



Everyone must be able to participate

Annual Report 2018



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Annual Report of the National Ombudsman, the Ombudsman for Children and the Ombudsman for Veterans 2018

No. 2

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Contents

Foreword	3
Document structure	6
1. The work of the National Ombudsman	7
1.1 Poverty and debt	8
1.2 Access to provisions	12
1.3 Digitalization	17
1.4 Rights protection	21
1.5 Consultation and participation	26
1.6 The Caribbean Netherlands	29
1.7 International	32
1.8 Our work in figures	34
2. The work of the Ombudsman for Children	36
2.1 Gulf between happy and vulnerable children	36
2.2 Focus on children's rights	38
2.3 Ombudsman work	39
2.4 Ongoing research projects	40
2.5 Advice on policy and legislation	41
2.6 Participation of children and young people	42
2.7 Local and international cooperation	43
2.8 Our work in figures	44
3. The work of the Ombudsman for Veterans	45
3.1 Veterans in the Netherlands	45
3.2 Complaints in 2018	46
3.3 Research projects	46
3.4 Results of earlier research projects	50

3.5	Who contacts the Ombudsman for Veterans?	52
3.6	Nature of complaints?	52
3.7	International	53
3.8	Forthcoming activities	54
4.	Our people	56

FOREWORD

This document is the joint Annual Report 2018 of the National Ombudsman, the Ombudsman for Children and the Ombudsman for Veterans. Further to our statutory tasks and responsibilities, we act on behalf of individuals who are unable to claim their social entitlements: children denied the help they need, citizens bogged down by bureaucracy, or veterans who are 'passed from pillar to post'.

This report includes a number of case studies which illustrate the work of the National Ombudsman, the Ombudsman for Children and the Ombudsman for Veterans. There are examples of how the citizen's contact with government and other authorities can go awry, and stories of how difficult social participation can sometimes be.

Take Dorine's story, for example. Following an acrimonious divorce, the house in which she and her family lived was sold leaving her some two hundred thousand euros in debt. Although not in the best of health, she combined caring for her children with a part-time job. Her life was already very stressful and the outstanding debt hung like a millstone around her neck. She contacted her local authority, who provided debt counselling advice and contacted the bank with a proposal for a repayment plan. More than a year later, Dorine was told that the proposal had been rejected. She then received a letter from a bailiff saying that unless the entire amount was paid within 28 days, her possessions would be seized and her wages garnished. Dorine contacted the local authority again but was told that they could do nothing more for her. Dorine's only option would be to go to court and apply for a debt rescheduling order. The bank would then have no choice but to accept the court's ruling. Following the intervention of the National Ombudsman, however, the local authority was able to prevent the execution of bailiff's warrant.

All too often, we also hear from children who are unable to access the help and support they need. Rosa is a girl of 13 who was sleeping rough in a rubbish skip. She had run away from home, where she had been neglected and abused by her drug-addicted parents. No one had taken action, even though the family was well known to social services. "My mother could tell a good story," she explained. If social services had taken time to talk to Rosa herself, making her feel safe, she would have been able to tell them about the abuse and neglect. But they didn't and she saw running away from home as her only escape. If children are to be helped effectively, it is essential to know their situation, their concerns, and what they see as the best solution. The United Nations Convention on the Rights of the Child says precisely that. It tells us to listen to children and take their opinions into account when making any decision that will affect their lives.

Some veterans experience psychiatric or other problems as a result of their service in conflict zones. Unfortunately, they cannot always rely on adequate support from the government. One example is Michael, who in 2006 was posted to Afghanistan with the 11th Airmobile Division, a rapid response infantry unit. During the mission, Michael and his comrades came under heavy fire. He saw a close friend caught in an ambush and very seriously wounded. On his return to the Netherlands, things did not go well for Michael. His character had changed. He was permanently 'on edge' and often aggressive. He turned to drink and drugs. His girlfriend left him. Eventually, he was admitted to the Central Military Hospital in Utrecht. When his temporary employment with the Ministry of Defence ended, Michael felt he had lost everything. He applied for a military disability pension and was invited for an assessment. And then another assessment. And another. After years of waiting, Michael had still not been told whether he was eligible. Only after intervention by the

Ombudsman for Veterans did the Ministry of Defence acknowledge the oversight, whereupon Michael was finally informed of the decision.

In the Netherlands, we often assume that everything is well organized. And, to be fair, that is often the case. Thousands of civil servants and other professionals devote their working lives to helping the public. Police officers, youth welfare workers and the staff of various municipal departments: each and every one is a dedicated and committed professional who strives to do his or her work to everyone's satisfaction. Nevertheless, there are still rather too many occasions on which public sector organizations fail the people they exist to serve.

It is not only the more vulnerable members of society who experience problems. Even 'self-reliant' citizens can find themselves up against the proverbial brick wall.

How is it possible that, despite the efforts and goodwill of all those highly trained professionals, relations between the citizen and the government continue to break down so often? One significant factor is that the professionals do not have enough time or resources to do everything that is expected of them. There are protocols and procedures that must be observed. Everyone is expected to work as efficiently as possible, while also providing full accountability for every step along the way. The decentralization of government has, in some cases, increased the distance between the citizen and the service departments. Front desks staffed by real people are rapidly disappearing and it is becoming increasingly difficult to contact officials by phone. Efficiency and accountability are intended to enhance the quality of service but can often have the opposite effect.

Public sector authorities are moving ever farther from the very people they exist to serve. It would be useful for these organizations to reflect on their purpose and position. They must ask themselves why they exist and for whose benefit. They should involve all stakeholders in determining what is needed to perform well.

The Netherlands has a policy of complete social inclusion. We want everyone to be able to play a full role in society. This makes certain demands of the individual, but it also requires input at the political level and from every organization which works on behalf of the public. Only then will there be full participation. This demands organizations that acknowledge their role and responsibility, and acknowledge the citizen's right to expect prompt and proficient service. The first step in restoring a good relationship is to give professionals the time, resources and space they need to do their work well. They must be allowed to decide what is needed, and they must enjoy the discretion to arrive at 'customized' solutions. In short, they must be close to the citizen.

The National Ombudsman organization will act upon our own responsibility by placing people first and foremost in our professional complaints assessment and all other activities. We shall do so as we continue to advise the government and other organizations, drawing attention to the opportunities for improvement we identify and inviting them to fulfil their responsibilities in word and deed.

Everyone must be able to participate in society. This is a common objective.

Joyce Sylvester,
Deputy Ombudsman

Margrite Kalverboer,
Ombudsman for Children

Reinier van Zutphen,
National Ombudsman and Ombudsman for Veterans

REPORT STRUCTURE

Chapter 1 provides a description of the work of the National Ombudsman, based on five key themes. Chapter 2 examines the work of the Ombudsman for Children, while Chapter 3 is devoted to that of the Ombudsman for Veterans. The concluding chapter (Chapter 4) is concerned with personnel and organizational matters.

The reports, letters, news articles and other publications referenced in this Annual Report can be accessed at www.nationaleombudsman.nl or (in the case of publications by the Ombudsman for Children) at www.dekinderombudsman.nl.

NB Publications are in Dutch unless otherwise stated. English translations of their titles are given in this report for convenience only.

We are able to resolve the majority of the complaints we receive by means of an intervention. Some examples are included in this report as case studies. The names of the individuals concerned have been changed to protect their privacy.

1. THE WORK OF THE NATIONAL OMBUDSMAN

What motivates the National Ombudsman organization? First, we believe that everyone should be able to play a full role in society. We also believe that the government exists for the benefit of the citizen, not *vice versa*. We help members of the public who experience difficulties in their dealings with public authorities. We may simply refer them to the appropriate source of assistance, or we may offer advice and resources. In some cases, we conduct a thorough and effective investigation of a complaint to arrive at an appropriate solution. At the same time, we challenge government organizations to re-examine their services, processes and innovations. We are concerned with everything the government does. We think about ways in which to improve performance. We remind organizations of their responsibilities and encourage them to adopt the citizen's perspective in order to maximize efficiency. We engage in regular consultation with government ministries and the House of Representatives. In 2018, ten of our reports prompted an official government response. On six occasions, questions were raised in parliament further to the publication of a letter or report by the National Ombudsman.

In most cases, our involvement begins when a government organization is unable to resolve a citizen's complaint directly. The majority of people who contact us can be helped with a referral or intervention. We also remain alert to societal developments which could impact a larger group of citizens at some point in the future.

"Everyone must be able to participate" is a joint objective which requires the input of government and citizens alike. In 2018, we visited a large number of public sector and societal organizations in order to stress this message.

The National Ombudsman also made visits to local authorities of various sizes, and for various reasons. Some visits were further to our own investigation of a complaint, while others were to advise staff on general complaints assessment procedures. We met with several mayors to strengthen our contacts and share information about our work. We gave lectures, presentations and workshops at universities, colleges and other organizations, examining topics such as complaints assessment, conflict mediation, and the citizen's perspective as it affects the relationship between government and public.

From local to national

The National Ombudsman is not only the independent complaints assessor for central government but also the official ombudsman for provincial authorities, water management authorities, some three quarters of the Netherlands' local authorities (municipalities), and almost all agencies responsible for administering social provisions. We do not wait until people come to us with a complaint but actively engage in dialogue with citizens and local authorities. In 2018, we toured the Province of Overijssel with the 'Ombudsbus'. We visited Enschede, Diepenheim and Deventer, where we made working visits to various government organizations and held question-and-answer sessions at which members of the public could obtain information or submit a complaint. We made a similar tour of Zuid-Holland, visiting Ridderkerk, Gouda and The Hague.

The National Ombudsman advises local authorities, both on request and as it feels necessary. It does so by means of workshops and presentations, and staff regularly visit towns and cities throughout the country to meet with officials and members of the general public. Following one such visit, the Municipality of Alphen aan den Rijn implemented improvements to its complaints procedures.

In February 2019, National Ombudsman staff visited Zeeland where we met with the provincial authority's own ombudsman, Gertjan van der Brugge. Even closer cooperation with the province and Mr Van der Brugge is foreseen.

The Provincial Ombudsman deals with complaints concerning local authorities in Zeeland, their joint provisions and partnerships. The National Ombudsman considers complaints made about the province itself, the water management authority and all organizations which fall under the responsibility of central government. In late 2019, we shall join the Provincial Ombudsman in a full evaluation of our cooperation to date during a joint 'Ombudstour' of the region.

Online Ombudsman

An increasing number of people are active on various social media sites, which are therefore growing in importance as channels through which we can reach the public and help citizens who have questions or complaints. Facebook is particularly valuable in terms of communication with the general public, while we use Twitter and LinkedIn to stay in touch with the professional field. The messages received through the social media channels are monitored daily. When necessary, we contact the sender to agree further action.

The National Ombudsman's own website is another important communication channel. It receives some 450,000 'hits' every year. We notice that visitors are taking full advantage of the various downloadable resources on the website, such as sample letters of complaint, guidelines and (legal) criteria for making an official complaint, and the directory of public sector organizations. In 2018, we were able to help 68,600 people in this way.

Ombudsagenda 2019

In 2015, we formulated a new mission and vision. The working plan, or 'Ombudsagenda', is based on the five key themes introduced in 2017. This approach allows us to improve the relationship between government and the public on an ongoing basis. In each theme, we apply various methods and resources such as investigations, reports, newsletters, lectures and workshops. The five themes are:

1. Poverty and debt
2. Access to (social) provisions
3. Digitalization
4. Rights protection
5. Consultation and participation.

The Ombudsagenda for 2019¹ includes a number of new investigations, assessments of earlier recommendations and their implementation, and meetings to discuss possible new areas of attention, some of which may involve other organizations. The National Ombudsman will also remain alert to relevant trends and indications of emerging problems.

The following sections describe some of the activities undertaken in each theme during 2018. We then consider the National Ombudsman's work in the Caribbean Netherlands (§2.5) and a brief account of our international activities (§2.6). The chapter concludes with some facts and figures about the work of the National Ombudsman in 2018 (§2.8).

1.1 Poverty and debt

It is estimated that 1.4 million households in the Netherlands have, or are at risk of, serious financial problems. If people are unable to pay regular bills such as rent and utilities, or even meet the basic costs of living, the result is likely to be mounting debt. Many people seeking the National Ombudsman's assistance have financial problems. They may,

¹ Announcement of Ombudsagenda 2019 (in Dutch)

have been ordered to repay allowances received in error, or to pay a penalty premium for allowing their health insurance to lapse. They may simply have fallen behind with their household bills. Some people lose track of their financial obligations altogether; a large proportion of this group have difficulties in other areas such as (psychiatric) illness or disability.

Without some formal assistance, many of these people would be unable to escape the desperate financial situation in which they find themselves. For this reason, the National Ombudsman devotes close attention to topics such as debt counselling and restructuring services (a local authority responsibility), the protected earnings threshold (the amount which is always exempt from possession or garnishment orders) and 'fair debt collection' by public sector authorities.

Individual circumstances

The government expects all citizens to be largely self-reliant, able to manage their own affairs. As the National Ombudsman has made clear in the past, this is not always a reasonable expectation. Many people find society too complex. For these particularly vulnerable citizens, it is especially important that public sector authorities apply a 'customized' approach to debt collection, taking the individual's financial and personal circumstances into account.

The administration of financial provisions, many of which are now subject to further digitalization, is always prone to error. If an overpayment is made, the recipient will be required to pay back the excess amount at a later date. Depending on whose error it was, there may also be penalties or additional charges. For people on a low income who depend on benefits and allowances, it is particularly important that contact with the government is as straightforward and open as possible. If they are unable to access the information and assistance they need, minor financial problems can quickly escalate to become serious, long-term debt.

To identify shortcomings in debt collection procedures, the National Ombudsman organized two round table meetings in late 2018. They were attended by representatives of the agencies which administer various social provisions, the Ministry of Social Affairs and Employment (SWZ), bailiffs, local authorities and societal organizations. These meetings formed part of a larger research project examining the way in which government agencies go about collecting payment, the final report of which was published in February 2019 as *Invorderen vanuit het burgerperspectief* ('Debt Collection from the Citizen's Perspective').

Debt restructuring is not for everyone

Citizens in serious debt can justifiably expect some assistance from the government. More than eighteen months since the publication of the 2016 report *Burgerperspectief op schuldhulpverlening* ('The citizen's perspective of debt counselling'), which describes experiences of those seeking assistance from local authorities, the National Ombudsman continues to receive complaints about the quality and accessibility of debt restructuring services.

In 2017 and 2018, we examined how local authorities have organized access to these services. The study involved ten separate municipalities and one joint programme, the inspection of over 730 case files, and interviews with a large number of professionals. In the resultant report *Een open deur?*² ('An open door?') the National

² Report NO2018/010 *Een open deur? Onderzoek naar de toegankelijkheid van de gemeentelijke schuldhulpverlening.*

Ombudsman concludes that local authorities do not always provide ready access to debt counselling services, even to those with problematic debt. A number of possible improvements were identified. They include the introduction of a standard face-to-face interview to ascertain the client's precise personal circumstances. No group of citizens should be automatically excluded from debt counselling.

A complaint received in 2018 from a self-employed businessman illustrates the difficulty that local authorities seem to have in providing an appropriately 'customized' debt counselling service.

Debt counselling fails to get off the ground

Jan, a single man aged 62, has been self-employed since 1987. He has a university degree and, in addition to his business activities, has held various directorships and administrative positions. Jan now works part-time as a paid employee of the limited company he used to own. Unfortunately, his financial situation has deteriorated because a consultancy contract was prematurely withdrawn and he no longer receives rental income from his property. He has been forced to sell his house (for well under the market value). Jan can no longer meet his financial obligations and his debts are quickly mounting. Having been forced out of his home, he does not have a residential address. (Fortunately, he is able to receive post at a close friend's address.) Without an address recorded in the municipality's Population Register, it is not possible to claim social benefits or make use of debt restructuring provisions.

Jan is not one to give up: he wishes to set up a new business to generate income. He therefore applies for a repayable maintenance allowance under the *Besluit Bijstand voor Zelfstandigen* (Support for Self-employed Persons Directive; BBZ). He also asks the municipality whether he is eligible for debt restructuring. He is told that he is not. Jan finds it incomprehensible that the municipality is unwilling to provide any form of assistance with his urgent, and hopefully short-term, debt problem. Not only is he unable to claim the BBZ allowance, he is also ineligible for regular unemployment benefit, having been self-employed for so long. He is neither one thing nor another. It seems that Jan does not tick the municipality's boxes.

