



2007/2008

Report of The Ombudsmen

Nga Kaitiaki Mana Tangata

for the year ended 30 June 2008



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Madam Speaker

We submit to you our report for the year 1 July 2007 to 30 June 2008.

A handwritten signature in black ink, reading "Beverley A. Wakem". The signature is fluid and cursive, with the first name being the most prominent.

Beverley Wakem
Chief Ombudsman

A handwritten signature in black ink, reading "David McGee". The signature is more compact and less cursive than the one to its left.

David McGee
Ombudsman

Contents

Statement of purpose	5
Relevant outcomes	5
Report from the Ombudsmen	6
 Part 1 – jurisdictional issues	
The Ombudsmen Act 1975 (OA)	18
The Official Information Act 1982 (OIA)	25
The Local Government Official Information And Meetings Act 1987 (LGOIMA)	31
The Protected the Disclosures Act 2000 (PDA)	32
Crimes Of Torture Act 1989 (COTA) - Optional Protocol To The Convention Against Torture and Other Cruel, Inhuman Or Degrading Treatment Or Punishment ("OPCAT").	32
 Part 2 – General Information	
Publicity And Public Awareness Programmes	36
Ombudsmen Quarterly Review (Te Arotake)	36
Compendium Of Case Notes	37
Practice Guidelines	37
Engaging With Māori	37
Clinics/regional Meetings	38
Speaking Engagements	38
International Contacts	38
Office of the Ombudsmen Website	38
 Part 3 – Chief Ombudsman's Report on Operations	
Our Contribution To "Good" Government	40
Business Risks Identified At The Beginning Of The 2007/2008 Reporting Year	42
Management Structure	46
Management Performance	46
Financial And Asset Management	48
Information Management	49
Disaster Preparedness And Risk Reduction	50
Human Resource Management	51
The Output Of The Office Of The Ombudsmen	53
Cost Of Resolving Complaints	54

Part 4 – Performance Information

Statement Of Responsibility	58
Audit Report	59
Statement Of Objectives And Service Performance	62
Statement Of Financial Performance	68
Statement of Financial Position	69
Statement Of Changes In Taxpayers' Funds	69
Statement Of Cash Flows	70
Statement Of Commitments	71
Statement Of Contingent Liabilities And Contingent Assets	71
Statement Of Departmental Expenses And Capital Expenditure Against Appropriations	72
Statement Of Unappropriated Expenditure And Capital Expenditure	72
Expenses And Capital Expenditure Incurred Without Appropriation Or Other Authority	73
Breaches Of Projected Departmental Net Assets Schedule	73
Statement of Trust Monies	73
Statement Of Objectives Specifying The Financial Performance Forecast	73
Notes To The Financial Statements	74

Part 5 – Analysis And Statistics

Analysis And Statistics	94
An Analysis Of Complaints By Act	95
Ombudsmen Act	95
Official Information Act	98
Local Government Official Information And Meetings Act	101
Prisoner Complaints	104
Geographical Distribution of Complainants and Enquirers	107
Directory	108

Statement of purpose

5

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 the administrative acts and decisions of government agencies at central, regional and local levels complaints, either as a result of complaints received from the public or of the Ombudsmen's own motion;*
- *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;*
- *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; and*
- *be a National Preventive Mechanism under the Crimes of Torture Act 1989.*

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 1982 and the Local Government Official Information and Meetings Act 1987; and*
- *fulfilment of responsibilities under the Protected Disclosures Act 2000.*
- *fulfilment of responsibilities under the Crimes of Torture Act 1989*



Report From The Ombudsmen

Overview

The challenge for Ombudsmen everywhere is to remain relevant in a changing social, political and technological environment. This Office is responding to that challenge in a variety of ways.

Work has begun on a programme of renewal within the Office, designed to achieve improvements in professional practice and administration. We hope this will result in an improved ability to meet the needs of agencies and complainants in a more timely and effective manner. It will also enable us to become more proactive in helping agencies to improve their complaints handling, so that complainants can be heard more effectively and better understand the agencies' approach to their concerns.

We are also undertaking research with our stakeholders – both agencies and complainants – to obtain feedback on how the Office is perceived and to identify areas where our processes (and the resources we provide) can be improved.

In response to a growing desire from both agencies and individuals for more up-to-date indications of how the Ombudsmen have formed opinions on various issues, we will now publish our Case Notes on a more regular basis through the Office website. Further development of the website will also enable searching for particular cases which illustrate the Ombudsmen's approach to be achieved more effectively.

In these and other ways we hope to enhance further the reputation of the Office for the quality of its work with agencies and complainants; for contributing to effective governance in the wider state sector; and for enabling citizens at every level of society to participate more fully in the democratic process by having access to information which will assist them to do that.

Key Issues

7

Delays in responding to Official Information requests

In recent years we have observed an increasing tendency on the part of some agencies and some Ministerial offices to ignore the provisions of the Official Information Act 1982 (OIA) in terms of the timing of their responses to requesters. In some cases this was, upon examination, clearly the result of a misunderstanding of their legal obligations for processing and responding to requests for official information under the Act. Commentators, such as Nicola White in her book "Free and Frank: Making the Official Information Act 1982 Work Better", have also observed that in certain sectors a regrettable tendency to "game" the system seems to be emerging, in order to delay responses until the currency of the complainant's interest had passed.

This subverts the purpose of the OIA and is unacceptable. As a consequence of our concern about this we have reviewed our investigation processes in this area and the guidance we had provided to date for agencies about how to use the provisions of the OIA appropriately. As a result, we conducted a series of briefings with CEOs and representatives of political parties, and have subsequently published extensive guidance in the Ombudsmen's Quarterly Report. This has been welcomed and we have received requests to expand the guidance with workshops for departmental officials and requesters. We hope to see a considerable improvement in how agencies deal with requests and communicate with requesters. We will monitor this.

In the New Year, we intend to extend our focus to the similar obligations that apply to local authorities under the Local Government Official Information and Meetings Act 1987 (LGOIMA). At briefings we provided to newly-elected councillors this past year, we noted uncertainty over the meetings requirements in that Act and, in particular, when it might be appropriate to exclude the public from local authority deliberations and LGOIMA's requirements for recording that decision. We intend to address this uncertainty in the coming year by providing appropriately focused guidance for local authorities.

Boards of Trustees – Suspensions and Exclusions

We have had a number of cases this year where administrative justice and procedural fairness in Board deliberations around suspensions and exclusions have been called into question. Process varies considerably across the sector, but a common failing has been that the Board did not keep adequate records of its deliberations on a case so that the matters taken into account in reaching its decision were not immediately manifest. Nor is it always obvious that the full range of options available to the Board have been considered and that the statutory criteria have been applied appropriately.

More worrying, however, is the case where a student with behavioural difficulties has been mainstreamed and where insufficient or inadequate support for the student or teacher is provided.

We have had cases where a student exhibiting these behaviours is involved in an incident – often of a violent nature – and the student is suspended or, in some cases, excluded or expelled. Complaints received have been based on the perceived inability of the school to understand what triggers these episodes and the fact that sometimes the student was first provoked into reacting to some action by others, who escaped punishment.

In the first place the school has a duty of care to other students and to staff to keep them safe from harm. However, this can and does conflict with the duty, in pursuit of government policy and international conventions, to assist students with behavioural issues to enjoy interacting with their peers in a normal classroom setting.

We believe more attention needs to be paid to this. At the least, funding should be in place to ensure teacher aide support is always available for as many hours as is appropriate to ensure learning can take place for everyone in the classroom, not least the student with behavioural problems. Secondly, it seems that some conditions (Asperger's syndrome in particular) present such complexities that teachers may need more support to understand what behavioural responses might arise, and in what circumstances, and to develop techniques for managing the situation safely for all.

Mental Health issues In Prisons

In our visits to prisons we observe a number of prisoners who, through no fault of their own, tend to the irrational in their behaviour. Routine contact with prisoners reveals a noticeable number who quite plainly suffer from some form of mental illness or personality disorder of a severity which would seem to require hospitalisation and/or significant medical intervention.

The Controller and Auditor-General published a report in March 2008 on Mental Health Services for Prisoners, which made a number of recommendations for improvements to mental health services to prisoners through liaison between the Ministry of Health and the Department of Corrections.

We would strongly encourage such efforts.

It appears there is a "gap" in the system which defines mental health conditions, and which results in more mentally ill people being present in prisons than would be expected by chance. Dr Sandy Simpson, Honorary Clinical Associate Professor and Clinical Director at the Mason Clinic, said in an article published in "Rethinking Crime and Punishment", Newsletter No 35, April 2008:

"In a major study of mental illness in New Zealand prisons, we found that the most serious mental illnesses (psychotic illness, bipolar mood disorder and major depression) were over represented in prison. We estimated that about 15% of all inmates should be receiving mental health care for one of these problems, as they would in the community. Lifetime substance misuse problems were present in over 80% of inmates."

He also noted that:

“...difficulties have emerged at the interface of forensic and general mental health (over the definitions of target populations) and between FMHS (Forensic Mental Health Services) and prisons (increasing musters/criminalisation of mentally ill persons). Inpatient facilities average over 100% occupancy. Waiting lists for admission to a hospital bed have developed in recent years as prison muster rises have put pressure on forensic inpatient services...”

This issue concerns us greatly. We would urge that all prisoners with mental illness who need access to in-patient beds should be able to be provided with this without delay.

In addition, whilst we acknowledge that the issue of personality disordered prisoners is a complex one, it is an issue which needs strong leadership to address. Senior Corrections, Health, and Forensic mental health experts together need to give more urgency to developing responses to the management and placement of these prisoners.

The present unsatisfactory situation places other prisoners and staff at risk; it undoubtedly plays a part in the incidence of self-harm and suicides in prison; and it makes management of the prison more stressful than it need be as lay staff struggle with assessing and managing this element of the prison population.

Public Records Act

We have been working closely with Archives New Zealand to develop commentary and practice guidance for agencies on why good public record-keeping is necessary.

It is our experience that many New Zealand agencies do not fully understand the nature and extent of their legal obligations under our Public Records Act and OIA, or why they are important in terms of good administrative practice and ensuring accountability, transparency and public trust and confidence in decision-making. We intend to continue to promote understanding and awareness of these legal requirements both generally and, when appropriate, during the investigation of any individual complaints that may have arisen from, or been affected by, poor record-keeping practices.

Immigration

The Office was engaged in a substantial effort in reviewing the new Immigration Bill as it impacted on the Ombudsmen's ability to investigate complaints under the Ombudsmen Act (OA) and the OIA. In particular, we were concerned that in areas where it was intended that officials exercise discretion with limited or no rights of appeal, there should be adequate recording of reasons for decisions and recommendations.

As a matter of good administrative practice, documenting what happened and why promotes internal accountability within agencies. Irrespective of whether there is any external right of access, agencies should not undermine their ability to conduct robust internal reviews by allowing staff to avoid recording adequately reasons for decisions or recommendations. The need to promote the capacity for robust internal review is even more important where there is a statutory prohibition on disclosing such information outside the agency.

Reporting of “serious and sentinel events” within District Health Board facilities

Earlier this year, the Ombudsman recommended release of details of the incidence of serious or sentinel events at Capital & Coast District Health Board (DHB) following media requests on these matters. The Ombudsman took the view that there was considerable public interest in knowing whether or not an institution was safe, that sound procedures were in place for reporting incidents, and that there was also a system to follow up these reports and make consequential adjustments, if necessary, to clinical and management practices.

In short, the public interest in disclosure of information in serious and sentinel events lies in knowing what went wrong, what could be done to fix it, was that done and, if so, did it work? The Ombudsmen accepted that in order to generate such public interest information, individuals, clinicians and nurses needed to be encouraged to be free and frank about their perceptions of what occurred and what might have been done differently. The public interest in disclosure to promote accountability, therefore, lay in assisting the development of systemic processes.

Subsequent to the disclosure of this information, the Ombudsmen met with Mr Pat Snedden, Chair of the Auckland District Health Board and Chair of the National Quality Improvement Committee of the DHBs. Also present at that meeting were the heads of some of the Regional DHBs and Mr Ron Paterson, the Health and Disability Commissioner. Following a full discussion on the points of concern, it was agreed that the DHBs would, in future, report on these matters on a regular basis in the public interest.

This Office worked with the National Quality Improvement Committee Chair and was provided with an opportunity to comment on the proposed format and extent of disclosure. This was a wholly desirable process and reflected the role of the Ombudsmen in encouraging best practice in the governance of state sector agencies.

Consultation on legislative proposals

During the course of the year there were a number of proposals with implications for legislation with which the Ombudsmen are associated. This was particularly the case with the OIA. Such proposals are not necessarily obvious (such as whether or not to include an agency within the schedule to the Act). They often have a less obvious and indirect effect on the operation of the OIA by limiting or defining the availability of information generated by a statutory activity. In some cases the relationship with the OIA may not be explicitly addressed. In other cases where it is addressed, it may unduly restrict the operation of that Act, or at least affect it in a way that requires careful consideration.

When the Ombudsmen identify such a provision in a bill before Parliament, it is open to them to make a submission to the relevant select committee considering the bill. This has been happening with increasing frequency.

However, it seems to us that it would be better if, as a matter of course, departments consulted the Ombudsmen on such matters at the stage of developing the legislation. In this way, so far as possible, a solution to any problem that is identified can be devised before a bill is introduced to Parliament. It will not, of course, always be possible to reach agreement on every matter and a Government bill will ultimately be prepared in a form that is satisfactory to the

Government. In such circumstances, if the Ombudsmen consider the matter to be important enough, they, as Officers of Parliament, have the ability and the duty to draw the matter to the direct attention of Parliament as part of the select committee's consideration of it.

But this should be exceptional. The Ombudsmen hope that departments will initiate discussion with them on such matters at the development stage with a view to resolving problems at that point. With this aim, discussions were held with the Cabinet Secretary during the year to find a way of reminding departments of the desirability of consulting with the Ombudsmen in all cases in which a legislative proposal affects Acts associated with them. It is hoped that, ultimately, the Cabinet Manual will recognise this as a mandatory step in the preparation of legislation.

Veterans' Affairs

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

However, during the course of the reporting year it was noted that s13 of the War Pensions Act 1954 deems the Secretary to be a Commission of Inquiry when carrying out the Secretary's functions under that Act. This seems effectively to exclude an Ombudsman's jurisdiction under both Acts to which Veterans' Affairs were ostensibly subject. This exclusion arises because:

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

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

Education and Outreach

In recent years, Ombudsmen have commented on the need for better training for agency officials in the operation of the OA, the OIA and LGOIMA (Local Government Official Information and Meetings Act).

There has been considerable turnover in agency staff and a loss of institutional knowledge of agency obligations in responding to Ombudsmen enquiries. These Acts are fundamental to good governance and to encouraging citizen participation in the democratic process. Observing their requirements is core business for agencies and compliance should not be as burdensome as some agencies make it for themselves because of their lack of knowledge of the legislation. It is troubling that, 25 years after the OIA came into force, many government agencies have still not recognised – and responded appropriately – to the fact that the legislation requires a programme of training for new staff and refresher training for existing staff from time to time.

In the absence of any other agency assuming responsibility for improving this situation, the Office of the Ombudsmen has developed a training programme and is providing workshops upon request to increase the capacity of agencies to meet their responsibilities under these pieces of legislation. Initial take-up and response have been positive and should result in an improvement in dealing with requests at first instance, and in responding to the Ombudsmen on review.

As a further development we are considering a programme of investigating (in what is effectively an "audit" procedure) the policies and processes by which agencies deliver their services, comply with their statutory obligations, and provide for adequate procedures when they receive complaints, with a view to assisting agencies in achieving improved and more timely responses. We have already engaged informally with the Ministry of Social Development and with the Department of Labour (Immigration Service) in this regard.

The Office continues to conduct regional "clinics" as a way of keeping in touch with the community, raising awareness of the Office, advertising what it can do to help, and dealing on the spot with complaints. We will review the continued effectiveness of this programme in its current format, but some form of community outreach will continue to be an important part of our work.

The Office was invited by the State Services Commission to join with it and Departments in funding a programme at Victoria University called the "Emerging Issues Programme". The basis for the programme is to increase both the amount and quality of public policy debate and research. It seemed to us that this was a worthy objective and one which was relevant to our functions under the OA to improve the quality of governance in the public sector. The Office has committed \$5,000 per year over the next 3 years to support this initiative.

New Jurisdictions

During the year, the Office began work on identifying resources and scoping the activity associated with our new responsibilities in prisons. Broadly these are to conduct investigations of all deaths in prison and selected serious incidents, and to undertake more reviews of systemic issues identified within prisons as a result of incidents or complaints. It is anticipated that we will be in a position to take up these new responsibilities early in 2009. An Assistant Ombudsman position has been established to bring all of the Office's prison responsibilities together and to lead the new work. The appointment of the 3rd Ombudsman who will amongst other activities, have special responsibility for this jurisdiction has not yet been actioned.

The Office's role as a National Preventive Mechanism under the COTA (The Crimes of Torture Act) which ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (the Protocol), has been progressed to the point where we are now in a position to begin our programme of inspections. A great deal of work has been required to understand the agencies whose facilities and treatment of detainees we will be inspecting, the scope of the inspection programme, and the development of appropriate methods for assessing and measuring practice against the requirements of the Protocol in the New Zealand context. Work continues in this area and progress to date is examined in more detail later in this report.

International relations

13

Ombudsman Training

The Office continued its 12-year association with the annual programme for new Ombudsmen and senior staff – “When Citizens Complain: the Role of the Ombudsman in Improving Public Service”. This is held in London each May and is strongly supported by the Commonwealth Secretariat.

As well as making a significant contribution in leading the second week of the programme, this Office is able to use the opportunity to maintain contact with other jurisdictions in the United Kingdom – both Ombudsmen and Information Commissioners. This link has proved invaluable in keeping the Office up-to-date with developments in both fields.

Pacific Ombudsman Alliance

Together with Professor John McMillan, Commonwealth Ombudsman of Australia, and Mr Bruce Barbour, Ombudsman New South Wales (in his role as the Pacific Regional Director for the International Ombudsman Institute (IOI)), the Chief Ombudsman has participated in a series of meetings designed to develop or strengthen integrity institutions in the Pacific. Specifically, and as a result of an initiative of the Pacific Forum, we have contributed to the development of a proposal for a Pacific Ombudsman Alliance that would build on the existing Pacific Ombudsman network and expand this to include all small island states in the region.

The objectives of the alliance will be to:

1. strengthen regional cooperation and coordination for improved Ombudsman Services
2. build the institutional capacity of agencies performing Ombudsman functions
3. foster the development of complaint handling and accountability mechanisms in countries without Ombudsman service providers
4. promote the role of Ombudsman services in improving governance.

The Office has, over a number of years, provided training and development assistance as required for countries in the region, ranging from those with which New Zealand has specific ties (Cook Islands, Tokelau, Niue) to Vanuatu, Papua New Guinea and Timor Leste. However, it is apparent that we will be called on increasingly to provide development training in the region as part of the Alliance. We will need to consider how best to achieve this within our limited resources. It is clear that bringing people to our office for training may not be the best method in the future of increasing capacity and capability in those countries which seek our help. It is more efficient and effective to train staff in their own milieu, and to help them develop solutions which fit each location and the environment within which the Ombudsman is working.

New Zealand is seen as trusted partner in all these activities and our ability to “roll up our sleeves”, so to speak, and offer practical advice is much welcomed.

International Conference of Information Commissioners

A much larger undertaking for the Office in the past year was the hosting of a highly successful meeting of international Information Commissioners in November 2007. This brought together 180 participants from 40 countries and included non-governmental institutions and funding agencies. Over 4 days, the programmes ranged over such diverse topics as “Should we be building a global transparency movement?” to “Monitoring and Evaluating FOI Acts”. New Zealand’s 25 year experience with the OIA provided a good basis for the discussions and an opportunity to look at the challenges to its continued effectiveness posed by new technologies, changes in governance arrangements, and outsourcing of government services, among other issues.

