amendments be made.

As in previous years, the numbers of potential and actual disclosures which have come to our attention have not been great; eight for the year to 30 June 2007 (last year also eight). Most have been dealt with by providing information and guidance in accordance with section 15 of the PDA. However, in one case it was considered better for the rather complex disclosure to proceed “*in house*” in the first instance, rather than under sections 9 or 10 of the Act. We have also dealt (under the OA) with a complaint about the conduct of an investigation following a disclosure.

Section 15 of the PDA is directed to assisting the possible whistleblower. We interpret that jurisdiction widely, so that the potential whistleblower’s concerns are channelled to the most appropriate quarter, which sometimes will be outside the strict scope of the PDA itself.

As the present Act contains no mechanism for the gathering of data regarding its use, it is impossible to obtain a clear picture of the extent of its actual use. Disclosures can be made to a variety of agencies, ranging from those provided “*in-house*” in accordance with section 11 of the Act, to the “*appropriate authorities*” nominated in section 3 of the Act, such as the Commissioner of Police and the Controller and Auditor General, to name but two.

In December 2003 New Zealand signed the United Nations Convention against Corruption and will ratify the convention at a future date. Increasing public awareness of the PDA and its coverage of employees in organisations within both the public and private sectors of the economy, would contribute as a major deterrent to the development of corrupt practices in New Zealand.

Our website continues to provide information about the PDA. Our brochure and booklet relating to our functions under the PDA also continue to be available.

PART II – GENERAL INFORMATION

Publicity and Public Awareness Programmes

The general thrust of our communications strategy including our publications: the Ombudsmen’s “Practice Guidelines”, “Case Notes of the Ombudsmen” and the “Ombudsmen’s Quarterly Review (Te Arotake)” is to provide information and guidance on the Ombudsmen’s application of the OA and official information legislation. Our Annual Report also includes important comment on developing themes or issues that have arisen within our jurisdiction during the year.

Our primary strategy is to assist agencies with strengthening their decision-making processes by providing examples or comment on pitfalls in the decision-making process that we have identified during recent Ombudsmen investigations. Improved decision-making and understanding of agency responsibilities under the OA and official information legislation should result in a reduction in the number of complaints received by both government agencies and our office. We augment our publications with presentations to community groups and service organisations and to government agencies when requested. During the 2007/08 reporting year we expect to be more active in providing training and presentations to government departments, organisations and agencies. See pages 41 and 50.

We have published our information pamphlets in Te Reo Māori, Samoan, Chinese and English.

Ombudsmen Quarterly Review (Te Arotake)

During the 2006/07 reporting year we published three editions of the Ombudsmen’s Quarterly Review (Te Arotake). Work pressures prevented publishing the December 2006 edition.

Demand for the hardcopy of this publication continues to be stable at about 1,000 subscribers. The Review continues to be a useful means of disseminating up-to-date information about issues that have been considered by us, including generic matters that can arise out of these issues.

An electronic version of the Quarterly Review may be accessed and downloaded from our website www.ombudsmen.parliament.nz

Compendium of Case Notes

The 14th compendium of the Case Notes of the Ombudsmen has been published on our website (www.ombudsmen.parliament.nz) and will be available in hard copy form from September 2007. The compendium contains summaries of selected cases investigated under the OA, the OIA and LGOIMA in the period 1 January 2002 to 31 December 2004.

We expect to publish a 15th Compendium of Case Notes covering the period

1 January 2005 to 31 December 2007 during the 2007/08 reporting year. It will be the last published in booklet form. Future versions will be available for reading or downloading from the office website and in an information sheet format to be published regularly.

Practice Guidelines

No new practice guidelines were published during the reporting year.

Last year we advised that we expected progress would be made in updating existing guidelines as they relate to the official information legislation and in the preparation of new guidelines in support of the OA jurisdiction. The project is one that may only be undertaken by senior and experienced staff. In the event key staff associated with the project took parental leave for a majority of the reporting year. Investigative work pressures within the office prevented other senior staff being tasked with the project with the outcome that no real progress was made with either updating the existing guidelines or preparing new guidelines. However from July 2007 additional staff have been committed to the project. Substantive progress is expected to occur during the 2007/08 year.

Electronic copies of the existing guidelines may be viewed and downloaded from the office website www.ombudsmen.parliament.nz.

Engaging with Māori

As part of our communication strategy we continue to liaise with the office's Māori Focus Group and Kaumatua Henare Kingi in identifying and utilising links and access to the Māori community. Discussions have also been held with representatives of organisations with existing outreach programmes to examine how those organisations are communicating their message to the Māori community and which mode or modes are most successful. Also Kaumatua Henare, with his own links in Māori Radio and the general media, continues to promote the face of the office and comment on issues in the public arena for Māori listeners. His work in this area is greatly appreciated.

We referred in last year's report to workshops for staff training in Māori culture. To continue to promote interests about Māori, staff put in place activities to encourage the everyday use of Te Reo Māori during Māori Language Week 2007. As a result, staff are becoming more confident in their use of Te Reo Māori.

Clinics/Regional Meetings

Some question the value of our visits to smaller communities and rural centres because current communications technology provides an effective alternative means to communicate the role of the Ombudsmen and receive complaints. That is not an unreasonable view.

However, citizens living in smaller communities can feel overlooked and alienated because they are removed from the larger population centres. Also, while modern communications technology is impressive, computers and telephone are far different from a personal visit to a small community to hear citizens and small business owners

concerns firsthand. These visits are an important mechanism for ensuring as many people, organisations and local businesses as possible have access to an independent and impartial investigation and review facility when they are dissatisfied with an action or lack of action by a government agency. We schedule our visits to smaller population centres and rural hubs to recur on a two to three yearly cycle.

Our visits are frequently the subject of local press and radio media attention. We routinely meet with executive staff of local Councils to discuss general issues within our jurisdiction or specific complaints. We also visit other organisations such as Citizens Advice Bureaux and Community Law Centres and provide briefings on the role of the Ombudsmen. During the coming year we intend to extend this to include small business groups.

Our programme of visits to smaller communities outside of the four major metropolitan centres was much reduced compared to previous years. Work pressures and staff absences because of sickness prevented significant activity in this area. During the 2006/07 year, we or our staff visited Invercargill, Gore, Whangarei, Rawene, Queenstown and Alexandra. We propose to resume a normal programme in the 2007/08 year.

Speaking Engagements

We and our staff gave presentations on the role of the Ombudsmen and on particular aspects of our jurisdiction to departmental officials and various groups within the New Zealand community and to overseas bodies.

Date	Organisation	Location
Various	Training presentation concerning the role of the Ombudsmen to trainee Correction Officers – 24 presentations throughout the year	Predominantly Wellington, but some at Auckland and 1 at Milton
July 2006	National Council of Women	Whangarei
	School Trustees Association Conference	Christchurch
	University of Canterbury Law School	Christchurch
	Lexis Nexis OIA Conference	Auckland
	Waikato University Law School	Hamilton
	Te Whare Wananga O Awanuiorangi	Whakatane
August 2006	Thames Coromandel District Council	Thames
	Wellington Probus Club	Wellington
	Wellington Community Law Centre	Wellington
September 2006	Insurance and Savings Ombudsman conference	Auckland
	Transport Accident Investigation Commission	Wellington
	Wellington District Law Society	Wellington
	Te Awamutu Continuing Education Group	Te Awamutu

October 2006	Information Law workshops	Wellington
	Human Rights Commission	Wellington
	Whangarei CAB	Whangarei
	South Wairarapa Probus Club	Greytown
	Waikato Division of Rural Women	Hamilton
November 2006	Information Law workshops	Auckland
	Rotary Club of Rotorua West	Rotorua
December 2006	Local Govt Lawyers Group	Auckland
February 2007	Australia – New Zealand School of Government.	Wellington
March 2007	State Services Commission workshop	Wellington
May 2007	Tauherenikau Probus Club	Greytown
	Lexis Nexis Official Information Act seminar	Auckland
	World Bank Institute Workshop	Jakarta, Indonesia
	Pacific Ombudsmen Meeting	Sydney
June 2007	9 to Noon Interview Radio NZ	Wellington

International Contacts

Official delegations from overseas governments and researchers visited our offices during the year (details below). Many sought information about the Ombudsman role and how it fits within the New Zealand system of governance. Others were interested in how the Ombudsmen contribute to reducing corruption, improving human rights and to increased government accountability. New Zealand's official information legislation also attracts much interest from overseas. With 25 years experience in considering a very broad range of requests in both content and sensitivity, the New Zealand experience is of considerable interest to other countries considering establishing similar jurisdictions.

Visits were received from:

DATE	DELEGATION
September 2006	Delegation from Kazakhstan: Mr Zautbek Turisbekov Chairperson of the Civil Service Agency Mr Ali Komekbaev Deputy Chairperson of the Civil Service Agency Mr Serik Kaparov Director of the Personnel Department Civil Services Agency Representative of DAI Europe Ltd Ms Yulia Shirokova Public Sector Consultant, DAI Europe Ltd

October	Scottish Minister for Parliamentary Business Ms Margaret Curran MSP Martin Williamson, Deputy High Commissioner for the UK Steve Kerr, International Division, Scottish Parliament Ms Gill Glass, Private Secretary
	Delegation from Public Servants Supervision Committee of Hubei Province, China
February 2007	Delegation from Ireland - members of the Irish Parliament Joint Committee on Finance and the Public Service: Senator Joe O'Toole Paul McGrath MP M.J. Nolan MP John Hamilton, Clerk to the Committee Rodney Walshe, Honorary Consul General of Ireland in New Zealand
	Delegation from Chile Miss Rossana Perez, National Director of Public Service Agency, Chile Mr Francisco Silva, Legal Adviser Mr Marcos Santander, Public Communications
	Mr Jorge Valenzuela Consul of Chile
	HE Mr Molosiwa Selepeng, High Commissioner for the Republic of Botswana, based in Canberra, re the Office of the Ombudsman in Botswana
	Delegation from Heilongjiang Province, China
June	National Human Rights Commission of Korea Delegation of six persons led by Im, Song - Director of Human Rights Education Team in Public Sector

The Chief Ombudsman, John Belgrave, attended an Australasian Corrections Inspectorate meeting in Perth to present a paper on the role of the Ombudsmen in Prisons and met with his counterparts in Melbourne and Sydney.

Ombudsman Beverley Wakem participated in a London based programme entitled "When Citizens Complain: The Role of the Ombudsman in Improving Public Services"

The course of two weeks duration was established seven years ago. It is administered by a private management consulting company, Public Administration International, which works internationally and, in particular, in developing countries. PAI specialises in governance issues – establishing projects and training programmes to improve public administration. This particular course is supported by the Commonwealth Secretariat to the extent of funding for participants to attend.

The New Zealand Office of the Ombudsmen has been involved from the beginning of the programme both helping to devise the framework and the course content and also leading the second week of the programme which concentrates on practical issues connected with establishing and managing an Ombudsman office.

Course participants came from Gambia, Jamaica, Kosovo, Lesotho, Malawi, Nigeria, Rwanda, South Africa and Trinidad and Tobago. Among the ranks of the participants were a former Solicitor General and a former High Court Judge as well as senior investigators.

This is an excellent introductory course for new Ombudsmen and senior investigating staff within the Commonwealth. New Zealand's participation is clearly valued – we are a small office with simple and practical solutions to most problems likely to be encountered and we demonstrate an approach which finds a sympathetic response among participants.

Many of the countries involved have legislation which is modelled on New Zealand's and it is clear that we have "seeded" many of our practices around the Commonwealth. The office clearly has credibility internationally and the number of visiting delegations and their response to our presentations each year continues to support that reputation.

The Chief Ombudsman attended a meeting of Pacific Ombudsmen in Sydney on 29 May 2007. As a consequence, staff of Pacific Ombudsmen are likely to attend our Office for training.

A senior member of the staff attended a meeting of Deputy Ombudsmen in Perth. The meetings are to discuss issues of common interest and to learn from the experiences of Ombudsman offices with similar jurisdictions.

Office of the Ombudsmen Website

Our new website www.ombudsmen.parliament.nz officially went live on 23 April 2007. The site has been rebuilt to improve its usefulness as a tool for distributing information about the role of the Ombudsmen within New Zealand society and to aid government agencies in their consideration of official information requests as well as with their responsibilities under the OA. A major new component of the site is the ability to search and view reports and other office publications including Case Notes of the Ombudsmen that we and our predecessors have released into the public domain. Our intention is, through improved guidance and information to agencies and requesters, to encourage more complaints being resolved in the first instance directly by the agencies concerned and without our direct participation in the process, and to prevent complaints arising in the first place. Feedback from visitors to the site has been positive.

The site, initially rebuilt only in English, has tags in its structure to allow for a Māori version of the static content to be made available possibly in the 2007/08 or 2008/09 year.

There were in excess of 25,500 visits recorded to the website during the year.

PART III – OPERATIONS

CHIEF OMBUDSMAN’S REPORT ON OPERATIONS

How the Ombudsmen Contribute to “Good” Government

Until 1962 there was no institution other than the Courts to assist the public with resolving complaints concerning government agencies. Many justifiable complaints were not pursued because of the formality, high cost and time required to have a case heard and determined by a Court. There was relatively little accountability of government agencies to the “everyday person”. Parliament recognised this as a weakness within our democracy and in 1962 passed into law the Ombudsmen Act (OA) creating the office of Ombudsman to which the public may complain about an action or inaction by a government agency. Over time the office of Ombudsman has been strengthened by assuring its impartiality and financial independence from the Government of the day. The jurisdiction of the Ombudsmen has been extended to virtually all spheres of government activity including to information held by government agencies and Ministers.