Many other self-employed persons have, like Jan, been turned away when attempting to access debt restructuring services. In many cases, they are forced to close their business altogether in order to qualify for unemployment benefit, even if that business remains viable in the longer term. Self-employed people with problematic debt are told to apply for a bank loan, or to apply for a loan under the BBZ. There are many situations in which a simple loan is not the answer. If the person wishes to start another business, he will almost certainly need a clear credit history. Specialist help is required, which itself costs money that the self-employed person does not currently have. The National Ombudsman therefore believes that local authorities must not automatically exclude self-employed persons from the standard debt counselling services, and should pay the costs of any specialist advice required. It is essential to consider the individual circumstances of every applicant, regardless of employment status or history.

The National Ombudsman has identified various possible improvements and has also formulated a set of guidelines for local authorities to ensure that debt restructuring services are widely available in keeping with the spirit of national legislation. We believe that the first step should be to engage directly with the applicant, without requiring him or her to complete complicated forms or attend workshops beforehand. It is essential to take the applicant's personal circumstances into consideration. If the application is declined, the decision must be notified in writing with full reasons.

In early 2018, we conducted a follow-up study³ in which 251 municipalities throughout the Netherlands were asked to report the extent to which they had adopted the recommendations of the earlier report. The results suggest that most have made good progress. In many cases, applicants can now expect to be invited to a face-to-face interview within a few weeks. Several municipalities now devote particular attention to those who are less self-reliant and the grounds for refusal are applied with less rigour than was previously the case. Not all problems have been resolved, however. We note that there are still too many people who are being turned away at an early stage of the application process. Self-employed persons continue to have difficulty accessing debt restructuring services, and not every applicant receives an explanation of the municipality's decision. The National Ombudsman is also concerned to note that almost half of the municipalities asked to participate in this study were unable to provide exact figures.

Reclaiming child allowance

Providing adequate information about new provisions or regulations is an important government responsibility, even where the target group is relatively small. Unfortunately, this responsibility is not always met. In 2018, the National Ombudsman became aware of a group of parents whose childcare allowance had been stopped due to earlier overpayment. Their request for a personal repayment plan, whereby the amount concerned would be reclaimed in manageable instalments, was refused because, it was alleged, the overpayment was due to fraudulent claims. This situation caused serious financial hardship. The parents could no longer pay for childcare and some were forced to give up work, education or participation in civic integration activities. This only worsened their problems.

In late 2017, the Tax and Customs Administration, which administers the childcare allowance, introduced arrangements to limit the adverse impact on parents required to repay any excess amount.

The National Ombudsman welcomes these arrangements but notes that it is the responsibility of the Tax and Customs Administration to inform the public of their existence. Only after involvement by the National Ombudsman did it improve its procedures and information provision. Parents whose childcare allowance has been stopped or docked are now actively informed about the opportunity to appeal the decision. Those who request a payment plan receive a written response with all necessary information about instalment amounts, duration and conditions. The new procedures are expected to be finalized in early 2019. The National Ombudsman will then ensure that the latest information is made available to relevant stakeholders such as advocacy groups and service providers.

³ Report NO2018/070 *Vervolgonderzoek naar de toegang tot de gemeentelijke schuldhulpverlening.*

Assessment: residents of women's refuges

In July 2017, the National Ombudsman published the findings of research into specific problems faced by the residents of women's refuges. In the report *Vrouwen in de knel*⁴ ('Women in difficulties'), the Ombudsman notes the difficulty of securing a personal income in this situation. It is often a long and drawn-out process involving much administrative red tape. The women's debts continue to mount up, while organizing support for children also takes too long due to various reasons. Moreover, many women find themselves living in a refuge for longer than intended or desirable because there is a shortage of suitable housing.

In 2018, one year after the publication of the report, the National Ombudsman ordered an assessment to determine whether any changes had been implemented.⁵ A meeting was held in October 2018. It was attended by various stakeholders, including local authorities, representatives of women's refuges, the Ministry of Health and Welfare (VWS), the Ministry of Social Affairs and Employment (SZW), *Federatie Opvang* and *Toezicht Sociaal Domein*.

The meeting's findings prompted the Ombudsman to conclude that insufficient progress had been made. Although there had been some efforts to devise customized solutions to problems within each municipality, little had been done to resolve issues requiring cooperation between municipalities, other public sector authorities and central government.

It also remains very difficult for the residents of women's refuges to secure rented accommodation elsewhere. Further problems arise when applying for allowances, benefits or a residence permit. Cooperation between municipalities is inadequate. If a woman relocates from one city to another, she must often re-apply for all social benefits administered at the municipal level. Last but not least, it is not always possible to access support services (such as debt counselling) when living at a temporary address. In May 2019, the National Ombudsman will publish a final report, once again urging the government to improve the situation of those living in women's refuges.

1.2 Access to provisions

All citizens should have full access to the (social) provisions made available by government. The purpose of the provisions is to offer help to those who need it and to ensure that everyone is able to participate fully in society.

For example, there should be suitable employment opportunities for people with a disability. Homeless citizens should be able to register with a municipality, while anyone suffering from dementia must receive appropriate care.

⁴ Report NO2017/075 *Vrouwen in de knel*

⁵ Press release and update 31 January 2019: Ombudsman to publish a report on the specific problems faced by the residents of women's refuges in May this year.

This goes without saying, one might think. Nevertheless, the National Ombudsman notes that theory and practice do not always coincide. Not everyone is seen and heard. There are occasions on which the government (unintentionally) raises obstacles that prevent the citizen claiming his or her rights.

The government exists to serve the citizen. The systems which provide access to certain entitlements must be effective. We note instances in which people who do not exactly meet the prescribed criteria are excluded and denied the help they need.

Employment opportunity for everyone

The National Ombudsman is concerned about people who, due to illness or disability, require extra support and guidance in order to work and earn an income. National legislation (the Participation Act) requires local authorities to provide such support, in the form of 'sheltered' employment, for example. Here, the target group comprises particularly vulnerable people. They are generally not in a position to challenge decisions or complain. They often do not know whom to contact with their concerns, or may be afraid of repercussions.

In 2018, the National Ombudsman investigated two complaints from citizens who had been denied access to sheltered employment. In both cases, we concluded that the local authority concerned had not done enough to address the citizen's concerns. Many local authorities have opted to outsource sheltered employment to external providers. This only increases the distance between government and citizen, since officials have less knowledge of, and influence over, how the schemes are run and any problems this creates. The National Ombudsman believes that local authorities have a special and direct responsibility for their more vulnerable residents.

It is essential that government listens carefully to their complaints and actively seeks solutions. Unfortunately, things did not go smoothly for a gentleman living in the municipality of Aa en Hunze. He sought our help⁶.

A right to sheltered employment?

In November 2015, a man living in Aa en Hunze became aware that he was entitled to a place on a sheltered employment scheme. By law, the local authority was required to make suitable arrangements for him. The man made repeated requests for action, and even suggested appropriate vacancies that he could fill. He received absolutely no response. In early 2018, municipal staff eventually referred him to an external consultancy which would supposedly help him to find work. It did not. He then submitted a complaint to the National Ombudsman. That complaint was upheld; waiting three years for an answer is clearly unacceptable. The Ombudsman found that the local authority should have provided clarity far sooner. Citizens with a disability who wish to work can reasonably expect the local authority to actively seek solutions, even if the practical arrangements have been outsourced.

⁶ Report NO2018/092 *Gemeente Aa en Hunze biedt man na 3 jaar nog steeds geen beschutte werkplek aan.*

Our view is that local authorities must continue to oversee processes such as the provision of sheltered employment, even if they have outsourced the practical arrangements. If there are any complaints, the local authority must examine whether the external party is fulfilling its tasks properly. If necessary, it should take the lead in resolving the problem. Citizens should never be disadvantaged by the way in which a public authority opts to fulfil its statutory responsibilities.

The National Ombudsman wishes to learn more about the problems experienced by this target group. Further research examining sheltered employment is ongoing and will be completed in November 2019. In January 2019, a dedicated front desk was opened to receive complaints from members of the public.

Right to supplementary child allowance

Bearing the brunt of bureaucracy

Marianne and Gijs are about to divorce. They have one son and have opted for joint custody, which means that he will live with each parent in turn. They have agreed to split the child allowance equally, and have made the necessary arrangements with the Social Insurance Bank (SVB) which administers the payments.

Soon after the divorce is finalized, Marianne loses her job. Much later, a friend mentions that, given her low income, she may be entitled to 'supplementary' child allowance. Marianne investigates and submits an application. Unlike the standard allowance, the supplementary child allowance is administered by the Tax and Customs Administration. To Marianne's surprise, her application is rejected. Why? Because she is not receiving child allowance: you cannot claim 'supplementary' child allowance if you are not in receipt of the basic allowance.

Marianne discovers that the basic allowance is in Gijs' name. Because he still has a reasonably good income, he is not eligible to claim the supplementary allowance. Marianne and Gijs therefore contact the SVB and ask for the basic allowance to be transferred into Marianne's name. She would then become entitled to the supplementary allowance as well, and it would be backdated by one year. Unfortunately, she will still receive less than if she had known the rules much sooner. That is irksome, since she was entitled to the extra money all along.

The National Ombudsman notes a rise in cases in which joint custody has led to problems with supplementary child allowance. This is because this allowance can only be paid to the person registered with the SVB as the recipient of the standard allowances. At the time of divorce, many parents are unaware that the supplementary allowance even exists. They are unable to make the necessary arrangements and therefore lose out on money to which they are entitled and which is intended for those on low incomes. This prompted the National Ombudsman to study the situation further and enter into discussion with both the Tax Administration and the SVB.⁷ The conclusion is that the rules for claiming supplementary child allowance are already complicated, and become even more so for parents with joint custody of the children concerned. By law, the supplementary allowance can be paid to only one parent, which is whoever made the original application for basic child allowance. The registered name cannot be amended with retrospective effect.

⁷ Report NO2018/087 *Kind van de rekening? Onderzoek naar de toegang van co-ouders tot het kindgebonden budget*

Our discussions with the two organizations revealed that it is not possible to modify the existing system without causing yet more problems. The National Ombudsman has called upon both the Tax Administration and the SVB to provide better information to parents with joint custody, through their own websites and those of agencies such as the National Institute for Family Finance Information (NIBUD). There is also a role for professionals and organizations with which parents have contact when preparing for divorce: lawyers, mediators and legal advice centres. We have requested the Tax Administration and SVB to provide an annual update. The National Ombudsman will continue to monitor the number of parents who claim supplementary child allowance following separation or divorce, and whether all recommendations have been implemented.

Access to welfare provisions

In recent years, the National Ombudsman has devoted considerable attention to the obstacles that people face when seeking assistance from a public sector organization. A 2017 report, *Terug aan tafel samen de klacht oplossen* ('Meeting again to resolve the complaint together') notes that local authorities are not yet doing everything possible to acknowledge, solve or preclude problems affecting the citizen's access to the welfare provisions for which they are responsible. Many people are unaware of where, when and to whom such problems can be reported. The National Ombudsman continued to devote attention to this situation in 2018, resulting in the publication of a further report, *Zorgen voor burgers* ('Caring for citizens')⁸. Among its conclusions is that there are differing interpretations of the responsibilities and requirements, whereupon the organizations concerned operate within their own frameworks. Because there is no overall view of the citizen's situation, those organizations do not acknowledge the urgency of adopting an integrated approach. The Ombudsman has identified several issues. First, it is not always clear to which organization or department an application for assistance should be made. Having approached one organization, the citizen may be referred to another, and is soon being 'shunted from pillar to post'. Clients are not informed about the possibilities for independent support. When their initial entitlement to care provisions expires and must be renewed, they face excessive bureaucracy, unnecessary interviews and far too many forms to complete.

The National Ombudsman considers it extremely important for all issues identified in its 2018 report to be resolved as quickly and fully as possible. We have therefore made a number of recommendations:

- Adopt an integrated, multidisciplinary approach. Refer clients actively and promptly.
- Focus on practical implementation; invest in training and the development of effective methods. Ensure that difficult cases can be discussed. Escalate where necessary. Draw lessons.
- Have a contingency budget to cover situations in which it is not immediately apparent which regular source of funding applies.

On 25 April 2018, the National Ombudsman discussed these recommendations with representatives of the Ministry of VWS, Zorgverzekeraars Nederland (ZN; the federation of health insurance companies), the Association of Netherlands Municipalities (VNG) and the Council for Health and Society (RVS). It was agreed that all proposals would be implemented. A second meeting was held on 19 December 2018 to discuss progress and further action.

⁸ Report NO2018/030 *Zorgen voor burgers: onderzoek naar knelpunten bij de toegang tot zorg*

On this occasion, the Ministry of VWS was able to report:

- closer cooperation between local authorities and health insurers;
- improved access to client support;
- greater flexibility in financing provisions where the appropriate source of funding is not (yet) clear;
- better cooperation at neighbourhood level;
- greater focus on outcomes in complex cases.

The National Ombudsman will continue to monitor the situation in 2019 to determine whether care and welfare provisions are indeed becoming more accessible.

One of the most pressing problems noted in the 2018 report is the 'disconnect' in care for people with dementia. Once placed on a waiting list for residential care, they receive less care at home. In many cases, they lose their regular point of contact, the case manager, because the various care provisions are not sufficiently integrated. We decided to investigate this problem further, resulting in the report *Borg de zorg*⁹ ('Safeguard Care'), published in November 2018, which examines how restricted access to care and support affects people with dementia and their informal carers.

The report concludes that the government is failing to provide the care that dementia patients and their families may reasonably expect. They face unreasonable obstacles when attempting to access provisions. Finding the most appropriate source of care is unnecessarily complex and time-consuming. There is a lack of (practical) information about care options, and too much bureaucracy involved in applying for provisions. There is too little choice in terms of daytime care facilities. Not enough information is given about the possibilities for respite care (to allow informal carers some 'breathing space'). The National Ombudsman considers it important for these issues to be resolved as soon as possible. We have therefore requested the Minister of Health and Welfare to inform us, within three months, whether and how he intends to implement the following recommendations:

- a single point of access to care and support for this target group;
- good, practical information, both prior to and (immediately) after diagnosis;
- appropriate case management and more clarity with regard to respite care;
- a single, permanent case manager for every client who needs one;
- an effective and thorough procedure for admissions to residential care.

Not registered? No benefits!

The National Ombudsman organizes regular 'Ombudstours' during which staff visit various regions and invite members of the public to express their concerns. In 2018, once such tour visited the Province of Overijssel.

No sir, you can't register here!

Mr Vogel wished to have his name and address added to the municipality's Population Register (BRP). However, he received a letter stating that he did not actually live at the address given, and therefore was not permitted to register. He lodged a formal objection to this decision, but heard nothing further.

⁹ Report NO2018/090 *Borg de zorg*

In the Netherlands, being unregistered can cause serious problems. You are unable to claim social benefits and it can also be difficult to obtain health insurance. Mr Vogel referred the matter to the National Ombudsman during our question-and-answer session in Deventer.

Having heard Mr Vogel's story, we asked the local authority for an explanation. Perhaps some simple solution could be found. We were told that the complaints procedure had been discontinued because Mr Vogel had withdrawn his objection. At our request, the local authority re-examined whether he could be permitted to register. During our contact with staff, we referred to our 2016 report *Een mens leeft, een systeem niet* ('A person is alive, a system is not') in which we state that everyone should be able to register with a municipality as a matter of right.

On this occasion, our involvement prompted officials to reconsider their standpoint. Mr Vogel was permitted to register. He felt that he had been heard, and was satisfied with the feedback by the National Ombudsman as we reported on progress. For him, this was the first step on the road to solving his financial problems.

1.3 Digitalization

Society is increasingly dependent on computer technology. Government organizations are no exception and the process of 'digitalization' continues apace, creating a system of 'e-government'. Many people regard this as a positive development. In most cases, it is now far easier to contact official bodies and exchange information. However, there is also a sizeable group of citizens who lack the necessary computer skills, or simply prefer not to conduct their business online. They have greater difficulty in contacting the government. And they are not the only people to experience problems: even those with reasonable computer skills may not be able to find the information they seek and would therefore prefer to speak to someone in person or by phone.

The government must ensure that everyone is able to participate in society. It must present itself consistently and remain fully accessible to all. The National Ombudsman has therefore produced a vision document on digitalization.¹⁰ It lists four basic principles to be observed by all public authorities: take responsibility, be accessible, be solution-orientated, and be user-friendly. The National Ombudsman has devoted close attention to digitalization for several years. It is clear that we must continue to do so.

