



2008/2009

Report of The Ombudsmen

Nga Kaitiaki Mana Tangata

for the year ended 30 June 2009



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Mr Speaker

We submit to you our report for the year 1 July 2008 to 30 June 2009.



Beverley Wakem
Chief Ombudsman



David McGee
Ombudsman

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Introduction

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- Outcomes sought by the Ombudsmen
- Developments in the reporting year
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Introduction

The modern Ombudsman concept was founded in Sweden in 1809. In June this year, in Stockholm, Ombudsmen gathered from around the world to celebrate the 200th anniversary. This was an opportune occasion to reflect on how the role has developed among the member countries of the International Ombudsman Institute. For many, over and above the traditional role of investigating maladministration, there is an increasing emphasis on human rights and the prevention of corruption. Some, like New Zealand, are also responsible for administering or developing freedom of information regimes.

There is still debate in many countries about how Ombudsmen fit into administrative justice systems and how their functions relate to those of administrative courts and tribunals.¹ But overall the role is clearly one of addressing citizens' complaints about public sector administration, and looking more widely at systemic issues which militate against good administrative practice. It is also one of promoting transparency and ensuring that citizens have adequate access to information. This allows citizens to participate more effectively in the democratic process, and encourages government agencies to be proactive in making information available which will assist citizens to do just that.

As the first English speaking country to embrace the Ombudsman concept and because of its 27 years experience operating the Official Information Act, New Zealand provides a model and practical experience which others look to in establishing their own systems.

Whilst the New Zealand Office of the Ombudsmen has maintained its position in terms of case management, investigative methodology and overall professional competence, we have this year embarked on a programme of renewal. Our aim is to strengthen professional practice, to model good administrative practice, to assist government agencies to improve their complaints handling practices and to improve their knowledge and application of the Ombudsmen Act and of the Official Information Act, in particular.

We went back to first principles to review our mission and what we needed to do to remain relevant to all our stakeholders. The results of that process form the basis of this report, and are consistent with our purpose and the outcomes we are trying to achieve.

Purpose of the Ombudsmen

Ombudsmen are independent Officers of Parliament appointed by the Governor General on the recommendation of the House of Representatives. Their purpose is to provide Parliament and the New Zealand public with an impartial, independent check that the New Zealand government's administrative practice, and its exercise of decision making at local, regional and central level is robust, fair, transparent and accountable. They also have responsibilities under the official information legislation to assist and encourage the public to participate in the making and administration of policy and laws.

¹ Drewry, G 2009, "Ombudsmen and Administrative Law – Bright Stars in a Parallel Universe?", *Asia Pacific Law Review*, vol. 17 no. 1.

The Ombudsmen's key functions are to:

- investigate and form opinions on the merits of the administrative acts and decisions of government agencies at central, regional and local levels, either as a result of complaints about them received from the public or on the Ombudsmen's own motion under the Ombudsmen Act 1975;
- investigate and review, form opinions, report and where appropriate make recommendations on decisions relating to official information requested under the Official Information Act 1982 and the Local Government Official Information and Meetings Act 1987;
- provide guidance and information to employees who have made, or are considering making, a protected disclosure pursuant to the Protected Disclosures Act 2000 and to fulfil the requirements of an "appropriate authority" pursuant to that Act; and
- examine the conditions of detention and the treatment of detainees, make recommendations and report on the exercise of their functions as a National Preventive Mechanism under the Crimes of Torture Act 1989.

Outcomes sought by the Ombudsmen

The outcomes sought are:

- enhanced public confidence in a responsive and fair public sector, where ministers and public authorities can be held to account for their actions or omissions;
- improved public services and informed public policy;
- a culture of openness in New Zealand public authorities that improves public confidence in them and enables appropriate participation in policy making and administration;
- public awareness that people who have concerns about maladministration can turn to the Ombudsmen for advice or action on their concerns; and
- that persons detained against their will in places for which the Ombudsmen are designated the National Preventive Mechanism are not subjected to conditions or treatment that would breach the Crimes of Torture Act 1989.

Developments in the reporting year

Organisational restructure

In order to fulfil our legislative mandate and to manage our work programme more efficiently and effectively, we have reorganised the Office into targeted teams (see p 12).

An advisory group has been established to support the Ombudsmen and Deputy Ombudsman. This will strengthen consistency in Ombudsmen decisions, uniformity of professional practice, and provide a more rigorous quality assurance over the Office output. It will also assist in our goal to widen our focus from individual complaints to a closer analysis of systemic administrative failings of which the complaints may be symptomatic.

The Ombudsmen will also consider greater use of their "own motion" powers. As the report notes, we have embarked on a number of these within the prisons jurisdiction (see p 13). This type of in-depth investigation will also be appropriate for other areas of our work.

The corporate support group within the Office has been of minimal size for many years. Only two staff had been engaged on core human resources, finance, administration, information

technology and information management functions. The rest of the corporate staff provided word processing, secretarial, record keeping type services and part time library services.

Our review of the Office structure identified a clear need to strengthen core corporate support capability. We have since appointed a part time Accountant to assist with financial management and reporting, and a full time Information Manager to assist with developing internal information systems and processes that support the ability of investigations staff to progress complaints and requests for review in a professional and timely manner. The Information Manager is also responsible for ensuring best practice in record keeping and information retrieval within the Office. This will also assist the Office to achieve compliance with the requirements of the Public Records Act.

Redevelopment of Case Management System

We have redeveloped our Case Management System to highlight systemic issues more effectively. It will assist in managing workflow within the office to redeploy resources to areas of need or special focus. It will also allow us to measure where work pressure builds and what amount of work is required to achieve particular outcomes. It has been obvious for some time that a substantial amount of work is being done which, because it does not always translate to a case being opened, or reopened, has not previously been recorded and recognised. This has highlighted the need for more staff.

In a difficult economic climate where agencies are being forced to review staffing and service levels, a corollary is a rise in the number of complaints this Office is receiving. Based on past experience the office expects between 800 and 900 open complaints under investigation at any time. At the end of the reporting period we had 1,330 open complaints, which has placed considerable pressure on our limited resources. The Office, like every other organisation, must manage resources prudently and, this year, we have endeavoured to manage this workload within existing resources.

Review of operational approach

Work has also begun on refining performance standards for staff to meet targets for case management and to highlight training and development needs.

Delegations have been reviewed and extended, where appropriate, to promote more efficient decision making processes.

This report focuses on the practical outcomes of working in this new configuration and on cases which highlight where the Office has been able to make a difference for both complainant and agency.

The Ombudsmen have also begun identifying situations where the publication of principles to guide future action in similar circumstances will be helpful to complainants and agencies. Two examples in the past year relate to requests for information about event funding by local authorities and lists compiled by local authorities of land that may have been affected by hazardous activities and industries (see p 27).

In both our Ombudsmen Act and official information jurisdictions, we have identified a need for agencies to think about how they could structure their policy and decision making processes in a way that allows more proactive disclosure of information about processes and decisions. In complex processes where the public interest in accountability and participation will inevitably require some degree of disclosure, agencies should think about when and to what extent information should be disclosed to give effect to those considerations. The

benefit to agencies of proactively releasing information as they proceed is that it reduces the administrative burden and transaction costs of reacting to individual requests for information or explanation about particular processes and decisions. It also promotes greater efficiency and helps avoid wasteful administrative duplication. Early disclosure of adequate information about policies and decision making processes can also assist agencies by promoting intelligent engagement on relevant issues in an orderly and constructive way.

In summary, the Office restructuring has resulted in improved systems and processes and an emphasis on professional practice and professional development. Already much has been achieved.

International

As the report highlights (see pp 39 to 41) this is an area where the involvement of the Office has increased. In addition, the Chief Ombudsman has succeeded Bruce Barbour, New South Wales Ombudsman, as Regional Vice President for the Australasian and Pacific Region of the International Ombudsman Institute. Together with her membership of the Pacific Ombudsman Alliance Board, this constitutes a significant input into the maintenance of professional practice, training and development of Ombudsman offices in the region.

Update on issues raised last year

In the 2007/08 annual report we drew attention to a number of issues which were of concern. Among these were:

- Delays in responding to Official Information Act requests. In response to our change in process for investigating delay complaints, we note that Ministers and agencies are working to improve their performance in responding within the statutory time frames, (see p 23).
- Boards of Trustees - suspensions and exclusions. The Education sector remains an area of high priority for our office. We remain concerned about the plight of teachers and pupils in situations where children with special needs are not adequately supported in the classroom. We will keep monitoring this. We continue to receive complaints on student discipline and bullying (see pp 17 to 18). We have established a regular meeting with the President of the New Zealand Schools Trustees Association to discuss issues which have arisen in cases and to ensure that best practices initiatives can be shared.
- Mental health issues in prisons. Discussions have been held between the Auditor-General's Office, the Department of Corrections and the Ministry of Health. However there is still much to be done to address the issues we raised in last year's annual report. We will be reviewing this issue again as part of a wider own motion study of the provision, access and availability of health services to prisoners. More positively, in both the Corrections section of this report and in the report of our work under the Crimes of Torture Act (see p 13 and p 29) we note a number of matters on which we have commented to the relevant agencies and which, in some cases, have resulted in changes to process or practice.

- Public Records Act. The importance of good record keeping in supporting good administrative practice and transparency can never be overstated. We continue to work with Archives New Zealand in promoting understanding and awareness of the legal requirements the Public Records Act imposes on state sector agencies.
- Immigration. This sector continues to provide challenges and takes up a significant amount of the Office's limited resources. We discuss this in more detail at page 15.

Acknowledgements

The work of the Ombudsmen depends a great deal on the professional skill and dedication of their staff. Sadly, again this year, we have to record the passing of two long serving and loyal members of staff.

Keith Robinson, a highly experienced lawyer with particular expertise in planning law, gave unstintingly of himself to assist other staff and dealt with many complex cases with wisdom and skill. Keith participated fully in the Office and was forthright in pointing to matters which needed management attention as well as being a sympathetic and prayerful supporter of staff in need.

Garry O'Donovan, who had just retired, specialised in tertiary education cases and the tributes which flowed from the sector on his death were reflective of his effectiveness in dealing with the often highly charged complaints in the education field. His long experience, coupled with that "Irish" twinkle in the eye, made him a valuable, much loved and respected colleague.