New Zealand is fortunate in having a high calibre, efficient and effective public sector to administer the multitude of government laws, rules, regulations and by-laws that routinely affect how we live our lives at a personal level and in our interactions with others. The majority of the public’s interactions with New Zealand’s governance systems proceed smoothly and without incident but occasionally some go wrong. Sometimes the wrong outcome results even though processes and rules and the law have been applied correctly. Many of these “wrong outcomes” are corrected following a complaint being made to the government agency concerned but a small number (9,090 for the year ended 30 June 2007) remain where an individual or business feel that they have been treated unfairly in some way and complain to the Ombudsmen.

When we investigate a complaint we review all of the relevant information, including, where appropriate, personally examining agency files and visiting building sites or other locations associated with the complaint. We do this from the perspective of an impartial reviewer. We are not advocates for any of the parties to a complaint but review all of the facts, circumstances, laws and regulations, policies and practices relevant to the complaint and form a view on whether the complaint is justified and if so what might be done to resolve the matter. A resolution might comprise any or all of the following:

- a reconsideration or correction of the matter by the agency concerned;
- an apology;
- the implementation of improved or new procedures to minimise the risk of a recurrence;
- a recommendation for legislative action.

Where appropriate, we can report to the Prime Minister or Parliament.

We are not restricted to investigating a matter only after a complaint has been made to us, but may, if we consider it appropriate, initiate an investigation of our “own motion”. Own motion investigations are most likely to focus on a real or perceived systemic issue in a government agency or multiple agencies. The most recent of these concerned the Department of Corrections in relation to the transport of prisoners. Own motion investigations require the commitment of significant time and staff resources. They are not lightly undertaken.

The Ombudsman role contributes strongly to achieving open and accountable government. When agencies’ actions are open to investigation by an external, impartial and independent review authority that has the power to bring maladministration and poor decision-making into the “light of day” either by report to the relevant Chief Executive, the responsible Minister or Ministers for the agency or to Parliament, improved decision-making, transparency and accountability result.

The OA provides us with extensive investigative and reporting powers in relation to complaints against government agencies, and in respect of the official information legislation but our mode of operation when undertaking investigations is to work with agencies in as co-operative and non adversarial manner possible. We have found that significantly more progress can be made in a harmonious investigative climate and that agencies are more willing to consider alternative views to their own when presented with logical discussion of issues relating to a complaint. As a consequence many investigations that we undertake do not progress through to the stage of a formal recommendation being made, but instead are resolved by the agency indicating a willingness to reconsider or change its position in respect of a particular matter.

The following table provides a snapshot of two of the office performance measures applied to our primary workload completed during each 12 month period ended on 30 June. These are complaints and enquiries where a formal investigative file was opened. Complaints and enquiries made by prisoners and enquiries made by the general public using the telephone and resolved informally by Call Centre staff have not been included because their outcomes have not been recorded in a way that allows statistical analysis. Also, the high number of generally quickly resolved complaints would seriously distort the performance statistics of complaints progressed more formally. Detailed performance measures are found at pages 66-70.

	Year Ended			
	30/6/04	30/6/05	30/06/06	30/06/07
Ombudsmen Act				
Complaints informally or formally resolved in favour of complainant (in whole or part) or where assistance is given to the complainant	78%	84%	89%	89% ¹⁷
Average number of working days required to resolve:				
General complaints	49	53	60	64
Prisoner complaints	8	9	10	13
Official Information Act				
Complaints informally or formally resolved in favour of complainant (in whole or part) or where assistance is given to the complainant	65%	66%	56%	63%
Average number of working days required to resolve a complaint	64	73	84	79
Local Government Official Information and Meetings Act				
Complaints informally or formally resolved in favour of complainant (in whole or part) or where assistance is given to the complainant	87%	60%	61%	72%
Average number of working days required to resolve a complaint	45	69	62	64

Business Risks Identified at the Beginning of the 2006/2007 Reporting Year

The office Statement of Intent for 2006/07 commented on developing trends and risks to the forecast financial and output performance of the Office of the Ombudsmen. These were:

Caseload - short term future

We expected our total caseload of investigations, under the OA, OIA, LGOIMA and PDA jurisdictions to be about the same as in past periods – approximately 6,700 new complaints. We actually received 8,605 new requests for review and assistance. Previously we would have been hard pressed to manage such a caseload. Achieving or near achieving the timeliness measures agreed with Parliament at the beginning of the year would have been very difficult and there would have been particularly severe workload pressures on us and our staff.

However, informal complaint resolution processes now feature strongly as part of the office approach to managing its workload in the most efficient and effective manner possible. Our Call Centre received 4,868 requests for guidance and assistance in the

¹⁷ Percentages shown exclude prisoner complaints received by the Call Centre. The very high number of generally minor complaints made by prisoners would distort reported performance. Alterations to the office Case Management system are planned that will allow future reporting of this information.

year with 67 percent of these being made by prisoners and the remainder by the general public. Generally these were matters ideally suited to informal resolution processes and resolvable by an exchange of emails or telephone discussion with the agency concerned but some involved more serious or complex issues and were referred for formal investigative action.

Of the 3,737 requests and complaints for which a formal investigation was initiated, 72 percent related to requests from individuals, businesses, special interest groups, unions, researchers and the media. The nature of the complaints and requests covered the full spectrum of activities in which government participates – official information generally, application of the Resource Management Act, educational matters, welfare and rehabilitation, immigration and Police to identify but some. These complaints tend to be the most complex, time consuming and therefore resource intensive of those that we review. The remaining 28 percent related to complaints from prisoners. Many of these complaints are similar to those received and resolved by the Call Centre but required more time in their resolution. Complaints concerning property lost when a prisoner transfers to a different prison, or the security classification given a prisoner, or medical needs, generally require more time to resolve. Some involve serious incidents such as alleged assaults by other prisoners or prison staff, deaths in custody or suggest systemic failings within the prison or Department of Corrections. Our recent own motion investigation concerning the transport of prisoners is an example of a systemic failure within the Department of Corrections. From 2007/08 we intend to report statistics on matters about which prisoners complained.

Although there was no increase during the year in the number of requests and complaints that required a formal investigation, there were shifts in the distribution of complaints between our three primary jurisdictions – OA complaints decreased by 10 percent, while those made under the OIA and LGOIMA increased by 8 percent, and between the organisations complained of within each jurisdiction. This necessitated some reallocation of staff resources within the larger Wellington office and of our workload between Wellington, Auckland and Christchurch offices. See “Where significant numbers of complaints arose” at pages 22, 33, 35 and 66 “Quantity, quality and the cost of the investigation and resolution of complaints about government administration”.

We are in no doubt that the complaints made to us under the OA and requests for review made under the official information legislation are generally becoming more complex. Some of the agencies that contribute significantly to our workload have established effective in-house review systems that appear to have been successful in resolving many of the complaints made by their “clients”. By simple elimination the complaints that remain and that are referred to us are those where the complainant continues to be dissatisfied regardless of an internal review having been undertaken. A proportion of these are resolved when we have completed an investigation and the complainant has been satisfied that an impartial and independent review of their complaint has been undertaken. Some complainants can never be satisfied even when their complaint has been upheld and remedial action taken including a full apology made.

Much information about the business of government is now routinely made available on agency websites or is provided to citizens upon request. The amount and breadth of information concerning governance in New Zealand routinely made available to

any internet browser anywhere in the world is considerable. Only a short time ago much of that same information would have been withheld from public view with the consequence of less open government and less opportunity for citizens to participate in our democracy.

Information that is not routinely or readily released often concerns matters of public policy, its development and application and its impact on one or more citizens. These complaints and requests are routinely complex some more so because the information at issue may also be sensitive. With all of these requests the issue of whether to release or withhold under one or more of the withholding provisions of the official information legislation requires the exercise of fine judgment supported by a comprehensive understanding of the machinery of government and the political, social and economic environment existing at the time. Sometimes when there is an inadequate understanding of the legislation, an adversarial element enters the investigative process. Untangling these misunderstandings can be a time consuming and involved task especially when our mode of operation is one where we prefer to work in a co-operative and non-adversarial environment with agencies subject to our review. However, when circumstances require we do not hesitate to use our formal powers of recommendation under the official information legislation.

Fortunately most government agencies are conscious of their obligations under the OA and official information legislation. We encourage dialogue and constructive discussion with agencies as this leads to improved understanding of the Ombudsman role and of agency responsibilities under the OA and official information legislation. We have no interest with “point scoring” but are committed to ensuring all citizens and others who access government services are treated fairly and reasonably according to government’s laws, regulations and processes. The approach is generally successful.

Technological developments – medium and longer term future

The internet is becoming the tool of choice for many people who want to access government services or to transact business with government agencies. Many central government agencies are encouraging the public to access their services via the internet as an alternative to visiting a physical office. Obvious economic advantages accrue to agencies and their clientele when comparing the costs of maintaining a network of branch offices throughout New Zealand relative to the cost of a website that can be accessed from anywhere and at anytime. Although as yet no major issues have arisen in association with this developing trend, there is considerable scope for complaints to arise because of the variability of service and support that exists between agencies.

For several years the E-Government Unit of the State Services Commission has been developing a mechanism to aid citizens in transacting business with government agencies using the internet. The development includes the establishment of a whole of government “On-Line Authentication Agency” to verify the identity of citizens and an “Authentication Review Authority” to consider complaints concerning the agency.

The Ombudsmen and Privacy Commissioner have been identified as review authorities. Each has sufficient jurisdiction and powers to perform the role. To-date there has been

only a limited rollout of the on-line authentication facility and no matters have been referred to our office for review. Insufficient information is available to comment on the impact this new activity may have on our workload and the resources available to us, but it is potentially significant.

Strategic Issues with the Potential to Impact on Vote Ombudsmen

Improving agencies understanding of the OA and official information legislation as a means of improving decision-making and managing our workload

Agencies' staff vary significantly in their understanding of the purpose and application of the withholding provisions of the OIA and its sister the LGOIMA. Although citizens interact with local government agencies perhaps less than with central agencies, we receive relatively few official information requests concerning the activities of city and district Councils and other local agencies. We do not have any empirical information that suggests this is because local government staff apply the legislation better than their counterparts in central government. Anecdotal advice suggests there is less staff turnover in local government agencies – particularly outside Auckland and Wellington and therefore more opportunity for a solid official information legislation knowledgebase to accumulate. Larger population centres offer more opportunities for staff to pursue a career by moving to other agencies and between sectors of the economy. An outcome of this larger employment market and greater movement of staff is an ongoing need for training in the fundamentals of the legislation.

Some of the variance between the local and central government sectors in the number of official information requests for review received can be explained by central government agencies being the immediate tool of elected government in the development of policies to be applied nationally. Development of policy is a sensitive process and citizens desire to participate in the process does lead to requests to us to review agencies' decisions when requested information has been withheld in some way. Equally central government is the primary mechanism for the delivery of government policies. This also results in more requests when citizens request information or challenge decisions that affect them personally. A relatively high proportion of requests and complaints to us are resolved during the course of investigation. Our aim is to have more complaints resolved earlier in the investigative process and preferably directly by the agencies concerned without our direct participation in the process.

We have appointed a Senior Advisor Policy and Training. The position is responsible for developing, maintaining and enhancing training within our office and in promoting training within government agencies of their responsibilities under the OA and official information legislation. We do not intend to become a trainer to all of government but we will offer guidance for example in the basic components of developing a complaint review mechanism and intend developing a range of training or knowledge seminars that may be attended by government agency staff.

With the resources available to us in the year ended 30 June we were able to act on requests from a growing number of agencies to provide general and targeted training to their staff.

Some agencies have agreed protocols with us that include timeliness measures and information that our office will routinely provide to the agency concerned to support their own decision-making processes. We are implementing a new enquiries module with extended reporting facilities which will further assist this process and contribute to identifying areas where perhaps more training of staff would be beneficial.

For example, with the Department of Corrections the new system will allow the identification of complaints from prisoners, advocates and staff by the type of complaint to a particular prison and unit within the prison. If a prison or unit within a prison records a disproportionate number of complaints of a particular type, that is something that Department of Corrections management might want to review. Similar capabilities will be incorporated within the new case management module to be implemented this year.

Our overall objective is through improved training to improve the quality of decision-making and thus fewer complaints and requests being referred to agencies and us.

Widening of Ombudsman jurisdiction

We reported last year our concern that the passage of the Crown Entities Act 2004 and extension of the OA jurisdiction to include many organisations formerly excluded from our review, could significantly increase our workload and that additional resources would likely be required if demand in this area increased. We have received increasing numbers of complaints, some complex and time consuming, concerning some of these entities but not sufficient to require our seeking of additional resources at this time.

New Zealand has adopted the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which requires implementation of an inspection, monitoring and reporting regime when persons are detained by the State. The Crimes of Torture Amendment Act 2006 gives effect to the protocol and identifies the Ombudsmen as a National Preventive Mechanism (NPM). On 21 June 2007 the Minister of Justice formally gazetted an Ombudsman as the NPM for prisons, immigration detention centres, health and disability places of detention and youth justice residences. The jurisdiction covers 59 places of detention and approximately 8,500 detainees.

We are working with other agencies identified as NPMs or that have a role with monitoring the protocol to define core reporting requirements. We are also reviewing our own investigative processes to determine how these may need to be modified to achieve the purpose of the protocol and are developing the inspection regime our new role requires.

Additional funding was sought and approved to meet the cost of an additional investigating officer, travel and other associated costs. This new jurisdiction has the potential to have a significant impact on our workload. Time will be required to determine whether the resources provided are sufficient.

Investigation of complaints from prisoners

Last year we reported that the Ministry of Justice was reviewing the handling of prisoner complaints and that we have been assisting the Ministry with the review.