'MijnOverheid' and the 'Berichtenbox'

A good example of what can go amiss when a government attempts to digitalize (too) quickly emerged during our 2017 examination of the new 'MijnOverheid' (My Government) web portal and the 'Berichtenbox' – the personal online mailbox in which citizens receive messages from government authorities. We discovered that many people were unaware, or had forgotten, that they had a MijnOverheid account at all. As a result, they failed to read important messages, which sometimes had unpleasant consequences such as a penalty for late payment. In the 'good old days', when all government communications were sent by post and arrived on the doormat, it was far less likely that the contents would go unheeded. In the 2017 report *Hoezo MijnOverheid*,¹¹ ('Is it really MY government?') the National Ombudsman states that the public may reasonably expect government to use other, offline, communication channels.

¹⁰ Vision document: *Digitale overheid: overheid, communiceer met burgers op het netvlies*

¹¹ Report NO2017/098 *Hoezo MIJNoverheid?*

We are gratified to note that the government has implemented some of our recommendations. Since the publication of our report, it has done more to publicize the MijnOverheid site and how it works. Anyone who now logs onto the site sees an on-screen message advising them to link their account to a valid email address. They will then receive separate notification when a message awaits them in the 'Berichtenbox'.

However, the National Ombudsman believes that this does not go far enough. In our report, we also called for a 'digital proxy' system which would allow professionals to access their clients' messages in order to make the necessary arrangements on their behalf. This would be extremely important to those who are not particularly computer savvy and are therefore more likely to rely on the help of others. The government has taken the first steps in developing such a system but its implementation will take time.

The National Ombudsman is broadly satisfied with the level of attention being devoted to the improvement of the MijnOverheid site and other e-government services. In a written communication to Parliament,¹² the Minister of the Interior and Kingdom Relations has set out how central government intends to ensure that everyone can participate in the digital society. The National Ombudsman will continue to monitor its success in doing so.

Emails beyond the grave

During its examination of e-government services, the National Ombudsman discovered that the government continues to send emails to citizens who have died, informing them that there is a message awaiting them in the 'Berichtenbox'. This is clearly distressing for the relatives of the deceased. It also creates uncertainty because it is not possible to access the messages without the deceased's secure log-in information. Relatives therefore do not know whether the message is important. Government information about what they should do in this situation was unclear.

In September 2018, the National Ombudsman drew this problem to the attention of the State Secretary for the Interior, requesting a prompt solution.¹³ The government took steps to ensure that surviving relatives do not receive emails or messages intended for the deceased. The State Secretary assured us that the matter would be resolved by early 2019. The government also wishes to make it easier for surviving relatives to conclude any outstanding business via the MijnOverheid site.

The National Ombudsman takes the view that the government should place the citizen's interests to the fore in all (planned) improvements. We are aware that there are people who wish to be able to tie up the deceased's affairs online and those who would prefer to do so on paper. We expect the government to offer an appropriate solution to both groups.

¹² TK 2018–0000945243 *Kamerbrief over toegankelijkheid digitale communicatie voor iedereen*

¹³ Letter NO 201807687 *Afronding verkenning digitale berichten aan overledenen*

Telephone accessibility

Digitalization relates to online channels of communication, which must be regarded separately from other channels such as regular post and the telephone. It is the combination of channels which determines the accessibility of government. Against the backdrop of ongoing digitalization, it is essential that these other channels remain available to the public and that people can obtain prompt answers to their queries. In 2018, as in preceding years, the National Ombudsman devoted much attention to the accessibility of government services.

Tax and Customs Administration

In July 2018, the National Ombudsman contacted the State Secretary for Finance to express concern about the accessibility of the 'BelastingTelefoon', the telephone information service of the Tax and Customs Administration. We had received several reports from citizens who had been unable to get through to anyone who could answer their queries. They heard only a recorded message to the effect that no one was available to take their call, please try again later, whereupon the connection was broken. Attempts to get through at other times or on different days were equally unsuccessful. Callers who did succeed in being placed 'on hold' frequently had to wait longer than twenty minutes before they actually spoke to someone. If the call then had to be redirected to another person or department, there would be a further ten or fifteen minute wait.

The National Ombudsman takes the view that citizens must be able to contact the Tax Administration quickly and easily with questions about matters such as their annual tax return. We requested the State Secretary to investigate the reported problems and to take any necessary measures.

This was not the first time that the tax administration's helpline has suffered from poor accessibility. The Ombudsman therefore urged the State Secretary to ensure that improvements are long-term in nature, guaranteeing an acceptable level of service for the foreseeable future. In April 2018, the State Secretary announced that additional funding would be made available to improve accessibility.¹⁴ The National Ombudsman has requested further discussions later in the year.

DUO

DUO (*Dienst Uitvoering Onderwijs*) is the agency of the Ministry of Education, Culture and Science (OCW) which administers student grants and loans. It has suffered from limited telephone accessibility for a number of years. In September 2018, the National Ombudsman requested the Minister of OCW to devote attention to this problem. Callers were frequently being placed 'on hold' for up to an hour before getting through. At peak times, they would hear a recorded announcement instructing them to try again later, whereupon the connection was broken. This is clearly unacceptable given that students can have urgent problems which require immediate solutions. They are entirely dependent on DUO if they are to pay their tuition fees and cover their living expenses.

The Minister of OCW informed us that she too finds the long telephone waiting times "extremely undesirable" but would not know until spring 2019 whether her department's budget would allow additional staff to be recruited.

¹⁴ TK 2018–0000180810 *Aanbiedingsbrief beantwoording Kamervragen over de BelastingTelefoon*

The minister added that DUO expected waiting times to decrease after September 2018.¹⁵ This was not the case. In October, the National Ombudsman therefore raised the matter again, stressing that improvement was required immediately, not some time after spring 2019. The Minister was also asked to indicate how she intends to help students who are already experiencing problems, and where students who have contacted the National Ombudsman for assistance should now be referred.¹⁶

In her response of 10 December 2018, the Minister once again said that she would be unable to consider any measures to improve DUO's telephone accessibility until the spring of 2019. The National Ombudsman continued to monitor the situation, and decided to re-examine whether students were able to contact DUO with reasonable ease in January/February 2019. We expected a relatively large number of students to have questions about course enrolment and student loans during this period, whereupon waiting times would once again rise. The Ombudsman intended to take affirmative action if students were not able to contact DUO. In the event, we received very few complaints. During a personal meeting with the National Ombudsman held on 13 February 2019, the minister conceded that the problems have yet to be resolved. However, DUO has now adopted a proactive approach whereby staff contact students who appear likely to experience problems in the near future. This might explain the decrease in the number of complaints.

The National Ombudsman considers it important for all citizens to be able to contact government departments by telephone when they have any queries or problems. The various complaints we received in 2018 have prompted a full investigation examining the telephone accessibility of government services against the backdrop of ongoing digitalization, to be conducted in 2019.

A finger on the pulse

The government has taken heed of the National Ombudsman's recommendations with regard to digitalization, but there remain certain groups who are at a distinct disadvantage because some government services are now provided (almost) exclusively online. It appears that alternative communication channels are being abandoned too soon, as demonstrated by the poor accessibility of the BelastingTelefoon helpline, among others.

The National Ombudsman intends to keep 'a finger on the pulse' to ensure that government services remain fully accessible to all citizens. In 2019, we shall therefore conduct an examination of the user-friendliness (or otherwise) of the online forms which have been adopted by several government organizations.

One for the price of two

Mohamad has a new job: he will shortly start work as an interpreter. Before he does so, however, his employer requires him to produce a 'Certificate of Conduct' (*Verklaring Omtrent het Gedrag*, VOG), a document issued by the Ministry of Justice and Security confirming that the applicant has not been convicted of any criminal offence that is relevant to the performance of his duties, in this case those of interpreter.

¹⁵ TK 1418062 *Brief over telefonische bereikbaarheid van DUO.*

¹⁶ NO 201820770 *Tweede brief aan Minister van OCW over slechte bereikbaarheid DUO.*

No problem, thinks Mohamad. He opens the relevant website – www.justis.nl – and completes the online application form, which is straightforward enough. He then clicks on ‘Send’. Job done! But... he does not receive a confirmation email. He was supposed to receive confirmation. Obviously, the application hasn’t been received. He decides to complete the form again. He clicks on ‘Send’ and... bingo! Mohamad receives an email saying that the application has been received.

Two weeks later, the certificate itself arrives. Mohamad is pleased – he can now forward it to his new employer. On checking his bank account however, he is far less pleased to discover that he has been charged for two certificates. He needs only one, and he has received only one. He therefore contacts Justis to ask for a refund. Yes, they concede, Mohamad has received only one certificate. But he submitted two applications and must therefore pay for two. Mohamad does not agree. It wasn’t his fault that the first confirmation did not arrive. How was he to know that the application had been successful after all? One certificate should mean one fee, end of story!

He contacts Justis again, repeating his request for a partial refund. When he does not receive a reply, he decides to contact the National Ombudsman. Fortunately, our caseworker Fatima is able to help. She asks Justis for an explanation and a solution – which are duly provided.

Mohamad receives an apology and the requested refund. Justis goes even further: it undertakes a full review of its procedures for refunding amounts that have been charged in error. There is clearly room for improvement, and improvement there will be! In the future, if anyone makes a mistake when applying for a VOG certificate, or a system error occurs resulting in additional fees, Justis will either cancel the charge or provide an automatic refund.

We shall also take a closer look at the (telephone) accessibility of government departments, and intend to organize a meeting to discuss the government’s use of data and algorithms in risk profiling. What restrictions are necessary or desirable from the perspective of the citizen’s rights and interests? While the use of algorithms allows government to operate more efficiently, there may be implications in terms of individual privacy. The government seems to take the view that the use of algorithms in risk profiling will not have any (significant) impact on the individual. The National Ombudsman wishes to ascertain whether this is indeed the case.

1.4 Protection of Rights

In a democratic state such as the Netherlands, the government is expected to protect the rights of its citizens. Moreover, those citizens are entitled to expect that all government organizations act in accordance with the law. This is not always the case. In 2018, the National Ombudsman received a number of complaints from citizens who believed that their rights had been infringed. We investigated the way in which government organizations inform people when their personal information is shared with third parties, and we examined how mayors and police forces approach the constitutional right of protest and demonstration.

Privacy: who has my personal information?

Increasingly, government organizations cooperate with each other in so-called ‘chain consultations’, with a view to solving the citizen’s

problems. The National Ombudsman welcomes this development. The departments and agencies taking part in the chain consultations exchange information relating to individual citizens. This is necessary, since it enables them to help people more quickly and more effectively. At the same time, however, the citizen should be confident that his or her personal information is safe and secure. It must not fall into the hands of unauthorized users. The question is whether government should be permitted to share personal information at all. New European legislation, the General Data Protection Regulation (GDPR) has been implemented in Dutch law as the *Algemene Verordening Gegevensbescherming* (AVG). It is intended to provide even better privacy protection than in the past, and therefore imposes even higher requirements on every organization, public or private, which handles or processes personal information.

In 2018, the National Ombudsman examined the implications of chain consultations in terms of privacy, focusing on the processes involving a citizen's request for welfare services. In the resultant report entitled *Van wie is die privacy eigenlijk*¹⁷ ('Whose privacy is it anyway?') we offer a number of recommendations which will help professionals provide the optimal level of assistance while ensuring a respectful approach to the citizen and his or her sensitive private information. The basic principle is that citizens must be made aware that information is being shared. Government organizations should not be overly cautious in sharing information provided that doing so is likely to bring solutions closer, but they must ensure that the citizen is also part of the 'chain'. This means that clear agreements must be made about *what* information may be shared, *with whom* and *how*. It also requires government organizations to work in full compliance with the requirements of the GDPR/AVG. The National Ombudsman also believes that government should take more account of the citizen's perspective: some types of information are clearly more sensitive than others and must therefore be treated with even greater care.

Because the National Ombudsman attaches such importance to the theme of privacy, in November 2018 we joined the Dutch Data Protection Authority, the Manifest Group, the VNG and the Ministry of the Interior in hosting a discussion meeting as part of the *De Bedoeling* festival held in Apeldoorn. Almost one thousand professionals representing various public and private organizations were encouraged to consider the role of privacy in their work. In 2019, we are to co-host a follow-up meeting to explore this theme further.

Ethnic profiling

Police officers might stop, question and search anyone acting suspiciously, while border and customs officials check travellers passing through our airports. The purpose is to ensure that all citizens can go about their lawful business safely. However, there are occasions on which people feel that they have not been treated correctly or fairly. They may have the impression that they have been stopped more often than others. 'Ethnic profiling' is a practice whereby people are subject to closer attention due to specific characteristics such as colour, race, ethnicity, nationality, language or religion, rather than for any objective reason such as suspicious behaviour. The National Ombudsman considers it important that grievances are heard, and that complaints are investigated with all due diligence.

¹⁷ Nationale Ombudsman. (2018). *Van wie is die privacy eigenlijk? Uitgangspunten voor samenwerkende professionals bij gegevensdeling*(2018/085). Downloadable from <https://www.nationaleombudsman.nl/onderzoeken/2018085-van-wie-is-die-privacy-eigenlijk-uitgangspunten-voor-samenwerkende>

In 2018, the National Ombudsman visited Rotterdam-The Hague Airport to observe the work of the Koninklijke Marechaussee (Royal Netherlands Military Constabulary), which is responsible for (border) security. There had been indications that officers had applied ethnic profiling in the past, and were therefore engaged in discriminatory practices. The Ombudsman's staff observed passport checks of Dutch passengers returning on a holiday flight. During the visit, officers appeared to have implemented all recommendations in our earlier report.

Marechaussee officers know how bona fide passengers behave in normal situations. If someone displays unusual behaviour, such as walking very quickly, appearing nervous or avoiding eye contact, they will investigate further. Passengers are informed that they will be subject to a security check before disembarking the aeroplane. The Marechaussee itself is striving to increase diversity among its officers.

In recent years, police officers have also been accused of ethnic profiling. In 2018, we received a complaint from a man who believed that he had been subject to ethnic profiling. He had already complained directly to the police force concerned but felt that this complaint had not been taken seriously.

Why was I questioned?

One evening in September 2015, a man was sitting alone in a parked car. A police officer approached him and started asking questions. The man later claimed that this officer had treated him in a brusque and disrespectful manner. A second officer arrived on a motorcycle and ordered the man to open the boot of his car. He then proceeded to search the contents. The man found this to be an extremely unnerving situation. He submitted a complaint to the police, and later to the National Ombudsman. He said that he felt discriminated against due to the colour of his skin.

Following careful investigation, the National Ombudsman determined that there was no reason to assume that the police officers' decision to question the man or search his car was in any way connected with his colour. Nevertheless, there may have been a degree of discrimination in the sense that the officers had not treated him with the customary respect. There had been no 'good evening, Sir', and no satisfactory explanation of why he was being questioned, even when he specifically asked for one. Moreover, there had been no good reason to search the boot of the car.

In recent years, the police have taken measures to avoid (any suggestion of) ethnic profiling. A set of guidelines has been implemented, including instructions on how to explain the purpose of the 'stop-and-search' to the citizen. This was clearly lacking in this case.

The National Ombudsman concluded that the man's direct complaint to the police had not been handled in a satisfactory manner. It had not been subject to professional complaints assessment. At no time was the complainant given clear information about the complaints procedure or its progress. Agreements were not kept and false expectations were created.

Citizens may reasonably expect the government to deal with any complaints in a professional manner. Unfortunately, this is not always the case. In 2018, the National Ombudsman therefore produced a vision document on professional complaints assessment¹⁸ in which we set out a number of principles intended to raise the process onto a higher plane.

In early 2019, we began an exploratory investigation looking at how public sector authorities deal with complaints about ethnic profiling. The findings will determine whether further action is required and, if so, the form it will take.

The right to demonstrate

In 2018 and early 2019, the media devoted much attention to the discussion surrounding the constitutional right of protest and demonstration. In October, this discussion was fuelled by the criminal proceedings brought against a group who had physically blocked a road to prevent a demonstration against the tradition of 'Zwarte Piet' (Black Pete), a folklore character who features in seasonal festivities. He is often portrayed by a white person in 'blackface' make-up and curly wig, a practice which many regard as racially offensive. Similar demonstrations took place throughout the country. Another notable demonstration took place on 7 February 2019, when thousands of school students went 'on strike' and converged on The Hague to call for action against climate change.