This year also saw three retirements. Dr Stephen Blackstock was a highly skilled Deputy Assistant Ombudsman who specialised in local government issues and brought formidable intelligence and skill to dealing with the manifold issues which arise in this portfolio. He was also a "go to" person who provided sound advice and coaching for staff and whose analytical skills were outstanding.

Pat Trower who was an integral part of our Registry team, had also served the Office with distinction over a long period.

From our Auckland office we farewell Jonathan Field, another of our local government experts. Jonathan's knowledge of the law coupled with his genial approach untangled many a potentially explosive exchange between Councils and their ratepayers.

Three staff left the Office to take up other appointments:

Hanneke Bouchier was appointed Deputy Legal Complaints Review Officer, a newly established position under the Lawyers and Conveyancers Act 2006. Hanneke's contribution to the Office of the Ombudsmen was immense and her considerable legal and analytical skills served the Office well.

Kim Baguley brought considerable skill to our library. Her contribution to the office was outstanding.

Margaret Mouat, another long standing staff member, acted as PA to the Ombudsmen. Her effective and efficient running of their offices was greatly appreciated.

We record with thanks the continued support we receive from the Speaker and from the Officers of Parliament Committee.

Finally, we note with thanks the considerable support and loyalty of our staff. They demonstrate, daily, a commitment to high professional standards in the task of mediating the relationship between the governing and governed. The quality of their effort is recognised by complainants and agencies alike and by the Ombudsmen who repose considerable confidence in their knowledge, skill and competence.

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Report on operations

Operational structure

Investigations under the Ombudsmen Act

Investigations under the Official Information Act

Investigations under the Local Government Official Information and
Meetings Act

Protected Disclosures Act

Crimes of Torture Act

Policy and professional practice

Operational structure

The operational structure of the Office has historically been flat, with investigators reporting directly to Ombudsmen. This arrangement reflected the relatively small size of the Office and the classical Ombudsman model of complaint investigation. With increased responsibilities, an increasing workload, a desire to improve performance, and the revised strategy of the Office to be more proactive in improving administrative practice, we undertook a review of the operational structure of the Office. As a result, a new strengthened office structure was implemented this year. This structure is designed to enhance quality assurance of investigations, promote regular review of investigative processes and policies, and improve overall workload management. The overall goal is to enable the Ombudsmen to carry out their statutory functions more effectively.

In August 2008, we appointed an Assistant Ombudsman (Prisons), to lead the new administrative structure required for the extension to our role in respect of prisons. Three general investigation teams have also been established in the Wellington office. One team's primary focus is to expedite the resolution of cases where urgency, sensitivity, or public interest requires investigation within defined time frames. The other two teams deal with complex cases where in-depth research and investigation is required. Team leaders were appointed for these three teams in January 2009.

An Assistant Ombudsman (Policy and Professional Practice) was also appointed in January 2009 to lead an advisory group that will support the Ombudsmen and Deputy Ombudsman by providing policy, professional practice and knowledge management advice, meeting training requests, communications and outreach initiatives, and managing our international obligations. In the coming year, we will develop and staff this advisory group.

The Assistant Ombudsmen (including the Assistant Ombudsmen in charge of our Auckland and Christchurch offices) and Investigations Team Leaders make up our Practice Leadership Team. This team is led by the Deputy Ombudsman as head of professional practice. Its role is to implement an enhanced quality assurance regime, regularly review the Office's internal systems and procedures, and ensure that the Ombudsmen have improved capability for monitoring trends, systemic issues and developments in policy and legislation.

Within this office-wide team structure, there are separate groups to promote focused consideration of issues arising out of particular sectors such as education, immigration and local government.

Investigations under the Ombudsmen Act 1975

Overview

We received 7,615 complaints under the Ombudsmen Act (OA) this year. This is an increase of just under five percent on last year and the figure is rising. While over half were able to be resolved by informal enquiries or the provision of an explanation or other assistance, they nevertheless required intervention by our investigators. As is to be expected, some sectors generate more complaints than others. Accordingly, we have adopted a sector approach to try and achieve the maximum ongoing benefit in any recommendations for administrative improvement arising from investigation of individual complaints. In our report on issues arising under the OA, we have highlighted issues in the sectors that have produced the bulk of our OA work in the past year.

Issues arising

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CORRECTIONS

This year we have continued to assist in the resolution of prisoners' day-to-day complaints, and to visit prisons on a regular basis. However, there have also been some changes in our prisons role that require us to:

- more closely monitor death in custody investigations by the Inspectors of Corrections; and
- investigate, of our own motion, selected serious incidents within prisons, and other thematic concerns.

We refer to this type of work as "special" investigations. In addition, we have revised our protocol with the Department of Corrections (the Department) and agreed a Memorandum of Understanding with the New Zealand Police on the supply of appropriate information about Police investigations to the Ombudsmen. Additional funding has allowed us to carry out this work.

Staffing

The extension of our prisons role has required additional staff. In August 2008, we appointed an Assistant Ombudsman (Prisons), to put in place the new administrative structure required and to manage the additional staff. We appointed two new investigators in January 2009, and a third in June 2009. This enabled us to assign two existing experienced staff to special investigations.

Day-to-day complaints

The majority of work for our prisons team is the resolution of day-to-day concerns and complaints by prisoners. In the reporting year, we handled 3,292 new complaints and enquiries from prisoners on our 0800 telephone line. Most of these matters were resolved within a day or two. More in-depth enquiries were completed in 1,007 cases.

As Ombudsmen have commented previously, the independence of our Office is accepted and, as a result, we are able to calm many frustrations of prisoners. While some complaints may seem trivial, they are of genuine concern to the individual prisoner. Our ability to resolve such complaints quickly benefits both prisoners and front line Corrections staff.

Individual complaints can also give rise to important points of principle. One example was a prisoner who requested certain items at a particular price on the authorised shopping list. She was charged extra because prices had risen between the time of ordering and delivery. This was a procedural oversight, but with the speedy intervention of our Office the matter was quickly resolved.

Other examples of straightforward matters that were quickly resolved during the 2008/09 year are:

- a prisoner required legal papers urgently for a court hearing. The documents were in the property office of his former prison. The documents were forwarded quickly following enquiries from our office.
- we facilitated an arrangement allowing a prisoner contact with his children.
- a prisoner was prevented from contacting his partner, due to an alleged misuse of approved telephone arrangements. We facilitated a review that resulted in resumed contact.

- we helped correct a clerical error on points relevant to a prisoner's classification.
- a prisoner was allowed to telephone home on a specially established free 0800 number. However, the prison restricted him to one call a day. There was no similar restriction on prisoners who used pre-paid phone cards. The 0800 restriction was lifted.

Although the swift resolution of matters is highly beneficial at an individual level, we are aware that this has the potential to enable problems to remain below the radar at Chief Executive level. For this reason, in the coming year we intend regularly to advise the Chief Executive when we receive a number of similar types of complaints.

Examples of complaints that were formally upheld during the 2008/09 year are:

- a prisoner was not allowed to wear a lavalava outside his own prison unit.
- prisoners were required to squat during strip searches in circumstances where that requirement was not permitted by legislation.

Prison visits

Our investigators continue to visit prisons regularly. They interview prisoners, discuss matters of general interest with front line Corrections staff to obtain the "feel" of the prisons, and inspect the prisons to check whether there are any matters that, from an Ombudsman perspective, warrant closer examination. In previous years, each prison would typically have been visited nine times. However, with the success of the 0800 telephone number for prisoners, the availability of email to quickly deal with minor queries, and an effective internal complaints system for resolving prisoners' problems, we have been able to reduce the average frequency of visits to five times a year. This has saved both money and time for our staff, while at the same time providing continued access for prisoners who prefer to discuss matters face-to-face.

Special investigations

In the 2008/09 year we began own motion investigations into:

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

The investigation of health services will include consideration of prisoners' access to mental health services, as well as other categories of service. Many prisoners have mental health conditions that require medical attention or oversight. They should not be disadvantaged because of their incarceration. While we have decided to commence this investigation, we have not as yet reached any views on the adequacy of the health services that are available. It is simply that our experience of prison work has led us to decide that our independent review would be appropriate in the public interest.

We are regularly notified of incidents occurring in prisons in accordance with the protocol established under section 160 of the Corrections Act 2004. In the 2008/09 year, we identified several incidents in prisons that warranted our attention because of their potentially serious nature or implications. Some are the subject of continuing inquiries.

Monitoring death in custody investigations

We were notified of 16 deaths in custody and completed the monitoring of seven investigations by the Inspectors of Corrections in the 2008/09 year. The conduct of such investigations is strictly a matter for the Inspectors and the Department. Nevertheless, we are invariably provided with full cooperation and access to information, and any suggestions we make are always considered positively. We provided comment to the Department in all seven cases, but in no case did we consider the Inspector's investigation to be inadequate.

Protocol with the Department of Corrections

Section 160 of the Corrections Act 2006 requires there to be a protocol or agreement between the Chief Ombudsman and the Chief Executive of the Department with regard to complaints by persons under the control or supervision of the Department. Our existing protocol was updated and renewed on 6 May 2009.

Memorandum of Understanding with the New Zealand Police

Serious incidents in prisons may involve allegations of criminal offending that the Police will investigate. A police investigation does not exclude the need for an Ombudsman's investigation. The Police will look at whether a criminal offence has been committed that should be prosecuted. The Ombudsmen are concerned with investigating wider general issues. We do not wish to trespass on the proper domain of the Police and criminal justice system. For this reason, on 16 June 2009 a formal Memorandum of Understanding was reached with the Police for the supply to the Ombudsmen of appropriate information about police investigations. The memorandum was subject to consultation with the Privacy Commissioner.

IMMIGRATION

Complaints relating to the Department of Labour - Immigration New Zealand (INZ) - represent a sizable percentage of the complaints made under the OA. In the 2008/09 year we received 322 complaints against INZ. This figure is rising. Many of these complaints related to:

- removals from New Zealand and revocations of permits;
- decisions made under section 35A of the Immigration Act 1987;
- the quality of the advice given to the Associate Minister of Immigration on individual cases;
- failures to refer potentially prejudicial information to the applicant for comment prior to making a decision;
- failures to record and/or provide reasons for decisions on applications;
- health and character issues;
- delays in the processing of applications for permits and/or visas.

We continue to engage constructively with the Department in relation to the complaints that we receive. The Department offers remedies where it recognises deficiencies in its processes.