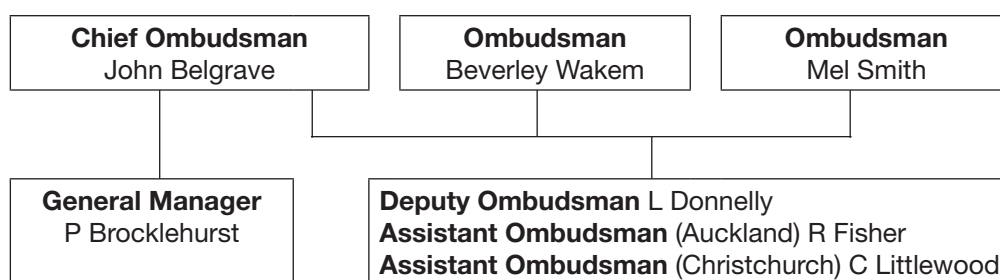
We are not aware of any proposal to limit our presence in the prison system or our powers of investigation in relation to prisoners. In fact, with the Ombudsmen identified as the National Preventive Mechanism for prisons, our profile within the prison system has been heightened. To date we are not aware of any decisions taken in the context of the current review.

In the context of the current prison complaint process, we encourage the Department of Corrections to have as many complaints as possible resolved directly by prison staff and the prison inspectorate without recourse to our office. We appreciate this is particularly difficult in the prison environment because relatively minor matters can quickly escalate in significance and threaten the safety or security of the prisoner or prisoners concerned and the institution. Our office to a degree also provides a “safety valve” within the system.

We have agreed a protocol with the Chief Executive of the Department of Corrections in respect of the handling of complaints made by prisoners and staff. Our new enquiries management module will allow more detailed reporting of the types of complaints made by prisoners and the prisons and prison units concerned. This information will be routinely made available to the Department. We intend the same capability to feature in our new case management module when that is implemented this year.

Management Structure

The management structure of the office for the year ended 30 June 2007 was as follows:



Mel Smith was appointed a temporary Ombudsman on 11 December 2006 for a term of 6 months. His appointment was extended by a further 6 months to December 2007 following a request by the Prime Minister that he review practical aspects of the criminal justice sector and report to her and Parliament by September 2007. With this

latest temporary appointment, Mel Smith will complete the accumulated maximum term that an Ombudsman can hold office on a temporary warrant issued under section 8 of the OA.

The Officers of Parliament Committee has initiated action to recruit a third permanent Ombudsman. The management structure was otherwise unchanged during the reported year.

Management Performance

Our workload is demand driven. There is an identified trend of an increase in the number of requests made under the official information legislation the closer the proximity to a general election. Similarly, if a matter concerning a government agency attracts the interest of the media and public, a growth in demand normally follows. Almost invariably these complaints are complex, sensitive and resource intensive. A succession of high profile events attracting media and public attention can have a very significant impact on the timeliness with which we are able to resolve complaints. With the OA jurisdiction there is less volatility in work demand because the issues raised focus much more on the individual, but it is the immediate and personal nature of these complaints that makes many particularly sensitive. Certainly the complexity of matters referred to us for review and investigation is increasing and requiring more time and resource in their resolution.

Elsewhere in this report we have commented that since the appointment of a Senior Advisor Policy and Training we have commenced a programme to improve the internal training to our staff and of increasing training and support to external agencies. This is a key strategy in managing our workload and assisting agencies with improving decision-making and transparency and accountability within government generally. Theoretically, the better the decision-making and more clear the explanation provided for particular actions or decisions, the fewer the number of complaints that ought to be made to the agencies concerned and to our office.

Following our 2007 staff conference three of our staff were invited to take the lead in preparing a paper with the theme “Where are we going”. Basically we were seeking a “no holds barred” commentary from staff - what we are doing well, not doing so well and how things might be improved including future considerations. All staff were encouraged to participate in its preparation. The commentary had not been completed at the end of the reporting year but early feed back suggests the final report will include useful suggestions.

Several surveys of users are in planning. The surveys of citizens and government agencies are intended to obtain an external perspective of the professionalism with which investigations are conducted, timeliness of our response, clarity of communications and similar. Another survey will be of people who have contacted our Call Centre and who have been referred back to an agency so that it might have first opportunity to resolve the complaint. Our interest is to identify what happens to these “refer backs”. Did the enquirer contact the agency concerned?, what outcome was achieved?, were they satisfied with the response provided?, or is it all too hard? Information derived

from the surveys is intended to inform future management decisions and provide useful feedback on the effectiveness of our contribution to improving open government and increased accountability.

We continue to encourage larger agencies which have frequent interactions with the public at a personal level to establish their own dedicated internal complaint review units as opposed to only complaint review systems which are not independent of the original decision-maker. Inland Revenue Department and Accident Compensation have established such units and more recently the Ministry of Social Development has established a unit within the office of the Chief Executive with responsibility for investigating and reporting on governance matters including being the contact point for our investigations and enquiries. These are very positive developments. However, if the initiatives are to be effective, the units must be well resourced with senior and experienced staff and preferably be removed from the original decision-making process. They should also report directly to the Chief Executive. Monitoring of complaints can provide the Chief Executive with very effective “feedback” on the health, well being and performance of an organisation. Delegating the monitoring of complaints may create a risk that the Chief Executive will lose touch with the agency’s “coalface of operations”.

Protocols between us and agencies that have high personal contact with the public are being promoted. These will normally set down the process and performance expectations for progressing complaints and agreed timeliness measures for responding to requests from the Ombudsmen. The protocols can also include information our office will make available routinely to the agency concerned, for example, a listing of complaints that are presently under investigation, information showing trends in the types of complaints received and the timeliness of agency responses to Ombudsman requests. Such information might assist the agency with identifying an area where further training of staff would be beneficial.

All complaints, requests for review and enquiries referred to our office are captured and recorded on the office case management system as soon as it is received. This ensures that at any time we know what work we have on hand, who is working on the case and what the current status of the investigation is. The system assists us with:

- ensuring a fair and balanced work distribution between staff and between our three offices;
- identifying where a rebalancing of office resources may be required;
- identifying where emerging trends have potential to impact on office performance; and
- monitoring a range of performance measures agreed each year with the Officers of Parliament Select Committee and applied to the investigative workload of the office. Actual performance relative to the measures is examined each month and taken account of in the management decision-making processes of the office. The measures are published in the office Statement of Intent and the Ombudsmen’s Annual Report to Parliament. Performance for the 2006/07 year relative to the agreed measures is shown at pages 66 to 70.

We maintain an ongoing review of processes and procedures within the office and in our relationships with government agencies. This extends beyond investigations to include accounting, human resources and other general administrative or support functions within the office. Our staff's participation in the "Where are we going" project and planned surveys of users and agencies are indicative of our desire to ensure that our office remains relevant to contemporary society.

Our staff meet at regular intervals to discuss developments or issues arising under the OA or official information legislation or in particular government agencies. This provides forums to discuss difficult issues associated with a complaint and ensures a common understanding exists of significant or developing issues within a jurisdiction

Financial and Asset Management

The change this year from Generally Accepted Accounting Principles to International Financial Reporting Standards has been relatively smooth with only minor impact on the office. This is because Vote Ombudsmen is reasonably small comprising a budget of only \$5.7 million all under one output – the investigation of complaints concerning government agencies. Even so, we have noticed that the budgetary process is becoming increasingly complex, time consuming and has very tight deadlines for information requirements.

Much of the complexity and additional reporting seems to relate to significantly larger organisations with far more complicated vote structures and budgetary activities yet the same reporting and information requirements are expected of very small organisations where the annual budget is only a fraction of the daily expenditure of their larger cousins. Small offices such as ours do not have many support staff and those that we have fulfil multiple functions. Much other work remains to be done that flows from or overlaps the budget cycle. If budget processes continue to increase in complexity and their information requirements or the timelines for responses becomes more restrictive then additional staff will need to be recruited.

We use "GreenTree" accounting and reporting software and our internal financial planning systems to develop our budget and routinely monitor performance. 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. The over expenditure of the Vote recorded in Part IV of this report resulted from a request made by the Prime Minister under section 13(5) of the OA that Ombudsman Mel Smith undertake a review of the practical aspects of the criminal justice sector. The request was made at a time when further amendment to the office budget could not be incorporated as part of the 2006/07 Supplementary Estimates. Formal approval of the Minister of Finance was obtained for the additional expenditure.

The office accesses the GSB SupplyCorp range of contracts to gain benefit from group bulk purchase discounts wherever possible as the primary method of supply. 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.

Our senior staff work closely with the Treasury and Audit New Zealand to ensure a “no surprises” policy. The liaison allows the office to benefit from their advice and guidance in matters relating to improving the transparency of the office 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 function.

The audit of the office accounts for the year ended 30 June 2007 by Audit New Zealand did not identify any issues of significance. Our office is open to suggestions about how to further improve its performance.

The system used by Audit New Zealand for assessing financial management and service performance has changed from a five to three aspect system and the rating system has also changed with the top rating now being very good as opposed to the previous excellent. The new three aspect system does not correlate to the former five aspects. The five aspects previously assessed were; financial control systems, financial management information systems, financial management control environment, service performance information and information systems and service performance management control environment. For the past six years we have been rated as excellent in all aspects.

Management Control Environment	Very Good
Financial information Systems and Controls	Good
Service Performance Information and Associated Systems and Controls	not graded in 2006/07

The “Good” is mainly due to financial staff changes throughout the year.

Information Management

Computer hardware is replaced on a four yearly cycle. The 2007/08 year will see the last of the offices “cloned” hardware replaced with Hewlett Packard branded machines. We have found a more secure and reliable computer network has resulted following standardising with equipment from one supplier.

Software upgrades are not installed as soon as they become available. We have found it wise to delay installation so that the general market has an opportunity to identify any previously unknown bugs in the software. Notwithstanding, the complexity and variety of computer networks and application software almost guarantees that a problem or problems will arise as a consequence of applying a Microsoft upgrade or update. Most of these problems are corrected immediately but some require extensive research to achieve a solution.

A rebuild of the office website was completed in early 2007. More comment on this can be found at page 42.

We commenced a redevelopment of the office case management system in mid 2005. The enquiries module of the new system was made fully operational in early 2007. All enquiry records existing on the old system were migrated to the new system to ensure a full historical record of enquiries was maintained. Several minor problems with the new system were revealed with its wider use and are being corrected but overall the implementation has proceeded smoothly. Much of the functionality required of the main case management system is duplicated in the enquiries module. Work has begun on the main complaints management module. We expect this phase of the project to be completed and the whole system fully operational during the 2007/08 year.

Disaster Preparedness and Risk Reduction

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

- implementing changes to our accommodation recommended by a security specialist to improve the physical security of our offices and 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 they perceive to run counter to their own view of what the outcome of an Ombudsman investigation ought to be;
- the office self funds any minor 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. No claims were made in the 2006/07 year;
- computer database security through use of RAID 5 level redundancy within the primary office computer systems. A copy of the Friday network backup tape is routinely sent “off site” and “out of centre”. These backup tapes are recycled at four weekly intervals. Daily backups (excluding Fridays) are retained on site and recycled once each week. End of month backups are stored on site and recycled on a six monthly basis. The office has implemented reasonable measures to provide for the continuation of services in most circumstances with basic services being provided out of our Christchurch and Auckland offices. But a major seismic event could potentially disrupt power and communication capabilities in the Wellington region to such an extent that the office could only operate on a partial basis until full services were restored. Our computer hardware is replaced on a 4 yearly cycle. This reduces the risk of hardware failure and ensures the main elements of our computer network continue to have supplier backup and support services available;
- emergency First Aid and Civil Defence equipment and supplies are provided for each office as well as a basic range of food and water sufficient for three days. Perishable supplies are replaced at or near the expiry of the “Use By” period;
- maintenance of a pool of staff holding current First Aid qualifications at each of our offices;

- a “code of ethics” 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; and
- provision of safe and secure work environments.

Human Resource Management

Our office comprised 56 individuals (50.3 Full Time Equivalents) including the three Ombudsmen. The distribution of staff (47.3 FTE's) was as follows:

	Auckland	Wellington	Christchurch	Totals
Staff				
Males	2.5	16.6	4	23.1
Females	4	17.3	2.9	24.2
<i>Total</i>	6.5	33.9	6.9	47.3
Activity Group Support roles				
Male	-	1	-	1
Female	1.5	8.9	1.9	12.3
Investigating				
Male	2.5	15.6	4	22.1
Female	2.5	8.4	1	11.9
<i>Total</i>	6.5	33.9	6.9	47.3

Sixteen staff participate in job-share or reduced hours of employment arrangements. Mostly it is the female staff of the office who have requested reduced hours of attendance to allow for a better balance between work and private commitments. 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 but subject to Chief Ombudsman 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 table following records sick leave taken during each of the past seven calendar years:

	1 January to 31 December						
	2000	2001	2002	2003	2004	2005	2006*
Male leave days	90	95.5	81.5	138	95.5	69.5	131
Females leave days	145	180.5	139.5	141	122	135	147
<i>Total leave days taken</i>	<i>235</i>	<i>276</i>	<i>221</i>	<i>279</i>	<i>217</i>	<i>204</i>	278
Employees in period	47	52	54	50	47	52	53
<i>Average days/employee</i>	<i>5</i>	<i>5.31</i>	<i>4.09</i>	<i>5.58</i>	<i>4.63</i>	<i>3.93</i>	5.24
Average days/male	4.29	3.67	3.4	6.27	4.55	3.02	5.7
Average days/female	5.58	6.94	4.65	5.04	4.69	4.66	5.45

* excludes 54 days family leave

For the 12 months ended 31 December 2006 the absentee rate for staff was:

250 working days x 47.3 staff = 11,825 possible working days
 278 actual days sick leave

= 2 percent (last year 1.6 percent). This included several periods of more serious illness.