The right of demonstration is enshrined in the Dutch constitution as well as Article 11 of the European Convention on Human Rights (ECHR). The mayor of a municipality, aided by the police, must enable citizens to exercise their right of protest and demonstration in a safe way. This can be challenging, since demonstrations can sometimes get out of hand. The authorities therefore regard them as a potential threat to public order.

In 2017, the National Ombudsman began an examination of the right of demonstration and how it is upheld in the Netherlands. What are demonstrators entitled to expect from mayors and the police? In the resultant report,¹⁹ we note that local authorities and police forces do not always succeed in protecting the citizen's right to demonstrate. The National Ombudsman has urged the relevant authorities to permit (peaceful) demonstration with as few restrictions and conditions as possible. Any limitations must be legally justifiable and accompanied by a full explanation.

By publishing this report, the National Ombudsman emphasizes that the right of protest and demonstration is a constitutional right, even when the message is controversial or confrontational. We also made a contribution to the societal discussion and encourage the authorities to adopt a less risk-averse approach.

Our investigation prompted the House of Representatives to table questions for the Minister of the Interior and Kingdom Relations. In her response,²⁰ the minister stated that she considers the right to protest a matter of overriding importance. She undertook to instruct mayors accordingly, asking them not to be overly risk-averse. The National Ombudsman will continue to devote attention to this topic in 2019.

¹⁸ Nationale Ombudsman (2018b). *Ombudsvisie op professionele klachtbehandeling* (2018/005). Retrieved from <https://www.nationaleombudsm an.nl/onderzoek en/2018005-ombudsvisie- op- professionele-klachtbehandeling>

¹⁹ Nationale Ombudsman (2018c). *Demonstreren, een schurend grondrecht?* (2018/015). Retrieved from <https://www.nationaleombudsm an.nl/onderzoek en/2018015-demonstreren- een-schurend-grondrecht>

²⁰ TK-20172018-1722 Beantwoording Kamervragen van de leden Den Boer en Groothuizen over het rapport *Demonstratierecht onder druk* (Response to questions from members Den Boer and Groothuizen about the report *Demonstratierecht onder druk*)

Aftercare by the Department of Public Prosecutions

In cases of suspicious death, police and the Department of Public Prosecutions will of course investigate. It is essential that the feelings and wishes of surviving relatives are taken into consideration. They need clarity as soon as possible: precisely what happened to their loved one? The authorities must therefore communicate in an open and transparent manner, respecting the survivors' interests and carefully informing them about what they are entitled to expect. This is not always the case, as illustrated by a complaint received by the National Ombudsman in 2018.

Lack of clarity

Families are often left with many questions when a loved one dies in suspicious circumstances. The parents of a woman whose death had been investigated by the authorities complained to the National Ombudsman about the way in which they had been treated. They had many questions about the circumstances of their daughter's death. They felt that they had not been taken seriously by the prosecutor in charge of the case. The Department of Public Prosecutions was unable or unwilling to answer their questions.

Having investigated a complaint, the National Ombudsman will generally produce a report which states our findings. Sometimes, we opt to go further and bring the parties together. In this case, we organized a meeting between the complainant and representatives of the Department of Public Prosecutions. The complainants were allowed to express and explain their grievances. Officials were encouraged to devote appropriate attention to the style of communication with the families of (possible) murder victims. The complainants were heard, while the government was able to learn from the complaints it receives. Because this was not the only complaint received about aftercare by prosecutors, the National Ombudsman will continue to devote attention to this matter in 2019.

Arrest team raid house in which children are present

Police officers and Koninklijke Marechaussee officers may enter a suspect's home without warning, perhaps to arrest someone believed to be armed and dangerous. The methods employed are based on the element of surprise. Everyone on the premises is likely to experience a police raid as overwhelming and intimidating. The arrest team must be aware that there are likely to be persons other than the wanted suspect present. They may well include children. The National Ombudsman produced reports on this topic in both 2017 and 2018.

A far-reaching decision (2018)²¹

A man is at home, asleep in bed. He is abruptly awoken by an armed arrest team breaking down his front door with a battering ram. According to the subsequent complaint, the officers also damage other parts of the property. The man and his pregnant wife are ordered at gunpoint to take a seat downstairs. Their young children are told to stay in their own bedrooms upstairs. The one-year-old boy begins to cry. Officers don't allow his parents to comfort him immediately.

²¹ Report NO2018/029: *Een ingrijpende beslissing, een onderzoek naar een inval van een arrestatieteam*

Due to the impact of this raid, the children required psychiatric help for sometime afterwards. The man himself was unable to work for three weeks, and was embarrassed to face his neighbours. He submitted a formal complaint to the Chief Constable of The Hague, in respect of both the violent manner in which the raid had been conducted and the resultant material damage. The Chief Constable dismissed both claims as unfounded.

On reviewing the complaint, the National Ombudsman found that the deployment of an armed arrest team was warranted in the situation. A serious offence was under investigation. However, the officer who had authorized the raid should have been able to justify the decision to do so. He did not provide adequate accountability.

In 2017, following earlier complaints about armed police raids, the National Ombudsman and the Ombudsman for Children produced a joint report²² with recommendations intended to protect the interests of children. We advised the relevant authorities to adopt formal written procedures. In early, 2018 we met with police representatives to discuss our conclusions and recommendations. Staff of the National Ombudsman and Ombudsman for Children attended a police training session which included a simulation of a situation involving children. Written procedures have been adopted and will continue to form part of future training.

1.5 Consultation and participation

Citizens wish to be consulted about matters which affect them. They wish to be heard, play a part in decision-making and to make choices rather than having those choices foisted upon them. When there are plans for the development of the city, district or neighbourhood, public consultation procedures often serve to increase support. Complaints received by the National Ombudsman suggest that not everyone believes that their voice is being heard, or that they are seen as a valid discussion partner.

There are also some misgivings with regard to participation. Citizens are being allowed greater opportunity to influence their own human environment, helping to decide how local public spaces are to be used, for example. The National Ombudsman welcomes this development. Nevertheless, we continue to receive complaints from people who are dissatisfied with the opportunities for consultation and participation. They feel that government authorities are not taking adequate account of their wishes. Some people note a disappointing lack of clear information, which adversely affects public confidence in government.

²² Report NO2017/137 *Inval arrestatieteam terecht maar betere belangenafweging bij aanwezigheid van kinderen noodzakelijk*

Bianca has lived all her life in a 'working class' district. In 2014, she noticed a marked rise in local unemployment due to the economic crisis. Some people could no longer afford to feed and care for their pets. Bianca therefore decided to set up a Food Bank for Animals.

Like Bianca, there are many citizens who take direct action to resolve problems in their own city or neighbourhood. The National Ombudsman applauds such initiatives. However, we note that government authorities are not always inclined to do likewise. They may not provide adequate opportunity for the initiatives to succeed. In early 2018, the National Ombudsman therefore examined the role of government in facilitating civil initiatives. The resultant report was published in April 2018.²³

As part of this research, the National Ombudsman asked citizens involved in civil initiatives to rate their contact with the local authority. Almost half (44%) reported that they were 'dissatisfied' or 'extremely dissatisfied'. The National Ombudsman expects government at all levels to adopt an open attitude to civil initiatives, and to take both the initiatives and the people responsible seriously. It will then become easier for citizens with good ideas to put those ideas into practice. We have formulated a number of basic principles:

A constructive attitude

- Geared towards solutions
- Tailor-made assistance and support
- Appropriate division of tasks and responsibilities.

Act as a single authority

- A single point of contact
- Citizens must not be constantly referred from one department to another
- Government must speak with one voice.

Clear choices

- Active information about the possibilities
- Clarity with regard to what the local authority can and cannot do
- Clarity with regard to conditions and restrictions.

Following the publication of the report, we held a series of meetings with members of the public, local authority officials and elected representatives to discuss the future of civil initiatives. At the 'Day of Local Democracy' event, several people mentioned the importance of having a single point of contact within the local authority. This is not always the case at present, which complicates matters for anyone with questions about their initiative.

Consultation not yet a matter of course

Although members of the public are usually allowed some input with regard to the development of their city, neighbourhood or village, the National Ombudsman continues to receive complaints from citizens who feel excluded. This is unjust: everyone must be allowed to participate. A case in point has been the reclassification of municipal boundaries. The intended merger of the municipalities of

²³ Report NO2018/020 *Waar een wil is: onderzoek naar de rol van overheidsinstanties bij burgerinitiatieven*

Landgraaf and Heerlen was originally to be overseen by the Province of Limburg. However, the Municipal Executive of Landgraaf decided that it should manage the process itself, and drew up a proposal for the new boundaries. In the normal course of events, this proposal should have been opened for public consultation. Landgraaf omitted to do so, so citizens were denied the opportunity to make their opinions known in the usual democratic way.

It must be possible for citizens to appeal against any decision made by a government authority, whereupon it is essential that they have full and clear information about that decision. In 2018, the National Ombudsman received a complaint alleging that the Municipality of Lisse had failed to provide such information.²⁵

And suddenly there was a huge radio mast outside my window!

A man lives close to a large industrial estate. Reading the announcements in the local paper, he becomes aware that planning permission has been requested – and granted – for the replacement of a nearby radio mast. Only when the work is completed some weeks later does he discover that the new mast is not only twice the height of the old but is now obstructing the view from his front window. There was nothing about that in the paper! He submits a complaint to the local authority and requests the assistance of the National Ombudsman. He contends that the local authority had not provided adequate information, whereupon he missed the opportunity to exert any influence over the planning decision. He further contends that the size and exact location of the new mast should have been clearly stated in the newspaper announcement. The omission of this information was misleading.

We asked the Municipality of Lisse for an explanation. The National Ombudsman found in favour of the complainant. Citizens are entitled to expect government authorities to provide full and clear information about new plans and decisions. From a legal point of view, Lisse had done nothing wrong. It had published the necessary announcement in the newspaper and also on its own website. However, that announcement did not make the height or location of the new structure sufficiently clear. For this reason, the National Ombudsman concluded that local residents had not been properly informed. The National Ombudsman is regularly contacted by citizens who consider that they have not been given adequate notice of planning decisions, whether they relate to a radio mast or the neighbour's new patio.

Not everyone reads the public announcements in newspapers or on websites. The announcements themselves are sometimes less than clear. While their form and content meet the basic legal requirements, citizens need more information if they are to assess the likely impact of the proposed project. In March 2019, the National Ombudsman therefore published a more comprehensive report examining the provision of information in planning procedures. We shall also continue to investigate ways in which public opinion can be taken into (greater) account in large infrastructural projects such as the construction of windfarms and roads, or the designation of flight routes. In a small country such as the Netherlands, everyone is directly affected by large government plans and projects. In 2018, we therefore used various communication channels, including advertisements in free newspapers, to invite the public to tell us how government can best engage citizens. The results will be published in 2019.

²⁴ Report NO2018/093 *Gemeente Landgraaf legt herindelingsontwerp niet ter inzage voor aan burgers*

²⁵ Column NO2018 *En opeens stond er een zendmast voor mijn raam*

Mutual understanding more important than 'winning'

Not every complaint submitted to the National Ombudsman results in a report or publication. This is because we wish to allow government authorities to arrive at solutions by working with the people they serve. A good example is a complaint we received in 2017 concerning a soil decontamination project in Olst, Overijssel. The 'Olafsa' site had long been occupied by a factory producing asphalt roof coverings. Because the soil and groundwater were seriously polluted, the 'clean-up' operation took longer than expected. Far too long, in the view of local residents. They approached the National Ombudsman for help because both the pollution and the clean-up project were having a major impact on their lives and they felt that the provincial authority had not taken them seriously.

This was a particularly complex case. Much had already been done and the progress of the decontamination project had been assessed by various parties representing various perspectives. Even so, the complainants did not feel that they had been heard. The National Ombudsman decided that an investigation of the usual type was not the best way forward. Instead, we organized a face-to-face meeting between local residents and the provincial authority.²⁶ The people affected could then explain their concerns and expectations, while the government would be able to learn from the complaint. The National Ombudsman drew up the principles for the discussion in a problem diagnosis entitled *Samen in hetzelfde schuitje* ('All in the same boat'). We noted that the provincial authority and complainants would inevitably have to deal with each other for as long as the decontamination project took, and that both wanted that to be as short a time as possible. The meeting created mutual understanding, and each party acknowledged the other's position. The province gained a better understanding of how the pollution and the work to remove it were impacting the lives of local residents, who in turn came to appreciate that the province was equally dissatisfied with the lack of progress and faced a number of complex problems. In short, the meeting helped the two sides to find common ground.

1.6 The Caribbean Netherlands

The people of the Caribbean Netherlands can approach the National Ombudsman for help if they experience problems in their dealings with any government authority, including national government and the 'public bodies' (municipalities) of Bonaire, Saba and Sint Eustatius. However, not everyone in this part of the world is aware of what the National Ombudsman actually does. We therefore invest time and resources in informing citizens about the National Ombudsman and how we can help. Although the physical distance is great, the National Ombudsman exists to help all residents of the Netherlands, including the Caribbean Netherlands.

In 2018, we produced a Strategy Plan for the Caribbean Netherlands which sets out firm objectives for the period to 2021. The first of those objectives is that we must be fully visible to the people of the islands. The second objective is to contribute to good governance by ensuring that both the public and all government departments are aware of the citizen's right to complain, and to have his or her complaint considered by an independent body such as the National Ombudsman.

²⁶ Report of meeting between local residents and representatives of the Province of Overijssel, arranged and led by the National Ombudsman (7 February 2018, Olst)

Many people remain unaware of their rights. Those who are aware may not know where to take their complaint against a government organization. And even when people do submit a complaint, the response is often unsatisfactory.

In the years ahead, the National Ombudsman will continue to hold interactive question-and-answer sessions on local radio, and we shall visit the islands more regularly to assist members of the public. We shall also help government authorities in the Caribbean Netherlands to professionalize their complaints assessment procedures, providing information about good governance and organizing workshops for staff. We shall also provide training for our own personnel to familiarize them with the culture and language of the Caribbean Netherlands.

Visits

National Ombudsman staff visited the islands in March, August and December 2018 to hold question-and-answer sessions with residents, run workshops for officials who deal with complaints in their daily work, and to hold talks with representatives of the public bodies. During these visits, our staff referred a number of complaints to the relevant authorities and in some cases were able to elicit an immediate solution. The National Ombudsman has also implemented measures to improve contact between visits. We hold 'phone-ins' on Bonaire's local radio station and contribute columns to local newspapers. Staff will continue to make three visits to the islands each year.

Professional complaints assessment

In 2016, we began an examination of the complaints assessment procedures used by government authorities in the Caribbean Netherlands. In the years ahead, we shall expand this study to include all public sector organizations with which the people of the region are likely to have dealings.

In 2018, our attention turned to the complaints procedures of the Immigration and Naturalization Service (IND). How does the IND deal with citizens' complaints and does it draw appropriate lessons? The report of this investigation includes various recommendations intended to improve the IND's service provision and make it easier to lodge a complaint:

- Publish readily understandable information about the possibility of making a complaint, in all languages spoken on the islands.
- Ensure that the instructions for complaints assessment can also be consulted by the public.
- Ensure that all front office staff are able to recognize a complaint and take appropriate action.
- Ensure that all staff are aware of the procedures and instructions for complaints assessment.
- Provide clear public information about rules and opportunities for appeal or objection. This information must be readily understandable for everyone.
- Ensure that the outcome of the complaints assessment procedure is clearly explained.
- Record all complaints and outcomes, including those of an informal nature.
- Ensure that all complaints are properly registered and that registration is efficient, consistent and straightforward.

Permit applications

When applying for a permit or licence to build a structure or undertake some activity, citizens are entitled to expect that the relevant authority will inform them of the decision in a timely manner. The applicant must also be told when he or she can expect the decision. In recent years, the National Ombudsman has dealt with a number of complaints from members of the public who, despite numerous telephone calls, emails and letters, have been unable to elicit a response from government departments in the Caribbean Netherlands.

In 2018, for example, we came to the help of a businessman on Bonaire who had applied for a licence to open a cinema. He had already waited several years for a response. Only after our intervention did the public body provide the necessary information.