INZ complaints process

Last year we reported that we had been engaging with INZ as to how its decision making and internal review processes might be further improved, thereby reducing the need for recourse to our Office.

We are pleased to note that INZ has recently amended its Client Complaint Resolution Process and published guidance on making complaints on its website. Complainants, who are currently on a valid permit (in New Zealand lawfully) or overseas, need to exhaust this complaints system before seeking assistance from this Office.

Pacific Division

In May 2009 the Auditor-General released his report on INZ. Part of his report looked at issues concerning the operation of the Pacific Division. The Auditor-General's investigation was concerned with systemic administrative problems in relation to the quality of decision making and agency procedures and policies.

We are continuing with our investigation into the impact on individuals of these identified systemic deficiencies and are currently in discussions with the Department over what appropriate remedy might be offered to those affected.

SOCIAL DEVELOPMENT

The Ministry of Social Development is now the largest government department, with almost 10,000 staff. Its role is to lead and coordinate government actions to support families and communities. The general workload of this sector is wide-ranging and becoming more complex.

In the 2008/09 year we received 130 complaints against the Ministry of Social Development. Many of these complaints related to:

- delays in the processing of applications for benefits and pensions;
- delays and non-payment of benefit monies;
- the level of entitlement to benefits and pensions;
- the standard of services provided to clients;
- actions taken by departmental social workers in the removal of a child from the family home;
- the legal rights of parents and caregivers of children in the custody of Child, Youth and Family; and
- Family Court matters concerning children in the custody of the Chief Executive of the Ministry of Social Development (Child, Youth and Family).

The Ombudsmen continue to deal with a significant number of complaints concerning the service provided to all the Ministry's clients and decisions on benefit entitlements. Most of these matters were resolved swiftly by telephone and we are happy to record the cooperation of staff of the Ministry of Social Development at all levels in enabling us to achieve this.

CYFS complaints process

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We also recognise the establishment of a new complaints process for the Child, Youth and Family service. It is envisaged that the complaints process will enable complainants to take positive steps to pursue their concerns and seek redress without the need for intervention by an Ombudsman. As a consequence, we anticipate a significant fall in the number of complaints against the Ministry's Child, Youth and Family's service delivery.

Level of pension - living alone payment

We received a complaint about the Ministry of Social Development's refusal to pay the Living Alone Payment to a person living alone, in a caravan.

The Living Alone Payment, worth approximately \$20 a week, is paid to people on New Zealand Superannuation or Veterans Pension who are "living alone" which is defined as being single and not sharing accommodation. The statutory criteria are set out in section 13 of the New Zealand Superannuation and Retirement Income Act 2001. This section does not preclude payment to people living in caravans, and explicitly allows for payments to be made to individuals living in motor camps and on boats.

A Ministerial Directive further defines the types of accommodation aside from a motor camp or a boat that can qualify for the payment. The Directive requires that accommodation be "permanently affixed to the land" and have designated areas for living and sleeping as well as a properly functioning kitchen and bathroom.

A caravan that met all of these criteria, and was mounted on a concrete block with no wheels could potentially qualify. However, the Ministry's policy manual specifically stated that Living Alone Payments could not be made to people living in caravans that are not in motor camps, hence the complainant's application had been declined without the Ministry checking to see if his caravan met the legal criteria.

We asked the Ministry to explain the policy manual provision that excluded payments to people living in caravans outside a motor camp, and to report back on the wider policy rationale for allowing payments for some types of mobile accommodation and not others. The Ministry responded by immediately amending its policy manual to correctly reflect the legislation and reviewing 18 cases where people had been declined the payment in the last year on the basis of their accommodation. The Ministry also agreed to investigate the policy settings for Living Alone Payments, and will be reporting back on this in the coming months.

EDUCATION

The education sector represents an area of significant work for the Ombudsmen. Agencies in this sector include primary and secondary schools, tertiary institutions and wananga, the Ministry of Education, the Teachers Council, the Tertiary Education Commission, the Education Review Office and the New Zealand Qualifications Authority.

Access to education and the administration by government of the education sector affect a wide variety of New Zealanders and is therefore an area which attracts a large volume of complaints.

In the 2008/09 year we received 80 complaints across the sector. Many of these complaints related to:

- tertiary providers;
- concerns relating to stand downs, exclusions and expulsions;

- the administration of scholarship funds and provider funding;
- school uniforms and bus routes;
- Boards of Trustees' decision making processes and meeting procedures;
- complaints regarding school fees and voluntary donations;
- concerns about access to education for special needs pupils.

Student discipline

The Ombudsmen have continued to receive complaints from parents and caregivers about the procedures followed by Boards of Trustees relating to decisions on student discipline issues. The impending publication of the revised Ministry of Education Guidelines on stand downs, exclusions and expulsions of students should provide better guidance to Boards of Trustees on the process to be followed in these situations. The Ombudsmen have provided comment on a draft of these guidelines.

Bullying

According to recent international research studies, there is a high level of bullying in New Zealand schools compared to other countries. This year we received a complaint from parents of children from Hutt Valley High School about the actions of the Board of Trustees and several government agencies in response to a series of assaults committed by students in 2007. Although the complaint focuses on the specific assaults in question, it raises broader issues about the levels of bullying and violence in our schools. While conducting this investigation we are therefore looking not only at the responses of the agencies concerned to the incidents at the school, but seeking to identify whether there are any systemic issues that might need to be addressed.

LOCAL GOVERNMENT

In the 2008/09 year we received 400 complaints against local government authorities. Many of these complaints related to:

- resource consents;
- building consents;
- drainage and storm water issues;
- noise issues;
- dog control;
- rating issues;
- decision-making procedures and consultation.

We are concerned at the cases we have seen where issues raised by complainants have not been sufficiently addressed by local authorities until a complaint has been made to us. In relation to both noise and drainage complaints, many problems could have been resolved earlier by local authorities providing an active and in-depth investigation and response when the complainants first contacted them with their concerns. As our Office is one of last resort, we will be pursuing with the local government sector the importance of having in place an effective internal complaints handling process, especially in these difficult areas where thorough investigation may be required to resolve the matter.

Resource consents

We commented in last year's annual report that care needs to be taken in deciding not to notify a resource consent application, given that the only means of redress available to an aggrieved party would be to apply to the High Court for judicial review of the decision not to notify. We continued to receive complaints this year about the non-notification of applications for resource consent. In addition, concerns were raised about the enforcement of resource consent conditions and delays in processing applications for resource consent.

A number of complaints we received about delays in processing resource consents were resolved by the local authority agreeing to provide a fees discount to the applicant. There appear to have been some pressures on local authorities during the 2008/09 year, in terms of a significant period of development where a large number of resource consents have required consideration, including for very large residential development projects. We understand the timeliness by local authorities in processing resource consent applications is being monitored by the Ministry for the Environment. We also note that the demand on local authorities in this area appears to have lessened in recent times, following the economic downturn.

Noise

We continue to receive complaints about responses by local authorities to noise complaints, relating in particular to the noise generated by machinery and the noise of barking dogs.

Problems can arise if resource consent is not required for the installation of a piece of machinery (such as a generator or large industrial fans used to prevent frost damage), but where its subsequent operation then breaches the relevant noise standards. In the absence of consultation between land owners before the machinery is installed, local authorities can be called on to require remedial measures to be undertaken by the land owner to address the noise concerns. Often, we receive complaints when the person affected by the noise considers that the local authority has not taken sufficient action to resolve the situation. These complaints have been addressed by local authorities undertaking extensive investigation and monitoring of the noise, and then recommending further action when that is required. One difficulty faced by local authorities in this process can be obtaining accurate recordings of the noise level, to determine whether enforcement action is appropriate.

Noise complaints tend to arise where there is a juxtaposition of land use, such as where there are areas of horticultural production or factory operations near residential dwellings. We can expect such complaints to continue with the general trend towards people living in closer proximity to one another and also with lifestyle block developments in rural areas.

Drainage and storm water

We received a significant number of complaints in the 2008/09 year relating to drainage and storm water.

The complaints we have received generally relate to a concern that the local authority is taking insufficient action when drainage problems arise which affect the complainant's property. Typically, these drainage problems result in either the discharge or pooling of excess storm water onto their land, or by the discharge of sewage onto their land. Such complaints are usually addressed by the relevant local authority investigating to find the cause of the problem, and in some cases engaging specialists to carry out this work. Once the cause of the problem has been identified, then the local authority can pursue the matter further with the relevant party required to take action to remedy the problem.

PARLIAMENTARY PETITION

During the 2008/09 year the Ombudsman completed work and reported to the Commerce Select Committee on the petition of John Dickson which concerned the enforcement by the Commerce Commission of conditions attached to a merger in the stock and station industry. Mr Dickson's petition was referred to the Ombudsman under section 13(4) of the Ombudsmen Act which permits any select committee to refer a petition for investigation and report.

The Commerce Committee originally referred the petition to the late Chief Ombudsman, John Belgrave, in 2007. Mr Belgrave died before he could complete work on it. As referral under section 13(4) is regarded as a personal referral to the Ombudsman concerned, that referral lapsed with Mr Belgrave's death. The Committee therefore referred the petition to Ombudsman David McGee in 2008. Work on the petition had not been completed by the dissolution of Parliament and it was re-referred after being reinstated after the General Election. Mr McGee's report to the Commerce Committee was made in June 2009.

RECOMMENDATIONS NOT ACCEPTED

Painted Apple Moth spray programme

In the 2007/2008 annual report we reported on the outcome of the Painted Apple Moth investigation completed by former Ombudsman Mel Smith in December 2007. Mr Smith's report identified a number of areas of concern with the spraying programmes to eradicate the Painted Apple Moth in West Auckland and the Asian Gypsy Moth in Hamilton during the 2002-2004 period. He made four separate recommendations designed to improve future programmes. These related to the areas of public communications, the health service, the role of the Ministry of Health and the Environment Court, and research into health effects of the spraying programmes to date.

The government provided its response to the Painted Apple Moth report in October 2008, and a follow up response in April 2009. It has agreed to implement only part of recommendation one (relating to public communications). It has not agreed to implement recommendation two (legislative amendments to empower the Environment Court to review spraying programmes). With respect to recommendation three it has not agreed to undertake research into the long term effects of the spray, or into the question of whether more intense spraying has a differential health impact on the persons sprayed, but has agreed to the Ministry of Health having a central role in future programmes. It has not agreed to implement recommendation four.