The papers and presentations delivered at the Conference can be found on the conference website, along with video recordings of the sessions (<http://www.icic2007.org.nz>). At the conference, commissioners decided to begin work on building an electronic communications tool to facilitate sharing knowledge with each other. The Office participates in the steering team for building this tool, with the software development being led by the Mexican Federal Institute for Access to Information.

Other involvement

Staff from the Office have contributed to workshops and seminars on access to information reforms in Indonesia, Cambodia and Mexico in the last year, in addition to a pan-Pacific workshop held in the Solomon Islands organised by the Pacific Forum and United Nations Development Programme (UNDP). The General Manager participated in an assessment visit to Niue as part of developing the Pacific Ombudsman Alliance proposal.

The Deputy Ombudsman also participated in discussions and seminars with representatives of Australian integrity agencies on the overlapping roles of Ombudsmen, Auditors-General and Archivists in ensuring sound record-keeping practices to promote good governance.

A fairly steady stream of requests for advice is received and responded to on an ad hoc basis. Visitors to the Office in the past year from Argentina (two separate delegations), Botswana, China, Taiwan, Thailand, and Uruguay also sought our advice on access to information reforms, as well as broader public administration issues and the operation of the Ombudsmen Act.

Our membership of APOR (the Australasian and Pacific Ombudsman Region of the International Ombudsman Institute) and ANZOA (the Australia and New Zealand Ombudsman Association) – the two main professional associations of Ombudsmen from the region – has been very beneficial. ANZOA has the added attraction of involving private sector Ombudsmen as well, so that we are able to access a wide range of experience and practices across jurisdictions.

The Chief Ombudsman succeeded Ila Geno of Papua New Guinea as one of two Pacific regional representatives on the IOI Board.

Acknowledgements

15

We note with continued sorrow the untimely death of former Chief Ombudsman John Belgrave during the year. He made an outstanding contribution to the Office and enhanced its reputation considerably with the quality of his judgement and his humanity.

Ombudsman Mel Smith retired after 5 years' service. He assisted in the production of three major own motion studies – into conditions in prison, the issue of the safety of prisoner transportation, and the painted apple moth spraying programme. He also undertook a review of the criminal justice system at the request of the Prime Minister. Mel's support for his fellow Ombudsmen and for the staff was greatly valued.

We welcomed David McGee, former Clerk of the House, on his appointment as an Ombudsman.

We appreciate the strong support we continue to receive from Parliament, the Speaker and the Officers of Parliament Committee. In particular we have welcomed additional resources to enable us to respond more effectively to the needs of our stakeholders and to fulfil the intentions of the Ombudsmen Act in particular.

Finally, we record our grateful thanks to our staff, whose professionalism and outstanding work ethic ensure that the Office is able to maintain its high reputation for accessibility, fairness and quality of output.



Beverley Wakem
Chief Ombudsman



David McGee
Ombudsman

1

Jurisdictional Issues

The Ombudsmen Act 1975 (OA)

The Official Information Act 1982 (OIA)

The Local Government Official Information And Meetings Act 1987 (LGOIMA)

The Protected Disclosures Act 2000 (PDA)

Crimes Of Torture Act 1989 (COTA) - Optional Protocol To The Convention Against Torture
And Other Cruel, Inhuman Or Degrading Treatment Or Punishment ("OPCAT")

The Ombudsmen Act 1975 (OA)

Overview

We received 7,257 complaints under the OA over the past year. While this amounted to only a slight increase of just over 3 percent from last year, it remains a significant number. Many of the complaints received were relatively straightforward and capable of satisfactory resolution. However, some were very complex. As noted in previous annual reports, the incidence of dissatisfaction is accentuated where agencies have not implemented and maintained effective internal complaint handling procedures. Many of the complaints received under the OA spring largely from a lack of effective administrative processes for resolving misunderstanding or dissatisfaction at an early stage. Rather than a decision or action being simply wrong, more often than not the problem has been a failure by agencies to communicate adequately why a decision or action was taken or not taken.

In this regard, two recurring themes stood out over the past year. The first is the need for agencies to ensure good record keeping in and around decision-making processes. Failure to record adequately “what happened and why” in a manner that allows for ready retrieval and review lies at the heart of many complaints we receive. It can also complicate both the complaint and review process. In particular, the greater reliance by many agencies on electronic communications requires a commitment to planning and staff training to ensure that the creation, maintenance and accessibility of records of decisions or actions meet both legal requirements and legitimate public expectations.

The second theme is the constant need for agencies to avoid undue delay in responding to reasonable enquiries from individuals trying to find out what is happening about a matter that affects or concerns them. Not all delay is avoidable or indeed unreasonable. However, internet and email and text messaging have changed the expectations of New Zealand society about the immediacy of responses to communications. Unexplained delay or, in some cases complete silence, can quickly erode public confidence and trust in administrative processes even though there may be good and unavoidable reasons for it. Again, the implementation of more effective systems must be accompanied by improved staff training and clearer communication of those systems, especially for service delivery and regulatory agencies. We note that agencies, such as the Ministry of Social Development, which have invested time and effort in improved systems and staff training are in a better position to manage complaints more successfully.

OA Issues Arising in the Reporting Year

19

Department of Corrections - Prisons

The Ombudsmen have continued to deal with the concerns of prisoners. The great majority of matters are susceptible to swift resolution. We are happy to record the co-operation of staff of the Department of Corrections at all levels in enabling us to achieve this.

Prison Transport Investigation

In June 2007, the Ombudsmen concluded an "own motion" investigation in relation to the transport of prisoners by the Department. This made numerous criticisms of the conditions of road transport. The Department gave immediate attention to these criticisms, and overall has responded positively and in a timely fashion.

The Department established a major project to examine all aspects of prisoner road transport, and took steps to remedy the deficiencies observed by the Ombudsmen. Not all problems could be solved by instant administrative action, due to the architecture of the vehicle fleet. However, we understand that the Department's overhaul of its prisoner road transport is nearing completion. We hope that ultimately all transport of prisoners will be seen to be safe, secure and humane, and that the Ombudsmen's criticisms will cease to have relevance.

We do, however, have one current and on-going concern. The Department has established a policy of placing all prisoners in waist restraints during transport to and from court, inter-prison transfers, and temporary releases. The restraints are waist belts, to which the prisoners' hands are secured. The object is to prevent prisoner-on-prisoner assault in multiple occupied compartments, and to increase the level of safety for staff.

We acknowledge the Department's rationale. Nevertheless, we are anxious about the consequences of such restraints in the event of a road traffic accident, and the extent to which such restraints are humane on longer journeys. We hope that the Department's review of prisoner transport will devise better methods of security. At this time, we are keeping the matter under review.

Period of Change

The Ombudsmen are entering a period of change with regard to prisons.

For a number of years, it has been the practice for all deaths of prisoners in the Department's custody to be investigated by the Inspectors of Corrections. The Ombudsmen have adopted a monitoring role in order to provide confirmation that the investigations were being properly conducted. This has normally involved one of our staff attending the prison in question, examining relevant paperwork, and attending the Inspector's interviews of significant witnesses. Ultimately, the Ombudsmen have been provided with a copy of the Inspector's report and have had the opportunity of commenting upon it to the Chief Executive of the Department.

At the invitation of the government, the Ombudsmen agreed in principle to adopt a more direct role, and themselves investigate all deaths in custody. However, on further analysis of the operational consequences, it has appeared that the inevitable overlap with Coroners' functions, and statutory limitations on the degree to which Ombudsmen may disclose information

obtained by them, could together favour a better pathway to the same end. How best to serve the public interest, while maintaining the spirit of what was envisaged, is to be discussed by the Ombudsmen with the Chief Coroner, the Police, the Department of Corrections and the Ministry of Justice.

Other forms of serious incidents or matters in prisons have hitherto been investigated by either an Inspector of Corrections or other senior staff of the Department. The Ombudsmen have similarly decided to conduct direct investigations of those matters (or particular aspects of those matters), where the Ombudsmen consider this would be appropriate and beneficial.

The Ombudsmen's existing statutory powers are sufficient to enable them to undertake such investigations. Parliament has granted funding to support the extra work. In the opening part of the next financial year, the Ombudsmen will establish investigative procedures, and recruit the necessary additional staff. The actual commencement of the work will be a gradual process.

Protocol

Section 160 of the Corrections Act 2006 requires there to be a protocol or agreement between the Chief Ombudsman and the Chief Executive of the Department with regard to complaints by persons under control or supervision.

The agreement, dated 21 December 2005, is currently under review, and the Ombudsmen anticipate agreeing a new version that will facilitate the needs of the Ombudsmen with regard to investigating deaths in custody and serious incidents or matters in prisons.

Statistics

See Part 5 for statistical details of complaints and enquiries received from and on behalf of prisoners during the 2007-2008 reporting year.

Education

We continue to receive complaints from parents about their children being suspended or excluded (expelled) from school. For many parents and their children their only available means of redress is to our Office. Last year about 1,600 students were excluded or expelled from State schools. (Students under 16 years are "excluded". Students over 16 years are "expelled"). The decisions of school boards to suspend or exclude (expel) students may well have life-long consequences. Notwithstanding recent judicial consideration this remains an area that will always be difficult. We have encountered a growing sense among parents and teachers that the current system is unable to cope with the pressure of competing interests within the modern school environment. This is not just in the context of expulsions and exclusions. It may be that serious consideration needs to be given to reviewing the current system so that parents and their children can have greater confidence that fair and timely outcomes may be achieved in a consistent manner. This will require the efforts of a number of agencies, not just the Ministry of Education. We intend to engage with relevant agencies on these issues in the coming year.

Immigration New Zealand (INZ), Department of Labour

21

We have continued to engage with INZ (a business unit of the Department of Labour) with a view to discussing how its decision-making and internal review processes might be further improved, thereby reducing the need for recourse to our Office. In this respect, we have, at INZ's invitation, offered suggestions as to how its complaints process might be made more effective and more accessible by potential complainants. We can report that INZ responded positively to our comments, and we will continue to offer suggestions that we consider will assist its performance.

We understand that INZ is also reviewing processes by which "lessons learned" from complaints made to us and to other bodies, and from decisions given by the immigration appeal authorities, can be incorporated into staff training programmes with a view to improving decision-making and customer service. This is commendable. However, we continue at present to receive complaints about administrative failings or issues that we have previously investigated and sustained. This highlights the importance of ensuring that staff at all levels within INZ are made aware of, and apply the findings of, relevant decisions.

While we strongly encourage such initiatives, our statutory functions require that we investigate not only the individual complaints we receive, but also any wider systemic shortcomings that such complaints may disclose, whether or not other agencies may also be concerned with such issues. In this respect, we have investigated, and continue to investigate, complaints relating to the operations of the Pacific Division.

Ombudsman's Investigation into the Criminal Justice Sector

In April 2007, the Prime Minister asked Ombudsman Mel Smith to investigate the administration of the criminal justice system and report back to both the Prime Minister and Parliament on how effectively the components of the criminal justice system work together, and whether differences in procedures in different parts of the system lead to unintended or undesirable consequences.

This investigation followed a reference by the Prime Minister in accordance with section 13(5) of the Ombudsmen Act 1975. This provides that at any time the Prime Minister may refer to an Ombudsman for investigation and report any matter, other than a matter concerning a judicial proceeding, which the Prime Minister considers should be investigated by an Ombudsman. This reference by the Prime Minister is one of the very few times when this provision has been used. The first was in 1975 and followed a reference by the then Prime Minister, the Rt Hon Bill Rowling, to the then Chief Ombudsman, Sir Guy Powles, relating to issues involving the Security Intelligence Service. There have been two other such referrals but none since 1983.

A second unique feature of this investigation was that the terms of reference covered the entire criminal justice sector. This was the first time there has been a comprehensive review of the sector. There have been previous investigations and reviews, including a Royal Commission, but these have focussed on a particular component of the system, for example the 1978 Royal Commission on the Courts and the 1981 Penal Policy Review Committee. However, none have covered the full gamut of the sector.

For the purpose of this review the criminal justice sector was defined as covering the Ministry of Justice (which now includes the Courts), the Police, the Department of Corrections, the

Crown Law Office, the Ministry of Social Development (youth offending) and the Serious Fraud Office. The investigation also recognised that the Ministry of Education and the Ministry of Health, in certain of their functions, needed to be concerned with some issues of criminal justice.

The Ombudsman's report covered most areas of criminal justice but did not purport to provide an in-depth analysis of the detailed operation of the whole of the criminal justice system. Nor was the Ombudsman asked to make recommendations, but rather investigate and report on the matter referred to him.

The report identified issues of policy, practice and management that need to receive on-going focus and made suggestions for the Government to consider and act upon as it saw fit. Some emphasis was given to issues of youth justice and crime prevention. Reference was also made to the complexity of the system and that the rhetoric in the media and elsewhere tended to convey an impression that there is some simple answer to crime and criminal justice. The report concluded that such an impression is far from the reality and that there is no simple answer or silver bullet.

The report was provided to the Prime Minister on 30 November 2007 and tabled in Parliament on 5 December 2007. It is available on the Ombudsmen's website www.ombudsmen.parliament.nz

Painted Apple Moth Spray Programme

This investigation was complex. It involved an analysis of a considerable amount of technical information and, in respect of certain of the information, conflicting opinions.

The decision to spray was made under the provisions of the Biosecurity Act 1993 and was designed to eliminate the Painted Apple Moth in West Auckland and the Asian Gypsy Moth in parts of Hamilton. Prior to these spraying projects there had been an aerial spray project in East Auckland where the population within the spray zone was estimated at 86,000. In West Auckland the programme eventually covered approximately 12,000ha with an estimated resident population of some 193,000. The programme in Hamilton involved a residential population of some 24,000.

The Ombudsman concluded that in so far as the actual spray operations themselves were concerned, there is no reason to doubt that they were carried out in a professional manner. They achieved the objective for which the programmes were designed, that is, eradication of insects which were believed to pose a significant threat to New Zealand vegetation and would have a very substantial and detrimental economic impact. The programmes required expenditure of some \$85m.

However, the Ombudsman also concluded that:

- *“insufficient attention was paid to the impact of these operations on the populations within the spray zones, and*
- *as there is a likelihood that similar operations may have to be carried out in the future, it is important that a structure be established that will enable the worst features of the Auckland and Hamilton programmes to be avoided.”*

The Ombudsman observed that it is no light thing to be sprayed from a low flying aircraft by a spray, the contents of which is unknown to the people “on the ground”, and possibly to have one’s life disrupted for what may be a quite lengthy period of time. If such a programme is necessary for reasons such as existed in these two programmes, then it is essential that the public be sufficiently informed and protected to the greatest extent possible so as to ensure that there is public understanding and support for the spraying programme.

The Ombudsman acknowledged the real difficulty that arises where the manufacturer of a spray insists that there can be no public disclosure of the formulation as this would reveal a trade secret. Although in this case the formulation had been disclosed to certain state agencies, the public remained concerned that the spray may contain harmful ingredients that could have detrimental long term health impacts on some people.

Another major issue revolved around the provision in the Biosecurity Act that effectively overrides provisions in the Resource Management Act thereby precluding any consideration in the Environment Court. The Ombudsman recognised the difficulties that might be faced where there is a need for an urgent decision to control some biosecurity threat but nevertheless suggested that the law should be examined to see whether it is possible to devise a procedure which provides a reasonable opportunity for the Environment Court to consider the matter. A copy of this report is available on the Ombudsmen’s website www.ombudsmen.parliament.nz

Publicly funded organisations not subject to Ombudsmen’s jurisdiction

Public funds, from both central and local government, are provided to many entities which are not subject to the Ombudsmen’s jurisdiction – for example, the Animal Health Board, private schools and numerous charitable institutions providing care to the disabled and needy. Not only is the accountability and transparency regarding the use of such public funds potentially shrouded, but also individuals affected by decisions of these entities may not have any adequate means of redress outside the Court system. In our view, before substantial public funds are granted to these entities, the agency providing the funding should ensure that there are adequate and simple means of redress available to those with complaints about those entities. There seems no reason why that should not be the case.

Local Government

Non-notified applications under Resource Management Act 1991 (RMA)

In our last year's report we expressed concern that on occasions Councils are too willing to grant RMA consents on a non-notified basis. We note with concern that the provisions of the RMA giving those not notified of applications the right to appeal Councils' decisions to the Environment Court have not yet been bought into force. The only effective means of redress now available to the aggrieved is to apply to the High Court for judicial review of Councils' decisions not to notify. The cost of judicial review applications is effectively beyond the pockets of most citizens and this is of concern in the context of the Ombudsmen's role in ensuring administrative justice and procedural fairness.

Recommendation Not Accepted

All recommendations were accepted except for the investigation concerning the Painted Apple Moth Spray Programme (see page 22). We are still awaiting confirmation from the Ministry of Agriculture and Forestry and the Ministry of Health about the implementation of certain recommendations.

Where Significant Numbers of OA Complaints Arose

	Year ended 30/06/07	Year ended 30/06/08
Central Government ≥ 30 complaints¹		
Department of Labour	296	276 ²
Ministry of Social Development	140 ³	156
Inland Revenue Department	125	115
Ministry of Justice	49	87 ⁴
Local Government ≥ 15 complaints		
District Councils – all ⁵	224	231
Tasman	24	20
City Councils – all ⁵	154	150
Auckland	27	39
Christchurch	27	27
North Shore	21	17
Tauranga	5	16
Regional Councils – all ⁵	37	40
Other Organisations ≥ 15 complaints		
Accident Compensation Corporation	111	124
Educational institutions	103	73 ⁶
District Health Boards	35	29
Police	15	28 ⁷
Health and Disability Commissioner	19	28

Detailed statistics are set out at pages 95 to 98.

1. Excludes complaints from prisoners.

2. 266 involving the New Zealand Immigration Service and 10 other.

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

The Official Information Act 1982 (OIA)

25

Overview

The number of complaints received under the OIA increased by 10 percent over the past year to 897. As we noted last year, an increase is not necessarily a reflection of poor handling of OIA requests by agencies. Greater use by individuals and special interest groups of their right to request information will inevitably lead to more requests for an Ombudsman's investigation and review in the event of refusal or administrative delay or charge.

Over the past year, we have noted an increasing complexity in investigations where the focus has been on access to information that has not been documented in an orderly manner or even recorded in writing at all. The OIA allows for refusals on administrative grounds where documents cannot be found or do not exist, or where information cannot be made available without substantial collation and research. However, given the statutory obligations under the Public Records Act 2005 (PRA) to create and maintain in accessible form full and accurate records in accordance with normal, prudent business practice, the critical issue quickly becomes "why" certain information has not been created or cannot be found or readily retrieved. In an increasing number of cases, an OIA complaint about the unavailability or inaccessibility of information will inevitably lead to an OA complaint about whether such a state of affairs is reasonable. The need for agencies to pay closer attention to the interface between the PRA and the OIA is becoming more apparent and more urgent.

In last year's report we noted 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. Over the past year we have increased our efforts to assist agencies in developing appropriate guidelines and policies for their staff in processing and responding to OIA requests. We have provided training seminars for agencies that have requested them. We have published guidelines and have also, on request, vetted guidelines and policies that individual agencies have developed for their own staff. We are pleased to note that most agencies are showing a genuine desire to do more than simply achieve minimum compliance with the requirements of the OIA. Meeting the spirit and purposes of the OIA requires both a positive culture towards freedom of information principles and a willingness to document and follow best practice. The nature of freedom of information regimes is that the public interest is best served by allowing a natural balance to be struck between certainty and flexibility. There will always be a need to be vigilant against arguments for certainty that are simply the wolf of political or administrative convenience dressed up as administrative efficiency.