No reply

In 2015, a businessman on Bonaire applied for a licence to open a cinema on the island. Some three years later, in 2018, he had yet to receive a decision. He therefore approached the National Ombudsman for help. We contacted the relevant authority – the Public Body of Bonaire – and continued to press for an answer. It was clear that the application procedure had ground to a halt, partly because the fire safety inspection report had been lost. The fire service was asked to conduct another inspection. This was satisfactory and the applicant was finally granted a permit in January 2019. The National Ombudsman ensured that he was kept informed of progress throughout the procedure.

The National Ombudsman also receives several complaints a year about the difficulty of obtaining an operating permit for a taxi or bus service on Bonaire. In 2018, our reports on this matter prompted the Public Body to appoint a Public Transport Commission which will examine procedures and suggest ways of reducing the current waiting lists.

Agreements

When a citizen has some form of (contractual) agreement with the government, he is entitled to expect that it will be kept. If anything changes, he may assume that the government will inform him accordingly as soon as possible. This is not always the case in the Caribbean Netherlands; citizens are being left in a state of uncertainty for too long. One example concerns the funding of a donkey sanctuary on Bonaire.

Can the donkeys stay?

For a very long time, the operator of a donkey sanctuary was uncertain of its future because he had not been informed whether the Public Body intended to extend its funding contract. Despite having contacted the relevant officials on several occasions, he did not receive a clear reply. A final decision about the donkey sanctuary was then put 'on hold' following a change of government. A complaint to the National Ombudsman was deemed founded and we wrote a formal letter to the Public Body. All citizens must know exactly where they stand in their dealings with government, especially when concerning important matters such as contracts. Fortunately, the National Ombudsman's intervention had a positive outcome: the Public Body agreed to extend funding for the donkey sanctuary.²⁷

²⁷ Press release, 23 August 2018: *Bonaire betaalt weer voor de opvang van ezels*

Poverty reduction

Not everyone in the Caribbean Netherlands (consisting of the islands of Bonaire, Sint Eustatius, Saba) is able to participate fully in society. One significant reason is that some islanders are living in poverty. In 2018, a study conducted by the consultancy Regioplan for the Ministry of Social Affairs concluded that a significant proportion of the local population find difficulty in making ends meet. It noted an over-representation of low-income households. The government in The Hague has announced plans to improve the situation. In 2018, however, the National Ombudsman described those plans as 'too little, too slow'. *"The discussion must be confined to how the government intends to offer people the chance to escape poverty. One cannot do that by saying that we'll do a little bit now and have another look at the situation in 2020. That approach will take too long. There has to be more than a little bit here and a little bit there. We must not forget that the islands already have far fewer amenities and provisions than the European Netherlands."*²⁸

In January 2019, State Secretary Tamara van Ark (Social Affairs and Employment) and her colleague Raymond Knops (Interior and Kingdom Relations) made a fact-finding visit to the Caribbean Netherlands. Persuaded of the seriousness of the problem, Ms van Ark undertook to take immediate measures to reduce poverty in the region.²⁹ The National Ombudsman welcomes her commitment and will continue to monitor government action with a critical eye, pressing for rapid improvement of living standards on the islands. To gain a more detailed impression of the situation, in 2019 the National Ombudsman is to conduct research into poverty among two specific vulnerable groups: pensioners and single mothers. The Ombudsman for Children will also be involved in the study addressing single mothers.

Our work in figures

In 2018, the National Ombudsman received a total of 191 complaints from the Caribbean Netherlands, compared to 142 in the preceding year. It is noticeable that more people are making contact online between the National Ombudsman's visits. As in the European Netherlands, the majority of complaints can be resolved by means of a simple intervention.

1.7 International cooperation

The National Ombudsman has produced a new International Plan which covers the coming four years. Almost every country in the world has its own ombudsman. The National Ombudsman organization welcomes the opportunity to learn from colleagues and counterparts elsewhere. Doing so will help us to serve the Dutch public even more effectively. We share knowledge about professional complaints assessment with various international ombudsmen. In the years ahead, we shall have regular contact with counterparts both within and beyond the European Union. This will enable all concerned to help citizens who experience difficulties in their dealings with government authorities.

²⁸ Koninkrijksrelaties.NU (2018, 11 September) *Aanpak van de armoede op eilanden te weinig en te traag.*

²⁹ Koninkrijksrelaties.NU (2019, 25 January) Interview with State Secretary Van Ark following her visit to the Caribbean Netherlands: "I have work to do!"

Cooperation within the Kingdom of the Netherlands

In 2018, the National Ombudsman had frequent contact with the other ombudsmen of the Kingdom. The Kingdom of the Netherlands comprises four constituent countries: the European Netherlands and the Caribbean islands of Sint Maarten, Curacao and Aruba. Both Curacao and Sint Maarten have their own ombudsman. Close contact ensures that all ombudsmen are aware of developments. In 2018, the National Ombudsman and the Ombudsman of Sint Maarten again called attention to the damage caused by Hurricane Irma. The national government has reserved a substantial budget for reconstruction and the repair of houses and buildings. However, the budget has yet to be used effectively. Local residents find it complex to apply for financial assistance; there are too many forms to be completed and they receive little or no practical support from government staff. The National Ombudsman and the ombudsman of Sint Maarten therefore wrote to the Minister President of the Netherlands, Mr Mark Rutte, and the Prime Minister of Sint Maarten, Mrs Leona Marlin-Romeo, requesting prompt action.

Visit to Rabat

In 2018, staff of the National Ombudsman once again travelled to Rabat to meet with counterparts from the Moroccan Ombudsman organization. They discussed various aspects of the ombudsman's work, including communication with the general public. It transpired that the Moroccan Ombudsman does not yet use Facebook or Twitter to receive complaints or share information. The delegation also discussed ways in which to improve assistance to citizens with problems. Moroccan staff were particularly interested to hear about the *Ombudsplein*, our online complaints platform, which they thought could usefully be emulated in their country. This was the final meeting in our cooperation project with the Moroccan Ombudsman.

Close ties with the Greek Ombudsman

The National Ombudsman has enjoyed close contact with the Greek Ombudsman for many years, having provided assistance during the early years of the organization's development. In 2018, we once again worked alongside colleagues in Athens to advise on direct communication with the public. The National Ombudsman is readily accessible by phone; the Greek Ombudsman is not because its office simply does not have the capacity to handle a large number of calls, whether incoming or outgoing. Staff of the National Ombudsman wish to help their Greek counterparts to raise their service provision onto the next level. Because Greece has so many islands, most people would find it difficult to visit the offices in Athens. The staff there would therefore like to spend more time 'in the field' visiting local communities. Better telephone access and more frequent personal contact are both promising ways to improve the organization's service.

Refugees and asylum seekers

Like many other organizations, in 2018 the National Ombudsman called attention to the dreadful conditions in which refugees who manage to reach the Greek islands are forced to live. In July, two National Ombudsman staff visited Moria, the now notorious refugee camp on the island of Lesbos. In November, a similar visit was made to Samos. Conditions on both islands are truly appalling. The National Ombudsman will continue to monitor the situation very closely in 2019. A joint report by the National Ombudsman, the Greek Ombudsman and the Ombudsman of the Basque Country is currently in preparation. We wish to discuss its contents with national and international governments as soon as possible with a view to improving the situation of these people.

Learning during the 'Poldershop'

The National Ombudsman is keen to learn from similar organizations at home and abroad. A new and valuable forum is the *Poldershop*, a private, low-threshold meeting at which knowledge and experience can be shared among equals. There is no formal training programme for an ombudsman. The National Ombudsman therefore likes to talk with colleagues on a regular basis. Every ombudsman has his or her own approach. During a Poldershop session, they can compare notes 'off the record'. In 2018, several European ombudsmen met to discuss privacy and communication. Their collaboration ensures that citizens throughout Europe can be helped more effectively. At least one Poldershop session will be held in 2019.

1.8 Our work in figures

In 2018, the National Ombudsman received a total of 25,674 requests for assistance. This is over 3,700 fewer than in 2017, representing a year-on-year decrease of 12%. The vast majority of requests (15,132) were made by telephone, while 7,232 were received online, either by email or via the website. We continued to receive regular post as well: 3,253 letters in 2018. A breakdown of complaints and queries by government organization can be found on our website at www.nationaleombudsman.nl/.

Organizations which were subject to fewer complaints

The National Ombudsman does not investigate any increase or decrease in the number of complaints in detail. Nevertheless, we do remain alert to trends and developments which may be significant. The affiliated local authorities (municipalities) accounted for the majority of complaints received (4,667) in 2018. This is 12% fewer than in the preceding year, equivalent to the overall reduction in the number of complaints.

While the overall reduction is almost equally divided among the various ministries and government organizations, there are exceptions and outliers. Particularly conspicuous is the number of complaints against the Ministry of the Interior and Kingdom Relations, which fell by 39% to just 155. We received a total of 1,200 complaints about the Ministry of Justice and Security, representing an 18% decrease. The number of complaints relating to the Central Judicial Collection Agency (CJIB) fell by 36% to 285. The number of complaints about police action decreased by 10% to 1,882. The Tax and Customs Administration attracted 3,338 complaints in 2018, a year-on-year decrease of 14%.

Organizations subject to a greater number of complaints

Some organizations attracted a greater number of complaints. The Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*, DJI) accounted for 63 complaints, 23% more than in 2017. There were 1,038 complaints against the CBR (Driver and Vehicle Licensing Agency), an increase of 108%, and 138 complaints against the Ministry of Economic Affairs and Climate Policy, 17% more than in the preceding year.

The CBR (Driver and Vehicle Licensing Agency) accounted for the most conspicuous increase in the number of complaints received, which had more than doubled. In February 2019, the National Ombudsman therefore contacted the minister responsible, Cora van Nieuwenhuizen (Infrastructure and Water Management), to urge prompt remedial action. Most of the 1,038 complaints were from drivers who were required to submit a health declaration in order to renew their licence.

In June 2018, the National Ombudsman wrote to the director of the CBR expressing concern about the time taken to process this type of application. Six months later, there appeared to have been little improvement. In fact, the problems were no longer restricted to delays in processing applications with a health declaration, but now extended to poor telephone accessibility and general administrative errors as well.

2. THE WORK OF THE OMBUDSMAN FOR CHILDREN

The work of the Ombudsman for Children is motivated by the desire to improve the lives of all children in the Netherlands. We go about doing so in many ways. We may conduct a large-scale investigation looking at the situation of an entire group of children, for example. A single intervention is often enough to solve an individual child's problem very quickly. In everything we do, we always place children's interests first.

In 2018, we talked to children who have a parent suffering from some physical or mental disability, to children in foster care, and to those who practise sport at the elite level. We met children who are in 'guardianship', children who have been made homeless, and children who live in the area of Groningen affected by regular earth tremors. We met the children of travelling fairground operators, children with eating disorders, and the children of military veterans. And we talked to many other children and young people who were keen to share their stories. This is how we try to give all young people a voice, allowing them to influence our work and helping us to bring problems to the attention of the people who can resolve them.

This chapter describes the highlights of our work in 2018 and presents key figures relating to the complaints we receive. It begins with a brief analysis of the growing divide between certain groups of children in the Netherlands and their expectations of adults.

2.1 A growing gulf between happy and vulnerable children

The vast majority of Dutch children present absolutely no cause for concern. They are growing up in a pleasant environment, are doing well at school and they have confidence in the future. However, a minority of children – estimated to be between five and ten per cent – are not faring quite so well. In other words, 170,000 to 340,000 children and young people are experiencing problems at home or at school, have come to the attention of youth welfare services for whatever reason, or are growing up in poverty. In many cases, very young children face adult concerns. They are forced to grow up too quickly.

A girl whose father has PTSD

"Because my father was away so often, I was in charge of the household by the time I was fifteen. I had to grow up very early and I missed a large part of my childhood."

In 2018, we once again examined how life is treating children in the Netherlands during the biannual Children's Rights Tour.³⁰ Following the first such tour in 2016, we decided that we would spend a few weeks every other year meeting as many children and young people as possible, talking to them about their lives and what they consider important.

During the Children's Rights Tour 2018, we spoke at length with over eighty children and young people, while another 1,700 completed an extensive online questionnaire in which we asked them to rate various aspects of their lives. Overall, children give their lives an average score of 7.7 out of 10. Among those who say that they have no problems at all, the score rises to 8 out of 10.

³⁰ Report KOM009/2018 *Als je het ons vraagt*. Kinderrechten tour 2018

A minority of children are less positive. Those who have problems at home give scores which are around two points lower than those who do not, as do children in the care of youth welfare services as well as children living in poverty. Around ten per cent rate their lives as 'extremely unsatisfactory' with an average score of 3.8.

Girl whose father has a psychiatric condition

It used to be fun at home. Now, it seldom is. My whole life has changed and I really don't like that."

Children living in a vulnerable situation are particularly dissatisfied with the lack of stability and certainty in their lives. They feel insecure and are concerned about what the future may bring. Will they get the help they need? Will they have access to education and training? Will they even be living in the same house this time next year? Often, they feel that they are not being given adequate support at school or from the adults around them. They lack confidence in others and in their future.

Girl whose mother is addicted to drugs

"I don't know how many guardians I have had. I stopped confiding in anyone after a while. I just didn't trust people."

The difference between happy children and those growing up in a vulnerable situation is therefore marked. Children who face problems rate all aspects of their lives less favourably than others of the same age. They are also more likely to feel discriminated against. As in other groups within society, there is a growing gulf between the majority, for whom things are reasonably satisfactory, and the minority who face various problems.

This gulf can only widen if children are denied the help and support they need. And this is precisely what we now see happening. In the Netherlands, we are inclined to assume that everything is well organized with all provisions in place and readily accessible. But some children tell a very different story. Perhaps they have been waiting months on end for assistance. Perhaps no suitable school place can be found for them, so they are sitting at home all day, bored. These children feel that they are not being seen or heard – they are not being acknowledged. While things may seem to be well organized on paper, reality is often very different.

Boy whose father is addicted to drugs

"I just don't understand. My father was admitted to a rehab clinic for his addiction and later convicted for domestic violence. But I did not get any help. Surely it's obvious that this has an effect on a child?"

It is precisely the children who need help most urgently who do not receive it, or at least not in time. There are various reasons for this, including discussions about who should pay, the sheer pressure of work among teachers and youth social workers, and long waiting lists. However, one of the most significant problems is that society continues to talk *about* children rather than *with* children. Policy is formulated and decisions made without asking children themselves what they need. There is no balanced consideration of interests when making decisions which will have direct consequences for young people. That is why arrangements can appear very satisfactory in theory but are actually severely lacking in practice.

Girl under guardianship

“You have no say in anything.”

To ensure that the interests and viewpoints of children themselves are considered when making decisions that affect their lives, in 2018 the Ombudsman for Children began the development of a handbook for policymakers, administrators and professionals. It is concerned with the implementation of Article 3 paragraph 1 of the UN Convention on the Rights of Children, which states, “in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, *the best interests of the child shall be a primary consideration.*” (Italics added.)

This may seem a straightforward instruction but its implications have proven difficult to define. In practice, the requirement of making the child’s interests a *primary* consideration entails a careful weighing of those interests against all other interests. It will be necessary to examine the specific elements that apply to all children, such as education, safety and security, health and family ties. Moreover, the vision and views of the child himself or herself must be actively taken into account. The final decision must be one that best serves the development of the child.

In 2019, we shall continue to refine the handbook in consultation with the organizations for which it is intended. We also wish to ensure that decision-making processes which will affect a child or group of children do indeed include a weighing of interests and allow the child’s own voice to be heard.

Boy in care institution

“Everyone is on their own little island. They all say, ‘just call me’.”

In addition to this effective consideration of interests, we call upon everyone working with children to show real engagement and to develop a common vision of what every child needs. They should do so not only when making decisions but at all moments in a child’s life. Look beyond the specific and immediate problems to consider all aspects of a happy and fulfilling life. Listen to children, ask them what they find important and, above all, keep your promises. This is something that children with difficulties find extremely important, as they themselves told us. Only in this manner can we start to narrow the gulf between the happy children and those in a vulnerable situation.

2.2 A focus on the rights of the child

The Ombudsman for Children actively encourages legislators, policy-makers and professionals to respect the rights of all children in the Netherlands. We do so by providing information about children’s rights, through research, and by taking up individual cases in which the rights of one or more children are under threat. We advise legislators, policy-makers and professionals about ways in which to include the perspective of children’s rights in their actions and deliberations, and we challenge them if we consider that they have failed to do so. We involve young people themselves in our work, and we act in accordance with their opinions and interests to the greatest extent possible.