In the Government's initial response to the report it denied any shortcomings in the spraying programmes, even in the areas where it agreed to implement the recommendations. In the follow up response it indicated that there were areas of the spraying programme that needed improvement, and stated that a number of new policies and processes had been developed to improve future programmes.

Should future programmes be undertaken, we will consider at that stage whether issues raised by Mr Smith's report need to be revisited.

Where significant numbers of OA complaints arose

	Year ended 30/06/08	Year ended 30/06/09
Central Government >=30 complaints		
Department of Labour	276	332 ²
Ministry of Social Development	156	130 ³
Inland Revenue Department	115	126
Ministry of Justice	87	52
Local Government >=15 complaints		
District Councils – all ⁴	231	197
Marlborough		18
Rodney		16
City Councils – all ⁴	150	169
Auckland	39	32
Christchurch	27	25
North Shore	17	20
Dunedin		17
Regional Councils – all ⁴	40	34
Other Organisations >=15 complaints		
Accident Compensation Corporation	124	145
Educational institutions	73	80 ⁵
District Health Boards	29	27
Police	28	34 ⁶
Health and Disability Commissioner	28	24

2 322 involving the New Zealand Immigration Service and 10 other.

3 42 concerning Child, Youth and Family, 54 concerning Work and Income and 34 other.

4 Total for all Councils is inclusive of those detailed.

5 Comprises Schools Boards of Trustees (45), Universities and Polytechnics (35).

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

Investigations under the Official Information Act (OIA)

Overview

The number of complaints received under the OIA dropped by 10 percent in the past year to 809. This is not uncommon in years that coincide with a general election. Historically there seems to be a period of greater proactive disclosure early in any new government's tenure. However, this figure still represents a significant number of complaints and the majority resulted in disclosure of information that had initially been withheld. Over half of all OIA complaints (53%) were received from individuals. The next largest groups of complainants were the media (16%) and MPs and political party research units (10%). More detailed statistics about complainants are found in Part 3. The majority of complaints continue to focus on access to information about why particular decisions have been taken or processes embarked upon rather than for particular documents per se. This reflects a greater sophistication by many requesters, the increasing complexity of government processes, and the wider range of information that is readily retrievable because of technological advances.

We are working with agencies to promote and assist better understanding of (and ongoing training in) both:

- the purposes and scheme of the OIA; and
- the benefit of planning information flows around decision forming and decision making processes to help agencies assist complainants to target their requests more precisely, saving time and transaction costs.

Sometimes agencies will argue, after an Ombudsman has commenced an investigation and review, that the information covered by a request is actually of no use to the requester. This maybe true in some cases. However, if agencies refuse requests for other reasons and then belatedly raise the question of the usefulness of the information requested, then they are likely to invite suspicion and a sceptical response.

In our report on issues arising under the OIA, we have identified cases which give a flavour of the range of matters raised. We also identify situations where general approaches are already settled, such as requests for information about public sector contracts and severance payments. Requests for similar information should be able to be decided without undue delay or a need to 'reinvent the wheel'.

Issues arising

Cases in the 2008/09 year

The OIA jurisdiction is extremely diverse. Some complaints relate to information that goes to the heart of government decision making and accountability. In these cases, requesters will often be well placed or resourced to communicate the information they receive to a wide audience, thereby maximising opportunities for public participation in government processes. Other complaints are unlikely to be of interest to anyone but the individual complainant. That does not mean they are not important. In many cases, what is good for the individual is good for society, and therefore in the wider public interest. The following cases are examples of the range of issues the Ombudsmen investigated during the reporting year:

- a complaint about the former Minister of Foreign Affairs' decision to withhold information about the possible appointment of an honorary consul to Monaco. Some information was properly withheld because disclosure would be likely to prejudice New Zealand's international relations. The former Prime Minister (who later

assumed responsibility for the foreign affairs portfolio) accepted the Ombudsman's suggestion that other information could be disclosed given the extent of information already in the public domain, and the public interest in transparent and accountable appointment processes.

- a complaint by a mother whose request for photographs of her deceased son was refused by the Police. The Police held genuine concerns about the effect of the disclosure of the photographs on the mother. The Ombudsman was able to resolve those concerns by suggesting the mother be given the opportunity to view the photographs in an appropriately supportive environment.
- a complaint about the Ministry of Health's decision to charge \$1,564 for the provision of copies of 31 spot audit reports relating to aged care facilities. The Ombudsman drew certain public interest factors to the Ministry's attention, including:
 - the alleged lack of public confidence in the industry as a result of recent failures in the standard of care;
 - indications by the Minister of Health whilst in opposition that a National Government would support the availability of audit reports; and
 - expectations raised by public statements made by the Ministry regarding availability of the information.

The Ministry was invited to reconsider whether the proposed charge was reasonable in the circumstances, and decided to waive the charge.

Delays in responding to OIA requests

In last year's annual report, we noted that we had reviewed our investigation processes with regard to complaints of delay in responding to OIA requests. Our standard practice is now to undertake a formal investigation of such complaints (on an urgent basis where warranted) with a view to issuing a formal opinion and making appropriate recommendations as expeditiously as practicable. This revised process was designed to address an increasing concern that some agencies and Ministerial offices were ignoring the timeframe obligations of the OIA.

In cases that we have investigated, agencies and Ministers have accepted our recommendations and undertaken to review their internal policies and procedures. We are monitoring the effect of such reviews in light of further complaints of delay concerning those agencies. Where a pattern of delay continues then our intention is to consider a secondary investigation (in the nature of an "administrative audit") of what steps were actually taken and what measures the agency put in place to assess the effectiveness of its review of internal policies and procedures. We intend to report on the incidence and outcome of such administrative audit investigations in future annual reports.

Contractual information

One case this year raised an issue concerning the availability of information about public sector contracts.

During its financial review, the Department of Labour provided a select committee with information about:

- the cost of contracts awarded; and
- names of corporate contractors.

However, the Department did not disclose the names of individual contractors who were natural persons. A Member of Parliament (MP) sought this information under the OIA. The Department refused to disclose the names of individual contractors without their consent, on the basis that it would reveal how much they were paid and infringe their privacy. The MP complained to the Chief Ombudsman.

The Chief Ombudsman consulted with the Privacy Commissioner, who considered that releasing the names of the individual contractors would infringe their privacy. The Privacy Commissioner acknowledged the public interest in accountability for public expenditure, but did not think that interest outweighed the need to withhold the information to protect the privacy of the contractors.

The Chief Ombudsman agreed with the Privacy Commissioner that, as the nature of the contracts and the fees paid, had already been disclosed, disclosure of the individual contractors' names would infringe their privacy because it would reveal how much they had been paid. However, she disagreed with the Privacy Commissioner's assessment of the weight to be attached to the various considerations involved. The Chief Ombudsman considered that release of the information would promote the accountability of the Department for decisions it had taken in relation to contracts which had not been tendered. Public sector contractual arrangements must be seen to be beyond reproach.

The Chief Ombudsman formed the view that the privacy interest was outweighed by an overriding public interest in promoting accountability, transparency, and public confidence and trust in the integrity of the public sector. She noted and agreed with the comments made by the Auditor-General in the publication "Managing conflicts of interests - Guidance for public entities", 1 June 2007:

"Impartiality and transparency in administration are essential to maintaining the integrity of the public sector. Where activities are paid for by public funds or are carried out in the public interest, Members of Parliament, the media, and the public will have high expectations. They expect people who work in the public sector to act impartially, without any possibility that they could be influenced by favouritism, or improper personal motives, or that public resources could be misused for private benefit."

As a general rule, the identities of contractors awarded public sector contracts (whether by tender or not) and the total cost of those contracts should always be disclosed in the public interest. It may well be good administrative practice for such information to be published proactively on Departmental websites as contracts are awarded (some information is already routinely made available about public sector tender contracts). The problem in this case was that the Department had already released detailed information about how the total cost was made up which could reveal individual contractors' chargeout rates. In essence, the issue for the Chief Ombudsman was whether the public interest in knowing who was awarded a contract prevails notwithstanding the level of financial detail already disclosed about the cost and how it was broken down.

The key principle is that there is a fundamental and overriding public interest in total transparency about who is awarded public sector contracts. Total transparency about who is awarded contracts enables the public to question any perceived conflict of interest or impropriety. While the possibility must be kept open that a case may arise where anonymity may be necessary, such a case has not yet been identified.

Severance payments

The Ombudsmen considered two complaints this year about decisions of government agencies to withhold the details of severance payments to departing public sector employees. In both cases the individuals opposed disclosure as they considered the severance payments they had negotiated were subject to an obligation of confidence and withholding this information was necessary to protect their personal privacy. The Chief Ombudsman accepted that confidentiality and privacy are important interests to be considered when requests for disclosure of such information are received. However, an agency's promise to keep such information confidential and/or private cannot override the provisions of the OIA. The agency must therefore consider whether there is any countervailing public interest in the circumstances of a particular case strong enough to outweigh the reasons for withholding.

In respect of severance payments, disclosure of the fact that a severance payment has been made to a public sector employee is clearly in the public interest. Therefore, this information should, as a general rule, always be made available without undue delay. However, disclosure of the amount of such a payment and any conditions of a settlement agreement upon termination of employment will depend on the circumstances of a case. When making such a decision in response to a request, agencies should note that there is a strong public interest in transparency around severance payments to ensure accountability for the expenditure of public funds. If the information relates to a senior employee and the severance or exit package is sizeable, it is unrealistic in the current public sector environment to expect that such information should remain private and confidential.

Recommendations not accepted

All recommendations made pursuant to the Official Information Act were accepted.

Where significant numbers of OIA complaints arose

	Year ended 30/06/08	Year ended 30/06/09
Departments and organisations >=20 complaints		
Police	97	113
Department of Labour	39	47 ⁷
Educational Institutions	47	45 ⁸
District Health Boards	44	43
Accident Compensation Corporation	21	39
Ministry of Social Development	43	36 ⁹
Corrections Department	24	31
Ministry of Health	39	24
Ministers of the Crown >= 15 complaints		
Ministers of Education	27	17
Minister of Health	27	17 ¹⁰

⁷ 32 involving the New Zealand Immigration Service and 15 other.

⁸ 21 involving boards of trustees – schools, 24 involving universities and polytechnics.