4. Includes complaints directed at the former Department for Courts.

5. Total for all Councils inclusive of those detailed.

6. Comprises Schools Boards of Trustees (31), Universities and Polytechnics (42).

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

OIA Issues Arising in the Reporting Year

Finding addresses for court proceedings

In our Annual Reports for the years ended 30 June 2003 and 30 June 2004, we reported on the outcome of investigations into the withholding of address information by the Ministry of Social Development (MSD), where the addresses were sought for the enforcement of Tenancy Tribunal orders. The view was reached that there is an overriding public interest in release of the address information to assist in the enforcement of civil judgment debts, and thereby maintain the proper administration of justice and promote respect for the law⁸.

As a result of those investigations, a formal process has been set up, with the agreement of the Cabinet, between the Ministry of Justice, the Department of Building and Housing (DBH) and MSD. Under this process, an up to date address may be released to the Ministry of Justice when judgment creditors are seeking to enforce Tenancy Tribunal orders and have taken all reasonable steps to locate the judgment debtors themselves⁹. An amendment to the Residential Tenancies Act has also been proposed¹⁰, which will establish in legislation the formal process for requesting address information.

However, this formal system applies only to an address held by DBH or MSD which is requested for the purpose of enforcing a Tenancy Tribunal order. We are advised that consideration is currently being given by the Ministry of Justice, DBH and MSD to establishing a formal arrangement that will cover requests relating to address information for the enforcement of all court orders, including orders made by the District Court and the Disputes Tribunal.

In the meantime, any agency subject to the OIA is required to consider a request for a judgment debtor's address, when that is sought for the enforcement of any court order. If there is currently no formal process in place, then a direct request can be made to an agency for the address. Such requests must be considered under the OIA on their own merits, but taking into account the public interest we have identified in release of such information.

Further issues continue to arise in this area, over which we are keeping a watching brief.

For example, several complaints have been made about the refusal of MSD to provide the addresses of ex-tenants to their former landlords, so that the landlords could commence proceedings in the Tenancy Tribunal or District Court for rent arrears and property damage. In these cases, the ex-tenants had left the properties and the landlords were unable to locate them so that the proceedings could be served on them.

8. Full details of the matter are reported in our case note W42175, which can be accessed via the website (www.ombudsmen.parliament.nz), by clicking on Search Publications.

9. DBH has produced an information sheet on this issue: Finding a new address for someone when you are trying to enforce a Tenancy Tribunal order (<http://www.dbh.govt.nz/finding-new-address>).

10. Residential Tenancies Amendment Bill (No 2) 217-1, cl 73. (Footnotes

After investigation, the Ombudsman concluded that there was good reason for MSD to withhold the addresses, as that is necessary to protect the privacy of the individuals concerned. While there is a public interest in the release of information that would promote access to the courts, it became apparent during the investigations that the addresses were not needed to allow court proceedings to commence or continue. Where an individual's address cannot be found, there are procedures in place in the Tenancy Tribunal to allow for substituted service, and if these are exhausted then the proceedings may be transferred to the District Court which can deem service to have taken place. In these circumstances, there is no public interest in release of the addresses that would outweigh the need to withhold them to protect the individuals' privacy.

However, we did raise a concern with DBH that little information was available about the procedures to commence proceedings where an individual cannot be located. As a result, DBH has now placed an information sheet on its website describing how to commence proceedings in the Tenancy Tribunal when the current address details of the other party are not known¹¹.

In another case, a complaint was made about the refusal of the Inland Revenue Department (IRD) to provide the address of a judgment debtor, sought for the purpose of enforcing a Tenancy Tribunal order. The Ombudsman declined to investigate this complaint on the basis that disclosing the individual's address would be contrary to the secrecy provision set out in section 81 of the Tax Administration Act.

However, in the course of considering this complaint, we noted that there is an exception to the secrecy provision in section 85A of the Tax Administration Act, which allows the Ministry of Justice to obtain address information from IRD for fines defaulters, through an information matching programme.

Thus, although IRD is required to keep address information secret where that is sought for the purpose of enforcing civil judgment debts, there is a provision allowing disclosure for the purpose of enforcing criminal fines. Even so, it appears that Parliament considers that there is a similar interest in the enforcement of civil debts as in the enforcement of criminal fines, given that the remedies available to a judgment creditor under the District Courts Act include the arrest of a judgment debtor where the latter does not appear for examination.

Accordingly, we have now written to the Ministry of Justice, querying whether a further exception should be promoted to the secrecy provisions in the Tax Administration Act, to allow disclosure to the Ministry of Justice of address information held by IRD, for the enforcement of civil judgment debts. The Ministry has agreed to give this matter consideration.

11. *Applying to the Tenancy Tribunal – What to do when you don't have the other party's address for service* (<http://www.dbh.govt.nz/address-for-service>).

Protection of ministerial discussions on Cabinet business

Two complaints related to requests for information concerning the Electoral Finance Bill. These requests extended to undocumented information, including knowledge in the minds of Ministers.

It was established that the undocumented information existed in the context of discussions on business that was before the Cabinet.

While Cabinet documents are not given special protection under the OIA –their proactive release is almost routine today - the Ombudsmen are of the view that there remains a presumption of confidentiality for ministerial discussions on Cabinet business and that such discussions are protected by section 9(2)(g)(i) of the OIA. This is that "...the withholding of the information 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 members of an organisation or officers and employees of any Department or organisation in the course of their duty".

The Ombudsmen consider that this protection covers, not only the deliberations within Cabinet itself or a Cabinet committee meeting, but extends to other discussions between ministers where the discussion topic is currently the subject of the Cabinet decision-making process. As the Danks Committee said in its General Report (1980), paragraph 47:

"...To run the country effectively the government of the day needs nevertheless to be able to take advice and to deliberate on it, in private, and without fear of premature disclosure. If the attempt to open processes of government inhibits the offering of blunt advice or effective consultation and arguments, the net result will be that the quality of decisions will suffer, as will the quality of the record. The processes of government could become less open and, perhaps, more arbitrary..."

Moreover, in any consideration of the countervailing public interest in disclosure in terms of section 9(1) of the Act, the Ombudsmen are of the view that the protection of such discussions is a core constitutional requirement and is therefore very strong.

Section 28(f) of the Māori Community Development Act 1962

Following a complaint under the OIA, the Ombudsman formed the view that Te Puni Kōkiri (TPK) was entitled to refuse a request for official information under section 18(g) of the Act - that is, that the information was not held by TPK and there were no grounds for believing that it was held by, or was connected more closely with the functions of, some other person who is subject to the Act. The request was for the audited financial statements of the Wellington District Māori Council covering 4 financial years.

The primary reason the information in question was not held was because of a general failure by district Māori councils to comply with section 28(f) of the Māori Community Development Act 1962, which reads in part as follows:

"(f) ...each District Maori Council shall submit a copy of its audited statement [showing its financial operations for that year and its assets and liabilities at the end of that year] to the chief executive [of TPK]..."

In this light the complainant made a fresh request to TPK that it request the Wellington District Māori Council to supply the information. TPK refused that request. TPK, which lacks statutory power to enforce compliance with section 28(f), explained that in coming to that decision it had considered, amongst other things, the consequences of asking the District Māori Council, the implications for all other district Māori councils and the burden of compliance on those councils. TPK also said it was looking at a legislative review of the Māori Community Development Act that would cover possible amendments to that Act.

TPK's refusal to request the District Māori Council concerned to supply the requested 'section 28(f)' information led to the complainant making a fresh complaint under the OA.

The Ombudsman sustained this complaint and recommended, amongst other things, that TPK request the District Māori Council to supply it with the information specified and that, should that request be complied with, it should then make a decision, pursuant to the requirements of the OIA, on the complainant's request for copies of that information.

TPK complied with the recommendation to make this request to the council but despite follow-up by TPK over 3 months, no real progress had been made. At that point the Ombudsman concluded that TPK had done everything that could reasonably be expected of it.

However, as a final act, the Ombudsman wrote to the Solicitor-General inviting him to consider what steps, if any, were warranted in the public interest regarding enforcement proceedings against the Wellington District Māori Council. The Solicitor-General responded that in his view no action was called for because TPK was about to write to all district Māori councils apprising them of their obligations under section 28(f).

The investigation of this complaint highlighted a concern that non-compliance with section 28(f) was undermining the purposes of the OIA in that it severely restricted the options available to TPK when faced with a request for information that should have been available if section 28(f) were being complied with.

On the other hand, the Wellington District Māori Council expressed its concern to us at the likely level of audit costs relative to its overall financial position.

However, irrespective of the implications for the OIA, it is unsatisfactory that legislative provisions (albeit applying to non-government bodies) should be ignored in this way. Whichever should be the preferred option – enforcement or amendment of the existing law – we consider it should be pursued as soon as practicable.

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 30/06/07	Year ended 30/06/08
Departments and organisations >=20 complaints		
Police	98	97
Educational Institutions	40	47 ¹²
District Health Boards	47	44
Ministry of Social Development	64	43 ¹³
Department of Labour	37	39 ¹⁴
Ministry of Health	28	39
Ministry of Justice	33	33
Corrections Department	34	24
Ministry of Education	14	22
Accident Compensation Corporation	9	21
Inland Revenue Department	6	20
Ministers of the Crown >= 15 complaints		
Ministers of Education	22	27 ¹⁵
Minister of Health	19	27 ¹⁶
Minister of Justice	24	23 ¹⁷

More detailed statistics are available at pages 98 to 100.

12. 14 involving boards of trustees – schools, 33 involving universities and polytechnics

13. 19 concerning Child Youth and Family.

14. 28 involving the New Zealand Immigration Service and 11 other.

15. 1 concerning the Minister of Education Review and 6 the Minister for Tertiary Education.

16. 1 concerning the Assoc. Minister of Health.

17. 4 involving the Associate Minister of Justice

The Local Government Official Information And Meetings Act 1987 (LGOIMA)

31

Overview

Complaints received under LGOIMA rose just over 6 percent in the past year to 204. This is still a relatively low number given the size of the local government sector in New Zealand. While, in general terms, the sector seems to be managing its responsibilities well, there are several issues relating to access to information held by local authorities that warrant clarification:

- *The same concerns we have mentioned earlier in the OA and OIA overviews relating to the interface with the requirements of the Public Records Act apply to local authorities;*
- *If an agenda item was held in the public excluded part of a council meeting this is not of itself a sufficient reason for refusing a request for information from that part of the meeting. The request must be considered afresh, even though the reasons for excluding the public may also form the basis for a withholding reason for the information requested;*
- *Section 13(5) of LGOIMA makes it clear that decisions on requests must be made by the chief executive or the chief executive's delegate and not by individual Councillors ;*

The public cannot be excluded from a council meeting because of a concern to protect the free and frank expression of opinions. This is the one withholding reason applicable to an official information request that does not also apply to decisions to exclude the public from council meetings.

Recommendations Not Accepted

All LGOIMA recommendations were accepted.

Where Significant Numbers of LGOIMA Complaints Arose

	Year ended 30/06/07	Year ended 30/06/08
>=10 complaints		
District Councils - all	90	92 ¹⁸
Queenstown Lakes	11	17
City Councils – all	81	81 ¹⁹
Auckland	22	18
Wellington	11	11
Regional Councils - all	14	22

More detailed statistics are available at page 101 to 103.

18. Total for District Councils includes Councils listed.

19. Total for City Councils includes Councils listed.

The Protected Disclosures Act 2000 (PDA) – “whistleblower legislation”

Overview

The amendment bill foreshadowed in last year’s annual report was introduced in September 2007 and the Government Administration Select Committee reported on the Bill on 22 April 2008, with a recommendation that it be passed with some minor amendments. The Bill is currently awaiting its second reading.

As in previous years, the numbers of potential and actual disclosures which have come to our attention have not been great; 14 for the year to 30 June 2008 (last year 8). Most have been dealt with by providing information and guidance in accordance with section 15 of the PDA.

Section 15 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.

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.

Crimes Of Torture Act 1989 (COTA) - Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“OPCAT”).

On 21 June 2007 the Ombudsmen were formally designated as a National Preventive Mechanism to give affect to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (“OPCAT”).

“for the purposes of examining and monitoring the treatment of persons detained in prisons, premises approved and agreed under the Immigration Act 1987, health and disability places of detention and youth justice residences established under section 364 of the Children, Young Persons and Their Families Act 1989”.

The OPCAT was ratified by New Zealand with the passage of the Crimes of Torture Amendment Act 2006.

The objective of OPCAT is to establish a system of regular visits by international and national bodies (namely United Nations Subcommittee on the Prevention of Torture and designated National Preventive Mechanisms respectively) to places of detention in order to examine and monitor the conditions of detention and the treatment of detainees.

Health and disability places of detention

33

The Ombudsmen have begun their role as a National Preventive Mechanism for health and disability places of detention for those people detained in hospital and community based facilities under the:

- *Mental Health (Compulsory Assessment and Treatment) Act 1992;*
- *the Intellectual (Compulsory Care and Rehabilitation) Act 2003;*
- *the Criminal Procedure (Mentally Impaired Persons) Act 2003; and*
- *the Alcoholism and Drug Addiction Act 1985.*

We have also begun considering the level to which the Ombudsmen will become involved in any other facilities where persons are detained against their will under the Protection of Personal and Property Rights Act 1998 (such as non-government organisations providing treatment and care).

We have engaged in a process of providing information about our role and functions to related professional groups providing services for those detained in health and disability services such as Mental Health Managers, the Royal College of Psychiatrists and the National Residential Intellectual Disability providers group.

During this past year we have made introductory visits to half of the District Health Board areas, visiting a range of inpatient, forensic, older persons', intellectual disability and addictions services. At the time of writing half (10) of the District Health Board areas had been visited with the remainder scheduled before the end of the first quarter of 2008/09.

We have customised an international monitoring template, both for use in the New Zealand context and specifically for the health and disability facilities falling within the Ombudsmen's designation. By the end of the first quarter of 2008 the Ombudsmen expect to have had an opportunity to validate the template.

As general principles of engagement the Ombudsmen are committed to avoiding duplication of functions and reporting undertaken by other reviewing or monitoring agencies within this sector and therefore intend to make use of existing information where at all possible.

There are some general observations based on our visits to date regarding potential issues that will need to be followed through in the next reporting period:

1. While there seems to be sufficient information already in existence to assist our role as a National Preventive Mechanism in this sector, we were unable to reach agreement with the Ministry of Health regarding access to this information during the reporting period.
2. Some of the facilities we have visited appear not to be suitable for the purposes they are being used for. If this is confirmed once formal visits have taken place, it will likely be our view that any intended therapeutic outcomes will be diminished because of the poor environments despite the excellent skills, care and treatment provided within them. On the other hand, it is already apparent from our visits that some of the recent 'purpose-built' mental health units do seem to be, on the surface at least, more conducive to the therapeutic treatment concept, while at the same time maintaining an appropriate level of security where required. We understand that various affected user groups had input into their design, which has clearly been beneficial.

3. It is apparent that at the time the Intellectual (Compulsory Care and Rehabilitation) Act 2003 was passed, New Zealand did not have a sufficient quantity of specialist trained staff to provide the services envisaged. We note that both District Health Boards and non-government organizations are investing as quickly as possible in work based training and skill enhancement. Even so, the number of specialist staff available will continue to be in short supply for some time to come.
4. A number of clinicians have voiced concerns that some people are being treated in a more restricted environment (inpatient services) than their circumstances require for extended periods of time due to a lack of community based options suitable for those people. This applies particularly to people who also have an intellectual disability.

Places of detention approved or agreed under the Immigration Act 1987

A preliminary familiarisation visit has been made to the Immigration facility at Mangere in Auckland. However it is only the conditions and treatment of asylum-seekers detained at this facility that will be the subject of our monitoring in our role as a National Preventive Mechanism. What has not been fully scoped yet are the detention facilities at airports and other border terminals, where illegal immigrants and others detained by Immigration, Customs and MAF might be held.

Prisons

Familiarisation visits to some prisons sites that have At Risk Units or Special Treatment Units (for prisoners with mental health issues) are expected to be completed in the first quarter of September 2008. Visits to prisons generally will also commence in the latter half of 2008. The international template has been modified to best suit New Zealand's prisons, but it is expected that as the programme of visits gets underway, further modification to the templates will be made as necessary.

It is not expected that there will be any issues around obtaining information and documentation from Corrections' sites, or its National Office, nor is it expected that there will be any issues surrounding access to the various sites as and when required.

Youth Justice residences established under section 364 of the Children, Young Persons and Their Families Act 1989

The Ombudsmen are reviewing how we should best exercise our National Preventive Mechanism role in respect of facilities established under section 364 of the Children, Young Persons and Their Families Act 1989. Currently the Ombudsmen are designated to monitor and review youth justice residences. However, the Office of the Children's Commissioner has a joint designation. Scoping work to date (Actual visits to sites completed) as at 30th June 2008:

Immigration facilities	1
Mental health facilities	41
Child, Youth and Family	0
Prisons	1
Total site visits	43

The first full Inspections are scheduled to commence in September 2008.

2

General Information

Publicity and Public Awareness Programmes

Ombudsmen Quarterly Review (Te Arotake)

Compendium of Case Notes

Practice Guidelines

Engaging with Māori

Clinics/Regional Meetings

Speaking Engagements

International Contacts

Office of the Ombudsmen Website

Publicity and Public Awareness Programmes

Our communications strategy including our publications - the Ombudsmen's "Practice Guidelines", "Case Notes of the Ombudsmen" and the "Ombudsmen's Quarterly Review (Te Arotake)" - aims 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.

A major element of the 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 quicker and more satisfactory resolution 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. With the increased resources available from July 2008, greater emphasis will in future be placed on providing assistance and guidance to agencies. We have published our information pamphlets in Te Reo Māori, Samoan, Chinese and English.

We are also encouraging the use of a "plain English" style in all our publications. In certain circumstances complex issues cannot be reduced to "plain English", but there is scope for making our communications, particularly with the public, more accessible.

As part of a programme of renewal within the Office, we have begun a comprehensive review of the communications strategy. This includes the style and content of the publications and materials that we are and/or should be producing. In order to make what we produce relevant for the modern public sector, we have begun looking at our own approach to investigations and how the sector responds to that and to our recommendations.

That in turn will lead to work examining agency compliance with legislative requirements, common approaches to complaints handling within agencies, and the agencies' current capacity to respond to complex complaints particularly in the OIA jurisdiction.

This resulted in some changes in the reporting year to our approach to publications.

Ombudsmen Quarterly Review (Te Arotake)

During the 2007/08 reporting year we published two editions of the Ombudsmen's Quarterly Review (Te Arotake) both of which were extended in coverage. The December edition covered issues arising from two major investigations into the Painted Apple Moth Spray programme, and the review of the Justice Sector.

The March and June editions were combined to cover a substantial presentation including revised guidelines on OIA issues.

This is an example of the approach we will be taking in future where we identify an administrative practice and provide comprehensive analysis to inform improved practice within agencies. In this case we identified the problems which agencies had faced, reminded them of the Act's requirements, and provided a "trouble shooters guide" to help them meet those requirements more effectively. This was supplemented by on site training workshops and will be followed by case notes demonstrating what the Ombudsmen's future approach will be. In short a combination of techniques to be more responsive to agencies' needs in this area.

This edition of the Ombudsman Quarterly Review was oversubscribed and necessitated a second print run. Clearly this approach struck a chord with the agencies.

Demand for the hardcopy of this publication continues to be stable at about 1,000 subscribers.

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

Compendium of Case Notes

We had planned to publish a 15th Compendium of Case Notes covering the period 1 January 2005 to 31 December 2007 during the 2007/08 reporting year and that the compendium would be the last published in booklet form. However we revised our approach to the presentation of this information in light of feedback about the accessibility of the information in its current form. The intention now is to group cases illustrating particular themes and publish these on the website more regularly. We expect the new case notes to be available on the office website www.ombudsmen.parliament.nz before Christmas 2008.

Practice Guidelines

No new formal practice guidelines were published during the reporting year whilst we re-assessed the style and form of these.

However progress has been 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 and, in the year under review, there were competing and higher priorities for staff input. Among these were work on the new Immigration Bill, and preparatory work on our new responsibilities under the Optional Protocol (OPCAT) to the Crimes of Torture Act.