We encourage staff health and well-being through proactive initiatives including offering annual influenza inoculations, access to professional counselling services and biennial eyesight and “wellness checkups”. The “wellness checkups” focus on general healthiness and assist staff with identifying lifestyle changes that may be beneficial to them. We have also modified the office general terms of employment provision for annual leave with the intent of encouraging staff to take at least one period of 10 consecutive days leave for rest and revitalisation.

A total of six individuals terminated their employment with the office during the year, two to commence retirement, one to travel overseas, two to care for or be near family and one because of sickness. Although staff retire from the office, often they are re-engaged on a casual basis to provide short term coverage when permanent staff are absent for extended periods because of illness or annual leave.

The staff of the office is relatively long serving with 58 percent having completed five or more years service. The accumulated work experience and broad knowledge of government operations contributes significantly to the timeliness within which complaints are resolved.

	<=1 year	>1 and <=2 years	>2 and <=5 years	>5 and < =10 years	>10 years
Number of staff	7	5	10	15	16

The office is relatively small with a very flat management profile. Career opportunities with the office are very limited. Most staff vacancies are filled by the appointment of individuals from the wider state sector but some are recruited from the private sector. When selecting staff for appointment, we consider obvious work experience, legal or other tertiary qualification or senior management experience required for the advertised position but of almost equal importance is what else the candidate would bring to the office. For example, a candidate may bring language skills that improve the office's ability to communicate with the different community groups that make up the New Zealand population. Others have a mix of experience and qualifications that provide flexibility in the allocation of staff resources between the OA and official information jurisdictions.

We aim to have as many staff as possible engaged directly in the process of complaint investigation and resolution. At 30 June the ratio of investigating staff to those engaged in support roles was 2.57:1 (last year 2.99:1). The lower ratio recorded for 30 June 2007 arose because the office has grown in recent years and pressure of work required the recruitment of an additional administrative support person. This is the first increase in administrative support staff for 15 years.

Our workload and that of our staff is monitored using the office case management system. There can be significant variances in the workload received under the OA and official information legislation because of external factors such as the proximity to a general or local body election, public awareness of a new or amended government policy, media statements or the general level of public confidence in government agency decision-making. These matters can and do impact on the quantity and complexity of work referred to us and to our staff. We use the office case management system database to assist with identifying any new skill requirements or trends developing in work referred to us. We have found a successful approach to addressing the variability of our workload is to recruit and retain staff that because of their skills, experience and qualifications are flexible in being able to undertake work in either the OA or official information jurisdictions.

Staff performance is formally reviewed as at 1 July each year. With the relatively small size of the office we are fortunate in being able to identify the role fulfilled by all of our staff. With the investigating staff we develop a particularly good understanding of their strengths and needs as a consequence of the very close work relationship that develops during the consideration of complaints referred to us. Investigating staff work directly to the Ombudsman allocated the complaint for investigation.

The review process involves an initial meeting of office management to discuss staff performance, actual or perceived strengths and where scope exists for further improvement. All staff are then provided with assessment and development documentation followed by an interview with the Chief Ombudsman. The interview may traverse any issue concerning the individual as well as the various performance criteria set out in the formal performance assessment and development documentation. Staff are provided with an opportunity to comment or seek further information on the assessment prior to it being finalised. Our aim is to maintain a transparent review process but not one that occurs only as at 1 July each year. Performance monitoring

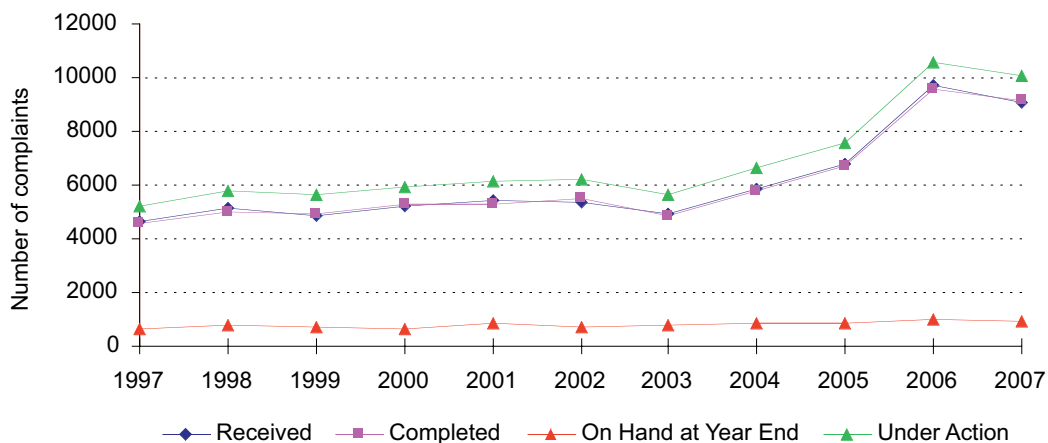
and staff development is an ongoing task. The formal review process should only disclose information about which the individual is already aware.

The office employment agreement is reviewed as at 1 July of each year. The review takes account of developments in employment law, office needs and the needs of our staff in achieving a healthy work/life balance. There are however some “costs” associated with being a “good employer”, most noticeably arising from the need to implement more complicated human resource administrative systems, for example, to calculate leave due when staff work different hours on different days of the week or balancing the office performance expectations when staff want to vary their work attendance significantly following completion of parental leave or in preparation for retirement.

The Output of the Office of the Ombudsmen

Statistics on the output and performance of the office are found at pages 88 to 100 of this report. This includes detailed information on the disposition of complaints considered during the reported year, a breakdown of complaints received and under action by jurisdiction, complainant types, geographical distribution of complainants and how complaints were resolved. See also “Quantity, quality and the cost of the investigation and resolution of complaints about government administration” at page 66.

Throughput – All Complaints



On average we completed 17 formal investigations and 20 requests for guidance and assistance each working day.

Cost of Resolving Complaints

Our accounting system does not record the actual cost of resolving each complaint referred to us for review, but information held on the office case management system does allow a generalised costing to be developed for each jurisdiction based on the total

Office of the Ombudsmen

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cost of operations and accumulated number of working days for complaints received and actioned under each jurisdiction:

	Estimated cost Year ended 30 June 2007	Estimated cost Year ended 30 June 2006
<i>Ombudsmen Act</i>		
Estimated average cost per completed complaint		
- rec'd from prisoners.....	\$107¹⁸	\$100
- rec'd from non prison sources.....	\$1,121	\$1,091
Estimated average cost work in progress	\$1,904	\$1,543
Estimated cost of all investigations complete and incomplete.....	\$3.489 million	\$3.427 million
<i>Official Information Act¹⁹</i>		
Estimated average cost per complaint		
- completed work.....	\$1,392	\$1,530
- work in progress.....	\$2,336	\$1,897
Estimated cost of all investigations complete and incomplete.....	\$1,790 million	\$1.624 million
<i>Local Government Official Information and Meetings Act</i>		
Estimated average cost per complaint ¹⁹		
- completed work.....	\$1,130	\$1,131
- work in progress.....	\$1,402	\$1,433
Estimated cost of all investigations complete and incomplete.....	\$0.312 million	\$0.268 million
<i>Protected Disclosures Act</i>		
Estimated average cost per complaint		
- completed work.....	\$343	\$704
- work in progress.....	\$-	\$1,331
Estimated cost of all investigations complete and incomplete.....	\$0.004 million	\$0.007 million

18 The cost includes significant formal prison complaint investigations but the average cost is much less because of the high number of relatively uncomplicated complaints resolved quickly and informally by Call Centre staff.

19 Official information complaint investigations are generally more resource intensive and costly than those made under the Ombudsmen Act jurisdiction.

Other Work where the matter is found to be outside the Ombudsmen's jurisdiction but information and assistance is given

- completed work.....	\$320	\$325
- work in progress.....	\$1,401	\$814
Estimated cost of all investigations complete and incomplete.....	\$0.203 million	\$0.185 million

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 period²⁰

	Year ended			
	30/6/04	30/6/05	30/6/06	30/6/07
Aged 6 months or less from date of receipt	95%	93%	95%	95%
Aged between 7 and 12 months from date of receipt	4%	5%	3%	3%
Aged more than 12 months from date of receipt	1%	2%	2%	2%

Age profile - all complaints remaining open at 30 June²⁰

	Year ended			
	30/6/04	30/6/05	30/6/06	30/6/07
Aged 6 months or less from date of receipt	83%	77%	80%	69%
Aged between 7 and 12 months from date of receipt	12%	15%	14%	19%
Aged more than 12 months from date of receipt	5%	8%	6%	12%

²⁰ Excludes requests for guidance and assistance that are outside the Ombudsman jurisdiction.

PART IV - PERFORMANCE INFORMATION

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 judgements made in the process of producing those statements.

I have the responsibility of establishing and maintaining, 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 2007.



John Belgrave
Chief Executive

19 September 2007



Peter Brocklehurst
Director of Finance

19 September 2007

AUDIT NEW ZEALAND

Mana Arotake Aotearoa

AUDIT REPORT**TO THE READERS OF THE
OFFICE OF THE OMBUDSMEN'S
FINANCIAL STATEMENTS AND PERFORMANCE INFORMATION
FOR THE YEAR ENDED 30 JUNE 2007**

The Auditor-General is the auditor of the Office of the Ombudsmen (the Office). The Auditor-General has appointed me, John O'Connell, using the staff and resources of Audit New Zealand, to carry out the audit on his behalf. The audit covers the financial statements and statement of service performance included in the annual report of the Office for the year ended 30 June 2007.

Unqualified opinion

In our opinion:

- The financial statements of the Office on pages 71 to 87:
 - comply with generally accepted accounting practice in New Zealand; and
 - fairly reflect:
 - the Office's financial position as at 30 June 2007; 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 66 to 70:
 - 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.

The audit was completed on 19 September 2007, 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 and statement of service performance 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 and the statement of service performance. 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 and statement of service performance. 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 Chief Ombudsman;
- confirming year-end balances;
- determining whether accounting policies are appropriate and consistently applied; and
- determining whether all financial statement and statement of service performance disclosures are adequate.

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

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

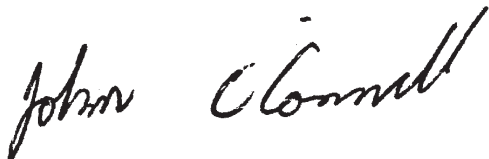
The Chief Ombudsman is responsible for preparing financial statements and a statement of service performance in accordance with generally accepted accounting practice in New Zealand. The financial statements must fairly reflect the financial position of the Office as at 30 June 2007 and the results of 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 15 of the Public Audit Act 2001 and section 45D(2) of the Public Finance Act 1989.

Independence

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.



John O'Connell
Audit New Zealand
On behalf of the Auditor-General
Wellington, New Zealand

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 (the Office) for the year ended 30 June 2007 included on the Office's web-site. The Chief Ombudsman is responsible for the maintenance and integrity of the Office's web site. We have not been engaged to report on the integrity of the Office's web site. We accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the web site.

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 19 September 2007 to confirm the information included in the audited financial statements presented on this web site.

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 2007

Output

Investigation and resolution of complaints about government administration.

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

The following table sets out details of complaints under investigation during the twelve months ended 30 June 2007 together with comparative statistics for the past four years:

	2002/03	2003/04	2004/05	2005/06	2006/2007
On hand as at 1 July	723	763	840	854	994
Received during the year	4,906	5,878	6,757	9,708	9,090²¹
Total under Investigation	5,629	6,641	7,597	10,562	10,084
Disposed of during the year	(4,866)	(5,801)	(6,743)	(9,568)	(9,166)
On hand at 30 June	763	840	854	994	918

Much of the increase in recorded work over the past two years relates to our jurisdiction under the OA and in particular to the success of the Call Centre that was established late in 2004 to deal with the many generally quickly resolvable complaints made by prisoners. The quantity of work arising from prisoner requests is now much more accurately recorded with all telephone complaints and enquiries from prisoners directed to the Call Centre. Otherwise, demand for investigations in other areas of the OA jurisdiction is more or less consistent with past periods but a higher proportion of the complaints received are complex in nature and require more time and effort in their resolution.

An increase in the quantity of new work received under the official information jurisdictions was recorded. This is consistent with the historical trend. Requests for review made under the legislation tend to increase the closer the proximity to a General Election and then decrease for a period immediately after the election has been held. Regardless of the variations in the quantity of work received, the substance of official information reviews continues to be complex and sensitive, particularly in regard to requests concerning matters of public policy.

Relatively small increases in the number of complaints and requests for review received can and do create work pressures that require redistribution of work between our staff and between our Auckland, Christchurch and Wellington offices.

21 The significant growth in recorded work follows the establishment of a Call Centre at Wellington office and much improved recording of complaints and enquiries made to the office by telephone. Previously many of these complaints and enquiries that had been quickly resolved without need of opening a formal investigation file had not been recorded.

The quality of investigation is maintained with the personal involvement of an Ombudsman in every investigation. An Ombudsman signs most correspondence and all provisional or final views on a particular matter.

The following performance measures were applicable throughout the 2006/2007 year:

Actual Performance 2005/2006	Target Performance Indicators	Actual Performance 2006/2007
8,216	Complete 5,250 investigations under the Ombudsmen Act 1975	7,665²²
717	Complete 1,300 investigations under the Official Information Act 1982	801
148	Complete 180 investigations under the Local Government Official Information and Meetings Act 1987	203
8	Provide guidance and information on 15 matters under the Protected Disclosures Act 2000	9
994	Limit the number of open complaints at year end to between 650 and 750 or less	918
479	Process 505 complaints which require preliminary consideration and or investigation but which are found to be outside Ombudsman jurisdiction	488
Yes	All conclusions on complaints to be made or drawn by an Ombudsman	Yes
Yes	All complaints to be investigated by suitably trained and qualified investigating staff	Yes

²² Includes 3,249 complaints and enquiries from prisoners received by the Call Centre. A further 1,619 enquiries from the general public were also received. These enquiries and complaints are generally resolved by informal process on the same day as they are received.