⁹ 13 concerning Child Youth and Family.

¹⁰ 1 concerning the Associate Minister of Health.

Investigations under the Local Government Official Information and Meetings Act (LGOIMA)

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Overview

Complaints received under LGOIMA increased 11 per cent over the past year to 231. Again the majority of complaints resulted in the release of at least some information that had been initially withheld. While most complainants were individuals, 20 percent came from the media. The pattern of complaints over the past year suggests a greater degree of interest in decisions of local authorities and greater use of LGOIMA by individual ratepayers and media to seek information about those decisions.

Issues arising

Events funding by local authorities

In recent years, the Ombudsmen have received several requests to investigate and review decisions by local authorities to withhold information relating to their funding of events. The 2008/09 year was no different. However, media comments by some local authorities in response to such requests suggested a widespread belief that the Ombudsmen had ruled that information about the cost of events funded by local authorities would always be protected under LGOIMA. That is wrong. While Ombudsmen had formed an opinion in several earlier cases that withholding certain information was justified in the individual circumstances of particular requests, that does not amount to a licence for blanket withholding of events funding information by local authorities. The balance between considerations of confidentiality in commercial negotiations and the legitimate interest of ratepayers, media and the public in adequate transparency about how ratepayer funds are expended, will depend on the circumstances of the particular case. The mere fact that a local authority engages in commercial negotiations does not create a shield against legitimate scrutiny.

In order to assist local authorities, the media and the public, the Ombudsmen decided to make available to all interested parties a summary of the main issues that arise, and the general approach they are currently taking in cases where a local authority has entered into some form of funding arrangement. In particular, the Ombudsmen have noted that the balance between competing public interest considerations favouring withholding and disclosure will turn on factors including the source, size or nature of a grant or payment (or contra arrangement) to secure an event.

While each case is ultimately considered on its merits, the Ombudsmen have identified the principles of general application that are likely to provide guidance to holders and requesters of such information. These can be found on our website www.ombudsmen.parliament.nz.

Hazardous Activities and Industries List (HAIL)

During the reporting year the Ombudsman completed an investigation into a decision by the Hawkes' Bay Regional Council to withhold details of unverified "HAIL sites".

The HAIL is a compilation of activities and industries that are known to have the potential to cause land contamination as a result of the use, storage or disposal of hazardous substances. It includes "unverified" listings, meaning the relevant site's land use history (and possible contaminated or uncontaminated status) is yet to be confirmed.

The Ombudsman did not accept that the withholding of the information was necessary to protect the commercial position of the landowners or to protect the confidentiality of the information. It was noted that the information is routinely available in response to a site specific request or on Land Information Memoranda (LIMs). The Ombudsman considered that any privacy interest was out weighed by the countervailing public interest in the availability of information about potentially contaminated sites, so the public is in a position to assess for themselves whether there are any risks to the environment or their person.

We anticipate that other local authorities who hold similar information will be interested in the outcome of this investigation. A report on the Ombudsman's finding for this complaint can be found on our website www.ombudsmen.parliament.nz.

Where significant numbers of LGOIMA complaints arose

	Year ended 30/06/08	Year ended 30/06/09
>=10 complaints		
City Councils – all ¹¹	81	89
Auckland	18	16
Wellington	11	13
Christchurch		11
Dunedin		11
District Councils – all ¹¹	92	107
Queenstown Lakes	17	18
Whakatane		14
Regional Councils - all	22	25

Protected Disclosures Act

Overview

The Protected Disclosures Amendment Act 2009 came into force on 27 June 2009. It is designed to build on the current purposes of the principal Act, which are to promote the public interest by facilitating the disclosure and investigation of serious wrongdoing in, or by, an organisation, and to protect employees who, in accordance with the Act, make such disclosures. While the amendment does not extend the Ombudsmen's investigative powers, it does enhance the Ombudsmen's role of assisting whistle-blowers, and provides for Ombudsmen to give information and guidance to public or private sector employees on using the Act at any time, not just on request. We are updating our brochure and booklet and website information relating to our functions under the Act.

¹¹ Total for City Councils includes the Councils listed

Issues arising

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As in previous years, we have not received many enquiries about potential or actual disclosures. We received eight enquiries, most of which were addressed by providing information and guidance in accordance with section 15 of the Act. However, we should note that while a matter may not reach the “serious wrongdoing” threshold in the Act it may nevertheless constitute maladministration for the purposes of an Ombudsmen Act investigation. In this regard, the Chief Ombudsman did take up an own motion investigation under the OA of a District Health Board relating to matters first raised under the PDA that did not meet the threshold of that legislation.

Crimes of Torture Act 1989

Overview

We have dealt with a number of significant issues this year relating to the humane treatment of people in detention, under our monitoring and inspection role. Many of these issues may not have surfaced if we did not have this role.

On 21 June 2007 the Ombudsmen were formally designated as a National Preventive Mechanism (NPM):

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

On 30 April 2009, the Ombudsmen’s designation was extended to include “care and protection residences established under section 364 of the Children, Young Persons and Their Families Act 1989”.

The Ombudsmen’s designation as a NPM was made in accordance with the Optional Protocol to the Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment (“OPCAT”). The OPCAT was ratified by New Zealand with the passage of the Crimes of Torture Amendment Act 2006 (COTA).

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

The Ombudsmen have appointed a Chief Inspector (COTA) to exercise their delegations to visit and inspect the facilities falling within the scope of their designation. To date, the Chief Inspector has identified people detained against their will (or without their informed consent) under the following legislation:

- Mental Health (Compulsory Assessment and Treatment) Act 1992;
- Intellectual (Compulsory Care and Rehabilitation) Act 2003;
- Criminal Procedure (Mentally Impaired Persons) Act 2003;
- Alcoholism and Drug Addiction Act 1985;
- Corrections Act 2004;
- Criminal Justice Act 1985;

- Extradition Act 1999;
- Summary Proceedings Act 1957;
- Terrorism Suppression Act 2002;
- Immigration Act 1987; and
- Protection of Personal and Property Rights Act 1988.

A significant number of scoping visits have been completed and a number of focused visits have also been completed. Focused visits are inspection-type visits that can vary from a full inspection, to a shorter visit that focuses on specific areas that may or may not have been identified as of potential concern by the Chief Inspector on behalf of the Ombudsmen.

The Chief Inspector and the Chief Ombudsman have had several meetings with various Civil Society groups, the Department of Corrections and some District Inspectors of Mental Health. These meetings have proven to be a valuable source of information about the facilities over which the NPM has jurisdiction, as well as providing an opportunity to explain the Ombudsmen's role under COTA and clarify any issues or concerns.

As at 30 June 2009, 90 scoping visits to the following facilities have been completed:

Immigration	2
Mental Health sites.....	75
Care & Protection residences.....	1
Prisons.....	11
Court cells.....	1

Eighteen focused visits have been completed for the following facilities:

Mental Health Units.....	15
Prisons.....	2
Immigration	1

However, it is estimated that in excess of 120 facilities will need to be visited to fulfil our delegation to monitor and inspect prisons, immigration, health and disability places of detention, child care and protection residences and youth justice residences.

Because of the significant amount of work the COTA responsibility will require we intend to increase the number of Inspectors during the next financial year.

To date there are a number of significant areas of concern that have been identified during both the scoping visits and the focused visits.

Issues arising

Potential cruel and inhumane treatment (Mental Health)

The Chief Inspector (COTA) encountered two cases that caused us much concern. One involved a mental health patient who had been in virtually constant restraint and seclusion for nearly six years to prevent the patient from assaulting other patients and staff. Another example was a young mentally disabled patient, held pursuant to the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003, who had been kept in seclusion for a lengthy period. In both instances the Chief Ombudsman wrote to the respective Chief Executives of the District Health Boards concerned, and we are pleased to report that one patient has since been moved to a more suitable facility and the other now has a management plan to facilitate a move into a suitable community based facility.

The Chief Inspector has advised that:

- there are not enough forensic beds to cater for a ‘ballooning’ prison muster of offenders with mental health problems.
- some offenders/patients who had been returned to prison were subsequently transferred to another District Health Board jurisdiction without any prior notice by the Department of Corrections to the hospital and whilst the offender was still undergoing treatment by the forensic team, thereby potentially compromising the patient’s on-going treatment.
- some patients are being held in secure care longer than necessary because of a shortage of suitable community-based accommodation.

Invalid legal paperwork (Mental Health)

The Chief Inspector has discovered patients who were being held in mental health facilities, and whose treatment included the use of seclusion and restraint, but in respect of whom there was no valid documentation authorising their detention, whether that be:

- court orders;
- power of attorney documents;
- Protection of Personal and Property Rights Act documentation; or
- signed patient consent forms.

In one instance, a patient had been treated for some years without any apparent consent of any kind. Again, once these issues were drawn to the attention of the respective managers and District Health Board Chief Executives, the necessary paperwork was obtained and the treatment validated.

The issue of what constitutes ‘informed consent’ has also been identified by the Chief Inspector as an area of concern, especially in the case of elderly persons. An elderly person may well have been mentally capable of giving ‘informed consent’ when first admitted to a hospital. However a question arises as to whether (and if so when) that ‘informed consent’ ceases to be ‘informed’ with the onset of dementia or Alzheimer’s or other debilitating illness. The Chief Ombudsman has asked the Chief Inspector to explore this issue further with the relevant agencies.

Unlawful detention (Prisons) - ‘Hybrid’ Orders

There was one instance of unlawful imprisonment that was uncovered on inspection by the Chief Inspector, following a complaint to the Ombudsmen from a prisoner’s mother. In brief, the situation revolved around those offenders who, while considered fit to plead, and fit to stand trial and be convicted, are not considered fit by the Court to serve any subsequent term of imprisonment in a prison. Thus these offenders become subject to an Order made under the Criminal Procedure (Criminal Impaired Persons) Act 2003, which requires they be detained in a hospital. These orders are known in some circles as ‘Hybrid’ Orders. This particular offender was brought before the Parole Board, (albeit several months after his eligibility for parole) and was released back into the care of the hospital, but the Parole Board imposed release conditions including the possibility of recall to prison. When he subsequently was considered to have breached his parole conditions while still an in-patient, he was recalled to prison for a month. When it was established that, pursuant to the provisions of the Parole Act 2002, he ought not to have been recalled to prison as the release conditions did not commence until he was released from hospital, he was returned to the mental health facility.