We work to create a situation in which:

- all children and young people in the Netherlands can grow up in a violence-free and stimulating environment;
- their developmental interests are at the forefront of all decisions and actions;
- their opinions really matter;
- all children and young people are treated as equal; there is no form of discrimination.

Four key articles of the UN Convention

Everything that the Ombudsman for Children does is guided by the four key articles of the UN Convention on the Rights of the Child, viz. Articles 2, 3, 6 and 12, which underpin the interpretation of the entire Convention. Where certain rights may be irreconcilable – such as the child’s right to be cared for by his or her parents and the right to a safe home environment – the key articles help in making appropriate decisions. For example, Article 6 states that all children have “the inherent right to life, [...] survival and development.” All other rights described by the Convention exist to make this possible. As noted above, Article 3 states that “the best interests of the child shall be a primary consideration [...] in all actions concerning children.” Article 2 states that all children must be able to exercise all rights “without discrimination of any kind.” Article 12 concerns the “right to be heard and to express views freely.”

Alongside these four key articles, General Comment No. 14 does much to steer the work of the Ombudsman for Children. General comments are issued by the Committee on the Rights of the Child to provide guidance on the interpretation of the Convention itself. General Comment 14 (2013) lists elements which must always be included in the consideration of interests prior to making any decision. It is, for example, essential to determine the effect of that decision on the mental wellbeing of children, their right to education, and contact with the family. It is also necessary to consider the aspects that may be unique to a particular child, and whether there are any specific vulnerabilities or safety concerns. In short, attention must be devoted to a decision’s impact on the current life of the child as well as his or her future development.

When conducting research, we frequently use the Best Interest of the Child (BIC) model³¹, which lists fourteen environmental conditions necessary for good, safe and healthy development. They include a safe home and neighbourhood, contact with friends, and the love and attention of parents or other adults. We ask children and young people to give a score for each of these environmental conditions within their own lives and experience. The higher they rate the quality of each, the greater the likelihood of good development and a happy life. Scores will be lower in direct proportion to the number of problems the child experiences.

2.3 The nature of our work

The main component of the work of the Ombudsman for Children is responsive. We receive, investigate and assess reports of situations in which children’s rights have been breached or are under threat. An incoming phone call, email or letter is handled by a caseworker who determines whether it constitutes a complaint, a request for assistance, a request for information or a ‘signal’ (indication of an undesirable situation).

³¹ Kalverboer M.E. & A.E. Zijlstra, *Het belang van het Nederlands kind in het Nederlands recht. Voorwaarden voor ontwikkeling vanuit een pedagogisch perspectief*. Amsterdam: SWP Uitgeverij, 2006.

The reports may concern a government organization, youth welfare department, healthcare provider, childcare organization or educational institute. Everyone can ask the Ombudsman for Children for help: children and young people themselves, parents, other family members, concerned adults or professionals.

There is a difference between a complaint, request for assistance, request for information and a signal. A complaint is concerned with an individual case in which there is (alleged to be) an actual or imminent violation of a child's rights. Investigation is then required to determine whether this is indeed so and the complaint can be deemed 'founded'. A request for assistance relates to situations which fall outside the formal responsibility of the Ombudsman for Children. The matter must usually be referred directly to the organization concerned, in which case we will provide assistance and help the complainant to make contact with someone who can take things further. In the case of an urgent problem, we will often contact the organization concerned and ask them to take action. This is known as an 'intervention'. Requests for information are general questions about children's rights or about the Ombudsman for Children organization, its responsibilities and work. 'Signals' relate to (potential) violations of the rights of a larger group of children (as opposed to an individual child). A statistical analysis of the complaints, requests for assistance, requests for information and signals we received in 2018 is given in §2.8.

In 2018, we conducted a number of investigations further to individual complaints. One case (see *Opeens weg*³²) concerned the role of the Child Care and Protection Board in the forced return of an 8-year-old child who had been abducted. Another (*Laat mij niet zitten*³³) was prompted by a complaint made by the father of 17-year-old 'Danny' who was ordered to serve 15 days' youth detention for non-payment of a victim compensation order. We also considered the complaint of a 16-year-old boy concerning his treatment by a youth protection and resettlement organization. (*Veilig in de wacht*.³⁴) Finally, the report *Van het kastje naar de muur*³⁵ ('From pillar to post') describes our investigation of the complaint made by a 15-year-old boy who was unable to obtain appropriate help for his behavioural problems.

This responsive action provides us with considerable information about the status of children's rights in the Netherlands. By monitoring the nature of the problems referred to us, we are able to identify issues which call for further attention, perhaps in the form of a general investigation, the publication of an 'opinion' or discussions with the responsible government officials.

2.4 Ongoing investigations and research projects

In addition to investigations of individual complaints, we may also decide to initiate a research project examining one or more specific aspects of children's rights. Such projects are intended to reveal problems and shortcomings, whereupon we will call upon government and other relevant organizations to take remedial action.

³² Report KOM004/2018 *Opeens weg*

³³ Report KOM005/2018 *Laat mij niet zitten*

³⁴ Report KOM006/2018 *Veilig in de wacht*

³⁵ Report KOM008/2018 *Van het kastje naar de muur*

In 2018, the Children's Rights Tour provided an appropriate opportunity to conduct a large-scale study of how children in the Netherlands are faring. During the tour we spoke at length with eighty children and young people, while another 1,700 young respondents completed a comprehensive questionnaire. The findings are described in the report *Als je het ons vraagt: Kinderrechtentour 2018*³⁶ ('If you ask us: Children's Rights Tour 2018'). In 2019, we will analyse the results for specific subgroups of children and publish one or more further reports.

Alongside these major research projects, we are increasingly opting to pursue other ways of encouraging public sector organizations to improve the situation for children in the Netherlands. In one project, we asked children whose parents have some illness, disability or addiction to tell us what they think is needed to improve their lives and those of others in the same position. We then passed the findings to the relevant authorities. See *Hoor je mij wel. Kinderen van ouders met een ziekte, verslaving of beperking*³⁷ ('Listen to me: children of parents with an illness, disability or addiction'). Even our brief exploratory investigations can lead to the production of recommendations. In a letter to the Minister for Legal Protection, the Minister of Health and Welfare, and the directors of the accredited organizations, we called for a review of decision-making procedures with regard to the use of care (guardianship) orders.³⁸ We also wrote to the relevant organizations to express concerns about the education system on the island of Bonaire and the lack of facilities for children with special educational needs.³⁹

2.5 Advice on policy and legislation

The Ombudsman for Children is keen to ensure that policy and legislation devote due attention to children's rights. This must apply in both the initial development phase and all subsequent evaluation and amendment processes. We therefore provide advice, both on request and as we deem necessary, with regard to various legislative proposals. If there is likely to be any adverse impact for certain groups of children, we will bring this to the attention of legislators.

At the request of the House of Representatives, we produce various position papers to support round table discussions and policy evaluations. Prior to the interim evaluation of the *Jeugdwet* (Youth Welfare Act) we produced a position paper in which we suggest that it has not (yet) had the intended effect because not every child has been able to access the care that he or she needs and deserves.⁴⁰ In our position paper to support the round table discussion about strengthening the mental resilience of people affected by earth tremors in the Groningen region, we note that there is still no integrated vision of what it means for young people to grow up in this situation.⁴¹ We also produced a position paper to advise the Parliamentary Standing Committee for Justice and Security during its deliberation of the action plan to improve factual investigation in the youth protection chain. We noted that the action plan would certainly introduce a number of positive developments, but more was required to bring the quality of investigation up to the required level.⁴²

³⁶ Report KOM009/2018 *Als je het ons vraagt. Kinderrechtentour 2018*

³⁷ Report KOM003/2018 *Hoor je mij wel. Kinderen van ouders met een ziekte, verslaving of beperking*

³⁸ *Zorgenbrief voogdijkinderen*

³⁹ Letter KOM007/2018 *Onderwijs op Bonaire*

⁴⁰ Position paper *Evaluatie Jeugdwet*

⁴¹ Position paper *Rondetafelgesprek mentale versterking Groningen*

⁴² Position paper *Rondetafelgesprek actieplan verbetering feitenonderzoek in jeugdbeschermingsketen*

At our own initiative, we produced a position paper on the active repatriation of Dutch children in Syrian camps.⁴³ In a joint letter (with the National Ombudsman), we called upon the Minister of Economic Affairs and Climate Policy to devote even greater attention to the problems experienced by people in the Groningen region who had been affected by earth tremors and the subsequent structural reinforcement programme.⁴⁴

Following the local elections held in March 2018, we joined ten youth organizations in writing to all new councillors, urging them to involve children and young people in the development and implementation of municipal policy and plans. In this letter, the Ombudsman for Children also called for every municipality to create a fixed point of contact for children and young people.⁴⁵

Information about children's rights

One important responsibility of the Ombudsman for Children is to provide information about children's rights and specific problems affecting those rights. We do so by means of working visits, speeches, round table meetings and guest classes in schools, which also offer the opportunity to gather much valuable information.

This is illustrated by the many working visits we made in 2018, some as part of the Children's Rights Tour. Everywhere we went, we were able to inform people about children's rights and the work of the Ombudsman for Children. We met a large number of children and young people who were able to tell us which topics they find most important and should therefore enjoy our attention.

From our offices in The Hague, staff provide information about children's rights during their conversations with children, parents, care providers and others who seek contact with the Ombudsman for Children. Media appearances and interviews are another important channel for information media, as are our social media accounts.

2.6 Participation

The right of participation is among the most important children's rights. Children and young people must be actively involved in decisions which will affect their lives, and their opinions must influence those decisions. This applies at both the individual and the group level. We not only urge other organizations to devote due attention to the right of participation but strive to embed it in our own work and everything we do.

All the research projects we conducted in 2018 involved children and young people by means of personal interviews or online questionnaires.

One very important project in terms of participation is the Children's Rights Tour. Using interviews and a questionnaire, we invite children and young people to identify the issues they believe the Ombudsman for Children should address. In 2018, the topics which topped the list included a safe and loving family situation, good education and good care. Our respondents also expressed a need for reliable adults who acknowledge their existence and really listen to them. We intend to use all the stories, experiences and opinions we gathered to give children and young people a voice in our work. They will enable us to draw any problems to the attention of the parties responsible.

⁴³ Standpoint: *Nederlandse kinderen in Syrische kampen*

⁴⁴ *Brief aan de Minister van Economische Zaken*

⁴⁵ *Brief aan nieuwe gemeenteraadsleden*

With the help of the youth organizations which took part in the *Jongerenlobby* event in 2017, we produced an infographic⁴⁶ which shows what has to happen to increase the influence of children and young people in the House of Representatives. We also wrote to all new local councillors calling on them to involve children and young people in their work.

In the years ahead, we will intensify efforts to involve children and young people in the work of the Ombudsman for Children. We shall explore new ways in which to allow young people to offer their opinions online, and we shall continue to invite their input in every aspect of our activities in 2019.

2.7 Local and international cooperation

The Ombudsman for Children has colleagues at both local and international level. The cities of Amsterdam, The Hague and Rotterdam have their own ombudsman departments in which one or more designated staff are responsible for matters relating to children and children's rights. In 2018, as in preceding years, the Ombudsman for Children maintained close contact with local colleagues united within the LOKIOM consultation platform.

We also sought international cooperation. At the annual conference of the European Network of Ombudspersons for Children (ENOC) we took part in the discussions about child mental health, sharing best practices from the Netherlands with our fellow members. In a joint statement, the European ombudspersons called for all countries to adopt a national strategy addressing services for young people with psychiatric problems and to embed all children's rights, including that of informed consent, into national legislation.⁴⁷

The Ombudsman for Children further sought international cooperation with regard to the situation of children in Syrian camps. Our plea for action to rescue and relocate these children was endorsed by the children's rights commissioners of Belgium and the Ombudsmen for Children of the Basque Country, Catalonia, Cyprus, Ireland, Northern Ireland, Luxembourg and Poland.

The Caribbean Netherlands

The Ombudsman for Children works to uphold the rights of all young people in the Netherlands, including the children of Bonaire, Saba and Sint Eustatius. Like the National Ombudsman, the Ombudsman for Children is empowered to adjudicate in complaints about the three public bodies and any other public sector authorities which are active on the islands. The Ombudsman for Children is also mandated to oversee organizations which operate under private law, such as schools. In the first instance, a complaint should be submitted to the organization itself. If this is not possible, or if the organization fails to make a satisfactory response, complainants may approach the Ombudsman for Children directly.

If the Ombudsman for Children is to provide adequate support to the children of the Caribbean Netherlands, it is important that we know which organizations are active on the island and how their complaints procedures work. The channels of communication between the population of the islands and the Ombudsman for Children must be clear to all concerned.

⁴⁶ Infographic *Jongerenlobby*

⁴⁷ Press briefing ENOC Annual Conference

In January 2018, we therefore visited Bonaire to meet with government officials, professionals and children. In December, we returned to the region and held similar talks on Sint Eustatius and Saba. We are keen to ensure that everyone in the Caribbean Netherlands knows of our existence and how to contact us. Our efforts in this regard are closely linked to those of the National Ombudsman.

2.8 Our work in figures

The Ombudsman for Children can be contacted by phone, email or regular mail by anyone with questions about children's rights and the UN Convention on the Rights of the Child. We can also be contacted directly by those who believe that children's rights are being violated.

Contacts

In 2018, the Ombudsman for Children dealt with 1,998 questions, requests for assistance, complaints and 'signals'. This is somewhat fewer than the 2,452 received in 2017. As in preceding years, most enquiries related to youth welfare services, education and access following divorce or separation.

We received 567 reports or enquiries about youth welfare services in 2018, representing 28% of the total (2017: 32%). Most related to children being placed under supervision or taken into care. Children themselves were most likely to contact us about problems with their family guardian. Education is in second place with 447 reports (22%), compared to 24% in 2017. In many cases, the complaints concerned failure to arrange a suitable school place, although bullying at school was also a frequent source of dissatisfaction. Access and family relationships following divorce accounted for 285 reports (14%) compared to the 341 reports received in 2017. In some cases, the complaints were from parents who were dissatisfied with the access provisions ordered by the court, while in others they were from children who felt unfairly disadvantaged following an acrimonious divorce. Other areas accounting for a significant number of reports included immigration law (158) and poverty (85). In the former, many enquiries related to the government's 'amnesty' for undocumented aliens aged 18 and under who have been in the Netherlands for five years or more. With regard to poverty, the majority of enquiries and complaints related to custodial care orders.

Other matters on which we were contacted included healthcare provision, police and judicial procedures, bullying and discrimination, online safety, (social) media and childcare. Everyone is able to contact the Ombudsman for Children with queries or complaints: children, parents, grandparents, foster parents, siblings, professionals or concerned members of the public. As in the preceding year, the majority of reports and enquiries received in 2018 were from parents (1,120). There was however a slight percentage reduction, from 58% in 2017 to 56% in 2018. Professionals formed the second largest group (8%), followed by children themselves (7%). The Ombudsman for Children wishes to intensify contact with children and young people in the future. It is important that they know where to find us should they have any complaints or questions.

Over half of the people contacting us during the report year (1,103) did so by email. Somewhat fewer (878) made use of the free telephone helpline. A small number made contact by regular post or in person during one of our working visits.

3. THE WORK OF THE OMBUDSMAN FOR VETERANS

The Veterans Act came into force in June 2014, since when the National Ombudsman has also fulfilled the tasks and responsibilities of the Ombudsman for Veterans. In this role, we deal with complaints and queries from ex-service personnel and, further to the provisions of the Act, their relatives. In practice, the partners, parents, children and grandchildren of veterans regularly call upon our services. In addition, the Ombudsman for Veterans is expected to advise and inform government and parliament.

The Veterans Act establishes a number of basic principles:

- Responsibility for veterans. Because it is the government which decides to deploy troops on active service, it has a responsibility towards veterans and their dependants. Veterans who suffer physical or psychological injury while serving their country must be able to rely on good care, and that care must be available for as long as it is needed.
- Acknowledgement and appreciation for veterans. Those who serve in conflict zones or on peace-keeping missions deserve recognition for the risks they face when doing so. They deserve acknowledgement and the gratitude of Dutch society, since they performed their duties in the service of the Netherlands. The Veterans Act expressly states that government policy must promote the active acknowledgement and appreciation of veterans.
- Duty of care. The Veterans Act also includes provisions of a preventive nature, such as the requirement to provide adequate information about potential risks, health problems and care provisions prior to any deployment.
- The right of complaint. The Ombudsman for Veterans is an independent body which has no connection with the Ministry of Defence. We ensure that government organizations treat veterans correctly. We devote similar attention to semi-public organizations operating under private law which have dealings with veterans, such as health care providers.