Actual Performance 2005/2006	Target Performance Indicators	Actual Performance 2006/2007
60 10 84 62 39	Average number of days to complete an investigation under: Ombudsmen Act General complaints 58 working days Prisoner complaints 10 working days Official Information Act 72 working days Local Government Official Information and Meetings Act 54 working days Protected Disclosures Act 30 working days	 64²³ 13²⁴ 79 64 19
90% 5% 3% 2% 80% 8% 5% 7% 87% 8% 2% 3% 100% -% -% -%	Age profile at 30 June 2007 of completed complaints from date of receipt • Ombudsmen Act – complaints completed within: 6 months of receipt 90% 7 to 9 months of receipt 5% 10 to 12 months of receipt 3% >12 months of receipt 2% • Official Information Act – complaints completed within: 6 months of receipt 80% 7 to 9 months of receipt 6% 10 to 12 months of receipt 4% >12 months of receipt 10% • Local Government Official Information and Meetings Act – complaints completed within: 6 months of receipt 88% 7 to 9 months of receipt 7% 10 to 12 months of receipt 4% >12 months of receipt 1% • Protected Disclosures Act – complaints completed within: 6 months of receipt 100% 7 to 9 months of receipt -% 10 to 12 months of receipt -% >12 months of receipt -%	 96%²³ 2% 1% 1% 82% 9% 4% 5% 86% 5% 3% 6% 100% -% -% -%

23 The 4,868 complaints and enquiries processed informally by Call Centre and investigative staff have been excluded from average “Timeliness” calculations because the majority of these complaints and enquiries are resolved informally by telephone or email communication directly with the prison or agency concerned on the same day as they are received. Their high number, if included, would seriously distort the average “Timeliness” performance of more difficult investigations undertaken using formal processes.

24 Does not include prisoner complaints and enquiries actioned by the Call Centre.

Actual Performance 2005/2006	Target Performance Indicators	Actual Performance 2006/2007
	Age profile at 30 June 2007 of open (incomplete) complaints from date of receipt:	
80%	• Ombudsmen Act – open complaints:	71%²³
10%	6 months and under 90%	15%
4%	7 to 9 months 5%	5%
6%	10 to 12 months 3%	9%
	>12 months 2%	
	• Official Information Act – open complaints	
78%	6 months and under 80%	62%
8%	7 to 9 months 6%	12%
6%	10 to 12 months 4%	7%
8%	>12 months 10%	19%
	• Local Government Official Information and Meetings Act – open complaints	
82%	6 months and under 88%	76%
4%	7 to 9 months 7%	7%
10%	10 to 12 months 4%	14%
4%	>12 months 1%	3%
	• Protected Disclosures Act – open complaints	
100%	6 months and under 100%	100%
-%	7 to 9 months -%	-%
-%	10 to 12 months -%	-%
-%	>12 months -%	-%

The cost of investigation and resolution of complaints concerning government agencies for the period under review (including items 2, 3 and 4 following) was approximately \$5.802 million excluding GST.

2. Provision of an average of nine visits to each penal institution throughout New Zealand

All of the penal institutions were visited by an Ombudsman or representative on average 7 times throughout the reported year.

The cost of travel for this activity for the year ended 30 June 2007 was approximately \$52,000 excluding GST.

3. Visit each tertiary institution throughout New Zealand

An Ombudsman or representative visited each public sector tertiary education institution throughout New Zealand. The cost of travel associated with this activity was approximately \$7,000 excluding GST.

4. Visits to smaller centres

Visits were made to smaller population centres to run clinics, provide guidance and assistance to citizens, and attend meetings with Citizens Advice Bureaux and similar community organisations. The opportunity was also taken to meet with the Chief Executive and senior staff of various local authorities to discuss specific complaints or the Ombudsmen role in general. The cost was approximately \$8,000 excluding GST.

5. Meeting the Ombudsmen's public accountability requirements by:

- **publishing information booklets 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;**
- **publishing the office Annual Report to the House of Representatives and financial statements and any other reports appropriate for public release;**
- **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, and**
- **maintaining a presence on the internet and providing information and resources relating to the Ombudsman role within New Zealand.**

Three issues of "The Ombudsmen's Quarterly Review (Te Arotake)" were published during the year. The December 2006 issue did not proceed because of work pressures.

The office's new website went "live" in April 2007. In excess of 25,500 visits in total were recorded to both the original and upgraded websites for the year to 30 June. See page 49.

Information pamphlets are published about the role of the Ombudsmen and how they may assist members of the public and organisations that have a complaint concerning a government agency. The pamphlets are made available to Citizen Advice Bureaux and similar organisations as well as to government agencies. The pamphlets are printed in English, Te reo Māori, Samoan and Chinese.

The cost of these activities for the year ended 30 June 2007 was approximately \$34,000 excluding GST.

6. The total cost of Vote: Ombudsmen

30/6/06 Actual		30/6/07 Actual	30/6/07 Main Estimates	30/6/07 Supp. Estimates
\$(000)		\$(000)	\$(000)	\$(000)
5,528	Crown Revenue	5,763	5,395	5,752
1	Other Revenue	-	-	-
-	Interest	-	-	-
5,529	Total Revenue	5,763	5,395	5,752
<u>(5,511)</u>	Total Expenses	<u>(5,802)</u>	<u>(5,395)</u>	<u>(5,752)</u>
<u>18</u>	Net Surplus	<u>(39)</u>	<u>-</u>	<u>-</u>

Figures are GST exclusive.

STATEMENT OF ACCOUNTING POLICIES FOR THE YEAR ENDED 30 JUNE 2007

Reporting Entity

The Office of the Ombudsmen is an Office of Parliament pursuant to the Public Finance Act 1989.

These are the financial statements of the Office of the Ombudsmen prepared pursuant to the Public Finance Act 1989.

Measurement System

The general accounting systems are recognised as appropriate for the measurement and reporting of results and financial position on an historic cost basis except for certain items with specific accounting policies outlined on the following pages.

Accounting Policies

The following particular accounting policies which materially affect the measurement of financial results and financial position have been applied.

Budget Figures

The Budget figures are those presented in the Budget Night Estimates (Main Estimates) as amended by the Supplementary Estimates and any transfer made by Order in Council under the Public Finance Act 1989 (Supplementary Estimates).

Revenue

The office derives revenue through the provision of outputs to the Crown for services to third parties. Such revenue is recognised when earned and is reported in the financial period to which it relates.

Cost Allocation

The office has one output only. All costs are allocated directly to that output.

Debtors and Receivables

Receivables are recorded at estimated realisable value, after providing for doubtful and uncollectable debts.

Operating Leases

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.

Fixed Assets

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 and recorded at historic cost.

Depreciation

Depreciation of fixed assets is provided on a straight-line basis so as to allocate the cost of assets to their estimated residual value over their useful lives. For assets held by the office the estimated economic useful lives and associated depreciation rates are:

Leasehold improvements	Balance of lease term	
Computer equipment/software	4 years	25%
Plant and equipment – other	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.

Employee Entitlements

Provision is made for the office liability for annual leave and time off in lieu calculated at current rates of pay as they accrue to the employees on an entitlement basis. Biennially an actuarial assessment is made of long service leave based on the present value of expected future entitlements.

Statement of Cash Flows

Cash means cash balances on hand, held in bank accounts.

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.

Financial Instruments

The office is party to financial instruments as part of its normal operations. These financial instruments include bank accounts, short-term deposits and debtors and creditors. All financial instruments are recognised in the Statement of Financial Position and all revenues and expenses in relation to financial instruments are recognised in the Statement of Financial Performance.

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.

Goods and Services Tax (GST)

All statements are exclusive of GST except for Creditors and Payables and Debtors and Receivables which are GST inclusive.

The amount of GST owing to or from the Inland Revenue Department at balance date, being the difference between Output GST and Input GST, is included in Creditors and Payables or Debtors and Receivables (as appropriate).

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

Taxation

Public authorities are exempt from the payment of income tax in terms of the Income Tax Act 2004. Accordingly, no charge for income tax has been provided for.

Commitments

Future expenses and liabilities to be incurred on contracts that have been entered into at balance date are disclosed as commitments to the extent that they are equally unperformed obligations.

Contingent Liabilities

Contingent liabilities are disclosed at the point at which the contingency is evident.

Taxpayers' Funds

This is the Crown's net investment in the Office of the Ombudsmen.

Changes in Accounting Policies

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

All policies have been applied on a basis consistent with other years.

**STATEMENT OF FINANCIAL PERFORMANCE
FOR THE YEAR ENDED 30 JUNE 2007**

30/6/06 Actual			30/6/07 Actual	30/6/07 Main Estimates	30/6/07 Supp. Estimates (see Note 1)
\$(000)	Note		\$(000)	\$(000)	\$(000)
Revenue					
5,528		Crown	5,763	5,395	5,752
<u>1</u>	(2)	Other	<u>-</u>	<u>-</u>	<u>-</u>
5,529		Total Revenue	<u>5,763</u>	<u>5,395</u>	<u>5,752</u>
Expenses					
4,285	(3)	Personnel	4,425	4,279	4,440
1,154	(4)	Operating	1,311	1,055	1,251
67	(5)	Depreciation	62	57	57
<u>5</u>	(6)	Capital Charge	<u>4</u>	<u>4</u>	<u>4</u>
5,511		Total Expenses	<u>5,802</u>	<u>5,395</u>	<u>5,752</u>
<u>18</u>		Net Surplus	<u>(39)</u>	<u>-</u>	<u>-</u>

The accompanying accounting policies and notes form part of these financial statements.

**STATEMENT OF MOVEMENTS IN TAXPAYERS' FUNDS
FOR THE YEAR ENDED 30 JUNE 2007**

30/6/06 Actual		30/6/07 Actual	30/6/07 Main Estimates	30/6/07 Supp. Estimates
\$(000)	Note	\$(000)	\$(000)	\$(000)
18	Net surplus/ (deficit) for the period	(39)	-	-
-	<i>Other recognised revenues and expenses</i>	-	-	-
—	Increase/(decrease) in revaluation reserves	—	—	—
18	Total recognised revenues and expenses	(39)	-	-
-	Capital contribution	-	-	-
(18)	Provision for repayment of surplus to the Crown	-	-	-
—	Repayment of capital	—	—	—
-	Movements in Taxpayers' Funds for the year	(39)	-	-
<u>57</u>	Taxpayers' Funds as at 1 July 2006	<u>57</u>	<u>57</u>	<u>57</u>
<u>57</u>	Taxpayers' Funds as at 30 June 2007	<u>18</u>	<u>57</u>	<u>57</u>

The accompanying accounting policies and notes form part of these financial statements.

**STATEMENT OF FINANCIAL POSITION
AS AT 30 JUNE 2007**

30/6/06 Actual (See note 7) \$(000)		Note	30/6/07 Actual \$(000)	30/6/07 Main Estimates \$(000)	30/6/07 Supp. Estimates \$(000)
TAXPAYERS' FUNDS					
<u>57</u>	General funds		<u>18</u>	<u>57</u>	<u>57</u>
<u>57</u>	Total taxpayers' funds.		<u>18</u>	<u>57</u>	<u>57</u>
	Represented by:				
CURRENT ASSETS					
325	Cash		286	253	267
12	Prepayments		18	13	13
<u>-</u>	Debtors & receivables		<u>11</u>	<u>-</u>	<u>-</u>
<u>337</u>	Total current assets		<u>315</u>	<u>266</u>	<u>280</u>
NON-CURRENT ASSETS					
<u>167</u>	Fixed assets	(8)	<u>171</u>	<u>152</u>	<u>167</u>
<u>167</u>	Total non-current assets		<u>171</u>	<u>152</u>	<u>167</u>
<u>504</u>	Total assets		<u>486</u>	<u>418</u>	<u>447</u>
CURRENT LIABILITIES					
131	Creditors & payables	(9)	139	85	85
	Provision for payment of net				
18	Surplus to the Crown		-	-	-
253	Employee entitlements	(10)	255	227	227
13	Other short-term liabilities	(9)	41	<u>41</u>	<u>41</u>
<u>415</u>	Total current liabilities		<u>435</u>	<u>353</u>	<u>353</u>
NON-CURRENT LIABILITIES					
<u>32</u>	Employee entitlements	(10)	<u>33</u>	<u>8</u>	<u>37</u>
<u>447</u>	Total Liabilities		<u>468</u>	<u>361</u>	<u>390</u>
<u>57</u>	NET ASSETS		<u>18</u>	<u>57</u>	<u>57</u>

The accompanying accounting policies and notes form part of these financial statements.

**STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 30 JUNE 2007**

30/6/06 Actual		30/6/07 Actual	30/6/07 Main Estimates	30/6/07 Supp. Estimates
\$(000)		\$(000)	\$(000)	\$(000)
CASH FLOW –				
OPERATING ACTIVITIES				
Cash provided from Supply of Outputs to:				
5,528	Crown	5,752	5,395	5,752
<u>1</u>	Other	<u>-</u>	<u>-</u>	<u>-</u>
5,529		5,752	5,395	5,752
Cash disbursed to Produce Outputs				
(4,448)	Personnel	(4,422)	(4,273)	(4,461)
(1,181)	Operating	(1,259)	(1,003)	(1,218)
23	Net Movement GST	(22)	(52)	(52)
<u>(5)</u>	Capital Charge	<u>(4)</u>	<u>(4)</u>	<u>(4)</u>
(5,611)		(5,707)	(5,332)	(5,735)
<u>(82)</u>	<i>Operating Activities net cash flows</i>	<u>45</u>	<u>63</u>	<u>17</u>
CASH FLOW –				
INVESTING ACTIVITIES				
Cash disbursed for :				
<u>(72)</u>	The purchase of physical assets	<u>(66)</u>	<u>(57)</u>	<u>(57)</u>
<u>(72)</u>	<i>Investing Activities Net Cash Flows</i>	<u>(66)</u>	<u>(57)</u>	<u>(57)</u>
CASH FLOW –				
FINANCING ACTIVITIES				
Cash provided from				
-	capital contributions	-	-	-
Cash disbursed to:				
<u>(5)</u>	repayment of surplus	<u>(18)</u>	<u>(1)</u>	<u>(18)</u>
<u>(5)</u>	<i>Financing Activities Net Cash Flows</i>	<u>(18)</u>	<u>(1)</u>	<u>(18)</u>
(159)	Net Increase/Decrease in cash held	(39)	5	(58)
<u>484</u>	Add opening cash and deposits	<u>325</u>	<u>248</u>	<u>325</u>
325	Closing cash and deposits	286	253	267
<u>325</u>	Cash and deposits comprises	<u>286</u>	<u>253</u>	<u>267</u>
<u>325</u>	Cash	<u>286</u>	<u>253</u>	<u>267</u>

The accompanying accounting policies and notes form part of these financial statements.

RECONCILIATION OF NET SURPLUS TO NET CASH FLOW FROM OPERATING ACTIVITIES FOR THE YEAR ENDED 30 JUNE 2007

30/6/06 Actual		30/6/07 Actual	30/6/07 Main Estimates	30/6/07 Supp. Estimates
\$(000)		\$(000)	\$(000)	\$(000)
18	Net operating surplus(deficit)	(39)	-	-
	<i>Add/(less) non-cash items</i>			
67	Depreciation	62	57	57
67	Total non-cash items	62	57	57
4	(Inc)/Dec Prepayments	(6)	-	(1)
-	(Inc)/Dec Debtors	(11)	-	-
23	(Inc)/Dec Creditors and Payables	8	-	(46)
(163)	(Inc)/Dec Employee Entitlements	3	6	(21)
(31)	(Inc)/Dec Short term Liabilities	28	-	28
(167)	Working capital movements - net	22	6	(40)
	Net cash flows from			
(82)	Operating activities	45	63	17

The accompanying accounting policies and notes form part of these financial statements.

STATEMENT OF COMMITMENTS AS AT 30 JUNE 2007

The office has long-term leases on its premises in Auckland and Wellington. The lease for the Christchurch office accommodation will expire in September 2007.

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.

30/6/06 Actual \$(000)		30/6/07 Actual \$(000)
	Operating lease commitments	
448	Less than one year	538
407	One to two years	525
1,181	Two to five years	1,574
466	More than five years	96
2,502	Total operating lease commitments	2,733

The Office of the Ombudsmen is not a party to any other leases.

STATEMENT OF CONTINGENT LIABILITIES AS AT 30 JUNE 2007

The Office of the Ombudsmen does not have any contingent liabilities as at 30 June 2007 (2006 Nil).

STATEMENT OF UNAPPROPRIATED EXPENDITURE FOR THE YEAR ENDED 30 JUNE 2007

30/6/06 Unappropriated Expenditure Actual \$(000)	30/6/07 Actual \$(000)	30/6/07 Appropriation \$(000)	30/6/07 Unappropriated Expenditure Actual \$(000)
D1			
Investigation and resolution of complaints about government administration	5,094	5,055	39
–			

The Office of the Ombudsmen has expended or incurred additional costs of \$39,000 in excess of the Annual Appropriation by Parliament (2006 Nil). The additional expenditure was approved by the Minister of Finance under s 26(B) of the Public Finance Act 1989. The additional costs relate primarily to the review of the Criminal Justice sector being conducted by Ombudsman Mel Smith. A further \$11,000 was incurred under authority of the Permanent Legislative Authority for Ombudsmen remuneration but this does not require further appropriation by Parliament.

STATEMENT OF DEPARTMENTAL EXPENDITURE AND APPROPRIATIONS FOR THE YEAR ENDED 30 JUNE 2007

	30/6/07 Actual \$(000)	30/6/07 Final Voted \$(000)	Appropriation Supp. Estimates Changes \$(000)	Budget Night Voted \$(000)
VOTE OMBUDSMEN				
D1				
Investigation and resolution of complaints about government administration				
Annual Appropriation for Office of the Ombudsmen	5,094	5,055	196	4,859
Other Appropriation for Ombudsmen remuneration	708	697	161	536
Total	<u>5,802</u>	<u>5,752</u>	<u>357</u>	<u>5,395</u>

STATEMENT OF TRUST MONIES FOR THE YEAR ENDED 30 JUNE 2007

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

The accompanying accounting policies and notes form part of these financial statements.

STATEMENT OF OBJECTIVES SPECIFYING THE FINANCIAL PERFORMANCE FORECAST FOR THE OFFICE FOR THE YEAR ENDED 30 JUNE 2007

30/6/06				30/6/07 Actual	30/6/07 Main Estimates	30/6/07 Supp. Estimates
Actual		Unit	Note			
Operating Results						
1	Revenue – Other	\$000		-	-	-
18	Net surplus	\$000		-	-	-
	Cash disbursed to					
	Producing					
5,606	outputs –output	\$000		5,703	5,328	5,731
	expenses					
	Net increase/(decrease)					
(159)	in cash held	\$000		39	5	(58)
Working Capital						
(78)	Net current assets	\$000	(14)	(121)	(87)	(73)
81	Current ratio	%	(14)	72	75	79
2.48:1	Liquid ratio		(14)	2.05:1	2.98:1	3.14:1
	Average creditors					
7	Outstanding	Days	(14)	13	10	8
Resource Utilisation						
	Physical assets					
	Additions as a % of					
43	net physical	%		39	37	34
	assets					
57	Taxpayers' funds	\$000		18	57	57
Human Resources						
8	Staff turnover	%	(14)	11	4	4
46.8	Total staff (FTEs)	no	(15)	47.3	48	48
	Ratio of investigators					
2.99:1	to support staff		(14)	2.57:1	2.98:1	2.98:1

The accompanying accounting policies and notes form part of these financial statements.

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2007

1. Budget Composition

		30/6/07 Budget Night Forecasts \$(000)	30/6/07 Supp. Estimates Changes \$(000)	30/6/07 Budget Total \$(000)
	Notes			
Revenue				
Crown		5,395	357	5,752
Other	(2)	—	—	—
Total revenue		5,395	357	5,752
Expenditure				
Personnel costs	(3)	4,279	161	4,440
Operating costs	(4)	1,055	196	1,251
Depreciation	(5)	57	-	57
Capital charge	(6)	4	—	4
Total expenses		<u>5,395</u>	<u>357</u>	<u>5,752</u>
Net operating Surplus/(deficit)		<u>—</u>	<u>—</u>	<u>—</u>

2. Other Revenue

“Other Revenue” monies result from the sale of copies of Case Notes of the Ombudsmen, Practice Guidelines and surplus furniture or equipment.

3. Personnel Costs

30/6/06 Actual		30/6/07 Actual	30/6/07 Main Estimates	30/6/07 Supp. Estimates
\$(000)		\$(000)	\$(000)	\$(000)
3,950	Salaries and wages	4,158	4,071	4,232
215	Superannuation	214	180	180
37	Accrued long service leave	(4)	-	-
21	Accrued annual leave	5	-	-
17	ACC levy	25	21	21
<u>45</u>	Other Personnel costs	<u>27</u>	<u>7</u>	<u>7</u>
<u>4,285</u>	Total Personnel costs	<u>4,425</u>	<u>4,279</u>	<u>4,440</u>

The office comprised three Ombudsmen and 53 supporting staff (47.3 FTE's) as at 30 June 2007. For the period 1 July 2006 to 10 December 2006 two Ombudsmen held warrants from the Governor-General. Ombudsman Mel Smith was appointed as a third Ombudsman on a temporary warrant for 6 months on 11 December 2006. This was later extended by a further 6 months.

The Remuneration range for the three Ombudsmen and staff paid \$100,000pa or more was:

Remuneration Band	Number in Band
\$300,000 to 309,999	1
\$250,000 to 259,999	2
\$140,000 to 149,999	1
\$130,000 to 139,999	1
\$110,000 to 119,999	2
\$100,000 to 109,999	1

4. Operating Costs

30/6/06 Actual		30/6/07 Actual	30/6/07 Main Estimates	30/6/07 Supp. Estimates
\$(000)		\$(000)	\$(000)	\$(000)
448	Accommodation costs - Leased	551	450	546
31	Accommodation Costs - Other	35	31	31
20	Audit fees	25	18	18
80	Publications, books and statutes	76	67	67
178	Travel	102	139	139
118	Communication costs	119	128	128
<u>279</u>	Other operating costs	<u>403</u>	<u>222</u>	<u>322</u>
<u>1,154</u>	Total operating costs	<u>1,311</u>	<u>1,055</u>	<u>1,251</u>

Increased costs were incurred during the reported year principally as a result of the Prime Minister requesting under s.13(5) of the Ombudsmen Act 1975 that Ombudsman Mel Smith undertake a review of practical aspects of the Criminal Justice sector. The request was received after the Supplementary Estimates for Vote Ombudsmen had been finalised:

5. Depreciation

30/6/06 Actual		30/6/07 Actual	30/6/07 Main Estimates	30/6/07 Supp. Estimates
\$(000)		\$(000)	\$(000)	\$(000)
5	Furniture and Fittings	5	4	4
26	Plant and Equipment – Other	27	13	13
	Computer Equipment and			
<u>36</u>	Software	<u>30</u>	<u>40</u>	<u>40</u>
<u>67</u>		<u>62</u>	<u>57</u>	<u>57</u>

6. Capital Charge

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 2007 was 7.5 percent (2006, 8.0 percent).

7. Implementation of New Zealand International Financial Reporting Standards (NZ IFRS)

The Ombudsmen will adopt NZ IFRS for the Annual Report for the period ending 30 June 2008. A conversion project has commenced. This project entails assessing the impacts of changes in financial reporting standards on the Ombudsmen's financial reporting and other related activities, then designing and implementing processes to deliver financial reporting on an NZ IFRS compliant basis, as well as dealing with any related business impacts.

Transition from existing NZ GAAP to NZ IFRS will be made in accordance with NZ IFRS 1 "First-time Adoption of New Zealand Equivalents to International Financial Reporting Standards." Upon adoption of NZ IFRS, comparative information will be restated to conform with the requirements of NZ IFRS and the impact that adoption of NZ IFRS has had on the Ombudsmen's financial statements will be set out. The majority of adjustments required on transition to NZ IFRS will be made to retained earnings, however, the Ombudsmen are not expecting any significant impact from the adoption of NZ IFRS.

8. Fixed Assets

30/6/06 Actual \$(000)		30/6/07 Actual \$(000)
	<i>Leasehold improvements</i>	
102	At cost	131
(43)	Accumulated depreciation	(54)
<u>59</u>	Leasehold improvements – net book value	<u>77</u>
	<i>Computer equipment and software</i>	
280	At cost	275
(215)	Accumulated depreciation	(208)
<u>65</u>	Computer equipment - net book value	<u>67</u>
	<i>Plant & equipment other</i>	
124	At cost	125
(97)	Accumulated depreciation	(112)
<u>27</u>	Plant & equipment other – net book value	<u>13</u>
	<i>Furniture and Fittings</i>	
70	At cost	74
(54)	Accumulated depreciation	(60)
<u>16</u>	Furniture and fittings – net book value	<u>14</u>
<u>167</u>	Total Fixed Assets - Net Book Value	<u>171</u>

Disposals in the year to 30 June 2007 were as follows:

	30/6/07 Actual \$(000)
Computer equipment including software	37
Plant and equipment – Other	-
Furniture and Fittings	-
Total disposals	<u>37</u>

9. Creditors, Payables and Short-term liabilities

30/6/06 Actual \$(000)		30/6/07 Actual \$(000)
28	Trade creditors	57
103	GST payable	82
13	Other short-term liabilities	<u>41</u>
<u>144</u>		<u>180</u>

10. Employee Entitlements

30/6/06 Actual \$(000)		30/06/07 Actual \$(000)
	<i>Current Liabilities</i>	
216	Annual leave	221
5	Long service leave	-
	Superannuation Contribution Withholding Tax,	
<u>32</u>	superannuation and salaries	<u>34</u>
253		<u>255</u>
	<i>Non current Liabilities</i>	
<u>32</u>	Retirement and long service leave	<u>33</u>
<u>285</u>	Total provision for employee entitlements	<u>288</u>

The office employment agreement provides for an “open ended” sick leave entitlement, accordingly NZ IAS19 concerning accounting for sick leave liabilities does not apply.

11. Contingencies

The office does not have any contingent assets as at 30 June 2007 (30 June 2006, nil).

Contingent liabilities are disclosed in the Statement of Contingent Liabilities.

12. Financial Instruments

The office is party to financial instrument arrangements as part of its everyday

operations. These include instruments such as bank balances, trade creditors and accounts receivable.

Credit Risk

Credit risk is the risk that a third party will default on its obligations to the office, causing it to incur a loss.

As an Office of Parliament, the office is required to bank with Westpac Government Business, a division of Westpac Banking Corporation. Apart from the above, there are no significant concentrations of credit risk.

Fair Value

The fair value of all financial instruments is equivalent to the carrying amount disclosed in the Statement of Financial Position.

Currency and Interest Rate Risk

The office does not have any currency risk as all financial instruments are in NZ dollars.