The month spent in prison was then clearly unlawful detention. As a result of further enquiries, the Chief Inspector established that there were over 20 such offenders in 'the system', and that at least one other offender had been denied his lawful appearance before the NZ Parole Board 'as soon as practicable after the expiration of the non-parole period of their sentences'. This appeared to be due to little information being collectively available to the Department of Corrections, Ministry of Justice, Courts, the NZ Parole Board and Mental Health Services, as to who these offenders were, what their legal entitlements were in regards to parole eligibility, where they were located, or whose actual responsibility they were. As a result of our enquiries under COTA, this situation has now largely been resolved. However, we will continue to incorporate such inquiries as part of our monitoring role.

Non smoking policies (Mental Health Sites)

The various District Health Boards around the country have introduced or are in the process of introducing non smoking policies at their various campuses across the country, which are impacting on the patients who smoke in the mental health facilities. As an NPM, we have no set view on this issue, and note that it may be an issue which will be tested through the Courts. However, as Ombudsmen, we may consider investigating specific complaints about such a policy where warranted under the Ombudsmen Act.

Provision of fans in prisoner cells

In 2007, the Department of Corrections assured the Ombudsmen;

...that where temperatures exceed policy guidelines and there is no other option for temperature control and/or ventilation in that cell, Prison Services will provide prisoners with individual fans, subject to safety and security considerations and availability of electrical facilities.

We understand that undertaking was never implemented, as individual prisons were not notified of that instruction. Since then, prison services has removed the ability for prisoners to purchase their own fans with their own funds. There are prisoners who are without family and friends to provide funds for the purchase of an individual fan. Taking into account all circumstances of a prisoner's detention, (including the increase of 'lock down' time, and 'doubling up' in cells designed for one prisoner), we are concerned that excessive temperatures could amount to 'cruel' or 'inhumane' treatment within the meaning of the Crimes of Torture Amendment Act 2006. If we were to consider that conditions had reached this threshold it would be our duty to report it as a COTA issue.

Reaction from staff and local hospital and prison management

We are pleased to be able to report that the Chief Inspector has generally received co-operation from staff and management at the various sites he has visited. The feedback to date has indicated that the visits are seen as very worthwhile, and the Chief Inspector has been able to allay misgivings or concerns about what the COTA visits are all about and provide practical assistance in addressing issues relating to the humane treatment of those in detention.

Policy and professional practice

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Overview

Two of the goals we seek to achieve as Ombudsmen are improved public services and increased levels of public confidence in a responsive and fair public sector. In the past, Ombudsmen have focussed primarily on investigating and resolving complaints under the Ombudsmen Act and official information legislation to accomplish these goals. We note that investigating individual complaints is effective in driving policy and practice improvements within agencies. However, we also recognise that we can be more proactive in assisting agencies to improve the quality of decision making, delivery of services, and administrative processes before things go wrong and we are asked to investigate.

In addition, it is important that we continue to build an awareness of the role of the Ombudsmen, improve access to our services and continue the development of our own staff members' skills, knowledge and experience. We also recognise the benefits of developing and fostering cooperative working relationships with our international counterparts. This enables us to keep abreast of international standards of best practice for Ombudsmen, share knowledge, experiences, processes and practices, and hone our own professional standards.

Therefore, in addition to investigating and resolving complaints (and undertaking our new monitoring and inspection roles), we have a substantial and growing programme of work under development in relation to:

- policy;
- advice;
- training;
- communications;
- research and evaluation;
- professional practice; and
- international relations and development.

Staffing

In January 2009, we appointed an Assistant Ombudsman Policy and Professional Practice to lead this ambitious programme of work. Two investigators were seconded for nine months to assist on key projects. In the coming year, we will look to develop and staff a dedicated policy and professional practice advisory group within the Office.

Policy

As in previous years, we have provided comment on legislative, policy or administrative proposals to ensure proper consideration is given to the operation of the Ombudsmen Act, the official information legislation, the Crimes of Torture Act and the Protected Disclosures Act.

The required level of engagement has varied depending on the nature of the proposal in question. It ranged from one off responses to ongoing commitments, and has included attending meetings, and providing verbal or formal written comments on discussion documents, options papers, and draft briefings or Cabinet papers. During the 2008/09 year, we considered and provided comment on a number of policy issues and legislative proposals, including:

- a new process for accessing the names and addresses of vehicle owners on the motor vehicle register (provided for under the Land Transport Amendment Act 2009);
- the 'Public Records Act Audit Tool' and Digital Continuity Strategy proposed by Archives New Zealand;
- methods for enabling regional councils to access certain information from transport operators under the Public Transport Management Bill;
- a Cabinet paper considering the use of court cells for non-court related matters such as holding prisoners where a prison is at capacity;
- the issue of access to school roll information for the Human Papillomavirus (HPV) Immunisation Programme;
- new responsibilities for the Reserve Bank proposed in the Insurance (Prudential Supervision) Bill;
- the Health and Disability Commissioner's review of the Health and Disability Commissioner Act 1994 and the Code of Health and Disability Consumers' Rights;
- the Law Commission's review of the Privacy Act;
- the proposed Immigration Bill;
- proposals contained in the Privacy Amendment (Cross-border Information) Bill;
- proposals contained in the Electronic Identity Verification Bill for regulating access to and use of personal information held by the Electronic Identity Verification Service;
- proposed amendments to the Immigration Advisers Licensing Act 2007;
- proposed amendments to the Summary Proceedings Regulations arising from the Criminal Procedure Bill passed last year;
- Victoria University's Emerging Issues Programme project on improving information sharing for effective social outcomes;
- options for implementing Article 33 of the United Nations Convention on the Rights of Persons with Disabilities in New Zealand;
- proposals for changing prisoner transport vehicle standards;
- proposals in the Cabinet paper "Government Commitment to Building Strong Community Relationships" for our Office to work with the Association of Non-Governmental Organisations of Aotearoa (ANGOA) to promulgate the role and services of the Ombudsmen across the community and voluntary sector;
- the Ministry of Justice's review of victims' rights and services to ensure the implementation of the Victims' Rights Act 2002; and
- a Privacy Impact Assessment for the Department of Labour's Immigration Business Transformation programme.

Proposed national education standards

One particular issue we commented on is the use of information to be collected in connection with national education standards.

A recent amendment to the Education Act 1989 enables the Minister of Education to prescribe national education standards. These are standards, in regard to such matters as literacy and numeracy, that are to be achieved by students of a particular age or in a particular year of schooling. No such standards have yet been prescribed. However, there has been public debate on the use that may be made of data generated as a result of measuring educational performance against any national standards that are created. In particular, concern has been expressed in some quarters about the use of such data to construct 'league tables' comparing

the performance of different schools. Some consider this to be undesirable, while others welcome the prospect.

As part of its consideration of the implication of the national standards policy, the Education and Science Select Committee invited the Ombudsman to meet with it in June 2009 to discuss the application of the OIA to such information. The Ombudsman emphasised that we have no position on the desirability or otherwise of publishing comparative information on school performance. But if national standards are prescribed, then inevitably the process of measuring them will mean that information on educational achievement will be held centrally by the Ministry or locally by individual schools, and that this will be subject to the OIA.

The OIA creates a presumption that information will be made available on request, but that principle is subject to a number of qualifications designed to protect identified public and private interests. It is inconceivable, for instance, that information on how an individual student performed in any such assessment would be made available to a casual enquirer. But it is quite conceivable that aggregated information, such as at a school level, would be available under the OIA. In these circumstances, matters could be left simply to take their course with no one able to say in advance how such matters would be resolved.

Given this inherent uncertainty about the extent to which assessment information would be available, the Ombudsman suggested to the Education and Science Select Committee that legislators, policy makers and educators turn their minds in advance to what information should be made publicly available and what form that information should take. The Ombudsman did not advocate legislatively ousting the application of the OIA both on the grounds of principle and because we do not believe that it is necessary. More constructively, either legislatively or as a matter of policy, a reporting regime for the dissemination of assessment information could be constructed. This would address the public interest in access to such information while at the same time seeking to avoid the release of information in any form that is considered to be undesirable.

An example given to the committee of proactive release of official information was the system instituted nationally in 2008 by District Health Boards (DHBs). Following a test case under the OIA discussed in last year's annual report, DHBs now take the lead in releasing information on "serious and sentinel events" reported within the hospital system. This enables the information to be presented on a consistent basis across the entire health sector, rather than ad hoc and out of context in response to particular requests. DHBs have found that taking the initiative in the release of information, rather than acting purely reactively, has enabled a more meaningful presentation of important, though sensitive, information.

In the Ombudsmen's view, it is preferable that legislators, policy makers and educators concerned with the development of national standards give consideration to how such information should be made available in the public interest before that information comes into existence rather than waiting for this to be contested afterwards.

Advice

We also perform a specialist role in providing advice to government agencies on:

- internal complaint handling procedures;
- in house guidelines for processing requests for official information; and
- good record keeping and other administrative practices.

In the 2008/09 year, we provided comment on:

- the Ministry of Social Development's review of its internal complaint handling systems for Child, Youth and Family;
- the procedures for Child, Youth and Family grievance panels;
- the Ministry for Culture and Heritage's policy for processing OIA requests;
- Housing New Zealand's review of its customer complaints and feedback framework;
- Immigration New Zealand's guidelines for dealing with requests for reasons for decisions;
- the Ministry of Education's guidelines for School Boards of Trustees on suspensions, expulsions and exclusions;
- Metrowater's draft policy for managing vexatious customers;
- the Department of Building and Housing's framework for responding to official information requests for judgment debtors' addresses; and
- an independent consultant's draft report on a secondary school's response to a case involving severe bullying.

We also receive regular requests to be members of advisory groups and accept, when it is appropriate, to encourage good practices and processes from the outset.

Training

Last year we reported on the development of training programmes to be offered on request to those looking to improve their understanding of the Ombudsmen's role and functions, and the requirements of the Ombudsmen Act and official information legislation. In the 2008/09 year, we conducted over 20 workshops and training seminars around New Zealand. These ranged from 30 minute general overviews to half day workshops. Media organisations, Government ministers, local authorities, central government agencies, universities and private organisations are among those who asked for our assistance, including:

- Retirement Commission;
- Greater Wellington Regional Council;
- Labour Party Caucus;
- Prime Minister's Office administrative staff;
- Ministry for Culture and Heritage;
- TVNZ News Bureau;
- Ministry of Transport;
- State Services Commission / Senior Responsible Owners of Gateway Reviews;
- Department of Internal Affairs Intelligence Unit;
- Victoria University Tertiary Mediators;
- Environmental Defence Society workshop for NGOs;
- North Shore City Council;
- Inland Revenue Department;
- Ministry of Education;
- Auckland University Public Law classes;
- Ministry of Ethnic Affairs Public Forum on "Accessing Justice"; and
- Maritime New Zealand.