The precise tasks and responsibilities of the Ombudsman for Veterans are established by Articles 7b, 11a, 11b and 11c of the Veterans Act 2014. The appointment of an official Ombudsman for Veterans ensures that veterans – a specific group within our society with a unique status – know precisely where to go with any complaint or query. Providing access to an independent Ombudsman for Veterans lowers the threshold for submitting a complaint. Placing the Ombudsman for Veterans within the National Ombudsman organization guarantees its independence and impartiality.

3.1 Veterans in the Netherlands

Since 2014, some 800 people have approached the Ombudsman for Veterans for assistance. Although veterans who served in the Second World War are now few in number, there are many thousands of veterans who took part in international peace-keeping missions or crisis control operations. Dutch armed forces served in Lebanon (1979–1985) and more recently in Bosnia, Kosovo, Iraq, Afghanistan and Mali. The number of men and women who make up this younger generation of veterans remains reasonably stable. There were estimated to be 111,700 Dutch veterans in 2017.⁴⁸ Article 1 (para. c) of the Veterans Act defines a veteran as “a member or former member of the armed forces of the Netherlands, whether voluntary or conscripted,

⁴⁸ Ministry of Defence, Policy Document on Veterans 2017–2018, p. 12

a member or former member of the Royal Dutch Indonesian Army, and all seagoing members of the merchant marine, who have served the Kingdom of the Netherlands under conditions of war, or who have taken part in a mission to preserve, enforce or promote the international rule of law, insofar as said mission was designated lawful by decree or directive of our Minister."

3.2 Complaints in 2018

In 2018, we received 208 requests for assistance from veterans or (dependent) relatives of veterans. In addition, the Ombudsman for Veterans collated fifty complaints received from the former overseas territory Netherlands New Guinea to form a single mediation dossier. As a result, the number of reports considered by the Ombudsman for Veterans in 2018 was in excess of 250, a significant increase compared to the 152 reports received in 2017.

Some complaints could be resolved by means of intervention or mediation. In 54 of the 208 new cases, all involving a complaint against a government department or organization, the Ombudsman for Veterans was able to resolve the matter by means of an intervention.

The Minister hears you!

Guus is 98 years old. He was a member of the Dutch resistance during the Second World War and was regularly exposed to the extreme noise of bombing raids. He suffered severe hearing impairment as a result. Fortunately, there is a special kind of hearing aid which can help, the cost of which is – or was – covered by social provisions. It is the Social Insurance Bank (SVB) which administers the various provisions for wartime veterans. In 2014, the SVB informed Guus and others in his position that it was no longer possible to claim back the costs of hearing aids. It advised them to contact their health insurers in future. Guus never received any letter to this effect and was therefore surprised when his application for new hearing aids was refused in 2017. Following an intervention by the Ombudsman for Veterans, and mediation by the ABP (Pension Fund for Public Sector Employees), the Minister of Defence agreed to pay the full costs of Guus' hearing aids from the public purse.

In 2018, the Ombudsman for Veterans forwarded fifty dossiers containing veterans' complaints to a government department or an organization with an official involvement in veterans' affairs, such as the Ministry of Defence and the Veterans Institute. In most cases, the Ombudsman also advised the complainant. In sixteen cases, the matter was subject to legal proceedings, which requires the Ombudsman to exercise greater caution. A further fifteen complaints were referred back to the internal complaints assessors of the organization concerned. It was felt that the organization should have the opportunity to review its decision before the Ombudsman for Veterans became formally involved, although we did continue to monitor the complaints procedure to ensure that the veterans concerned received prompt assistance. At year end, sixteen complaints dossiers remained open.

3.3 Investigations

Six full investigations were conducted in 2018. They resulted in reports and letters to the government officials responsible. These communications, which include the findings and recommendations of the Ombudsman for Veterans, are in the public domain and can be downloaded from our website.

Ongoing healthcare for a veteran wishing to emigrate

A veteran in receipt of Military Invalidity Pension (MIP) wishes to emigrate to Germany. However, he discovers that only individuals who receive certain types of pension or social benefit retain their automatic entitlement to free healthcare when no longer resident in the Netherlands. The list of 'approved' pensions does not include the MIP. The veteran must therefore arrange his own health insurance. This is beyond his means and he therefore abandons the idea of moving to Germany.

The Ombudsman for Veterans concluded that there is an undesirable grey area in the legislation. In February 2018, he therefore wrote to the Ministry of Health and Welfare requesting an amendment to the Netherlands' implementation of European regulations (specifically Regulation (EC) 883/2004 on the coordination of social security systems) and the addition of the MIP to the list of 'exportable' pensions and benefits. The Minister announced his intention of doing so.

Long waiting times create uncertainty for vulnerable veterans

A veteran served on several missions to Afghanistan where he saw many comrades injured. As a result, he developed serious psychological problems which eventually led to a period of excessive alcohol and drugs use, aggressive behaviour, divorce and the forced sale of his home, leaving him in substantial debt. This man complained to the Ombudsman for Veterans because he had been required to attend at least five medicals to assess eligibility for Military Invalidity Pension between December 2007 and March 2016. Even after nine years, he had not been told of his medical status and prognosis. Both the assessments themselves and the uncertainty about his (financial) situation caused him considerable further stress.

This case was taken up by the Ombudsman for Veterans and the extreme delay in processing this man's pension application was investigated by the Military Health Care Inspectorate. Their joint findings prompted the Minister of Defence to ensure that the veteran was finally given a clear answer. He was then able to begin rebuilding his life.

Duty of care after duty abroad

In 2013, a member of the Koninklijke Marechaussee (Royal Netherlands Military Constabulary) was assigned to protect a government minister during visits to refugee camps in Lebanon and Jordan. On his return to the Netherlands, the man fell ill. He had picked up some infection while on duty abroad. The illness proved to be chronic: he showed little sign of recovery and was invalided out of the service. This veteran submitted a complaint to the Ombudsman for Veterans, contending that the Marechaussee had sent him on an overseas posting unprepared, had failed to provide adequate support and assistance on his return to the Netherlands, and had terminated his employment unfairly.

With regard to the first part of the complaint, the Ombudsman for Veterans concluded that a risk inventory and evaluation should have been performed prior to the posting. It had not. Moreover, the Ministry of Defence (as the complainant's employer) was unable to show that it had provided adequate information or briefing beforehand. Accordingly, we found that the Minister had failed to discharge his duty of care. With regard to the second part of the complaint, the Ombudsman for Veterans found that the Koninklijke Marechaussee had indeed done too little to assist in the procedural and administrative processing of what was, at this time, essentially a 'workplace accident'. We reached this conclusion because the

veteran himself had been expected to complete and sign the official accident report. It was not clear whether the case manager had done anything to assist. We were able to find no evidence that the employer had provided any form of support to aid the veteran's recovery or reintegration, whereupon the minister may once again be deemed to have failed in his duty of care. In May 2018, the Ombudsman for Veterans called upon the Minister of Defence to provide the acknowledgement and appreciation necessary to restore this man's trust and confidence in the Ministry of Defence.

Review of complaints assessment by the Ministry of Defence

In December 2016, the Ombudsman for Veterans performed an initial evaluation of the complaints assessment procedures of the Ministry of Defence. The Ombudsman was aware that some veterans had waited a very long time for a response to their complaints. Indeed, we had already handled a number of complaints to this effect. It was now clear that delays were not isolated incidents; they had become routine. Veterans' complaints are often complex in nature. Many relate to a lack of aftercare or shortcomings in the reintegration process. It was clear that many such complaints were not dealt with adequately by the Ministry of Defence. Letters of complaint went unanswered or were treated as regular correspondence rather than being entered into the formal complaints assessment procedure. In many cases, the ministry's response failed to address the essence of the complaint. Assessment often took far too long, complaints were not properly recorded. The Ombudsman for Veterans therefore concluded that the complaints assessment procedure in its current form was not fit for purpose. We made several recommendations to the Minister of Defence.

In 2017, various media reports suggested that the ministry was not taking allegations of inappropriate behaviour by military personnel seriously enough. There had been complaints from new recruits who claimed to have been physically abused during 'initiation ceremonies', for example. The Ombudsman for Veterans contacted the Ministry as a matter of urgency, calling for a thorough and transparent approach to all complaints, and for the victims of integrity violations to be treated with sensitivity.

In its 2018 report *Terugblik*⁴⁹ ('Review'), the Ombudsman for Veterans examines whether the recommendations we made in 2016 have been implemented. We also examine whether the new Ministry of Defence Complaints Procedure, a consolidation of various internal procedures that was rolled out in late 2016, has proven effective. Our report stresses that professional complaints assessment goes beyond merely following the letter of the Complaints Procedure. The actions, steps and responsibilities may have been defined, but this alone does not guarantee effective professional complaints assessment. There are further requirements, such as treating complaints and complainants in an open and positive manner. This is very important. The complaints assessor must not act solely in the interests of his or her own organization, but must also bear in mind the interests of the complainant. All too often, complaints are viewed from one perspective, that of the organization, and subjected to a formal 'by the book' approach. In many cases, it is also taking far too long for the complaint to be considered at all. There is still no mechanism whereby veterans can make a verbal complaint, either in person or by telephone. Everything has to be done in writing.

⁴⁹ Report NO2018/033 *Terugblik op de klachtbehandeling door Defensie*

In July 2018, we discussed the contents of the *Terugblik* report with the Minister and State Secretary of Defence. The Ombudsman for Veterans has undertaken to organize a number of workshops on professional complaints assessment for ministry staff. We shall continue to monitor the ministry's performance.

Reintegration of sick and injured service personnel

The Ministry of Defence provides support to seriously injured veterans in the form of intensive rehabilitation and training programmes. These reintegration programmes are often more than two years in duration, whereupon the Ministry of Defence is required to continue paying (a larger proportion of) the veteran's salary. The usual entitlement to invalidity benefit is reduced by the Employee Insurance Administration Agency (UWV) because the ministry is deemed to have not done enough to promote the veteran's reintegration.

In recent years, both the National Ombudsman and the Ombudsman for Veterans have received multiple complaints about an apparent lack of concern for service personnel and veterans who are unable to work due to illness or injury. They often feel that they have been abandoned and left to their own devices. This has a major impact on their personal lives. In April 2018, the ombudsman therefore launched its own investigation. In addition to meetings with both the Ministry of Defence and UWV, we organized a round table discussion attended by senior government officials and experts. Our research concludes that the main problems within the Ministry of Defence's reintegration chain are caused by incomplete information and expertise, the late transfer of tasks and responsibilities, and poor registration procedures.

Overall, the Ombudsman for Veterans takes a positive view of the improvement measures recently announced by the ministry, the implementation of which will enhance knowledge, increase support and improve the coordination of the reintegration chain. It falls to the ministry to ensure that they are indeed implemented in an effective manner. The Ombudsman for Veterans has also urged the Ministry of Defence to examine opportunities provided by current legislation, notably the Veterans Act in combination with the *Wet Poortwachter* (Eligibility for Permanent Invalidity Benefit (Restrictions) Act) to improve the reintegration process in a way that takes the personal circumstances of veterans fully into account.

In early 2019, the Ombudsman for Veterans asked the Minister of Defence for a progress report. An evaluation will be made in 2020 to determine whether there has indeed been an actual improvement in knowledge, support and coordination.

'Stolen' pensions

In 2018, fifty veterans who had served with the Royal Netherlands Navy submitted a complaint to the Ombudsman for Veterans. They had spent at least part of their service in the former Netherlands New Guinea. They were later informed that this period did not count towards their pension entitlement, which they considered to be an injustice.

Where's my pension?

Gerard joined the Navy in 1956 and remained until 1962. Between August 1958 and November 1959 he served in Netherlands New Guinea, which at the time was an overseas territory of the Kingdom of the Netherlands. He believed that this fifteen-month period would count double towards his pension, and it is due to this posting that he qualifies for veteran status. When he reached pensionable age, Gerard received a letter from the ABP (Pension Fund for Public Sector Employees), which administers pensions on behalf of the Ministry of Defence. He was not entitled to a Navy pension, it informed him bluntly. And he was not the only one, he discovered.

Some fifty other Navy veterans were in the same boat.

They were not pleased with the message, and neither were they impressed by the impersonal way in which it had been presented. Gerard contacted the Ombudsman for Veterans.

There is legislation which establishes how military pensions are calculated: the *Algemene Militaire Pensioenwet*, which came into force on 6 October 1966. Essentially, one qualifies for a pension having served a minimum of five years, and any service prior to reaching the age of eighteen is disregarded. The complainants in this case all joined the Navy at the age of sixteen. The Ombudsman for Veterans understands why they are dissatisfied. They feel that their service is not appreciated, which inevitably causes some bitterness. At the time, they were not told if and how they would qualify for any pension. Years later, they receive a curt letter of rejection. We organized a meeting between the complainants and Ministry of Defence officials to clear the air and examine whether anything could be done. There was nothing that the Ombudsman for Veterans could do to change the situation. The Minister of Defence is also bound by the law. Nevertheless, the meeting resulted in a courteous and understanding letter from the minister, who expressed her respect for the veterans and took the trouble to explain their pension situation in detail. As a token of appreciation, the veterans and their partners were invited to a formal dinner.

3.4 Results of past cases

The Ombudsman for Veterans expects the contents of our reports to be taken seriously and our recommendations to be implemented wherever possible. In 2018, we were gratified to note improvements had been made in several areas as a direct result of our investigations and interventions.

Recovery of wartime aircraft

In 2016, the Ombudsman for Veterans contacted the Minister of the Interior and Kingdom Relations to express concern about the inconsistent manner in which requests to recover the wreckage of Second World War aircraft were being handled. In practice, it is the local authority ('municipality') which decides whether and how wreckage within its boundaries is to be recovered. Many of the applications for recovery are made by relatives of the aircrew who were killed when the plane was brought down. Some requests will be granted and others will not, depending on the local authority concerned. This creates uncertainty.

It was suggested to the Ombudsman for Veterans that national coordination of policy was desirable. We had received a complaint from the Short Stirling W7630 Recovery Foundation, which was dissatisfied because the Municipality of Echt-Susteren had refused permission for the recovery of this wartime bomber, thought to contain the remains of some of its British aircrew. The Foundation's dissatisfaction was shared by direct descendants of the personnel posted as 'missing in action' when the plane crashed in September 1942.

The Royal Netherlands Air Force, in the person of the Staff Officer for Aircraft Recovery, advised that the wreckage should be recovered. According to the municipality, however, there was no danger of explosion and therefore no need to disturb the site. In July 2018, the Minister of the Interior announced that thirty wartime aircraft are to be excavated over the coming ten years. This decision is in keeping with the recommendation of the Ombudsman for Veterans. In September 2018, the Municipality of Echt-Susteren announced that it would authorize the recovery of Short Stirling W7630 after all.

The position of ex-partners

Veterans who suffer physical or psychological injury while on active service are entitled to a number of provisions, as established by the Veterans Act 2014. This legislation formalizes the acknowledgement and care for veterans and their dependent relatives. However, ex-partners do not fall within the definition of 'dependent'. A number of ex-partners approached the Ombudsman for Veterans because they felt that the law did not do justice to the support and care they had given to their veteran partners in the past, often under extremely difficult circumstances. Following the break-up of their relationship, some ex-partners had been left in serious debt or with health complaints of their own. These problems had been caused by the serious (often psychological) complaints of the veterans. They informed us that many other ex-partners are in the same situation and suggested that the Ministry of Defence had a responsibility to provide help.

The Ombudsman for Veterans launched an investigation to gauge the extent of the problem and identify possible solutions. We found a small number of individual cases in which the Ministry of Defence had indeed provided assistance but there was no formal or consistent policy. As a result of our investigation and recommendations, all relevant organizations agreed that the ministry should be alert to at least the more serious cases. In addition, the registration of support applications by ex-partners should be improved to ensure that the extent of the problem remains visible. The Ombudsman for Veterans stressed that each case is unique and requires a tailor-made response. This point was reiterated by the Minister of Defence in June 2018 during the parliamentary debate of the Policy Document on Veterans.