With the increased budgetary provision approved from July 2008 and associated additional staff resources, substantive progress is expected to occur in the provision of guidance and assistance to agencies and the public during the 2008/09 year.

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

Engaging with Māori

We continue to liaise with the Office's Maori Focus Group and Kaumatua Henare Kingi in identifying and utilising links and access to the Maori community. Kaumatua Henare Kingi, with his own links in Maori Radio and the general media, continues to promote the face of the Office and comment on issues in the public arena for Maori listeners. His work in this area is greatly appreciated. We have identified the Maori Women's Welfare League as a body with strong linkages within Maoridom and with whom we might work to strengthen our ability to address the wider Maori community more effectively. Chief Ombudsman Beverley Wakem will be addressing the league's annual conference later this year.

Use of Te Reo Maori is promoted during Maori Language Week but we continue to encourage its use as a matter of routine. Regretfully one of our staff who was a major driving force in this area has since taken up new employment. She is sorely missed and difficult to replace.

Clinics/Regional Meetings

Citizens living in smaller communities can feel overlooked and alienated from participating in government because they are removed from the larger population centres. Anecdotally we are aware that many individuals, organisations and businesses appreciate the opportunity presented when we or our staff personally visit smaller communities, to air grievances that they have with government agencies. We schedule our visits to smaller population centres and rural hubs to recur on a two to three yearly cycle.

Local press and radio media frequently interview our staff concerning the Ombudsman role and how we provide an independent and impartial review of government actions or inaction. 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, Community Law Centres and small business groups and provide briefings on the role of the Ombudsmen.

During the reported year we or our staff visited: Hamilton, Matamata, Waihi, Masterton, Featherston, Pahiatua, Rangiora, Amberley, Oamaru, Waimate, Timaru, Westport, Hokitika and Greymouth.

Speaking Engagements

We and our staff gave more than 35 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.

International Contacts

As with past periods we were visited by delegations from overseas governments and researchers. The Ombudsman role and how it fits within the New Zealand system of governance was of interest to most delegations. 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.

Office of the Ombudsmen Website

The office website www.ombudsmen.parliament.nz is designed to be 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. The site includes a library of reports and other office publications including Case Notes of the Ombudsmen and our Quarterly Reviews that we and our predecessors have released into the public domain. Our intention is, along with training offered to agency staff, to provide 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 received in excess of 36,000 visits in the reported year.

3

Chief Ombudsman's Report on Operations

Our contribution to "Good" Government

Business Risks Identified at the beginning of the 2007/2008 reporting year

Management Structure

Management Performance

Financial and Asset Management

Information Management

Disaster Preparedness and Risk Reduction

Human Resource Management

The Output of the Office of the Ombudsmen

Cost of Resolving Complaints

Our contribution to "Good" Government

The Ombudsmen jurisdiction spans the whole of Government. The Office not only helps to resolve individual complaints but seeks improvements in government wide administrative systems. We also help citizens to gain access to information which helps them take an active part in the democratic process.

The majority of the public's interactions with New Zealand's government agencies 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 number (8,808 for the year ended 30 June 2008) remain where an individual or business feel that they have been treated unfairly in some way and complain to the Ombudsmen.

When a complaint is investigated, all of the relevant information is reviewed, including, where appropriate, 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 Minister, 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. These investigations require the commitment of significant time and staff resources and while they are not lightly undertaken, they can identify maladministration or lead to improved processes and practices thereby preventing many complaints arising.

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, responsible Minister or Ministers or to Parliament, improved decision-making, transparency and accountability result.

Significant progress is made in investigating complaints using an informal non-adversarial approach. 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.

Recently the Officers of Parliament Committee has approved resources to support our heightened presence in the prison sector where we will have direct responsibility for the investigation of serious events. Previously this work was the domain of the Department of Corrections Inspectors. Our engagement in this work provides the public and Parliament with assurance of an independent and impartial examination of sentinel events.

We also have responsibilities as a National Preventive Mechanism under the Crimes of Torture Act 1989 as explained at page 32

Two snapshots are shown below 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 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 complaints which are resolved quickly would seriously distort the performance statistics of complaints progressed more formally. We expect to provide this information separately in future periods. Detailed performance measures are found at pages 63 to 67. Part 5 includes details of the types of matters complained about by prisoners.

	Year Ended			
	30/6/05	30/06/06	30/06/07	30/06/08
Ombudsmen Act				
Complaints informally or formally resolved in favour of complainant (in whole or part) or where assistance is given to the complainant	84%	89%	89%	93% ¹
Average number of working days required to resolve:				
General complaints	53	60	64	70
Prisoner complaints	9	10	13	16
OIA				
Complaints informally or formally resolved in favour of complainant (in whole or part) or where assistance is given to the complainant	66%	56%	63%	69%
Average number of working days required to resolve a complaint	73	84	79	88
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	60%	61%	72%	72%
Average number of working days required to resolve a complaint	69	62	64	61

1. Percentages shown exclude prisoner and general complaints and enquiries received by the call centre. The very high number of generally minor complaints and enquiries made by prisoners in particular, would distort reported performance.

Business Risks Identified at the Beginning of the 2007/2008 Reporting Year

The Office Statement of Intent for 2007/08 commented on risks to the forecast financial and output performance of the Office of the Ombudsmen. These were:

Caseload - short term future

Our caseload is demand driven. A minor increase in either the number or complexity of complaints received can have a disproportionate impact on the timeliness with which complaints are resolved and our work throughput.

We expected a total caseload of between 9,000 to 10,000 complaints and enquiries for the year. The actual total caseload of work actioned during the year was 9,831 complaints and enquiries. We received 8,808 new complaints, requests for review and enquiries during the year.

Despite a particularly challenging year when we were understaffed for some considerable time due to a combination of factors, we and our staff achieved or near achieved the performance and timeliness measures agreed with Parliament at the beginning of the year.

Informal complaint resolution processes feature strongly as part of the Office approach to managing its workload. In the coming period we will look to use this methodology more. Our call centre received 4,568 requests for guidance and assistance in the year with 66 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 4,240 new requests and complaints for which a formal investigation was initiated, 73 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 27 percent related to complaints from prisoners. Some involve serious incidents such as alleged assaults by other prisoners or prison staff, or deaths in custody. "Where significant numbers of complaints arose" at pages 24, 30 and 31 shows a work distribution that was more or less consistent with past reporting periods. At a more detailed level there was need for some reallocation of staff resources within the larger Wellington office and of our workload between Wellington, Auckland and Christchurch offices.

Without doubt 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". We are also increasing and improving our advice and guidance to agencies so that as many complaints as possible may be resolved without our direct participation. By elimination the complaints that remain and that are referred to us are those where the

complainant continues to be dissatisfied regardless of an internal agency 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, sometimes including a full apology.

Technological developments – medium and longer term future

There is potential for significant numbers of new complaints to arise from business transacted with government agencies over the internet. To date there have been few such complaints. We will continue to monitor this growing area of activity.

Raising awareness of the role of the Ombudsman

Until 2007-08 virtually all of the resources available to the Office were focused directly on the investigation and resolution of complaints. When the Office directed resources to increasing public awareness of the role of the Ombudsmen in the past, it required reallocating staff resources from investigations work with a consequent cost to the timeliness of investigation resolution. This was an unsatisfactory situation that has been corrected during the past year and will be further improved during the coming year. A significant programme of work is underway that will assist potential users of the Ombudsman service and agencies in understanding our role and agencies to improve their decision-making.

We continue to publish information pamphlets on the role of the Ombudsmen and attend speaking engagements at university law faculties and service clubs, consumer groups or similar but are now focussing more on presentations to groups that can themselves distribute information that raises awareness or improves understanding of the Ombudsman role and jurisdiction.

Our new responsibilities as a National Preventive Mechanism under the Crimes of Torture Act has extended our engagement with the wider community into new areas of work and with different community interests not previously featuring significantly in our workload. This includes people detained for mental health, immigration and child youth justice reasons. Time will be required to assess the impact of the raised awareness of the Ombudsman role resulting from our new work activities

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

Agencies' knowledge and understanding of the purpose and application of the withholding provisions of the OIA and its sister the LGOIMA is variable. We receive fewer complaints from the public concerning local and regional government agencies. We do not have any empirical information that suggests this is because local and regional government staff are better decision-makers than their counterparts in central government. People could simply be more interested in the "big issues" of central government.

The recently established policy and training unit within the Office has already improved the information and knowledge base accessible to agencies. Targeted advice delivered by media such as the Ombudsmen's Quarterly Review (Te Arotake) and via training sessions on how to

deal with complaints of particular types has been gratefully received by agencies. Considerable work remains to be done but the overall objective is to provide agencies with guidance and support so that they may improve their decision-making processes and contribute to fewer complaints being referred to our Office. We will in future offer guidance to agencies in the basic components of developing or improving complaint review systems. We have already undertaken work in this area with Department of Children, Youth and Family and Immigration New Zealand.

Measuring performance and effectiveness

We have agreed various quantitative measures with the Officers of Parliament Committee that indicate how many investigations we expect to complete during the year and the timeliness with which we expect to complete those investigations. A missing element has been stakeholders' perceptions of the quality and professionalism of the investigations. There has been a concern that any stakeholder assessment of the professionalism of an investigation would likely be influenced by the investigation outcome. We have since modified that viewpoint and recognise that a carefully crafted range of questions that constrain responses to qualitative matters could be prepared for complainants' response.

During the year work was undertaken in relation to three surveys. The first concerns individuals who contacted the Office by telephone and who were initially referred back to departments and agencies for review. The purpose of the survey is to determine whether in fact the complainant pursued the matter with the agency concerned and if so, whether the agency was responsive to the request. The second survey concerns agencies' perception of the Office's professional engagement with them when investigating and resolving a complaint, and last is the complainant's perception of the professionalism of the Office in responding to their request. All three surveys have been distributed to a random sampling of complainants and enquirers, and to various agencies within central and local government. Responses are expected to be received by the end of September. The outcome of the survey will be incorporated into our 2008/09 annual report. We plan to conduct and report the outcome of the survey's on an annual or biennial basis so that we can gauge any improvement or deterioration in the perceived performance of the Office.

We are also considering a more objective quality assurance examination of investigations undertaken. This is a more difficult matter because ideally an external and independent assessment would be made but the privacy requirements of the OA effectively prevent external disclosure of investigation information. There is also the important matter of maintaining public and agency confidence in regard to information provided to our Office. Work continues on this matter.

Maintaining Capability

There are two primary risks to the business of Ombudsmanship in New Zealand. The first is an action that so affects the credibility and standing of the Ombudsmen that the public and agencies lose confidence in the Ombudsmen role and seek alternative less effective or more costly means of resolving grievances. The second concerns the recruitment and retention of a professionally able staff to assist the Ombudsmen with their investigations.

We are conscious of how 'attractive' our staff are to private sector law firms maintaining or establishing public law groups and of the attractive terms and conditions of employment offered to prospective employees by both private and public sector agencies. With the resources provided we have established as harmonious a work environment as possible and aim to fairly reward staff for the skills and experience they bring to the Office, and recognise their contribution to the success of the Ombudsman role. In that regard we have been moderately successful.

The Office has a staff performance assessment system that aims to identify staff training and development needs. It also provides a formal process whereby staff may gain a good appreciation of their contribution to the success of the Ombudsman role. We have initiated further work in the area of Key Performance Indicators to be applied to each staff role to assist us and our staff in this important area of human resource management.

Staff turnover during the past year was higher than usual but relative to many organisations quite low. Our staff are highly skilled and experienced professionals and not easily replaced. Those who departed the Office generally did so to pursue a new career opportunity or for other similar good reason.

It is essential that we develop and maintain an awareness of issues affecting the state sector and public generally. That awareness augmented by information from the Office case management system, assists us with identifying new trends and developing initiatives to ensure the Ombudsman role remains relevant within New Zealand society.

Information Technology

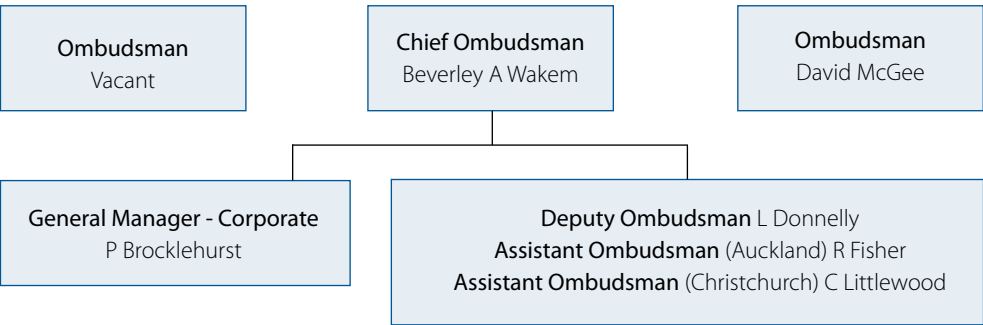
Past Statements of Intent have included comment on progress towards replacing the Office's existing case management system that was developed in 1992. The old system continues to meet the core needs of the Office, but requires replacement because the program language has been superseded and because system enhancements are required to support new work responsibilities given to the Ombudsmen. A replacement system is in development. The first module relating to the recording of enquiries has been in use on an organisation wide basis for the past year. No down time has been experienced. The second module that will record all activity associated with complaint investigations is now substantially complete and will be in use before 31 December 2008. The new system provides significant enhancements in reporting capability, workflow management and in ease of use that are expected to improve the efficiency with which the Ombudsmen and investigating staff progress complaints to a resolution. The entire database of investigations held on the old case management system will be migrated to the new system.

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

Management Structure

To date the management profile of the Office has been very flat; reflective of its relatively small size and the more or less classical Ombudsman role of complaint resolution adopted. There are clear benefits with that structure arising from the close liaison with the investigating staff assisting us. However, our new responsibilities as a National Preventive Mechanism under the Crimes of Torture Act, and the request from the Officers of Parliament Committee that we enhance our presence in the prison sector, as well our desire to improve performance and strategically reposition the Office to be more proactive in the field of complaint resolution and prevention has compelled a management review. We have engaged a consultancy to assist us with this work. A new strengthened management structure will be implemented during the 2008/09 reporting year. We expect that improved investigation and staff management will result.

The management structure of the Office for the year ended 30 June 2008 (shown below) was unchanged from previous periods:



The Officers of Parliament Committee has initiated action to recruit a third permanent Ombudsman following the death of Chief Ombudsman John Belgrave in December 2007 and retirement of temporary Ombudsman Mel Smith in the same month.

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. Invariably these complaints tend to be 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 more on the individual, but it is the immediate and personal nature of these complaints that makes many of them particularly sensitive.

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. To-date many agencies have indicated strong appreciation for the additional support now being provided by the Office

Our 2007 staff conference provided an opportunity for staff to comment on what we are doing well, not doing so well and how things might be improved including future considerations. The exercise proved very useful with staff suggestions and criticisms given serious consideration. The current management restructuring proposals and preliminary work associated with an in-house review of the OA are examples of projects that had their genesis or part of their genesis at the conference. We expect positive gains in performance and management to arise from work now underway.

We continue to encourage agencies that have frequent interactions with the public to establish their own dedicated internal complaint review units which are independent of the original decision-maker, as opposed to only complaint review processes. Inland Revenue Department, Accident Compensation Corporation and the Ministry of Social Development have established such units. 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".

We promote protocols between the Office and agencies that have high personal contact with the public. 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 their staff would be beneficial.

All complaints, requests for review and enquiries referred to the Office are captured and recorded on the Office case management system as soon as they are received. This ensures that 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 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 2007/08 year relative to the agreed measures is shown at pages 63 to 67.

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 meet at regular intervals to discuss developments or issues arising under the OA or official information legislation or in particular government agencies. These forums discuss difficult issues associated with a complaint or more general policy application and ensure a common understanding exists of significant or developing issues within a jurisdiction

Financial and Asset Management

"GreenTree" accounting and reporting software and our internal financial planning systems are used to develop our budget and routinely monitor financial 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. Workload pressures in the second part of the reporting year led to some staff deferring annual leave until post 30 June. As a consequence the Vote was overspent by \$52,000. The additional expenditure was approved by the Minister of Finance (see Part IV).

GSB SupplyCorp's range of service and supply contracts are used to gain benefit from group bulk purchase discounts wherever possible. Where a good or service is not available at contract rates, we seek the best price possible by negotiation or competitive quote. We also negotiate term supply arrangements where there is an identified potential for savings. A narrow range of products and services are used by the Office with most expenditure committed to personnel, accommodation and GST.

The Officers of Parliament Committee determined that Audit New Zealand would not undertake the 30 June 2008 audit of the three Offices of Parliament. Invitations to tender were issued and the Committee selected Deloitte to audit Vote Ombudsmen. The audit of the Office accounts for the year ended 30 June 2008 did identify where improvements might be made to the Office Statement of Intent and future work associated with the development of performance measures for new areas of work, but no issues of major significance. We have initiated work to completely review our Statement of Intent and to implement the revised format for the 2009/10 year. Our Office is open to suggestions about how to further improve its accountability, transparency and performance.

Deloitte have applied the system used by the Office of the Auditor-General for assessing financial management and service performance. The 2008 assessment was as follows:

49

Management Control Environment	Good (2007 Very Good)
No improvements are necessary but Deloitte did suggest implementing more formal technology and change management procedures.	
Financial Information Systems and Controls	Good (2007 Good)
The "Good" rather than "Very Good" rating resulted from the overexpenditure of the budget by \$52,000 arising from a higher than anticipated annual leave accrual provision. A revised management structure will address this issue for future periods.	
Service Performance Information and associated Systems and Controls	Improvements recommended to Statement of Intent (2007 not assessed)
<p>Deloitte have identified the following areas for improvement:</p> <ul style="list-style-type: none"> • development of a performance framework to articulate how the Office intends to measure progress towards achieving outcomes through medium term performance measures • enhancing the performance measures representing the quality aspects of performance ,and • inclusion of cost-effectiveness measures as required by sec40(d)(ii) of the Public Finance Act. 	

Our senior staff work closely with the Treasury and our auditor, Deloitte, to ensure a "no surprises" policy. The liaison allows the Office to benefit from their advice and guidance in matters relating to improving transparency of performance and reporting systems and ensures that both agencies have a sound understanding of the Ombudsmen's working environment and issues that may or will impact on performance and delivery of our function.

Information Management

Computer hardware is replaced on a four yearly cycle. We delay applying software upgrades when they first become available. We have found it wise to delay and allow the general market 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 software upgrade or update. Most of these problems are corrected immediately but some require extensive research to achieve a solution.

We engaged a consultancy to conduct a "good health" assessment of the Office record keeping and information management systems with a view to ensuring compliance or better, with the Public Records Act 2005 by 2010. The study did identify scope for improvement particularly in regard to the general file holdings of the Office. A work programme is underway to address these matters.

Disaster Preparedness and Risk Reduction

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

- physical security of our Offices and for our staff when meeting with complainants. Some complainants are emotionally stressed by the time they request Ombudsman assistance or find it difficult to consider any discussion that runs counter or they perceive to run counter to their own view of what the outcome of an Ombudsman investigation ought to be;
- self funding of any minor equipment losses that might occur. Limited external insurance arrangements have been put in place to provide for the replacement of equipment, furnishings, fittings and additional operational costs that might be incurred in a disaster situation or because of major disruption. No claims were made in the 2007/08 year;
- computer database security through use of RAID 5 level redundancy for all computer network servers. Weekly and end of month backup tapes sent "off site" and "out of centre". The weekly tapes are recycled at four weekly intervals and the monthly tapes on a 6 monthly cycle. Daily backups (excluding the weekly tape) are retained on site and recycled once each week. The tapes retained in Wellington are held in secure fireproofed storage. Fireproof storage is being secured for off site and out of centre storage.
- reasonable measures have been implemented to provide for the continuation of services in most circumstances should systems or facilities in an Office fail. The installation of a new integrated national telephone system in the current year is an example where work may be redirected between Offices. But a major seismic or similar event could potentially disrupt power and communication capabilities in the Wellington, Auckland or Christchurch regions to such an extent that the Office could only operate on a partial basis until full services were restored.
- computer hardware is replaced on a 4 yearly cycle. This reduces the risk of hardware failure and ensures the main elements of our computer network have supplier backup and support services available;
- emergency First Aid and Civil Defence equipment and supplies are provided for each office and to all staff;
- maintenance of a pool of staff holding current First Aid qualifications at each of our Offices; and
- 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.