Some sessions involved upwards of 40 people, while others provided one-on-one assistance to recently appointed public sector employees who needed to get to know the legislative and regulatory context quickly. Two organisations made it a requirement for all staff to attend our training seminars. The feedback we have received from all the training provided to date has been encouraging (see “Research and evaluation”), and we will continue to offer this free service, along with materials and resources to support the training programme. The expectation is that the demand for this programme will increase as it becomes more widely known.

Communications

As noted above, a key organisational priority is to improve public awareness of the role and functions of the Ombudsmen. Ideally all New Zealanders should know who the Ombudsmen are, what they do, and how and when they should be approached. We still have some work to do in this area, as evidenced by recent research (see “Research and evaluation”), and the fact that we continue to receive complaints more properly directed to other agencies, including the Privacy Commissioner, the Independent Police Conduct Authority, the Banking Ombudsman, and the Insurance and Savings Ombudsman. It is also still necessary, in a large number of cases, to encourage complainants to try and resolve their concerns with the agency first. Again, recent research would tend to suggest this is not a wasted effort (see “Research and evaluation”). Effective internal complaints handling motivates the agency to perform better and to improve the quality of decision making and delivery of services without the need for an Ombudsman’s intervention. We encourage all public sector agencies to develop and publicise clear and accessible complaint handling mechanisms.

Our communications efforts included:

- frequent presentations and speaking engagements;
- regional clinics (public and private sector presentations, and conducting interviews with people wanting to make a complaint);
- publishing pamphlets (available in English, Maori, Samoan and traditional and simple Mandarin);¹²
- publishing guidelines;¹³
- the Ombudsmen’s Quarterly Review;
- case notes summarising the outcome of the Ombudsmen’s investigations;
- reports to Parliament; and
- our website www.ombudsmen.parliament.nz - from which all the above communications are available.

In addition to our training programme detailed above, we delivered more than 40 presentations on the role of the Ombudsmen to professional development conferences, government agencies, local authorities, Crown entities, tertiary education institutions (administration and students), and non government organisations. We also held regional clinics in Dunedin, Oamaru, Nelson and Blenheim. We are aware that people living outside the main centres appreciate the opportunity to meet our staff and discuss in person their concerns with central or local government agencies. Regional clinics also provide an opportunity to publicise our role and functions through local media and promote the right to complain, when things go wrong, directly to the agency concerned.

¹² “Making complaints about government agencies”; “Making requests for official information”; “A guide to the Protected Disclosures Act”; “Making complaints about the prison service – A guide for prison inmates wanting to make a complaint to the Ombudsmen”; “Making complaints about tertiary education”.

¹³ “Practice Guidelines – Official Information”; “A guide for people who want information from central or local government”; “Checklist for processing official information requests”.

Research and evaluation

In the 2008/09 year, we surveyed members of the public and government agencies with a focus on how effectively we are processing complaints. Three surveys were undertaken:

- a general survey of complainants;
- a survey of complainants who we referred back to a government agency in the first instance; and
- a survey of government agencies who had been the subject of investigation by an Ombudsman.

The purpose of the surveys was to assess the level of complainant and agency satisfaction in terms of interaction with our Office, to identify areas where our performance can be improved, and to assess the effect of advising complainants to raise their concerns with government agencies in the first instance.

In total, 480 complainants and 61 agencies were contacted. Response rates were 43 percent and 49 percent for the complainant surveys and 74 percent for the agency survey. We consider the response rate to be very good and indicative of the clear interest complainants and agencies have in our current performance and future development.

Overall, in terms of complainants, the surveys found that:

- our complainants could be more representative of the current demographic make up of New Zealand;
- our current communication tools are well received, but need more exposure;
- two thirds of complainants are satisfied with our service, but there is less satisfaction with the timeliness of our service;
- almost three quarters of the complainants whom we referred back to a government agency did go ahead and make a complaint to that agency in the first instance; and
- half of the complainants who made a complaint to a government agency in the first instance had their concerns resolved by that agency.

The findings suggest we should increase our efforts to be more accessible across different sectors of society, and to communicate what our role and functions are on a wide variety of fronts. The feedback on our current communication tools was positive and reinforces the need to ensure they are also kept relevant and up to date.

Overall, we are pleased that the majority of complainants are satisfied with our service, and we are taking steps to reorganise and refocus the use of our resources, to address concerns that were raised in terms of timeliness issues. It is also important to remember that, to an extent, we are dependent on receiving timely responses from government agencies in order to progress an investigation in a timely manner. We will also be paying further attention to this issue in the future.

As noted above, we advise people who want to make a complaint to complain directly to the agency concerned to give it the opportunity of addressing their concerns first. We see our role as one of last resort, in accordance with our discretion not to investigate a complaint when there is an adequate alternative remedy available. We were therefore encouraged to discover that half of those complainants who approached the relevant agency first were able to resolve their concerns.

Less encouraging was the finding that only half of those who did not have their concerns resolved by the agency decided to return to us with their concerns. While some complainants

advised that they had not returned to us as matters were still in train with the relevant agency, others advised that they found the whole process required too much time and energy from them. In this respect, we are making efforts to be more accessible to complainants, including the introduction of the Early Assistance Group. This group has a focus on dealing with matters quickly, and where possible achieving a resolution at an early stage.

In terms of government agencies, the survey found that:

- our consideration of complaints is very well received;
- agencies are generally aware of our information resources, and use both our online and hardcopy resources;
- only a third of agencies were aware that we provide training on our general role and on the official information legislation. However, all agencies that had received training from us considered it useful; and
- overall, agencies are very satisfied with our communication, but some felt we could be more timely and keep them more informed of our progress with complaints.

We were pleased with the very high levels of satisfaction demonstrated by agencies, with 93 percent satisfaction with our overall communication, and between 80 percent and 95 percent agreement that we are independent, fair, consistent and follow due process. As already mentioned, we are taking steps to improve the timeliness of our consideration of issues. We will also be making improvements to keep agencies and complainants informed of our progress with investigations of complaints.

In summary, the results of the surveys are a positive reinforcement of our approach to our role in a changing and demanding climate.

Professional practice

High standards of professional practice are essential to maintaining the credibility of the Office. We therefore consider it vital that we build and maintain the capacity, capability and sustainability of our staff. In the 2008/09 year, significant progress was made in formalising induction and training processes for new staff. We developed a formal orientation and induction programme and this has now been implemented for the 12 new staff who joined us during the second half of this reporting year, to meet the expanding roles of the Ombudsmen and to fill staff vacancies.

We have also started the development of in house training modules and a professional development programme that will extend to all staff. This investment reflects our commitment to valuing the performance of our staff and to align individual performance contributions to the overall goals and objectives of the Ombudsmen.

International relations and development

This was a substantial area of growth in the reporting year. Our commitments ranged from hosting visiting international delegations, to participating in international Ombudsmen and Information Commissioner networks, and providing of substantive training and assistance to international Ombudsmen or Ombudsmen-type organisations, particularly in the Pacific region.

International delegations

In the 2008/09 year, we were visited by delegations from Botswana, Argentina, Korea, Canada, Singapore, Japan, Australia, Vanuatu and the Cook Islands. The comparative experience New Zealand has to offer, in terms of establishing or reviewing administrative practice and enforcing freedom of information legislation, continues to be of considerable interest to other countries with similar jurisdictions.

International networks

The Ombudsmen maintain their awareness of international developments and trends through membership of the Australasian and Pacific Ombudsman Region of the International Ombudsman Institute, the Australia and New Zealand Ombudsman Association, and the Pacific Ombudsman Alliance. Senior staff of the Office also meet regularly with their counterparts in Australia to maintain knowledge of developments in related jurisdictions.

International training and assistance

The Ombudsmen continue to provide training and development assistance, when possible, to countries in the Pacific region as we have done in past years. In the 2008/09 year we were particularly active in our support of the Ombudsman Offices in the Cook Islands and Vanuatu.

Cook Islands

The Cook Islands has now adopted freedom of information legislation. Their Official Information Act 2008 came into force in February 2009, with implementation being staggered across government agencies at three month intervals. The legislation is closely modelled on New Zealand's Official Information Act. The Cook Islands Ombudsman is responsible for the administration of the new law which aims to make government information more accessible to the public and to promote both the accountability and integrity of its government officials.

The Cook Islands Ombudsman has been conducting a comprehensive training and implementation scheme for government agencies on their responsibilities under the new Act. We provided initial training, support and advice to both the staff of the Cook Islands Ombudsman, and the Cook Islands' Heads of Ministries and their staff on three occasions during the 2008/09 year.

In addition, one of our experienced investigators was selected for a three month secondment to the Cook Islands Office of the Ombudsman, funded by the Pacific Ombudsman Alliance. This has provided the opportunity to share experiences, processes and procedures, and establish strong professional working relationships that allow for ongoing communication and support to be provided to the Cook Islands Ombudsman on a regular basis. The benefit of this will be mutual and long term for both our Offices.

Vanuatu

During the year, we hosted two investigators from the Vanuatu Ombudsman Office for seven weeks. The investigators were placed with us on an attachment that was funded by NZAID. The purpose of the attachment was to provide a period of training where the investigators worked alongside our investigating staff to absorb their skills and knowledge of the work of this Office.

On arrival, the investigators were appointed temporary officers under section 11 of the Ombudsmen Act, and took the oath of secrecy required by all new staff. They joined an investigation team in Wellington, and received the standard induction that we provide to all our new investigators. They then worked with designated investigators and under the supervision of a Team Leader. At the end of their visit, the investigators spent a week in our Auckland office, which enabled them to see a regional office in action. We also arranged for them to meet with other agencies such as the Human Rights Commission, as this was relevant to the type of work they carry out in Vanuatu.

The investigators reported that they found the experience very beneficial, and they gained a number of insights, in terms of investigative practice, office management, maintaining relationships with both government agencies and the public, and the use of various communication tools in that respect.