Discharged for drugs use

In recent years, the Ombudsman for Veterans has received several reports of young veterans who experience psychological problems following active service and turn to recreational drugs as an 'escape'. Some of those discharged from the service for drugs use were known to the Military Mental Health Service at the time. In 2016, the Ombudsman for Veterans emphasized that drugs use does constitute reasonable grounds for dismissal. However, the personal circumstances of veterans should be taken into consideration. Those who are found to be using recreational drugs should not automatically be given a 'dishonourable' discharge.

In response, the Ministry of Defence states that traumatic experiences during a mission may be a reason to deviate from its standard zero-tolerance policy. It will examine whether the person in question would benefit from treatment, the facilities and provisions he or she can be offered, and whether there is just cause to alter the usual grounds for dismissal.

In December 2018, the Ministry of Defence announced that the standard policy of automatic discharge for drugs use would be reviewed in 2019. The Ombudsman for Veterans will continue to follow developments.

Dishonourable discharge?

Rick joined the armed forces in 2006 and served two tours of duty in Afghanistan. In 2012, he was given a dishonourable discharge for possession of soft drugs. He contends that his use of drugs at that time was due to psychological problems: he was suffering from Post-Traumatic Stress Disorder triggered by his experiences in combat. He finds the designation 'dishonourable' impossible to live with. It is standing in the way of his recovery. In 2018, the Ombudsman for Veterans requested the Ministry of Defence to review Rick's case. As a result, the records were amended and the word 'dishonourable' expunged.

“Once an outlaw, always an outlaw”

The Veterans MC bikers' club has been classified by the Ministry of Justice and Security as an 'Outlaw Motorcycle Gang' (OMG). It is therefore a proscribed organization and will remain so: there is no mechanism for any periodic review of this status. In the 2017 report *Eens een outlaw, altijd een outlaw* ('Once an outlaw, always an outlaw'), the Ombudsman for Veterans suggests that the Minister had had not taken adequate account of the impact that the OMG policy can have. It was recommended that a periodic review should be conducted.

In March 2018, the Minister of Justice and Security issued a response to this recommendation, announcing that recent information had prompted a reassessment of the Veterans MC case. Because the recommendation had been implemented, the Ombudsman for Veterans closed the dossier.

3.5 Who seeks the help of the Ombudsman for Veterans ?

To gain a better understanding of the groups who call upon the assistance of the Ombudsman for Veterans, we register a number of characteristics of each complaint or enquiry. They include the mission(s) in which the veteran took part, the branch of the services in which he or she served, and age group.

The largest group of veterans who contacted the Ombudsman for Veterans in 2018 comprised those who had served in the former Yugoslavia (46), with veterans of the Afghanistan missions in second place (32). The increase in enquiries from Afghanistan veterans is notable: there were only 11 in 2017. There was a decrease in complaints from those who had served in the Netherlands (East) Indies, partly due to the introduction of the 'Backpay' pension compensation scheme. Given the age of veterans who served in the Second World War and pre-independence Indonesia, it is likely that the number of complaints from these groups will continue to decline in the years ahead.

The vast majority of veterans (108) who sought the assistance of the Ombudsman for Veterans in 2018 had served with the Royal Netherlands Army. This was also the case in 2017 and 2016. It is a logical consequence of the land forces' prominent role in the Dutch missions to Lebanon, the former Yugoslavia and Afghanistan.

Not all dossiers record the complainant's age. However, 115 dossiers do include this information whereupon we see that the largest group represented is that of veterans aged 41 to 60, of whom there were 54.

3.6 Nature of complaints

Some complaints include multiple elements, and some relate to more than one government organization. The dossiers for 2018 include a total of 279 'complaint elements' (2017: 181). Our analysis of the nature of complaints is based on the following categories:

- Income provisions (e.g. pensions)
- Healthcare provisions
- Recognition

- Aftercare
- Debt/financial problems
- Processing delays / waiting times
- Other.

The majority of complaints (80) related to income provisions (2017: 60). This is comparable to the level in previous years. There was a marked increase in the number of veterans (or relatives) who complained about lack of recognition (60, compared to 37 in 2017) and aftercare (42, compared to 21 in 2017). The number of complaints relating to debt or financial problems remained stable (11).

Organizations

The majority of complaints received, 138 of the total of 208, concerned the Ministry of Defence or the ABP (Pension Fund for Public Sector Employees) as the administrative agency responsible for the payment of Military Invalidity Pension and other provisions for service personnel. Other organizations against which complaints were made included local authorities (3), social benefits agencies (16) and other government ministries (6). Some complaints (31) concerned an organization which operates under private law but has some specific responsibility towards veterans, such as the Veterans Institute (16) and *De Basis*, a foundation providing mental health care services for uniformed personnel (7).

3.7 International cooperation

The Ombudsman for Veterans is a member of the International Conference of Ombuds Institutions for the Armed Forces (ICOAF), a worldwide network founded in 2009 by the Centre for the Democratic Control of Armed Forces (DCAF) in Geneva. The aim of the ICOAF is to establish best practices relating the mandate, powers and functioning of these institutions. Its members represent some ninety organizations in over forty countries, including national ombudsmen, defence ombudsmen, inspectors general, parliamentary commissions, national human rights committees and representatives of the EU, NATO, OSCE and the UN.

The National Ombudsman/Ombudsman for Veterans has made an active contribution to all ICOAF annual conferences since 2013. In 2016, the Ombudsman for Veterans co-hosted the 8th conference, held in Amsterdam, alongside the Ministry of Defence and DCAF. In 2018, the Ombudsman for Veterans, Reinier van Zutphen, was among the keynote speakers at the 10th ICOAF conference in Johannesburg. He called for greater cooperation and coordination, and for more (joint) visits to international troops on active service, whether in conflict zones, managing migration flows or helping in disaster relief. Prior to the 2019 conference, to be held in Sarajevo, the Ombudsman for Veterans wishes to meet with the Minister for Foreign Affairs to discuss the Netherlands' contribution.

In November 2018, the Ombudsman for Veterans and his German counterpart, *Wehrbeauftragter* Dr Hans-Peter Bartels, addressed the European Parliament in Brussels at the invitation of the Subcommittee on Security and Defence. They were asked to share their experiences and insights with regard to safeguarding the rights of military personnel on active service.

3.8 Forthcoming activities

Follow-up review of Ministry of Defence complaints assessment

In December 2016, the Ombudsman for Veterans made a number of recommendations regarding professional complaints assessment within the Ministry of Defence. In 2018, we produced a report examining the implementation of those recommendations. The Ombudsman for

Veterans has undertaken to provide support and training for ministry staff. In 2019, the Ombudsman for Veterans will develop a monitoring instrument with which complaints assessment procedures can be assessed on a regular basis.

Military Invalidity Pension

In 2018, the Ombudsman for Veterans wrote to the Minister of Defence expressing concern about unacceptably long delays in assessing applications for Military Invalidity Pension (MIP). In her response, the minister noted a shortage of qualified medical personnel. However, the Ombudsman for Veterans believes that the problems run deeper than this. There are several cases in which former service personnel have faced waiting times of several months between submitting an initial application and receiving an invitation to attend an interview. Any citizen applying for some statutory income provision must be informed whether their application has been successful *within a reasonable period*. Many of the veterans who apply for MIP have psychological problems. They form a particularly vulnerable group and it is essential that their claims are processed promptly. The Veterans Act establishes a special duty of care towards those who have suffered physical or psychological injury resulting from their service to the Netherlands. They must enjoy full access to provisions and complete legal security. In the opinion of the Ombudsman for Veterans, staffing problems within the ABP or its medical services provider are not an excuse for allowing veterans' applications to gather dust.

In view of the urgency of this matter, in January 2019 the Ombudsman for Veterans once again urged the Minister of Defence to seek a solution which will answer the care needs of the veterans concerned as quickly as possible. During the first quarter of 2019, the Ombudsman for Veterans will begin a general examination of the ongoing issues.

More legal procedures

In 2011, the National Ombudsman was instrumental in the creation of the *Ereschuld* provision. This is a one-off discretionary payment to veterans who have suffered physical or psychological injury as the result of their service in a conflict situation or participation in a crisis management operation. The name translates into English as 'debt of honour'. The expectation was that a generic provision of this nature would help to reduce the number of compensation claims pursued through the courts.

This has not been the case. Despite the *Ereschuld* provision and implementing legislation to allow the payment of full compensation, the number of legal procedures has actually increased. This trend runs contrary to the Minister van Defence's wish to avoid a litigious 'compensation culture'.

Lengthy procedures with successive appeals rarely solve the underlying conflict. In 2016, the Ministry of Defence took measures to expedite the handling of claims, making more staff and resources available. Whether this is having any effect in terms of the number of claims brought to court remains unclear. The Ombudsman for Veterans will continue to follow developments in 2019.

Permanent funding for veterans' centres

There are over twenty 'drop-in' centres for veterans and their relatives throughout the Netherlands, including one on the island of Curacao. They have a social function, allowing veterans to meet others with similar experiences. They provide occupational therapy, can refer users to other sources of assistance, and they support local communities in activities such as remembrance parades and school projects. Funding arrangements vary from one centre to another but generally rely on local grants and public donations.

In many cases, the centres are barely able to cover their operating

expenses. There is no opportunity to plan for the future, which inevitably creates uncertainty. The Ombudsman for Veterans has therefore called upon the government to provide a secure, guaranteed source of funding. This will not only ensure the continuity of the veterans' centres but will save money in other areas such as social care. In June 2018, a parliamentary motion was tabled (by members Hanke Bruins Slot and John Kerstens) in support of the Ombudsman for Veterans' proposal. We shall actively monitor developments in 2019.

4. OUR PEOPLE

The National Ombudsman, Ombudsman for Children and Ombudsman for Veterans attach great importance to the ongoing development of all staff, who should maintain the closest possible contact with the public and government organizations. Only then can complaints be dealt with in a professional manner and can we help the government to learn from our findings.

This chapter is concerned with human resources: how many people work for the National Ombudsman organization and what are their key characteristics? How does the National Ombudsman approach matters such as personal development and absenteeism? We also describe our efforts to remain in contact with other relevant organizations. The chapter includes a summary of the external appointments held by the three senior office-holders, and concludes by examining the complaints we received about our own performance.

Workforce

In 2018, the National Ombudsman, Ombudsman for Children and Ombudsman for Veterans were supported by 168 staff (151 FTE).

Gender and age diversity

The National Ombudsman organization has traditionally employed a relatively high percentage of female staff. In 2018, the gender split was 70.2% female to 29.8 male. The age profile is as follows:

	20-24	25-34	35-44	45-54	55-59	60+
2017	4	24	39	54	21	16
2018	4	26	43	56	18	21

A large proportion of the National Ombudsman's personnel are educated to degree level or equivalent, which is reflected in the salary structure shown below. The largest group is that of staff in Scale 11 (Researcher).

		5	6	7	8	9	10	11	12	13	14	15	16	17
2017	Female	11	0	1	12	1	10	51	12	8	4	0	0	0
	Male	4	0	0	3	0	6	22	3	8	1	0	0	1
2018	Female	3	7	1	10	5	9	49	20	8	5	0	1	0
	Male	0	4	0	3	0	7	20	6	6	3	0	0	1

Internships

Nine students completed an internship with the National Ombudsman organization in 2018. Most were studying law at university or a university of applied sciences.

Professional development

The National Ombudsman provides opportunities for personal and professional development. A number of training courses are available. In 2018, internal staff training devoted attention to matters such as the new data protection legislation (GDPR), professional complaints assessment (workshops organized by staff for their colleagues), conflict management, mental resilience and general effectiveness. Several employees took part in external training courses.

Health and vitality

In 2018, absenteeism through illness (sick leave) was 6.5%. This represents a significant increase compared to the 3.7% recorded in 2017. This is largely due to an increase in long-term leave (longer than six weeks) for reasons that are not work-related.

Vitality remains extremely important to the National Ombudsman. We wish to have healthy, vital employees who are able to work safely at all times. A formal Health & Safety policy is therefore in place. We also organize workshops for management on topics related to health and safety. All staff enjoy the opportunity to take part in various exercise activities, either during the lunch break or after office hours.

Staff in the field

Every day, we receive complaints about the performance of various government organizations. It is important that staff are familiar with these organizations, what they do and how they work. It is also important for the staff who handle complaints to be aware of the citizen's perspective and frame of reference.

For these reasons:

- Staff conduct regular working visits to a wide range of government and societal organizations. They provide workshops, lectures and courses on citizenship and the public's relationship with government to various groups, including educational institutes and public sector organizations.
- Staff are seconded to other organizations, often at their own request. In 2018, a number of National Ombudsman spent time with external organizations.
- Conversely, staff from other organizations are frequently seconded to the National Ombudsman. This is a valuable learning experience for both parties.

External appointments

The three senior office-holders have declared a number of external interests and appointments. This list reflects the situation at 31 December 2018. All current appointments and interests are also published on the website.

National Ombudsman/Ombudsman for Veterans: Reinier van Zutphen

- Lecturer, Studiecentrum Rechtspleging (since 1 April 2005; paid position: fee per course).
- Ambassador, Foundation for Refugee Students UAF (since 1 November 2013, unpaid).
- Chair (formerly member) Supervisory Board, Juridisch Loket (since 5 July 2012, paid position).
- Chair (formerly member) Supervisory Board and key expert, Center for International Legal Cooperation (since 20 December 2013; chairmanship unpaid, participation in missions paid at daily rate plus expenses).
- Committee member, Kirchheiner Foundation for Ombudsman and Democracy, Leiden University (since 1 April 2015, unpaid).
- Member, Advisory Board, Netherlands Institute for Human Rights (since 1 April 2015, unpaid).
- President, Vereniging voor Klachtrecht (since 13 April 2016, unpaid).
- Committee member, International Ombudsman Institute, European region (since 8 September 2016, unpaid).

- Member, Advisory Committee for a book about the student resistance in Rotterdam (temporary, unpaid)
- Chair, Supervisory Board, Stichting Advisering Bestuursrechtspreek (StAB), The Hague (since 2 October 2017, unpaid with expenses allowance)
- Member, Advisory Board of Gak Institute (since 1 July 2018, paid position)

Deputy Ombudsman: Joyce Sylvester

- Chair, Courts Inspection Commission 2018 (since 17 July 2018, paid position).
- Member, Supervisory Board of VSB Asset Management (since 1 January 2018, paid position).
- Chair of Trustees, Giro 555, SHO (since 21 May 2015, unpaid).
- Chair, Supervisory Board PCOU/St. Willibrord Utrecht (since 1 August 2018, paid position).
- Ambassador, d'ONS Foundation (since 2006, unpaid).

Ombudsman for Children: Margrite Kalverboer

- Associate Professor of Child Orthopedagogics, Children's Rights and Aliens' Rights, Faculty of Behavioural and Social Sciences, University of Groningen (unpaid).

Complaints about the National Ombudsman

The staff of the National Ombudsman do everything possible to help citizens who experience difficulties in their dealings with government organizations. Nevertheless, there are occasions on which people are dissatisfied with the service provided. In 2018, the National Ombudsman received 131 complaints about the organization's own performance.

Of these, 43 complaints related to a decision or opinion. They were therefore not concerned with the way in which a member of staff had acted, but with the outcome of the process. This type of complaint is treated as a 'request for review'.

There were 51 complaints which could be dealt with informally, usually by the line manager of the staff member concerned, who then contacted the complainant to make appropriate agreements. In 37 cases, the National Ombudsman opted to issue a formal written ruling. Slightly less than a third – 12 complaints – were deemed founded. In most cases, they were made by citizens who believed that their original complaint had taken too long to process; they had expected an answer from us sooner. In future, staff will ensure that complainants receive ongoing information about progress. It is possible that a case takes longer than originally planned; it is important that the complainant is informed accordingly.

A number of complaints alleged that staff had promised to phone the complainant at a certain time but failed to do so. This point has been drawn to the attention of all caseworkers. One complaint concerned a letter that had been sent to the complainant's former address, even though we had been notified of a change of address. This complaint was deemed to be founded, and prompted a general request to ensure that changes of address are entered into the system immediately upon receipt.

Mandate

The National Ombudsman, Ombudsman for Children and Ombudsman for Veterans each has his or her specific tasks, responsibilities and authorities, as established by the National Ombudsman Statute of Mandate, published in the *Staatscourant* (Government Gazette) of 30 April 2015, no. 11988.⁵⁰

⁵⁰ Staatscourant 2015, 11998 *Mandaat klachtbehandelaars inzake afdoeningen en onderzoekhandelingen (Mandaatregeling Nationale ombudsman 2015)*



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