Human Resource Management

51

The Office comprised two Ombudsmen and 56 staff (52.3 Full Time Equivalents) as at 30 June.

The distribution of staff (50.3 FTE's) was as follows:

	Auckland	Wellington	Christchurch	Totals
Staff				
Males	2.5	15.6	4	22.1
Females	5.5	19.8	2.9	28.2
Total	8	35.4	6.9	50.3
Activity Group				
Support roles				
- Male	-	1	-	1
- Female	1.9	8.4	1.9	12.2
Investigating				
- Male	2.5	14.6	4	21.1
- Female	3.6	11.4	1	16
Total	8	35.4	6.9	50.3

As many staff as possible are 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 2.95:1 (last year 2.57:1).

Nineteen staff, mostly female, participate in job-share or reduced hours of employment arrangements. Reduced hours of attendance are generally requested to allow a better balance between work and private commitments. Whenever 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 six reporting years:

	2003	2004	2005	2006	2007	2008
Male leave days	95.5	81.5	138	95.5	69.5	112.5
Females leave days	180.5	139.5	141	122	135	144.5
Total leave days taken	276	221	279	217	204	257 ²
Employees in period	52	54	50	47	52	60
Average days/employee	5.31	4.09	5.58	4.63	3.93	4.28
Average days/male	3.67	3.4	6.27	4.55	3.02	4.5
Average days female	6.94	4.65	5.04	4.69	4.66	4.13

2. excludes 23.5 days family leave

For the 12 months ended 31 June 2008 the absentee rate for staff was:

$$\frac{247 \text{ working days} \times 56 \text{ staff}}{257 \text{ actual days sick leave}} = 13832 \text{ possible working days}$$
$$= 1.8 \text{ percent (last year 2 percent). This included several periods of more serious illness.}$$

Staff health and well-being is encouraged through proactive initiatives including offering annual influenza inoculations, workplace assessments, 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. The Office general terms of employment include a provision to encourage staff to take at least one period of 10 consecutive days leave for rest and revitalisation. During the coming year we plan to be more active in managing staff leave.

Ombudsman Mel Smith retired from office and former Chief Ombudsman John Belgrave died while in office last year. In addition, five staff terminated their employment with the Office during the year, two upon completion of their contracts, one to care for family and two to take up alternative employment. Although staff retire from the Office or leave to care for family, 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.

Our staff are relatively long serving with 62 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	6	4	11	16	19

Career opportunities within the Office are limited. Most staff vacancies are filled by external appointment.

We are conscious of the potential for staff to become stressed and unwell from a heavy workload without relief. The Office case management system assists us with managing these risks and to identify 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 and who have skill sets or alternative work experience which can add to the capability of the office as a whole.

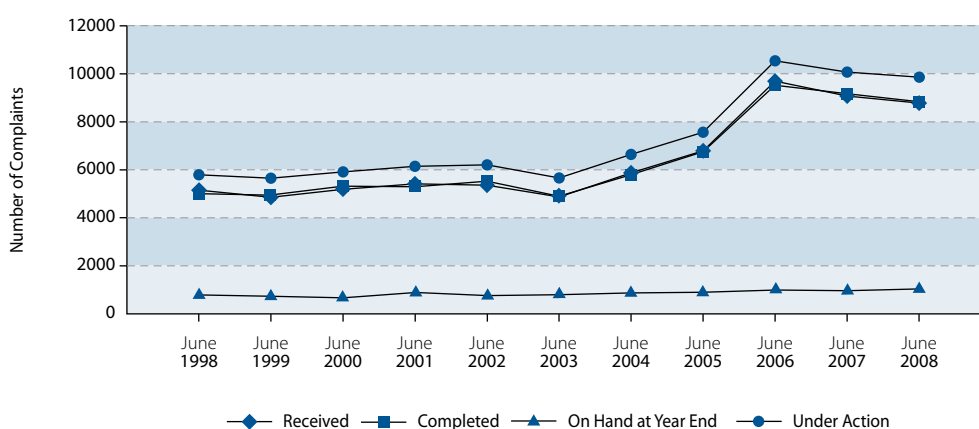
Staff performance is formally reviewed as at 1 July each year. To-date the assessment has been competency based. Work has been initiated to develop a range of key performance indicators for each position and to aid identification of training and development needs.

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.

The Output of the Office of the Ombudsmen

53

Statistics on the output and performance of the Office are found at pages 95 to 103 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 62.



Throughput – All Complaints

Each working day we completed on average 17 formal investigations and 18 complaints resolved by informal process including requests for guidance and assistance.

Cost of Resolving Complaints

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

	Estimated cost Year ended 30 June 2008	Estimated cost Year ended 30 June 2007
Ombudsmen Act		
Estimated average cost per completed complaint		
- rec'd from prisoners ³	\$115	\$107
- rec'd from non prison sources	\$1,337	\$1,121
Estimated average cost work in progress	\$2,156	\$1,904
Estimated cost of all investigations complete and incomplete	\$4,004 million	\$3,489 million
Official Information Act ⁴		
Estimated average cost per complaint		
- completed work	\$1,670	\$1,392
- work in progress	\$2,487	\$2,336
Estimated cost of all investigations complete and incomplete	\$2,278 million	\$1,790 million
Local Government Official Information and Meetings Act		
Estimated average cost per complaint ⁴		
- completed work	\$1,157	\$1,130
- work in progress	\$2,008	\$1,402
Estimated cost of all investigations complete and incomplete	\$0.349 million	\$0.312 million
Protected Disclosures Act		
Estimated average cost per complaint		
- completed work	\$185	\$343
- work in progress	\$1,985	\$-
Estimated cost of all investigations complete and incomplete	\$0.006 million	\$0.004 million
Other Work where the matter is found to be outside the Ombudsmen's jurisdiction but information and assistance is given		
- completed work	\$239	\$320
- work in progress	\$3,249	\$1,401
Estimated cost of all investigations complete and incomplete	\$0.238 million	\$0.203 million

3. The cost includes significant formal prison complaint investigations but the average cost is low because of the high number of relatively uncomplicated complaints resolved quickly and informally by call centre staff.

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

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

55

Age profile - all complaints closed in the period⁵

	Year ended			
	30/6/05	30/6/06	30/6/07	30/6/08
Aged 6 months or less from date of receipt	93%	95%	95%	95%
Aged between 7 and 12 months from date of receipt	5%	3%	3%	3%
Aged more than 12 months from date of receipt	2%	2%	2%	2%

Age profile - all complaints remaining open at 30 June⁵

	Year ended			
	30/6/05	30/6/06	30/6/07	30/6/08
Aged 6 months or less from date of receipt	77%	80%	69%	75%
Aged between 7 and 12 months from date of receipt	15%	14%	19%	15%
Aged more than 12 months from date of receipt	8%	6%	12%	10%

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

4

Performance Information

Statement Of Responsibility

Audit Report

Statement Of Objectives And Service Performance

Statement Of Financial Performance

Statement of Financial Position

Statement Of Changes In Taxpayers' Funds

Statement Of Cash Flows

Statement Of Commitments

Statement Of Contingent Liabilities And Contingent Assets

Statement Of Departmental Expenses And Capital Expenditure Against Appropriations

Statement Of Unappropriated Expenditure And Capital Expenditure
Expenses And Capital Expenditure Incurred Without Appropriation Or Other Authority

Breaches Of Projected Departmental Net Assets Schedule

Statement of Trust Monies

Statement Of Objectives Specifying The Financial Performance Forecast

Notes To The Financial Statements

Statement of Responsibility

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

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

In my opinion, these financial statements fairly reflect the financial position and operations of the Office of the Ombudsmen for the year ended 30 June 2008.



Beverley Wakem

Chief Executive

30 September 2008



Peter Brocklehurst

Director of Finance

30 September 2008

AUDIT REPORT TO THE READERS OF THE OFFICE OF THE OMBUDSMEN'S FINANCIAL STATEMENTS AND PERFORMANCE INFORMATION FOR THE YEAR ENDED 30 JUNE 2008

The House of Representatives has appointed Deloitte as auditor of the Office of the Ombudsmen ("the Office"). We have audited the financial statements on pages 62 to 91. The financial statements provide information about the past financial performance and statement of service performance of the Office and its financial position as at 30 June 2008. This information is stated in accordance with the accounting policies set out on pages 74 to 81.

Unqualified Opinion

In our opinion:

- The financial statements of the Office on pages 68 to 91:
 - comply with generally accepted accounting practice in New Zealand, and
 - give a true and fair view of:
 - the Office's financial position as at 30 June 2008; 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 62 to 67:
 - complies with generally accepted accounting practice in New Zealand, and
 - fairly reflects for each class of outputs:
 - its standards of delivery performance achieved, as compared with the forecast standards outlined in the statement of forecast service performance adopted at the start of the financial year; and
 - its actual revenue earned and output expenses incurred, as compared with the forecast revenues and output expenses outlined in the statement of forecast service performance adopted at the start of the financial year.
- Based on our examination the Office kept proper accounting records.

The audit was completed on 30 September 2008, and is the date at which our opinion is expressed.

The basis of our opinion is explained below. In addition, we outline the responsibilities of the Chief Ombudsman and the Auditor, and explain our independence.

Basis of Opinion

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

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

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

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

Audit procedures generally include:

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

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

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

Responsibilities of the Chief Ombudsman and the Auditor

The Chief Ombudsman is responsible for preparing financial statements and statement of service performance in accordance with generally accepted accounting practice in New Zealand. Those financial statements must give a true and fair view of the financial position of the Office as at 30 June 2008. They must also give a true and fair view of the results of its operations and cash flows for the year ended on that date. The statement of service performance must fairly reflect, for each class of outputs, the Office's standards of delivery performance achieved and revenue earned and expenses incurred, as compared with the forecast standards, revenue and expenses adopted at the start of the financial year. The Chief Ombudsman's responsibilities arise from sections 45A and 45B of the Public Finance Act 1989.

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

Independence

61

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.

The logo for Deloitte, featuring the word "Deloitte" in a stylized, cursive script font.

CHARTERED ACCOUNTANTS
WELLINGTON, NEW ZEALAND

This audit report relates to the financial statements and statement of service performance of the Office of the Ombudsmen ("the Office") for the year ended 30 June 2008 included on the Office's website. The Chief Ombudsman is responsible for the maintenance and integrity of the Office's website. We have not been engaged to report on the integrity of the Office's website. We accept no responsibility for any changes that may have occurred to the financial statements and statement of service performance since they were initially presented on the website.

The audit report refers only to the financial statements and statement of service performance named above. It does not provide an opinion on any other information which may have been hyperlinked to/from these financial statements and statement of service performance. 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 statement of service performance and related audit report dated 30 September 2008 to confirm the information included in the audited financial statements and statement of service performance presented on this website.

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

Statement of Objectives and Service Performance for the Year Ended 30 June 2008

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 received and under investigation during the twelve months ended 30 June 2008 together with comparative statistics for the past four years:

	2003/04	2004/05	2005/06	2006/07	2007/2008
On hand as at 1 July	763	840	854	994	918
Adjustment					105 ¹
Received during the year	5,878	6,757	9,708 ²	9,090	8,808 ³
Total under Investigation	6,641	7,597	10,562	10,084	9,831
Disposed of during the year	(5,801)	(6,743)	(9,568)	(9,166)	(8,791)
On hand at 30 June	840	854	994	918	1,040

Since 2005/06 there has been much more accurate recording of minor complaints and enquiries that have been resolved by informal processes, particularly with regard to those made by prisoners. This follows the establishment of a call centre within the Wellington office to which all telephone enquiries and telephoned complaints from prisoners are directed. Demand for investigations in other areas of the OA jurisdiction and with regard to requests made under official information legislation has been more or less consistent with recent past reporting periods.

Our workload continues to be of mixed complexity. Many minor complaints from prisoners are resolved with a minimum of staff resources being committed and in a very timely manner but more significant and complex matters concerning prisoners and their conditions of detention are also considered and these require more time to achieve an acceptable outcome.

1. The adjustment relates to an OA complaint from the previous year that had not been identified at 30 June 2007 and a carry forward of 104 informal complaints and enquiries recorded in the new case management system that were incomplete as at 30 June 2007.
2. 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.
3. Includes 3,010 complaints and enquiries from prisoners and 1,558 general enquiries from the public received during the year ended 30 June 2008

The number of requests received for the review of decisions concerning the release of official information compares favourably to recent past periods and the balance of the workload continues to shift towards more complex and sensitive matters being referred to our office. The change in the balance of the workload tends to be more pronounced as a General Election approaches and the public and media interest in public policy heightens.

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 2007/2008 year:

Actual Performance 2006/2007	Projected Target Performance Indicators	Actual Performance 2007/2008
7,665	Complete 6,900 investigations under the Ombudsmen Act 1975	7,317 ⁴
801	Complete 1,300 investigations under the Official Information Act 1982	822
203	Complete 180 investigations under the Local Government Official Information and Meetings Act 1987	211
9	Provide guidance and information on 15 matters under the Protected Disclosures Act 2000	13
918	Limit the number of open complaints at year end to between 800 and 900 or less	1,040
488	Process 505 complaints which require preliminary consideration and or investigation but which are found to be outside Ombudsman jurisdiction	428
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

4. Includes 3,030 complaints and enquiries from prisoners resolved by the Call Centre. A further 1,637 enquiries from the general public were also resolved. These enquiries and complaints are generally resolved by informal process on the same day as they are received or shortly thereafter.

Actual Performance 2006/2007	Projected Target Performance Indicators	Actual Performance 2007/2008
Average number of days to complete an investigation under:		
64	Ombudsmen Act	70 ⁵
	- General complaints - 58 working days	
13	- Prisoner complaints - 10 working days	16 ⁶
79	Official Information Act - 72 working days	88
64	Local Government Official Information and Meetings Act - 54 working days	61
19	Protected Disclosures Act - 30 working days	10
Age profile at 30 June 2008 of completed complaints from date of receipt		
	Ombudsmen Act – complaints completed within:	
96%	6 months of receipt - 90%	96% ^{2,5}
2%	7 to 9 months of receipt - 5%	1%
1%	10 to 12 months of receipt - 3%	1%
1%	>12 months of receipt - 2%	2%
	Official Information Act – complaints completed within:	
82%	6 months of receipt - 80%	79%
9%	7 to 9 months of receipt - 6%	9%
4%	10 to 12 months of receipt - 4%	4%
5%	>12 months of receipt - 10%	8%
	Local Government Official Information and Meetings Act – complaints completed within:	
86%	6 months of receipt - 88%	86%
5%	7 to 9 months of receipt - 7%	7%
3%	10 to 12 months of receipt - 4%	4%
6%	>12 months of receipt - 1%	3%
	Protected Disclosures Act – complaints completed within:	
100%	6 months of receipt - 100%	100%
-%	7 to 9 months of receipt - %	-%
-%	10 to 12 months of receipt - %	-%
-%	>12 months of receipt - %	-%

5. The 4,667 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 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.

6. Does not include prisoner complaints and enquiries actioned by the call centre.

Actual Performance 2006/2007	Projected Target Performance Indicators	Actual Performance 2007/2008
Age profile at 30 June 2008 of open (incomplete) complaints from date of receipt:		
Ombudsmen Act - open complaints:		
General complaints:		
71%	6 months and under - 90%	75%
15%	7 to 9 months - 5%	7%
5%	10 to 12 months - 3%	6%
9%	>12 months - 2%	12%
Prisoner complaints:		
- %	6 months and under - 99%	90%
- %	7 to 9 months - 1%	3%
- %	10 to 12 months - %	2%
- %	>12 months - %	4%
Official Information Act – open complaints		
62%	6 months and under - 80%	68%
12%	7 to 9 months - 6%	11%
7%	10 to 12 months - 4%	11%
19%	>12 months - 10%	10%
Local Government Official Information and Meetings Act – open complaints		
76%	6 months and under - 88%	79%
7%	7 to 9 months - 7%	8%
14%	10 to 12 months - 4%	6%
3%	>12 months - 1%	7%
Protected Disclosures Act – open complaints		
100%	6 months and under - 100%	-%
-%	7 to 9 months - %	-%
-%	10 to 12 months - %	100%
-%	>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 \$6,875 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 2008 was approximately \$38,000 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 \$3,000 excluding GST.

4. 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;

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.

Publishing the Office Annual Report to the House of Representatives and financial statements and any other reports appropriate for public release;

The Ombudsmen's annual report and the financial statements for the Office of the Ombudsmen for the year to 30 June have been published. In December 2007, Ombudsman Mel Smith published his reports on aerial spraying and the Painted Apple moth and Asian Gypsy moth, and his report on the Criminal Justice sector.

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,

Two major issues of "The Ombudsmen's Quarterly Review (Te Arotake)" were published during the year. The two publishings were combined editions each covering six months activity and incorporating significant new policy and guidance to government agencies and users of the Ombudsman services. No new practice guidelines were issued in the year ended 30 June 2008.

Maintaining a presence on the internet and providing information and resources relating to the Ombudsman role within New Zealand.

The Office's website attracted in excess of 36,000 visits in the reported year.

The cost of these activities for the year ended 30 June 2008 was approximately \$20,000 excluding GST.

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 \$9,000 excluding GST.

5. The total cost of Vote: Ombudsmen

67

30/6/07 Actual \$(000)		30/06/08 Actual \$(000)	30/06/08 Main Estimates \$(000)	30/06/08 Supp. Estimates \$(000)
5,763	Crown Revenue	6,878	6,562	6,878
-	- Other Revenue	49	-	49
-	- Interest	-	-	-
5,763	Total Revenue	6,927	6,562	6,927
(5,802)	Total Expenses	(6,875)	(6,562)	(6,927)
(39)	Net Surplus/(Deficit)	52	-	-

Figures are GST exclusive.