The office does not have any exposure to interest rate risk on its financial instruments.

13. Related Party Information

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

14. Formulae Used

<i>Net current assets</i>	Current assets minus current liabilities.
<i>Current ratio</i>	Current assets as a proportion of current liabilities.
<i>Liquid ratio</i>	Total cash, bank balances and term deposits at end of year divided by creditors and short term (current) payables at end of year.
<i>Average creditors Outstanding</i>	$\frac{\text{Trade creditors at end of year} \times 365}{\text{Total trade purchases}} \times \frac{8}{9}$
<i>Staff Turnover</i>	Total full-time equivalent staff at start of reported year divided by full-time equivalent resignations during the reported year
<i>Ratio investigators to support staff</i>	Ombudsmen and full-time equivalent investigating staff divided by full-time equivalent support staff

15. Staff Numbers

The office comprised 53 staff (47.3 Full-Time Equivalents) at 30 June 2007 excluding the three Ombudsmen.

16. Significant variances from forecast financial performance

There was no significant variance in forecast financial performance but Revenue Crown was increased by \$11,000 to provide for additional costs incurred under the Permanent Legislative Authority for Ombudsmen remuneration. The \$11,000 in question is shown as Debtor Crown in the Statement of Financial Position.

PART V - ANALYSIS AND STATISTICS**THE THROUGHPUT OF INVESTIGATIONS**

	2002/03	2003/04	2004/05	2005/06	2006/07
<i>Complaints on hand at 1 July</i>					
Ombudsmen Act	440	436	500	531	608
Official Information Act	214	280	261	241	278
Local Government Official					
Information and Meetings Act	49	31	63	46	70
Protected Disclosures Act	1	2	4	1	1
Other work for which files were opened	19	14	12	35	37²⁵
Adjustment	–	–	–	–	–
TOTAL	<u>723</u>	<u>763</u>	<u>840</u>	<u>854</u>	<u>994</u>
<i>Complaints received during the year</i>					
Ombudsmen Act	3,311	4,220	5,097	8,293	7,593
Official Information Act	935	973	922	754	812
Local Government Official					
Information and Meetings Act	172	194	190	172	192
Protected Disclosures Act	15	19	7	8	8
Other work for which files were opened	<u>473</u>	<u>472</u>	<u>541</u>	<u>481</u>	<u>485²⁵</u>
TOTAL	<u>4,906</u>	<u>5,878</u>	<u>6,757</u>	<u>9,708</u>	<u>9,090</u>
<i>Complaints disposed of during the year</i>					
Ombudsmen Act	3,315	4,155	5,066	8,216	7,665
Official Information Act	869	992	942	717	801
Local Government Official					
Information and Meetings Act	190	163	207	148	203
Protected Disclosures Act	14	17	10	8	9
Other work for which files were opened	<u>478</u>	<u>474</u>	<u>518</u>	<u>479</u>	<u>488²⁵</u>
TOTAL	<u>4,866</u>	<u>5,801</u>	<u>6,743</u>	<u>9,568</u>	<u>9,166</u>
<i>Complaints on hand at 30 June</i>					
Ombudsmen Act	436	501	531	608	536
Official Information Act	280	261	241	278	289
Local Government Official					
Information and Meetings Act	31	62	46	70	59
Protected Disclosures Act	2	4	1	1	-
Other Work for which files were opened	<u>14</u>	<u>12</u>	<u>35</u>	<u>37</u>	<u>34²⁵</u>
TOTAL	<u>763</u>	<u>840</u>	<u>854</u>	<u>994</u>	<u>918</u>

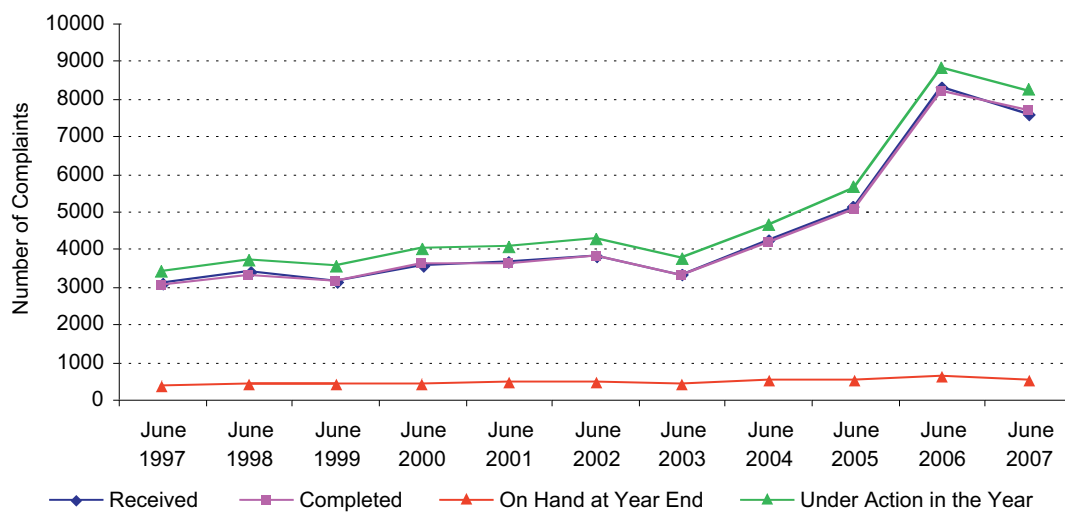
25 "Other Work". These were cases received outside the Ombudsmen's jurisdiction but for which advice or assistance were given.

AN ANALYSIS OF COMPLAINTS BY ACT

Ombudsmen Act

The following chart provides an overview of complaints received and actioned under the Ombudsmen Act 1975 jurisdiction over the past 10 years.

Throughput Ombudsmen Act Complaints



8,201 complaints under action in the year ended 30 June 2007 were dealt with as follows:

How complaints and enquiries were resolved

	B/f from last year	Rec'd year ended 30/6/07	Total Under action
<i>Resolved by department or organisation during course of investigation:</i>			
- investigation discontinued	99	150	249
<i>Sustained after formal investigation:</i>			
- no recommendation warranted or appropriate	11	14	25
- recommendation made	<u>3</u>	<u>2</u>	<u>5</u>
	14	16	30
<i>Not sustained after formal investigation:</i>	99	61	160
<i>Investigation discontinued:</i>			
- further inquiry not warranted	85	184	269
<i>Declined:</i>			
- organisation not within jurisdiction (explanation/assistance given)	10	74	84

How complaints and enquiries were resolved

	B/f from last year	Rec'd year ended 30/6/07	Total Under action
<i>Declined pursuant to Ombudsman's discretion</i>			
- right of appeal to Court or Tribunal	8	26	34
- adequate remedy under law or administrative practice reasonably available	29	194	223
- time lapse	-	5	5
- frivolous or vexatious	-	4	4
- insufficient personal interest	-	1	1
	37	230	267
<i>Formal investigation not undertaken:</i>			
- resolved by informal inquiry	43	320	363
- informal inquiries – explanation advice Or assistance provided	142	5,974	6,116 ²⁶
- complaint withdrawn by complainant	14	80	94
- complaint returned to dept for reconsideration	3	13	16
	159	6,067	6,226
Transferred to the Privacy Commissioner	5	6	11 ²⁷
Transferred to the Health and Disability Commissioner	3	1	4
Administration closed - adjustment	2	-	2
Under investigation at 30 June	52	484	536
TOTAL	608	7,593	8,201

Who we received complaints and enquiries from

	Year ended 30/6/07			
	30/6/05	30/6/06	B/f from last year	Rec'd during year
Individuals	1,401	1,395	335	2,736
Via legal practices	43	211	76	313
Media	4	9	3	2
Members of Parliament and political party research units	2	4	5	7
Special interest groups	26	49	12	60
Companies associations and incorporated societies	75	50	11	68
via legal practices	11	12	7	10
Government departments/ organisations/ local authorities	2	3	-	46

26 Includes 3,249 complaints and enquiries from prisoners and 1,619 enquiries from the general public received by the Call centre and investigative staff and resolved by informal process generally on the same day as they are received.

27 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.

Researchers	-	5	2	1
Sentenced prisoners	3,357	919	132	3,583
Remand prisoners	147	152	19	556
Prisoners unspecified		5,459	-	26
Prison staff	2	3	-	9
Prisoner advocate	22	22	6	175
Trade unions	1	-	-	-
Own motion	4	-	-	1
			608	7,593 ²⁸
TOTAL	5,097	8,293	8,201	

The complaints and enquiries were directed at:

	30/6/05	30/6/06	Year ended 30/6/07	
			B/f from last year	Rec'd during year
Central government depts (Part I)	4,175	7,335	357	6,775
Organisations other than				
Local organisations (Part II)	534	461	132	425
Local organisations (Part III)	388	497	119	393
			608	7,593
TOTAL	5,097	8,293	8201	

The age profile of complaints under investigation at year end was:

	30/6/04	Year ended		30/6/07
		30/6/05	30/6/06	
Aged 6 months or less from date of receipt	85%	79%	80%	71% ²³
Aged between 7 and 12 months from date of receipt	11%	14%	14%	20%
Aged more than 12 months from date of receipt	4%	7%	6%	9%

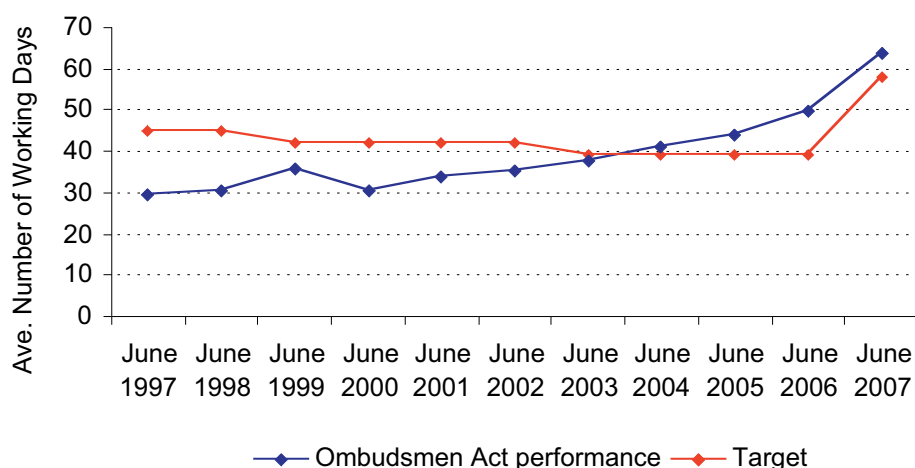
The age profile of complaints completed during the reported year was:

	30/6/04	Year ended		30/6/07
		30/6/05	30/6/06	
Aged 6 months or less from date of receipt	95%	96%	97%	96% ²³
Aged between 7 and 12 months from date of receipt	4%	3%	2%	3%
Aged more than 12 months from date of receipt	1%	1%	1%	1%

²⁸ The variances between years in the number of complaints received for the various types of complainant/enquirer results from the implementation of a new and more accurate recording system for complaints and enquiries referred to the call centre.

During the 2006/2007 reporting year an average 64 working days was required to complete each general Ombudsmen Act complaint and 13 working days for those received from prisoners. The target performance measure for 2006/2007 was 58 working days and 10 working days respectively. These measures are for formal investigations and exclude the 4,868 complaints and enquiries referred to the call centre.

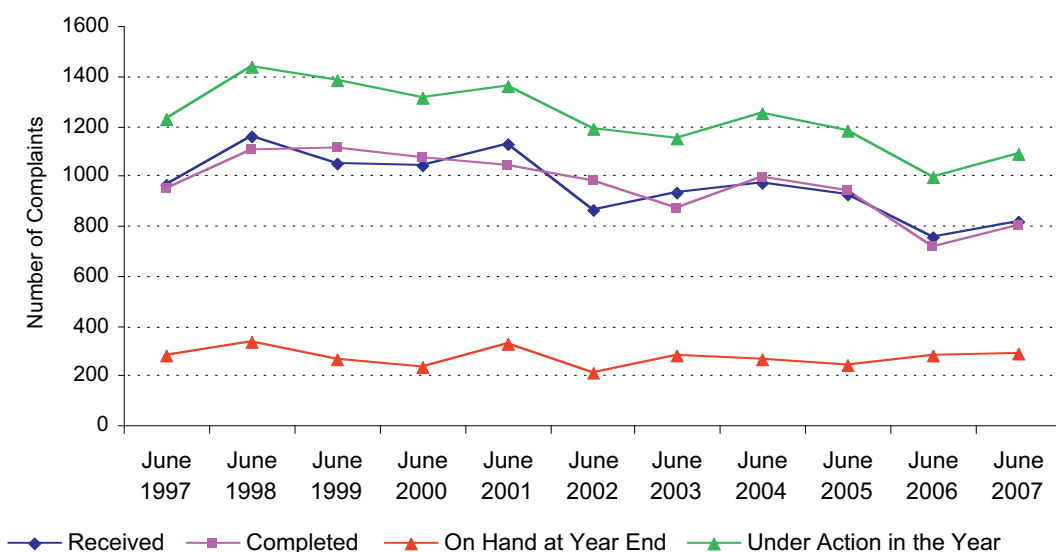
Average number of working days required to complete Ombudsmen Act investigations



Official Information Act

The following chart provides an overview of complaints received and actioned under the Official Information Act 1982 jurisdiction over the past 10 years:

Throughput of Official Information Act complaints



1,090 complaints under action in the year ended 30 June 2007 were dealt with as follows:

How requests for review were resolved:	B/f from last year	Rec'd year ended 30/6/07	Total
<i>Resolved by Minister, dept or organisation during course of investigation :</i>			
- investigation discontinued	71	109	180
<i>Sustained after formal investigation:</i>			
- no recommendation made	6	4	10
- recommendation made	<u>4</u>	<u>1</u>	<u>5</u>
	10	5	15
<i>Not sustained after formal investigation</i>	78	93	171
<i>Investigation discontinued</i>			
- further inquiry not warranted	21	28	49
<i>Declined:</i>			
- organisation not within jurisdiction (explanation/assistance given)	3	2	5
<i>Declined pursuant to Ombudsman's discretion:</i>			
- adequate remedy under law or administrative practice reasonably available	2	24	26
- time lapse	-	2	2
- insufficient personal interest	8	22	30
<i>Formal investigation not undertaken:</i>			
- resolved by informal inquiry	13	222	235
- informal inquiries – explanation, advice or assistance given	<u>8</u>	<u>51</u>	<u>59</u>
	21	273	294
Transferred to the Privacy Commissioner	3	24	27
Transferred to the Police Complaints Authority	-	1	1
Administration closed	-	1	1
Under investigation at 30 June	<u>61</u>	<u>228</u>	<u>289</u>
TOTAL	<u>278</u>	<u>812</u>	<u>1,090</u>

Why reviews were requested:

	30/6/05	30/6/06	Year ended 30/6/07	
			B/f from last year	Rec'd during year
Refusals	537	479	232	497
Delays deemed refusals	305	199	20	235
Delays	10	20	5	19
Charges	17	19	10	17
Corrections	-	-	-	1
Deletions	31	21	8	15
Extensions	20	15	3	22
Conditions	1	-	-	-
Transfers	1	1	-	6
			278	812
TOTAL	922	754	1,090	

Who we received requests for review from:

	30/6/05	30/6/06	Year ended 30/6/07	
			B/f from last year	Rec'd during year
Individuals	344	313	113	307
Via legal practices	37	48	11	45
Media	125	89	39	104
Members of Parliament and political party research units	210	108	33	190
Special interest groups	40	63	22	59
Companies associations and incorporated societies	81	71	29	52
Via legal practices	57	29	16	27
Government departments/ organisations/ local authorities	1	-	1	3
Researchers	1	6	3	3
Sentenced prisoners	19	24	10	20
Remand prisoners	1	-	-	-
Trade unions	6	3	1	2
			278	812
TOTAL	922	754	1,090	

The requests for review concerned decisions taken by:

	30/6/05	30/6/06	Year ended 30/6/07	
			B/f from last year	Rec'd during year
Ministers of the Crown	213	119	45	185
Departments listed in Part I Ombudsmen Act	363	312	106	336
Organisations listed in Part II				

Ombudsmen Act and listed
in First Schedule to the
Official Information Act

	<u>346</u>	<u>323</u>	<u>127</u>	<u>291</u>
			278	812
TOTAL	922	754	1,090	

**The age profile of requests for review
under investigation at year end was:**

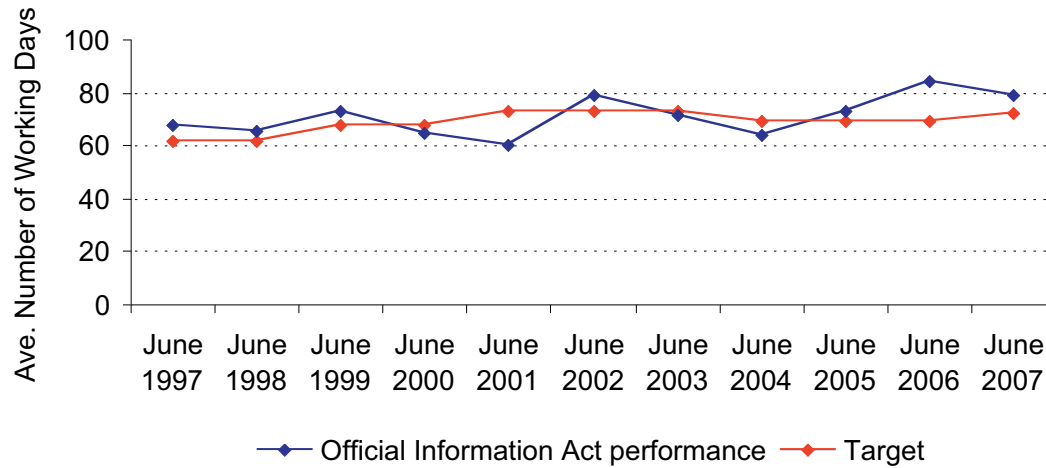
	Year ended			
	30/6/04	30/6/05	30/6/06	30/6/07
Aged 6 months or less from date of receipt	78%	68%	78%	62%
Aged between 7 and 12 months from date of receipt	14%	20%	14%	19%
Aged more than 12 months from date of receipt	8%	12%	8%	19%

**The age profile of requests for review
completed during the reported year was:**

	Year ended			
	30/6/04	30/6/05	30/6/06	30/6/07
Aged 6 months or less from date of receipt	87%	83%	80%	82%
Aged between 7 and 12 months from date of receipt	11%	14%	13%	13%
Aged more than 12 months from date of receipt	2%	3%	7%	5%

An average 79 working days was required to complete each request for review made under the Official Information Act complaint during the 2006/2007 reporting year (last year 84 working days). The target performance measure for 2006/2007 was 72 working days.

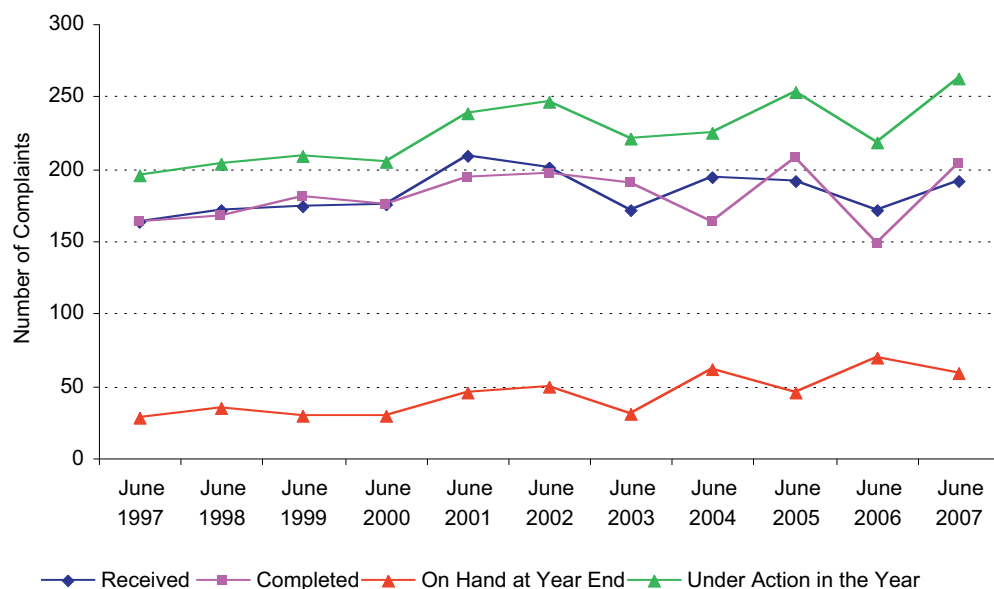
***Average number of working days required to complete
Official Information Act complaints***



Local Government Official Information and Meetings Act

The following chart provides an overview of complaints received and actioned under the Local Government Official Information and Meetings Act 1987 jurisdiction over the past 10 years:

***Throughput of Local Government Official Information and
Meetings Act complaints***



262 complaints under action in the year ended 30 June 2007 were dealt with as follows:

How requests for review were resolved:

	B/f from last year	Rec'd year ended 30/6/07	Total
<i>Resolved by organisation during course of investigation</i>			
- investigation discontinued	28	42	70
<i>Sustained after formal investigation:</i>			
- no recommendation made	2	-	2
- recommendation made	1	-	1
<i>Not sustained after formal investigation</i>	7	7	14
<i>Investigation discontinued</i>			
- further inquiry not warranted	12	11	23
<i>Declined pursuant to Ombudsman's discretion</i>			
- adequate remedy under law or administrative practice reasonably available	-	9	9
- insufficient personal interest	3	5	8
<i>Formal investigation not undertaken:</i>			
- resolved informally	6	33	39
- informal inquiries – explanation, advice Or assistance given	5	25	30
	11	58	69
Transferred to the Privacy Commissioner	1	6	7
Under investigation at 30 June	5	54	59
TOTAL	<u>70</u>	<u>192</u>	<u>262</u>

Why reviews were requested:

	30/6/05	30/6/06	Year ended 30/6/07 B/f from last year	Rec'd during year
Refusals	110	112	50	123
Delays deemed refusals	60	43	13	52
Delays	6	6	-	2
Charges	11	11	6	10
Deletions	3	-	-	4
Extensions	-	-	1	1
			70	192
TOTAL	190	172	<u>262</u>	

Who we received requests for review from:

	30/6/05	30/6/06	Year ended 30/6/07	
			B/f from last year	Rec'd during year
Individuals	116	108	30	117
via legal practices	4	2	1	15
Media	18	26	17	9
Special interest groups	15	10	5	21
Companies, associations	14	16	9	12
via legal practices	14	8	4	15
Government departments/ organisations/ local authorities	-	1	-	1
Members of Parliament and political party research units	-	1	1	1
Trade Unions	<u>8</u>	<u>-</u>	<u>3</u>	<u>1</u>
			70	192
TOTAL	190	172	262	

The age profile of requests for review under investigation at year end was

	30/6/04	Year ended		30/6/07
		30/6/05	30/6/06	
Aged 6 months or less from date of receipt	79%	89%	82%	76%
Aged between 7 and 12 months from date of receipt	16%	2%	14%	21%
Aged more than 12 months from date of receipt	5%	9%	4%	3%

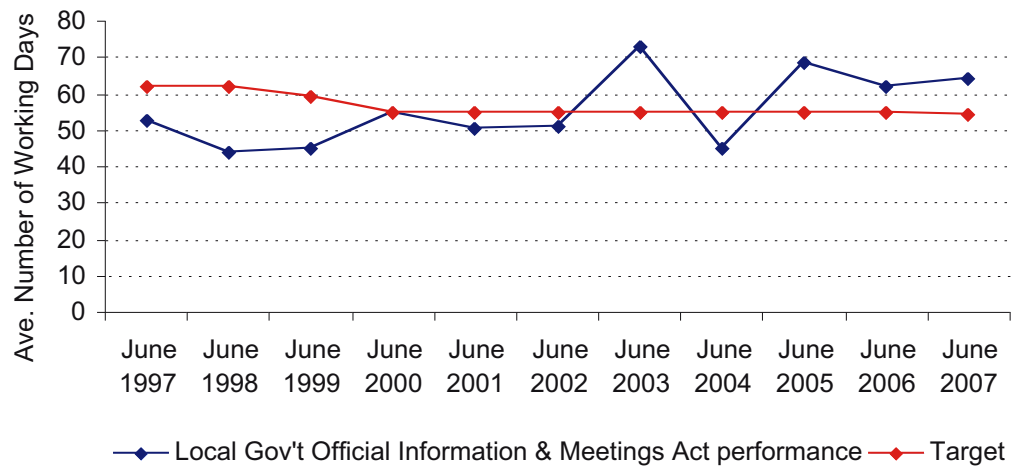
The age profile of complaints completed during the reported year was:

The age profile of requests for review completed during the reported year was:

	30/6/04	Year ended		30/6/07
		30/6/05	30/6/06	
Aged 6 months or less from date of receipt	93%	84%	87%	86%
Aged between 7 and 12 months from date of receipt	7%	8%	10%	8%
Aged more than 12 months from date of receipt	-%	8%	3%	6%

An average 64 working days was required to complete each Local Government Official Information and Meetings Act complaint during the 2006/2007 reporting year (last year 62 working days). The target performance measure for 2006/2007 was 54 working days.

***Average number of working days required to complete
Local Government Official Information
and Meetings Act complaints***



GEOGRAPHICAL DISTRIBUTION OF COMPLAINANTS COMPLAINTS RECEIVED IN YEAR TO 30 JUNE 2007

	JURISDICTION						
	OA	OIA	LGOIMA	PDA	Other Work	All	All Last Year
Auckland	1679	174	57	2	105	2,017	1,992
Bay of Plenty	165	37	8	-	23	233	183
Northland	218	10	4	-	14	246	482
Waikato	678	20	7	-	38	743	316
	2740	241	76	2	180	3,239	2,973
Taranaki	58	10	1	-	9	78	578
Hawkes Bay	285	11	2	1	16	315	806
Manawatu/Wanganui	419	34	9	-	61	523	676
Wairarapa	27	14	-	-	6	47	35
East Cape	11	3	-	-	1	15	7
Wellington	1,487	366	28	-	77	1,958	1,401
	2,287	438	40	1	170	2,936	3,503
Total North Island	5,027	679	116	3	350	6,175	6,476
Complainants based in the North Island as a percentage of total complaints received						68%	67%
Nelson/ Marlborough and Golden Bay	84	12	15	-	14	125	168
Dunedin	98	14	4	-	10	126	115
Otago	79	6	12	-	13	110	68
Southland	101	6	6	-	15	128	109
Canterbury	146	21	10	-	19	196	186
Christchurch	738	65	24	5	38	870	799
Westland	25	4	5	-	5	39	78
Chatham Islands	1	-	-	-	-	1	-
Total South Island	1,272	128	76	5	114	1,595	1,502
Complainants based in the South Island as a percentage of total complaints received						17%	15%
Location not known	1,259	1	-	-	4	1,264	1,659
Overseas	45	4	-	-	17	66	71
Complainants based overseas/address unknown as a percentage of total complaints received						15%	18%
Totals	7,593	812	192	8	485	9,090²¹	9,708