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

Statement of Financial Performance

For the Year Ended 30 June 2008

30/06/07 Actual \$(000)		Note	30/06/08 Actual \$(000)	30/06/08 Main Estimates \$(000)	30/06/08 Supp. Estimates (see Note 1) \$(000)
	Revenue				
5,763	Crown		6,878	6,562	6,878
-	Other	(2)	49	-	49
5,763	Total Revenue		6,927	6,562	6,927
	Expenses				
4,425	Personnel costs	(3)	5,147	5,086	5,244
1,311	Other operating costs	(4)	1,639	1,406	1,599
62	Depreciation and amortisation	(5)	85	66	80
4	Capital Charge	(6)	4	4	4
5,802	Total Expenses		6,875	6,562	6,927
(39)	Net Surplus/(Deficit)		52	-	-

Explanations of significant variances against budget are detailed in Note 22

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

Statement of Financial Position As at 30 June 2008

69

30/06/07 Actual \$(000)		Note	30/06/08 Actual \$(000)	30/06/08 Main Estimates \$(000)	30/06/08 Supp. Estimates \$(000)
	Assets				
	Current Assets				
285	Cash		614	340	271
18	Prepayments		43	13	13
11	Debtors and other receivables		-	-	-
314	Total current assets		657	353	284
	Non-current assets				
165	Property, plant and equipment	(8)	278	154	448
	Intangible assets				
7	- Software	(9)	23	13	21
172	Total non-current assets		301	167	469
486	Total Assets		958	520	753
	Liabilities Current Liabilities				
180	Creditors and other payables	(10)	206	126	159
-	Repayment of surplus	(11)	52	-	-
255	Employee entitlements	(12)	336	227	232
435	Total current liabilities		594	353	391
	Non-current Liabilities				
33	Employee entitlements	(12)	35	37	33
468	Total Liabilities		629	390	424
18	Net assets		329	130	329
	Taxpayers' Funds				
18	General funds	(13)	329	130	329
18	Total taxpayers' funds.		329	130	329

Statement of Changes in Taxpayers' Funds
For the Year Ended 30 June 2008

30/06/07 Actual \$(000)		Note	30/06/08 Actual \$(000)	30/06/08 Main Estimates \$(000)	30/06/08 Supp. Estimates \$(000)
57	Taxpayers' Funds as at 1 July 2007		18	57	18
(39)	Net surplus/ (deficit) for the year		52	-	-
(39)	Total recognised revenues and expenses		52	-	-
-	- Capital contribution	(7)	311	73	311
-	- Repayment of net surplus to the Crown	(11)	(52)	-	-
(39)	Movements in Taxpayers' Funds for the year		311	73	311
18	Taxpayers' Funds as at 30 June 2008		329	130	329

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

Statement of Cash Flows For the Year Ended 30 June 2008

30/06/07 Actual		Note	30/06/08 Actual	30/06/08 Main Estimates	30/06/08 Supp. Estimates
\$(000)			\$(000)	\$(000)	\$(000)
	Cash Flow – Operating Activities				
	Cash provided from Supply of Outputs to:				
5,752	Crown		6,878	6,562	6,878
-	Other Revenue		49	-	49
5,752			6,927	6,562	6,927
	Cash disbursed to Produce Outputs				
(4,422)	Payments to employees		(5,064)	(5,065)	(5,267)
(1,259)	Payments to suppliers		(1,639)	(1,427)	(1,599)
(22)	Goods and services tax (net)		12	-	(5)
(4)	Payment for capital charge		(4)	(4)	(4)
(5,707)			(6,695)	(6,496)	(6,875)
45	Net cash from Operating Activities	(14)	232	66	52
	Cash Flow – Investing Activities				
	Cash disbursed for :				
(67)	The purchase of property, plant and equipment		(189)	(66)	(363)
-	The purchase on intangible assets - software	(9)	(25)	-	(14)
(67)	Net cash from Investing Activities		(214)	(66)	(377)
	Cash Flow – Financing Activities				
	Cash provided from				
-	capital contributions	(7)	311	73	311
	Cash disbursed to:				
(18)	repayment of net surplus		-	-	-
(18)	Net cash from Financing Activities		311	73	311
(40)	Net Increase /(Decrease) in cash		329	73	(14)
325	Cash at beginning of the year		285	267	285
285	Cash at end of the year		614	340	271

The GST (net) component of operating activities reflects the net GST paid and received with the Inland Revenue Department. The GST (net) component has been presented on a net basis, as the gross amounts do not provide meaningful information for financial statement purposes.

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

Statement of Commitments as at 30 June 2008

71

Non-cancellable operating lease commitments

The Office leases accommodation space as a normal part of its business in Auckland, Christchurch and Wellington. There are no operating or unusual restrictions placed on the Office by any of its leasing arrangements.

The lease agreements are long-term and non-cancellable until expiry. The annual lease payments are subject to three-yearly reviews. The amounts disclosed below as future commitments are based on the current rental rate for each of the leased premises.

30/06/07 Actual \$(000)	Operating lease commitments	30/06/08 Actual \$(000)
538	Less than one year	594
525	One to two years	594
1,574	Two to five years	829
96	More than five years	17
2,733	Total operating lease commitments	2,034

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

Other non-cancellable commitments

Nil

Capital commitments

The office had accepted quotations for capital works totalling approximately \$146,000 plus GST for which work had not commenced as at 30 June 2008.

Statement Of Contingent Liabilities and Contingent Assets as at 30 June 2008

Unquantifiable liabilities

Superannuation schemes

The Office does make contributions on behalf of one staff member to the National Provident Fund Local Government Defined Benefit superannuation plan. However, the scheme is now closed and the on-going liability for any contributions after the employee retires sits with the New Zealand Treasury. All other contributions made to staff superannuation accounts are made to cash accumulation superannuation schemes and have no contingent liability for the Office.

Quantifiable contingent liabilities

The Office does not have any contingent liabilities or contingent assets as at 30 June 2008 (2007 Nil).

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

Statement of Departmental Expenses and Capital Expenditure against Appropriations for the Year Ended 30 June 2008

30/06/07 Actual \$(000)	Vote Ombudsmen	Appropriation			
		30/06/08 Actual \$(000)	30/06/08 Final Voted \$(000)	Supp. Estimates Changes \$(000)	Budget Night Voted \$(000)
5,094	Appropriation for Output Expenses Investigation and resolution of complaints about government administration Annual Appropriation for Office of the Ombudsmen	6,148	6,092	365	5,727
708	Other Expenses to be incurred by the office: - Ombudsmen remuneration	727	835	-	835
5,802	Sub Total	6,875	6,927	365	6,562
66	Appropriation for Capital Expenditure	214	377	304	73
5,868	Total	7,089	7,304	669	6,635

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

No remeasurements were required as a consequence of the Office implementing NZ IFRS.

Statement Of Unappropriated Expenditure And Capital Expenditure For The Year Ended 30 June 2008

30/06/07 Unappropriated Expenditure Actual \$(000)		30/06/08 Actual \$(000)	30/06/08 Appropriation Voted \$(000)	30/06/08 Unappropriated Expenditure Actual \$(000)
39	Investigation and resolution of complaints about government administration	6,148	6,092	56

The appropriation Voted includes adjustments made in the Supplementary Estimates.

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

The Office expended or incurred additional costs of \$56,000 in excess of the Annual Appropriation by Parliament (2007, \$39,000). The additional expenditure was approved by the Minister of Finance under section 26B of the Public Finance Act 1989. The additional costs relate primarily to higher than anticipated accumulated annual leave balances in the Office balance sheet at year end.

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

Expenses and Capital Expenditure Incurred Without Appropriation or Other Authority

73

Nil.

Breaches of Projected Departmental Net assets Schedule

Nil.

Statement of Trust Monies for the Year Ended 30 June 2008

The Office of the Ombudsmen did not manage or hold any trust monies in the reported financial 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 2008

30/06/07 Actual		Unit	Note	30/06/08 Actual	30/06/08 Main Estimates	30/06/08 Supp. Estimates
	Operating Results					
	- Revenue – Other	\$000		49	-	49
	- Net surplus	\$000		52	-	-
	Cash disbursed to Producing outputs					
5,703	– output expenses	\$000		6,691	6,492	6,871
	Net increase/(decrease)					
39	in cash held	\$000		329	73	(14)
	Working Capital					
(121)	Net current assets	\$000	(19)	63	-	(107)
72	Current ratio	%	(19)	111	-	73
2:1	Liquid ratio		(19)	4.1	4:1	2:1
13	Average creditors outstanding	Days	(19)	11.7	7.3	11.2
	Resource Utilisation					
	Physical assets					
	Additions as a % of					
39	net physical assets	%		71	39	80
18	Taxpayers' funds	\$000		329	130	329
	Human Resources					
11	Staff turnover	%	(19)	12	4	12
47.3	Total staff (FTEs)	no	(20)	50.3	49.6	50.3
	Ratio of investigators					
3:1	to support staff		(19)	3:1	3:1	3:1

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

Notes To The Financial Statements

Statement of accounting policies for the year ended 30 June 2008

Reporting Entity

The Office of the Ombudsmen (the Office) is an Office of Parliament pursuant to the Public Finance Act 1989 and is domiciled in New Zealand.

The primary purpose and functions of the Office are disclosed at page 5 of this report. The Office provides services to the public rather than making a financial return. Accordingly, the Office has designated itself a public benefit entity for the purposes of New Zealand equivalents to International Financial Reporting Standards (NZ IFRS).

The financial statements of the Office are for the year ended 30 June 2008. The financial statements were authorised for distribution by the Chief Executive on 30 September 2008.

Basis of preparation

The financial statements of the Office have been prepared in accordance with the requirements of the Public Finance Act 1989, which includes the requirement to comply with New Zealand generally accepted accounting practices (NZ GAAP).

These financial statements have been prepared in accordance with, and comply with, NZ IFRS as appropriate for public benefit entities.

This is the first set of financial statements prepared using NZ IFRS. The comparatives for the year ended 30 June 2007 have been restated to NZ IFRS accordingly. An explanation of how transition from super seeded policies to NZ IFRS has affected the Office is discussed at note 23

The accounting policies set out below have been applied consistently to all periods presented in these financial statements and in preparing an opening NZ IFRS statement of financial position as at 1 July 2006 for the purposes of the transition to NZ IFRS.

The financial statements have been prepared on a historical cost basis.

The financial statements are presented in New Zealand dollars and all values are rounded to the nearest thousand dollars (\$'000). The functional currency of the Office is New Zealand dollars.

Standards, amendments and interpretations issued that are not yet effective and have not been early adopted

Standards, amendments and interpretations issued but not yet effective that have not been early adopted, and which are relevant to the Office include:

NZ IAS 1 Presentation of Financial Statements (revised 2007) replaces NZ IAS 1 Presentation of Financial Statements (issued 2004) and is effective for reporting periods beginning on or after 1 January 2009. The revised standard requires information in financial statements to be aggregated on the basis of shared characteristics and to introduce a statement of comprehensive income. This will enable readers to analyse changes in equity resulting from transactions with the Crown in its capacity as "owner" separately from "non-owner" changes. The revised standard gives the Office the option of presenting items of income

and expense and components of other comprehensive income either in a single statement of comprehensive income with subtotals, or in two separate statements (a separate income statement followed by a statement of comprehensive income). The Office expects it will apply the revised standard for the first time for the year ended 30 June 2010, and is yet to decide whether it will prepare a single statement of comprehensive income or a separate income statement followed by a statement of comprehensive income.

NZ IFRS 8 Operating Segments replaces NZ IAS 14 Segment Reporting. NZ IFRS 8 extends the scope of segment reporting and requires identification of operating segments and disclosures based on internal reports that are regularly reviewed by the entity's chief operating decision maker in order to allocate resources to the segment and assess its performance. The Office anticipates that the revised standard will be adopted in its financial statements for the period beginning 1 July 2009 and that the adoption will have no material impact on the financial statements of the Office in the period of initial application.

All other standards not yet effective, do not apply to operations of the Office.

Revenue

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

Revenue crown

Revenue earned for the supply of outputs to the Crown is recognised as revenue when earned.

Sale of publications

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

Capital charge

The capital charge is recognised as an expense in the period to which the charge relates.

Leases

Operating Leases

An operating lease is a lease that does not transfer substantially all the risks and rewards incidental to ownership of an asset. Lease payments under an operating lease are recognised as an expense on a straight-line basis over the lease term.

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

Finance leases

The Office is not party to any finance leases.

Financial instruments

Financial assets and financial liabilities are initially measured at fair value plus transaction costs unless they are carried at fair value through profit or loss in which case the transaction costs are recognised in the statement of financial performance.

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.

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.

Cash and cash equivalents

Cash includes cash on hand and funds on deposit with banks. The Office presently does not have any funds on deposit with any bank.

Debtors and other receivables

Debtors and other receivables are initially measured at fair value and subsequently measured at amortised cost using the effective interest rate, less impairment changes.

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

The Office presently has no debtors.

Property, plant and equipment

Property, plant and equipment consists of leasehold improvements, furniture and office equipment. The Office does not own any vehicles, buildings or land.

Property, plant and equipment is shown at cost, less accumulated depreciation and impairment.

All fixed assets with a unit cost of more than \$1,000, or if the unit cost is \$1,000 or less but the aggregate cost of the purchase exceeds \$3,000, are capitalised.

Additions

The cost of an item of property, plant and equipment is recorded as an asset if, and only if, it is probable that future economic benefits or service potential associated with the item will flow to the Office and the cost of the item can be measured reliably.

In most instances an item of property, plant and equipment is recognised at its cost. Where an asset is acquired at no cost, or at nominal cost, it is recognised at fair value as at the date of acquisition.

Disposals

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

Subsequent costs

Costs incurred subsequent to initial acquisition are capitalised only when it is probable that future economic benefits or service potential associated with the item will flow to the Office and the cost of the item can be measured reliably.

Depreciation

Depreciation is provided on a straight-line basis on all property, plant and equipment, other than land, at rates that will write-off the cost of the assets to their estimated residual values over their useful lives. The useful lives and associated depreciation rates of classes of assets held by the office are:

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

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

The residual value of and useful life of an asset is reviewed, and adjusted if applicable, at each financial year-end.

Intangible assets

Software acquisition and development

Acquired computer software licenses are capitalised on the basis of the costs incurred to acquire and bring to use the specific software.

Costs associated with maintaining computer software are recognised as an expense when incurred. Costs that are directly associated with the development of software for internal use by the Office, are recognised as an intangible asset. Direct costs include the software development, employee costs and an appropriate portion of relevant overheads.

Staff training costs are recognised as an expense when incurred.

Amortisation

The carrying value of an intangible asset with a finite life is amortised on a straight-line basis over its useful life. Amortisation begins when the asset is available for use and ceases at the date that the asset is derecognised. The amortisation charge for each period is recognised in the statement of financial performance.

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

Acquired computer software 4 years 25%

Developed computer software 4 years 25%

Impairment of non-financial assets

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

Property, plant and equipment and intangible assets that have a finite useful life are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable amount. The recoverable amount is the higher of an asset's fair value less costs to sell and value in use.

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

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

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

Creditors and other payables

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

Employee entitlements

Short-term employee entitlements

Employee entitlements that the Office expects to be settled within 12 months of balance date are measured at nominal values based on accrued entitlements at current rates of pay. These include salaries and wages accrued up to balance date, annual leave earned but not yet taken at balance date, retiring and long service leave entitlements expected to be settled within 12 months.

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

Long-term employee entitlements

Entitlements that are payable beyond 12 months, such as long service leave have been calculated on an actuarial basis biennially. The calculations are based on:

- likely future entitlements based on years of service, years to entitlement, the likelihood that staff will reach the point of entitlement and contractual entitlements information; and
- the present value of the estimated future cash flows. A weighted average return on government stock in the range 6.73% for year one to 6.39% for ten years and a salary inflation factor of 3% per year were used. The discount rate is based on the weighted average of government bonds with terms to maturity similar to those of the relevant liabilities. The inflation factor is based on the expected long-term increase in remuneration for employees.

No employee's of the Office are eligible for retirement leave.

Superannuation schemes

Defined contribution schemes

Obligations for contributions to Kiwisaver, the National Provident Fund Pension National and Cash Accumulation schemes as well as various other schemes are accounted for as defined contribution schemes and are recognised as an expense in the statement of financial performance as incurred.

Defined benefit schemes

The Office makes contributions to the National Provident Fund Local Government Superannuation Scheme on behalf of one employee. The scheme is a multi-employer defined benefit scheme that is government guaranteed and closed to new membership.

Insufficient information is available to use defined benefit accounting, as it is not possible to determine from the terms of the scheme, the extent to which the surplus/deficit will affect future contributions by individual employers, as there is no prescribed basis for allocation. The scheme is therefore accounted for as a defined contribution scheme. Further information on this scheme is disclosed in the statement of contingent liabilities and contingent assets.

Taxpayers' funds

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

Commitments

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

Cancellable commitments that have penalty or exit costs explicit in the agreement on exercising that option to cancel are included in the statement of commitments at the value of that penalty or exit cost.

Goods and services tax (GST)

All items in the financial statements, including appropriation statements, are stated exclusive of GST, except for receivables and payables, which are stated on a GST inclusive basis. Where GST is not recoverable as input tax, then it is recognised as part of the related asset or expense.

The net amount of GST recoverable from, or payable to, the Inland Revenue Department (IRD) is included as part of receivables or payables in the statement of financial position.

The net GST paid to, or received from the IRD, including the GST relating to investing and financing activities, is classified as an operating cash flow in the statement of cash flows.

Commitments and contingencies are disclosed exclusive of GST.

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

Income tax

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

Budget figures

The budget figures are those included in the Office statement of intent for the year ended 30 June 2008, which are consistent with the financial information in the Main Estimates. In addition, the financial statements also present the updated budget information from the Supplementary Estimates.

Statement of cost accounting policies

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

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

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

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

Critical accounting estimates and assumptions

In preparing these financial statements the Office has made estimates and assumptions concerning the future.

These estimates and assumptions may differ from the subsequent actual results. Estimates and judgements are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the

circumstances. The estimates and assumptions that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year are discussed below:

Long service leave

Note 12 provides an analysis of the exposure in relation to estimates and uncertainties surrounding the long service leave liability.

Annual leave

The cost of annual leave is based on accumulated accrued annual leave due to staff as at 30 June 2008 and is calculated using salaries payable at that date. The Office terms of employment do not provide for anticipated annual leave.

Critical judgements in applying the Office's accounting policies

Management has not exercised any critical judgements in applying the Office's accounting policies for the period ended 30 June 2008.

Statement of cash flows

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

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

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

1. Budget composition

	Notes	30/06/08 Budget Night Forecasts \$(000)	30/06/08 Supp. Estimates Changes \$(000)	30/06/08 Budget Total \$(000)
Revenue				
Crown		6,562	316	6,878
Other	(2)	-	49	49
Total revenue		6,562	365	6,927
Expenditure				
Personnel costs	(3)	5,086	158	5,244
Operating costs	(4)	1,406	193	1,599
Depreciation	(5)	66	14	80
Capital charge	(6)	4	-	4
Total expenses		6,562	365	6,927
Net operating Surplus/(deficit)		-	-	-

2. Other revenue

"Other Revenue" of \$49,000 results from monies paid by New Zealand Aid to assist Pacific Island nation delegates attend the 5th Information Commissioners International conference held in Wellington during November 2007 and sale of copies of Case Notes of the Ombudsmen, Practice Guidelines and surplus furniture or equipment.

3. Personnel costs

30/06/07 Actual \$(000)		30/06/08 Actual \$(000)	30/06/08 Main Estimates \$(000)	30/06/08 Supp Estimates \$(000)
4,158	Salaries and wages	4,810	4,876	4,957
214	Employer contributions to staff superannuation	233	180	253
(4)	Accrued long service leave	11	-	-
5	Accrued annual leave	53	-	-
25	ACC levy	25	21	25
27	Other Personnel costs	15	9	9
4,425	Total Personnel costs	5,147	5,086	5,244

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

The Office contributes to the now closed National Provident Fund Local Government Defined Benefit plan in respect of one employee.

There were two Ombudsmen and 56 supporting staff (52.3 FTE's) as at 30 June 2008. For the period 1 July 2007 to 3 December 2007, 4 Ombudsmen held warrants from the Governor-General. Ombudsman John Belgrave died in office on 3 December and Ombudsman Mel Smith completed his appointment term on 7 December 2007.

The Remuneration range for the two Ombudsmen and five staff with management responsibilities (including General Counsel) paid \$100,000 pa or more from the Office budget as at 30 June was:

30/06/07 Actual Number in Band	Remuneration Band	30/06/2008 Actual Number in Band
-	\$310,000 to 319,999	1
1	\$300,000 to 309,999	-
-	\$260,000 to 269,999	1
2	\$250,000 to 259,999	-
-	\$150,000 to 159,999	1
1	\$140,000 to 149,999	1
1	\$130,000 to 139,999	-
-	\$120,000 to 129,999	1
2	\$110,000 to 119,999	1
1	\$100,000 to 109,999	1

4. Other operating expenses

83

30/06/07 Actual \$(000)		30/06/08 Actual \$(000)	30/06/08 Main Estimates \$(000)	30/06/08 Supp. Estimates \$(000)
551	Operating accommodation lease expenses	643	601	608
35	Accommodation costs - other	24	24	23
25	Audit fees	28	26	28
76	Publications, books and statutes	84	79	80
102	Travel	116	159	170
119	Communication costs	113	129	138
403	Other operating costs	631	388	552
1,311	Total operating costs	1,639	1,406	1,599

Increased costs under "Other operating costs" relative to last year result principally from recruitment costs for a 3rd permanent Ombudsman (approximately \$77,000), hosting the 5th International Information Commissioners Conference (approximately \$236,000) and external assistance with scoping the Ombudsmen's jurisdiction under the Crimes of Torture Act and a review of the management structure of the office.

5. Depreciation and amortisation

30/06/07 Actual \$(000)		30/06/08 Actual \$(000)	30/06/08 Main Estimates \$(000)	30/06/07 Supp. Estimates \$(000)
5	Furniture and Fittings	7	-	-
27	Plant and Equipment and Other	38	-	14
24	Computer Equipment	31	66	66
6	Intangible Assets – Software	9	-	-
62	Total	85	66	80

The amortisation cost of plant and equipment and leasehold improvements totals \$38,000. At note 8 the value is shown as \$37,000. The variation is attributable to rounding.

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 2008 was 7.5 percent (2007, 7.5 percent).

7. Capital contribution

Two capital injections totalling \$311,000 were received in the year ended 30 June 2008. The first amounting to \$73,000 related to accommodation alterations on Level 14 of 70 the Terrace required to accommodate staff. The second contribution of \$238,000 is for setup costs associated with the Ombudsmen's enhanced role in prisons.

8. Plant, property and equipment

	Notes	Plant and Equipment \$(000)	Leasehold improvements \$(000)	IT Equipment \$(000)	Furniture and Fittings \$(000)	Total \$(000)
Cost						
Balance at 1 July 2006		124	102	240	70	536
Additions		1	29	32	4	66
Disposals		-	-	(37)	-	(37)
Balance at 30 June 2007		125	131	235	74	565
Balance at 1 July 2007		125	131	235	74	565
Additions		4	151	27	7	189
Disposals		(27)	-	(61)	-	(88)
Balance at 30 June 2008		102	282	201	81	666
Accumulated depreciation and impairment losses						
Balance at 1 July 2006		97	43	188	54	382
Amortisation	(5)	15	11	24	6	56
Disposals		-	-	(37)	-	(37)
Balance at 30 June 2007		112	54	175	60	401
Balance at 1 July 2007		112	54	175	60	401
Amortisation	(5)	10	27	31	7	75
Disposals		(27)	-	(61)	-	(88)
Balance at 30 June 2008		95	81	145	67	388
Carrying amounts						
At 30 June 2007		13	77	60	14	165
At 30 June 2008		7	201	56	14	278

The total amount of leasehold improvements in the course of construction is \$147,000 (2007 Nil).

9. Intangible assets

85

	Acquired Software \$(000)
Cost or valuation	
Balance at 1 July 2006	40
Balance at 30 June 2007	40
Balance at 1 July 2007	40
Additions	25
Disposals	(9)
Balance at 30 June 2008	56
Accumulated depreciation and impairment losses	
Balance at 1 July 2006	27
Amortisation	6
Balance at 30 June 2007	33
Balance at 1 July 2007	33
Amortisation	9
Disposals	(9)
Balance at 30 June 2008	33
Carrying amounts	
At 30 June 2007	7
At 30 June 2008	23

The Office has an internally generated case management system but the system uses redundant technology and now has no value. The system will be replaced during the 2007-08 reporting year. Otherwise, the office does not have any internally generated software

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

10. Creditors and other payables

30/06/07 Actual \$(000)		30/06/08 Actual \$(000)
57	Trade creditors	62
82	GST payable	103
41	Other short-term liabilities	41
180		206

Creditors and other payables are non-interest bearing and are normally settled on 30 day terms, therefore the carrying value of creditors and other payables approximates their fair value.

11. Repayment of surplus

The Office completed the year with a surplus of \$52,000. Repayment of surplus is required by 31 October each year.

12. Employee entitlements

30/06/07 Actual \$(000)		30/06/08 Actual \$(000)
	Current Liabilities	
221	Annual leave	274
-	Long service leave	9
34	Superannuation, Superannuation Contribution Withholding Tax and salaries	53
255		336
	Non current Liabilities	
33	Long service leave	35
288	Total for employee entitlements	371

The Office engaged AON Consulting Actuaries to determine the present value of the long service leave obligations for a group of 9 staff who retain the entitlement as a “Grandfather” provision. Key assumptions used in calculating this liability include the discount rate and the salary inflation factor. Any changes in these assumptions will impact on the carrying amount of the liability.

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

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

13. Taxpayers’ funds

30/6/2007 Actual \$(000)	General Funds	30/06/08 Actual \$(000)
57	Balance at 1 July	18
(39)	Net surplus/ (Deficit)	52
-	Capital contribution from the Crown	311
-	Provision for repayment of surplus to the Crown	(52)
18	General Funds at 30 June	329

14. Reconciliation of net surplus to net cash from operating activities for the year ended 30 June 2008

87

30/06/07 Actual \$(000)		30/06/08 Actual \$(000)	30/06/08 Main Estimates \$(000)	30/06/08 Supp. Estimates \$(000)
(39)	Net surplus/(deficit)	52	-	-
	Add/(less) non-cash items			
62	Depreciation and amortisation expense	85	66	80
62	Total non-cash items	85	66	80
	Add/(less) movements in working capital items			
(6)	(Inc)/Dec Prepayments	(25)	-	5
(11)	(Inc)/Dec Debtors	11	-	11
8	Inc/(Dec) Creditors and Payables	26	-	(21)
3	Inc/(Dec) Employee Entitlements	83	-	(23)
28	Inc/(Dec) Short term Liabilities	-	-	-
22	Net movement in working capital items	95	-	(28)
45	Net cash flows from Operating activities	232	66	52

15. Contingencies

The Office does not have any contingent assets or liabilities as at 30 June 2008 (2007, nil).

16. Financial instrument risks

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

Market risk

Currency risk

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

The Office is not exposed to currency risk.

Interest rate risk

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

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

Credit risk

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

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

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

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

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

Liquidity risk

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

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

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

2008

	6 months or less \$(000)	6-12 months \$(000)	1-5 years \$(000)	more than 5 years \$(000)	Total \$(000)
Creditors and other payables	206	-	-	-	206
Repayment of surplus to Crown	52	-	-	-	52
Employee entitlements	53	283	35	-	371

2007

	6 months or less \$(000)	6-12 months \$(000)	1-5 years \$(000)	more than 5 years \$(000)	Total \$(000)
Creditors and other payables	180	-	-	-	180
Employee entitlements	255	-	33	-	288

Categories of financial instruments

89

Actual 2007 \$(000)		Actual 2008 \$(000)
	Loans and receivables	
286	Cash and cash equivalents	614
11	Debtors and other receivables	-
297		614
	Financial liabilities measured at amortised cost	
180	Creditors and other payables (note 10)	206
288	Employee entitlements (note 12)	371
468		577

17. Capital management

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

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

18. Related Party Information

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

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

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

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

19. Formulae Used

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

20. Staff Numbers

The office comprised 56 staff (50.3 Full-Time Equivalents) at 30 June 2008 excluding the two Ombudsmen.

21. Events after the balance sheet date

There were no post balance sheet date events in regard to the Office financial statements for the year ended 30 June 2008.

22. Significant variances from forecast financial performance

There was no significant variance in overall forecast financial performance but actual expenditure did exceed the annual appropriation for the Vote by \$56,000 (see Statement of Unappropriated Expenditure page 72. Timing issues, associated with the Ombudsmen's new responsibilities within the prisons sector; specifically recruitment of staff and infrastructural setup costs, did cause minor variances between forecast and actual financial performance.

23. Explanation of New Zealand International Financial Reporting Standards (NZ IFRS)

91

The Office adopted NZ IFRS for the Annual Report for the period ending 30 June 2008. A conversion project was undertaken.

The project entailed 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 was made in accordance with NZ IFRS 1 "First-time Adoption of New Zealand Equivalents to International Financial Reporting Standards." Comparative information has been restated to conform with the requirements of NZ IFRS and the impact that adoption of NZ IFRS has had on the Office financial statements. There has not been a significant impact from the adoption of NZ IFRS. The Office asset base has been adjusted to disclose tangible and intangible asset values.

Intangible Assets - Computer software

Computer software was classified as property, plant and equipment under previous NZ GAAP. Computer software has been reclassified as an intangible asset on transition to NZ IFRS.

The effect was to increase the carrying amount of Intangible Assets by \$13,000 - 1 July 2006, \$7,000 - 1 July 2007 and \$23,000 at 30 June 2008, as disclosed in the Statement of Financial Position for the years mentioned with an equivalent decrease in the carrying amount of property, plant and equipment.

There was no effect on the surplus reported in the Statement of Financial Performance due to the reclassification between depreciation and amortization as a result of the computer software classified as an intangible asset on transition to NZ IFRS.

Statement of cash flows

There have been no material adjustments to the statement of cash flows on transition to NZ IFRS.

5

Analysis and Statistics

Analysis And Statistics

An Analysis Of Complaints By Act

Prisoner Complaints

Geographical Distribution of Complainants and Enquirers

Directory

Analysis and Statistics

The Throughput of Investigations

	2003/04	2004/05	2005/06	2006/07	2007/08
Complaints on hand at 1 July					
Ombudsmen Act	436	500	531	608	536
OIA	280	261	241	278	289
Local Government Official					
Information and Meetings Act	31	63	46	70	59
Protected Disclosures Act	2	4	1	1	-
Other work for which files were opened	14	12	35	37	34 ¹
Adjustment	-	-	-	-	100 ²
Total	763	840	854	994	1,023
Complaints received during the year					
Ombudsmen Act	4,220	5,097	8,293	7,593	7,257
OIA	973	922	754	812	897
Local Government Official					
Information and Meetings Act	194	190	172	192	204
Protected Disclosures Act	19	7	8	8	14
Other work for which files were opened	472	541	481	485	436 ¹
Total	5,878	6,757	9,708	9,090	8,808
Complaints disposed of during the year					
Ombudsmen Act	4,155	5,066	8,216	7,665	7,317
OIA	992	942	717	801	822
Local Government Official					
Information and Meetings Act	163	207	148	203	211
Protected Disclosures Act	17	10	8	9	13
Other work for which files were opened	474	518	479	488	428 ¹
Total	5,801	6,743	9,568	9,166	8,791
Complaints on hand at 30 June					
Ombudsmen Act	501	531	608	536	576
OIA	261	241	278	289	364
Local Government Official					
Information and Meetings Act	62	46	70	59	52
Protected Disclosures Act	4	1	1	-	1
Other Work for which files were opened	12	35	37	34	42 ¹
Total	840	854	994	918	1,040

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

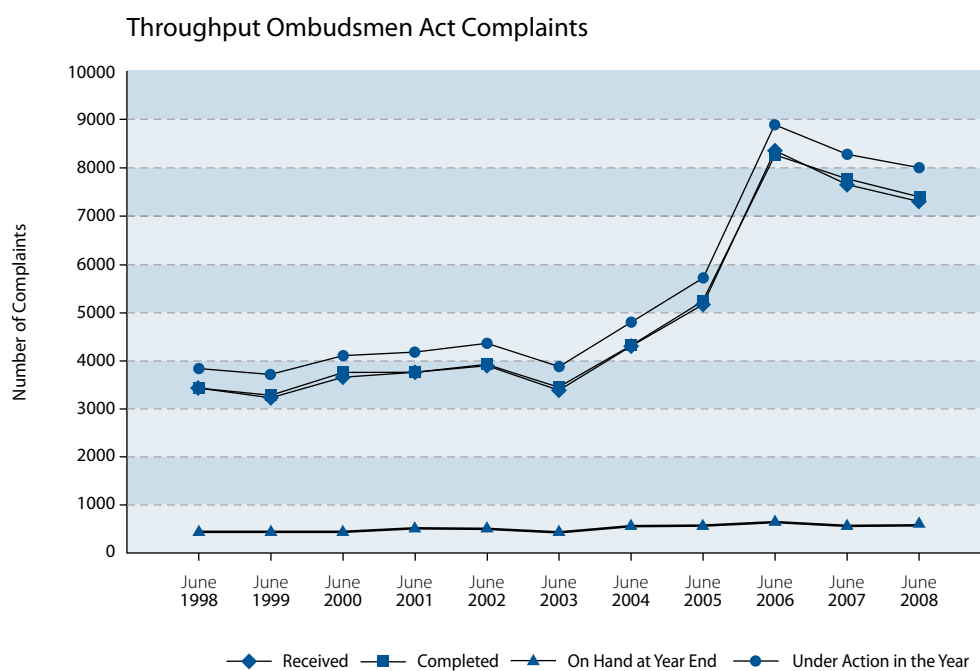
2. Complaints and enquiries recorded on the new enquiries database and incomplete at 30 June 2007. They fall within the Ombudsmen Act jurisdiction.

An Analysis of Complaints by Act

95

Ombudsmen Act

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



How complaints and enquiries were resolved

	B/f from last year	Rec'd year ended 30/06/08	Total under action year ended 30/06/08
Resolved by department or organisation during course of investigation:			
- investigation discontinued	58	113	171
Sustained after formal investigation:			
- no recommendation warranted or appropriate	18	8	26
- recommendation made	9	1	10
	27	9	36
Not sustained after formal investigation (all)	69	64	133
Not sustained after formal investigation (majority)	8	1	9
Investigation discontinued:			
- further inquiry not warranted	100	153	253
- complaint returned to agency for reconsideration	19	11	30
Declined:			
- organisation not within jurisdiction (explanation/ assistance given)	5	67	72
Declined pursuant to Ombudsman's discretion			
- right of appeal to Court or Tribunal	1	67	68
- adequate remedy under law or administrative practice reasonably available	20	196	216
- time lapse	1	5	6
- frivolous or vexatious	-	3	3
- insufficient personal interest	-	5	5
	22	276	298
Formal investigation not undertaken:			
- resolved by informal inquiry	32	4,890	5,022 ³
- informal inquiries – explanation advice or assistance provided	85	1,078	1,163 ²
- complaint withdrawn by complainant or no response from complainant	21	84	105
- complaint returned to dept for reconsideration	7	7	14
	145	6,059	6,304
Investigation at request of Commerce Select Committee (s.13(4))	2	-	2
Investigation at request of Prime Minister – Justice Sector (s.13(5))	1	-	1
Own Motion – Transport of Prisoners	1	-	1
Transferred to the Privacy Commissioner	-	5	5 ⁴
Transferred to Independent Police Complaints Authority	-	1	1
Transferred to the Health and Disability Commissioner	-	1	1
Administration closed – adjustment	-	-	-
	457	6,760	7,317
Under investigation at 30 June	79	497	576
Total	536	7,257	7,893

Complaints and enquiries were received from:

97

	Year ended		
	30/06/06	30/06/07	30/06/08
Individuals	1,395	2,736	2,393
Via legal practices	211	313	314
Media	9	2	10
Members of Parliament and political party research units	4	7	4
Special interest groups	49	60	22
Companies associations and incorporated societies	50	68	86
via legal practices	12	10	15
Government departments/ organisations/ local authorities	3	46	59
Researchers	5	1	-
Sentenced prisoners	919	3,583	3,570
Prisoner Home Detention	-	-	13
Prisoner Parolee	-	-	14
Remand prisoners	152	556	540
Prisoners unspecified	5,459	26	-
Prison staff	3	9	7
Prisoner advocate	22	175	208
Trade unions	-	-	2
Own motion (Prisoner Transport)	-	1	-
Total	8,293	7,593	7,257

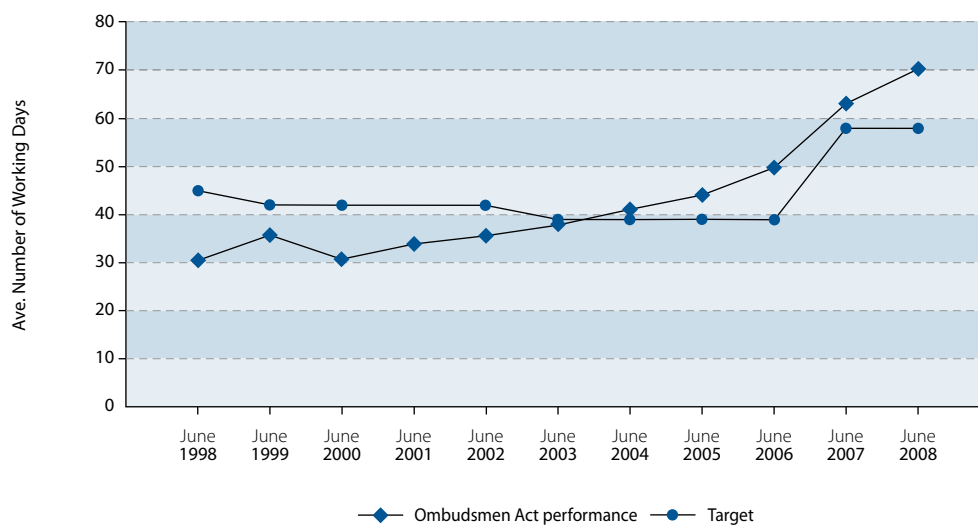
The complaints and enquiries were directed at:

	Year ended		
	30/06/06	30/06/06	30/06/08
Central government depts (Part I)	7,335	6,775	6,431
Organisations other than Local organisations (Part II)	461	425	432
Local organisations (Part III)	497	393	394
Total	8,293	7,593	7,257

Timeliness performance measures are detailed at page 64

- Includes 3,030 complaints and enquiries from prisoners and 1,637 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.
- 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.

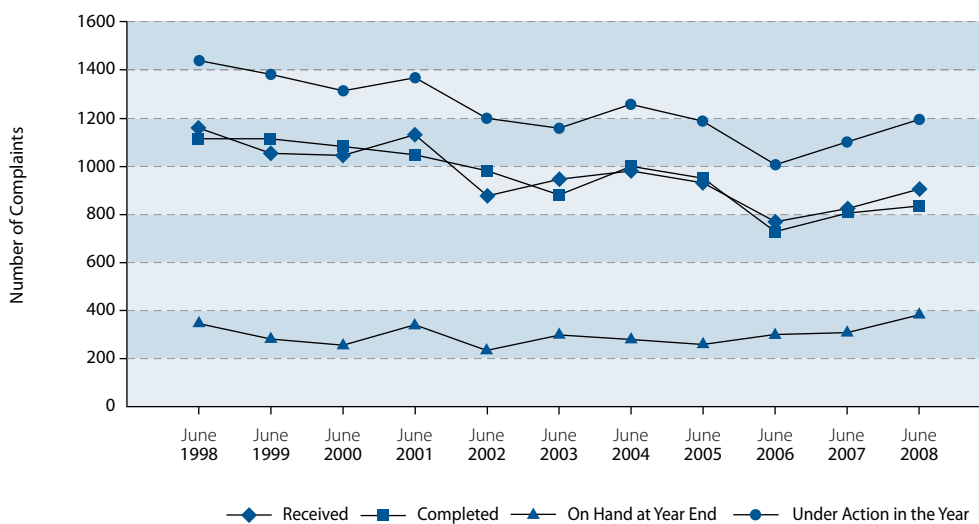
Average number of working days required to complete
Ombudsmen Act investigations



Official Information Act

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

Throughput of OIA complaints.



How requests for review were resolved:

99

	B/f from last year	Rec'd year ended 30/06/08	Total under action year ended 30/06/08
Resolved by Minister, dept or organisation during course of investigation :			
- investigation discontinued	68	104	172
Sustained after formal investigation:			
- no recommendation made	6	18	24
- recommendation made	4	20	24
	10	38	48
Not sustained after formal investigation	85	89	174
Investigation discontinued			
- further inquiry not warranted	29	33	62
- returned to agency for reconsideration	11	-	11
Declined:			
- organisation not within jurisdiction (explanation/ assistance given)	1	9	10
Declined pursuant to Ombudsman's discretion:			
- adequate remedy under law or administrative practice reasonably available	1	4	5
- time lapse	-	2	2
Formal investigation not undertaken:			
- resolved by informal inquiry	28	180	208
- informal inquiries – explanation, advice or assistance given	2	81	83
- complaint withdrawn by complainant or no response from complainant	4	29	33
- returned to agency for reconsideration	-	1	1
	34	291	325
Transferred to the Privacy Commissioner	-	13	13
	239	583	822
Under investigation at 30 June	50	314	364
Total	289	897	1,186

Why reviews were requested:

	Year ended		
	30/06/06	30/06/07	30/06/08
Refusals	479	497	522
Delays deemed refusals	199	235	288
Delays	20	19	11
Charges	19	17	21
Corrections	-	1	-
Deletions	21	15	28
Extensions	15	22	23
Conditions	-	-	-
Transfers	1	6	4
Total	754	812	897

The requests for review concerned decisions taken by:

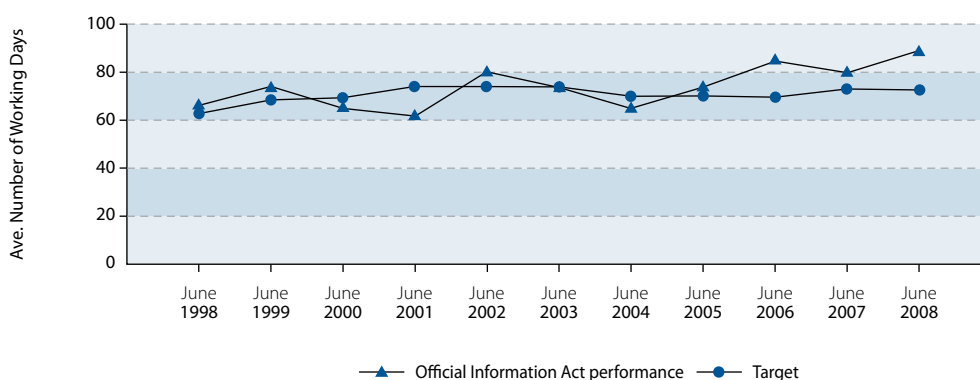
	Year ended		
	30/06/06	30/06/07	30/06/08
Ministers of the Crown	119	185	212
Departments listed in Part I Ombudsmen Act	312	336	371
Organisations listed in Part II Ombudsmen Act and listed in First Schedule to the Official Information Act	323	291	314
Total	754	812	897

Requests for review were received from:

	Year ended		
	30/06/06	30/06/07	30/06/08
Individuals	313	307	352
Via legal practices	48	45	45
Media	89	104	113
Members of Parliament and political party research units	108	190	202
Special interest groups	63	59	32
Companies associations and incorporated societies	71	52	91
Via legal practices	29	27	34
Government departments/ organisations/ local authorities	-	3	3
Researchers	6	3	11
Sentenced prisoners	24	20	14
Remand prisoners	-	-	-
Trade unions	3	2	-
Total	754	812	897

Timeliness performance measures are detailed at page 64

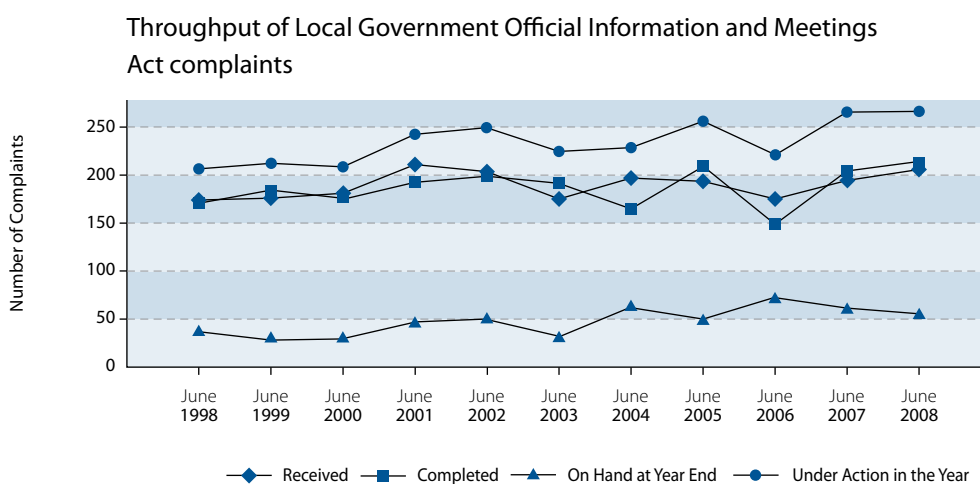
Average number of working days required to complete OIA complaints



Local Government Official Information and Meetings Act

101

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:



How requests for review were resolved:

	B/f from last year	Rec'd year ended 30/06/08	Total under action year ended 30/06/08
Resolved by organisation during course of investigation			
- investigation discontinued	21	40	61
Sustained after formal investigation:			
- no recommendation made	3	1	4
- recommendation made	-	1	1
	3	2	5
Not sustained after formal investigation	13	11	24
Investigation discontinued			
- further inquiry not warranted	10	12	22
Declined pursuant to Ombudsman's discretion			
- adequate remedy under law or administrative practice reasonably available	-	2	2
Formal investigation not undertaken:			
- resolved informally	3	46	49
- informal inquiries – explanation, advice or assistance given	1	34	35
- complaint withdrawn by complainant or no response from complainant	2	9	11
	6	89	95
Transferred to the Privacy Commissioner	-	2	2
	53	158	211
Under investigation at 30 June	6	46	52
Total	59	204	263

Why reviews were requested:

	Year ended		
	30/06/06	30/06/07	30/06/08
Refusals	112	123	130
Delays deemed refusals	43	52	58
Delays	6	2	6
Charges	11	10	8
Deletions	-	4	1
Extensions	-	1	1
Total	172	192	204

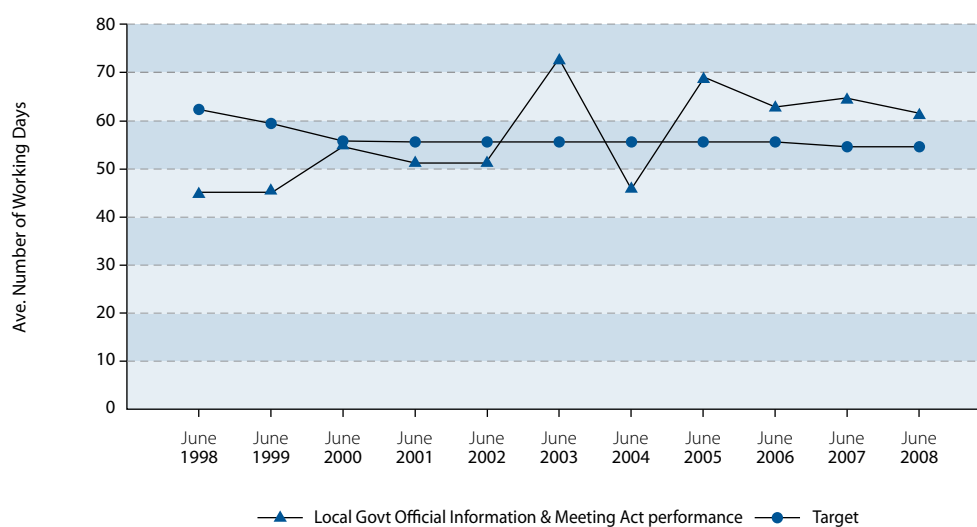
We received requests for review from:

103

	Year ended		
	30/06/06	30/06/07	30/06/08
Individuals	108	117	129
via legal practices	2	15	6
Media	26	9	24
Special interest groups	10	21	9
Companies, associations	16	12	17
via legal practices	8	15	18
Government departments/ organisations/ local authorities	1	1	1
Members of Parliament and political party research units	1	1	-
Trade Unions	-	1	-
Total	172	192	204

Timeliness performance measures are detailed at page 64

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



Prisoner Complaints

During the year ended 30 June 2008 complaints were received from:

Prison	Ombudsmen Office Visits	Prisoner Sentenced	Prisoner Convicted	Prisoner Home Detention	Prisoner Remand Accused	Prisoner Remand Convicted	Prisoner Parolee	Prisoner Advocate	Prison Staff	Individual	Total
Akld Central											
Remand	12	34	-	-	151	3	-	12	-	1	201
Akld West (Med)	8	193	-	-	1	3	-	5	-	2	204
Akld East (Max)	12	166	-	-		-	-	6	-	-	172
Arohata Womens	7	61	-	-	3	-	-	4	-	-	68
Akld Regional											
Womens	7	236	-	-	45	5	-	5	-	2	293
Chch	8	296	-	-	46	6	1	18	-	9	376
Chch Womens	11	21	-	-	4	-	-	-	-	2	27
Dunedin	1	6	-	-	2	-	-	-	-	-	8
Hawkes Bay											
Regional	9	305	-	-	11	1	-	14	3	1	335
Invercargill	8	35	-	-	3	1	-	1	-	1	41
Manawatu	9	122	-	-	7	1	-	2	-	2	134
Mt Eden	11	127	-	-	64	6	1	21	-	5	224
Mt Eden Womens	0	1	-	-	-	-	-	-	-	-	1
Ngawha	6	144	-	-	36	-	-	6	1	-	187
New Plymouth	9	47	-	-	4	-	1	2	1	4	59
Otago											
Corrections											
facility	10	186	-	-	24	5	-	1	-	2	218
Rangipo	5	132	-	-	-	-	1	2	-	1	136
Rimutaka	16	482	-	-	16	4	1	21	-	5	529
Rolleston	11	81	-	-	-	-	-	-	-	-	81
Spring Hill	1	120	-	-	-	1	-	2	-	-	123
Tongariro	5	95	-	1	1	-	2	4	-	2	105
Waikeria	5	268	-	-	29	11	-	11	-	6	325
Wanganui	9	135	-	-	2	-	-	-	-	1	138
Wellington	7	45	-	-	-	-	-	5	-	-	50
Not Specified	-	38	-	-	3	1	-	9	-	2	53
Totals	187	3376	0	1	452	48	7	151	5	48	4088

During the year ending 30 June 2008 complaints received from and on behalf of prisoners concerned:

105

Prison	Food services		Temporary releases/ escorted outings		Prison conditions		Staff conduct and attitudes		Prisoner property		Prisoner transfers and movements		Prisoner telephone calls and written movements		Prison work and prisoner pay		Prisoner welfare		OIA/ Privacy Act and general information		Prisoner discipline and misconduct		Use of force		security classification		Prisoner health services		Recreation, exercise and sport		Case management and programmes		Personal and official visitors		Culture and religion		Serious incident		Sudden death in custody		Other		22		Not spec		Total	
Akld Central Remand	1	1	3	26	49	9	27	2	1	6	5	-	-	20	-	-	21	-	-	1	9	7	-	188																								
Akld West (Med)	3	10	17	14	30	23	12	1	1	6	8	-	8	12	1	21	3	-	-	1	9	16	-	196																								
Akld East (Max)	-	2	16	9	26	12	9	3	3	13	8	1	14	15	1	6	3	-	1	1	7	18	1	169																								
Arohata Womens	1	1	5	4	9	2	4	3	1	7	4	-	-	1	1	4	-	-	-	-	2	8	1	58																								
Akld Regional Womens	2	5	4	31	69	31	41	7	2	3	20	1	15	13	1	3	13	1	-	1	15	24	1	303																								
Chch	1	2	19	30	76	27	19	7	4	18	38	2	13	47	1	15	28	-	2	14	28	2	393																									
Chch Womens	-	-	-	6	3	-	-	1	2	2	5	-	-	2	-	-	1	-	-	-	5	1	-	28																								
Dunedin	-	-	-	-	6	1	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	8																									
Hawkes Bay Regional	2	2	4	31	79	46	33	7	13	15	21	1	16	9	-	13	12	-	6	-	20	12	-	342																								
Invercargill	-	-	2	7	6	7	-	1	1	1	3	-	-	3	-	4	1	-	-	-	3	4	-	43																								
Manawatu	4	2	5	16	28	21	6	2	4	1	7	2	5	5	5	2	6	-	-	-	15	7	-	143																								
Mt Eden	2	3	12	11	64	22	15	1	2	3	9	3	1	5	-	1	9	-	-	-	15	21	-	199																								
Mt Eden Womens	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1																									
Ngawha	4	3	12	10	26	18	10	2	2	5	13	-	-	11	-	5	13	-	-	-	14	33	1	182																								
New Plymouth	2	1	3	6	6	6	5	-	4	1	5	1	5	2	4	2	2	-	-	-	5	3	-	63																								
Otago Correctional facility	5	5	18	16	50	14	12	5	1	6	15	-	7	22	2	6	7	-	4	-	11	14	-	220																								
Rangipo	1	6	1	5	39	18	9	5	1	1	11	-	7	2	2	3	1	-	-	-	5	19	-	136																								
Rimutaka	18	11	12	30	122	70	33	9	15	12	43	-	16	20	2	17	27	-	2	1	42	41	1	544																								
Rolleston	-	2	4	6	16	2	1	5	2	4	7	-	-	10	1	7	1	-	1	1	2	4	-	76																								
Spring Hill	1	-	3	5	38	6	12	4	1	2	8	-	2	-	1	6	3	-	-	-	1	8	-	101																								
Tongariro	2	6	2	5	10	5	5	-	-	2	5	-	1	4	-	5	4	-	-	-	2	6	1	65																								
Waikeria	3	4	11	22	70	23	20	16	4	5	16	-	9	11	2	9	15	-	1	2	16	37	-	296																								
Wanganui	3	5	1	8	20	10	8	1	7	7	23	-	2	9	1	11	2	-	2	1	10	8	-	139																								
Wellington	1	3	3	1	8	4	3	-	-	-	-	-	1	2	-	-	1	1	-	-	2	3	-	33																								
Not Specified	-	2	1	3	1	2	3	1	-	1	8	-	-	1	-	-	8	-	-	-	113	18	-	162																								
Totals	56	76	158	302	852	379	287	83	71	122	282	11	122	226	25	140	181	2	17	11	337	340	8	4088																								

The above tables include 3010 complaints dealt with informally by telephone or email

During the year ended during 30 June 2008 complaints made by and on behalf of prisoners were resolved as follows:

How complaints received from and on behalf of prisoners were resolved																				
	1(a)	1(b)	2(a)	2(b)	3(a)	3(b)	4	5	6(a)	6(b)	6(c)	6(d)	6(e)	7(a)	7(b)	7(c)	7(d)	A1	A6	Total
Akld Central																				
Remand	1	-	-	-	1	-	15	-	-	4	-	-	-	32	109	-	34	-	4	200
Akld West (Med)	1	-	-	-	2	-	9	-	-	8	-	-	-	48	114	1	14	-	3	200
Akld East (Max)	2	1	1	-	4	1	8	1	-	5	-	-	-	28	91	1	25	-	4	172
Arohata Womens	2	-	1	-	1	-	-	-	-	-	-	-	-	8	47	-	8	-	3	70
Akld Regional																				
Womens	2	-	-	-		-	8	-	1	4	-	-	-	46	180	-	43	-	5	289
Chch	6	-	-	-	1	-	10	-	-	5	-	-	-	56	247	2	48	-	2	377
Chch Womens	-	-	-	-	1	-	1	-	-	1	-	-	-	6	15	-	3	-	-	27
Dunedin	1	-	-	-	-	-	-	-	-	-	-	-	-	2	5	-	-	-	-	8
Hawkes Bay																				
Regional	-	-	-	-	1	-	-	-	-	-	-	-	-	29	263	3	26	-	6	328
Invercargill	-	-	-	-	-	-	2	-	1	-	-	-	-	3	30	-	4	-	1	41
Manawatu	1	-	-	-	-	-	-	-	-	-	-	-	-	10	114	-	8	-	2	135
Mt Eden	1	-	-	-	-	-	5	-	2	1	-	-	-	49	114	-	39	-	2	213
Mt Eden Womens	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	1
Ngawha	1	-	-	-	-	-	2	-	-	1	-	-	-	41	115	-	21	-	2	183
New Plymouth	-	-	-	-	-	-	-	-	-	-	-	-	-	5	46	3	5	-		59
Otago																				
Correctional																				
facility	6	-	-	-	-	-	2	1	-	-	-	-	-	37	151	1	15	-	-	213
Rangipo	-	-	-	-	-	-	-	-	-	-	-	-	-	10	117	-	6	-	1	134
Rimutaka	2	-	-	-	1	-	9	-	-	-	-	2	-	81	380	8	50	1	12	546
Rolleston	1	-	-	-	1	-	4	-	-	-	-	-	-	12	56	-	7	-	1	82
Spring Hill	1	-	-	-	-	-	-	-	-	-	-	-	3	14	79	-	10	-	7	114
Tongariro	1	-	-	-	4	-	2	2	-	3	-	-	-	11	71	-	6	-	7	107
Waikeria	1	-	-	-	5	-	8	-	-	2	-	-	-	37	242	-	37	-	7	339
Wanganui	1	-	-	-	1	1	1	-	-	-	-	-	-	9	104	3	16	1	1	138
Wellington	1	-	1	-	-	1	-	-	-	-	-	-	-	7	32	-	11	-	2	55
INSPECTOR	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
DPB/NZPB	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Unspecified	-	-	-	-	-	-	-	-	-	-	-	-	-	-	86	-	6	-	1	93
Totals	32	1	3	0	23	3	86	4	4	34	0	2	3	581	2809	22	442	2	73	4124

Key

1(a)	Resolved (All)
1(b)	Resolved majority but not all
2(a)	Sustained - no recommendation made
2(b)	Sustained - recommendation made
3(a)	Not sustained (All)
3(b)	Not sustained (Majority)
4	Discontinued - further inquiry not warranted
5	Not within jurisdiction
6(a)	Declined - right of appeal
6(b)	Declined - adequate remedy available
6(c)	Declined - time lapse
6(d)	Declined - frivolous or vexatious
6(e)	Declined - insufficient personal interest
7(a)	No formal investigation - complaint resolved through informal intervention
7(b)	No formal investigation - complaint assessed and advice/ explanation given
7(c)	Investigation not undertaken - no reply by complainant or complaint withdrawn
7(d)	No formal investigation - returned to Dept for reconsideration
A1	Transferred to Privacy Commissioner
A6	General Enquiry

Geographical Distribution Of Complainants and Enquirers During the Year 30 June 2008

107

	Jurisdiction						All Last Year
	OA	OIA	LGOIMA	PDA	Other Work	All	
Auckland	1,879	228	50	5	97	2,259	2,017
Bay of Plenty	194	25	10	-	30	259	233
Northland	299	18	6	1	13	337	246
Waikato	921	26	15	-	39	1,001	743
	3,293	297	81	6	179	3,856	3,239
Taranaki	103	4	6	1	6	120	78
Hawkes Bay	350	15	12	-	23	400	315
Manawatu/Wanganui	369	47	6	-	23	445	523
Wairarapa	40	10	2	-	8	60	47
East Cape	14	1	2	1	2	20	15
Wellington	967	400	28	1	54	1,450	1,958
	1,843	477	56	3	116	2,495	2,936
Total North Island	5,136	774	137	9	295	6,351	6,175
Complainants based in the North Island as a percentage of total complaints received						72%	68%
Nelson/ Marlborough and Golden Bay	92	9	4	-	13	118	168
Dunedin	80	13	7	-	20	120	115
Otago	264	12	20	-	6	302	68
Southland	77	10	10	-	2	99	109
Canterbury	155	13	6	-	24	198	186
Christchurch	706	45	15	5	30	801	799
Westland	55	8	3	-	15	81	78
Chatham Islands	-	-	-	-	-	-	-
Total South Island	1,429	110	65	5	110	1,719	1,502
Complainants based in the South Island as a percentage of total complaints received						20%	17%
Location not known	615	2	1	-	6	624	1,264
Overseas	77	11	1	-	25	114	66
Complainants based overseas/address unknown as a percentage of total complaints received						8%	18%
Totals	7,257	897	204	14	436	8,808	9,090

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:

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Banker

Westpac Government Business a division of Westpac Banking Corporation

Insurance Broker

Marsh Limited