As a result of the visit, we have gained a greater understanding of the issues facing our Ombudsmen Pacific neighbours and the practicalities that will be required of us in offering our support.

Niue

Niue is developing a pilot programme with the support of the Pacific Ombudsman Alliance for an internal complaints handling system which will have the support of an external Ombudsman. We view this as a good model for countries where a full Ombudsman service is economically unsustainable but where there is a need for an Ombudsman-type service. The Pacific Ombudsman Alliance has requested that we take the lead role in providing support and assistance with this project because of New Zealand's special relationship with Niue.

Beyond the Pacific

In July 2008, our Deputy Ombudsman was asked to speak at the 16th International Congress on Archives, in Kuala Lumpur, Malaysia on the importance of good record keeping as an enabler of good governance from the perspective of an "accountability and integrity institution". His seminar was shared with the Director General of the Australia National Archives, the Victorian Auditor-General and the Commissioner of the Papua New Guinea Public Service Commission. His paper on "Archives and the Ombudsman: Natural Allies" is now available on our website.

For the last 13 years, the Ombudsmen have assisted in providing training at the annual programme for new Ombudsmen, "When Citizens Complain: The Role of the Ombudsman in Improving Public Service". This is held in London and is endorsed by the Commonwealth Secretariat. The Chief Ombudsman provided this training and conducted workshops for new international Ombudsmen in May 2009.

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Business risks identified at the beginning of the 2008/09 year

The Office Statement of Intent for 2008/09 commented on developing trends and risks. These included:

- caseload - short term future; and
- technological developments - medium and longer term future.

Caseload - short term future

We expected a total caseload in the region of 9,300 complaints and enquiries being made to our Office during the year and a carry forward of approximately 800 to 900 incomplete investigations at year end. Actual throughput of work was slightly less than forecasted performance and we completed the year with a carry forward of 1,330 incomplete investigation files.

We anticipated an increase would arise as we modified our professional practice and the way in which we record our work. We expect to record a further increase for the year ended 30 June 2010, by which date the revised management and work structures introduced throughout the Office during the reported year (commented on earlier) will be firmly established.

The following table depicts two performance measures, amongst others, that we use to assess how well our activities have contributed to the delivery of improved government services. Only complaints and enquiries that had a formal file opened were included in the assessment.

Complaints and enquiries made by prisoners and by the general public using the telephone and resolved informally by the Early Assistance Group have not yet been included because their outcomes have not been recorded in a way that allows statistical analysis.

Also, the high number of generally quickly resolved complaints would seriously distort the performance statistics of complaints progressed more formally. We expect to provide this information separately from 2009/10 following the introduction of the Office's new case management system. Detailed performance measures are found at pages 58 to 61.

	Year Ended			
	30/06/06	30/06/07	30/06/08	30/06/09
Ombudsmen Act				
Complaints informally or formally resolved in favour of complainant (in whole or part) or where assistance is given to the complainant	89%	89%	93%	75% ¹⁴
Average number of working days required to resolve:				
General complaints	60	64	70	59
Prisoner complaints	10	13	16	7
Official Information Act				
Complaints informally or formally resolved in favour of complainant (in whole or part) or where assistance is given to the complainant	56%	63%	69%	56%
Average number of working days required to resolve a complaint	84	79	88	97
Local Government Official Information and Meetings Act				
Complaints informally or formally resolved in favour of complainant (in whole or part) or where assistance is given to the complainant	61%	72%	72%	59%
Average number of working days required to resolve a complaint	62	64	61	61

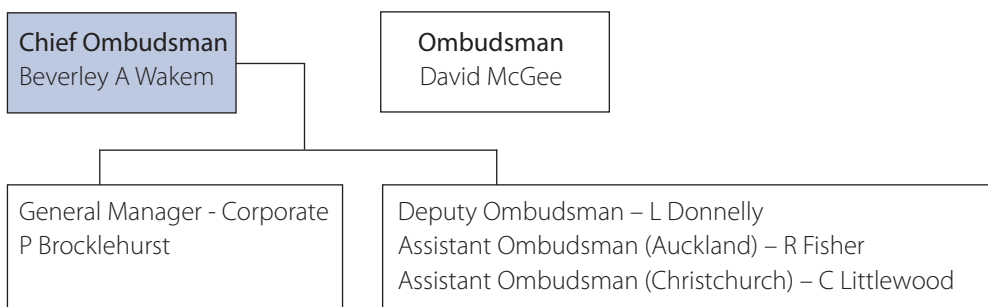
¹⁴ Percentages shown exclude prisoner and general complaints and enquiries received by telephone by the Early Assistance Group. The very high number of generally minor complaints and enquiries made by prisoners in particular, would distort reported performance.

Technological developments - medium and longer term future

There is potential for significant numbers of new complaints to arise from business transacted with government agencies over the internet. We are also aware of increasing interest by both government agencies and private sector groups in the use of a single proof of identity system being developed by the Department of Internal Affairs. We are continuing to engage with the agencies working in this area to keep abreast of changes.

Management structure

The high level management structure of the Office remained unchanged this year:



Managing performance

In past reports we have commented that our workload is demand driven. This situation remains unchanged. Nevertheless we believe our recent initiatives will act to mitigate a significant and ongoing increase to our workload.

The new operational structure we have implemented over the past year has allowed us to delegate to Assistant Ombudsmen and Team Leaders certain aspects of our work that do not involve forming opinions on complaints. This has allowed more time for us to focus on major issues and systemic matters. The programme of improved internal staff training (see p 39) through which all recent appointments have progressed supports the our delegation strategy.

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

- ensuring a fair and balanced work distribution between staff and between our three offices;
- identifying where a rebalancing of office resources may be required;
- identifying where emerging trends have potential to impact on office performance;
- and

monitoring a range of performance measures agreed each year with the Officers of Parliament Committee and applied to the investigative workload of the Office.

Actual performance relative to the measures is examined each month and taken account of in the management decision making processes of the Office. The measures are published in the Office Statement of Intent and the Ombudsmen's Annual Report to Parliament. Performance for the 2008/09 year relative to the agreed measures is shown at pages 58 to 61.

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We maintain an ongoing review of processes and procedures within the Office and in our relationships with government agencies. This extends beyond investigations to include accounting, human resources and other general administrative or support functions within the Office. Our staff meet at regular intervals to discuss developments or issues arising under the OA or official information legislation or in particular government agencies. These forums discuss difficult issues associated with a complaint or more general policy application and ensure a common understanding exists of significant or developing issues within a jurisdiction.

Financial and asset management

"GreenTree" accounting and reporting software and our internal financial planning systems are used to develop our budget and routinely monitor financial performance. These contributed to the effective use of the financial, human and other physical assets provided to the Office and in identifying potential problems at an early stage. New staff appointments during the 2008/09 year were delayed pending finalising the restructuring of the Office. As a consequence, the Office under spent the approved budget by \$164,000 at year end. The surplus will be returned to the Crown.

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

The audit of the Office accounts for the year ended 30 June 2009 did identify where some further improvements might be made to the Office Statement of Intent and future work associated with the development of performance measures for new areas of work, but no issues of major significance. The review of our Statement of Intent continues and we expect to improve content for the 2010/11 year. Our office is open to suggestions about how to further improve its accountability, transparency and performance.

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

Human resource management

The Office comprised 63 individuals (58.5 Full Time Equivalents (FTE's)) excluding the two Ombudsmen. The distribution of staff on a FTE basis was as follows:

	Auckland	Wellington	Christchurch	Totals
Staff				
Males	3	16	4	24
Females	4.9	27.7	2.9	36.5
Total	7.9	43.7	6.9	58.5
Activity group				
Corporate roles				
Male	-	2	-	2
Female	1.9	10.05	1.9	13.85
Total	1.9	12.05	1.9	15.85
Investigating, policy and support				
Male	3	14	4	21
Female	3	17.65	1	21.65
Total	6	31.65	5	42.65
Total	7.9	43.7	6.9	58.5

The investigative, policy and practice, and training complement of the Office was strengthened by the appointment of 5.5 additional staff, and corporate support complemented by a further 2.5 persons. Three investigator positions were vacant as at 30 June. The appointment of additional staff to policy, practice, training and corporate roles is intended to address internal quality assurance, internal and external training needs and to enable best practice to be implemented in corporate roles.

Approximately 20 percent or 13 staff participate in job sharing or reduced hours of employment arrangements. Most requests are to allow for a better balance between work and private commitments. Wherever possible these requests have been agreed to, providing the performance objectives of the Office can continue to be met.

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

	1 January to 31 December					
	2004	2005	2006	2007	2008	2009
Total leave days taken	221	279	217	204	257	269.4 ¹⁵
Employees in period	54	50	47	52	60	63
Average days/employee	4.09	5.58	4.63	3.93	4.28	4.28

¹⁵ Excludes 49.5 days family leave

For the 12 months ended 30 June 2009 the absentee rate for staff was:

$$\frac{269 \text{ actual days sick leave}}{247 \text{ working days} \times 58.5 \text{ staff (FTE)} = 14,449.5 \text{ possible working days}} = 1.8 \text{ percent (last year 1.8 percent). This included several periods of more serious illness.}$$

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

The staff of the Office is relatively long serving with 44 percent (last year 62 percent) having completed five or more years service.

	<=1 year	>1 and <=2 years	>2 and <=5 years	>5 and <=10 years	>10 years	Total
Number of staff	16 ¹⁶	6	13	12	16	63

A total of nine individuals ceased employment with the Office during the year, three to take up new opportunities, four retired, one temporary staff member left at the conclusion of a project and one passed away. After staff retire from the Office, occasionally they are reengaged on a casual basis to provide short term coverage when permanent staff are absent for extended periods because of illness or annual leave. Most staff vacancies have been filled by the appointment of individuals from the wider state sector, but some are recruited from the private sector.

Staff performance is formally reviewed as at 1 July each year. We began the development of a more refined and transparent performance review and development system which will be more closely linked to organisational and personal key performance indicators. Work is expected to be completed on this project during the 2009/10 reporting year.

The Office employment agreement is reviewed as at 1 July of each year. The review takes account of developments in employment law, office needs and the needs of our staff in achieving a healthy work/life balance.

Work is underway aimed at strengthening the Office’s human resource capability to a standard that is consistent with best practice for an organisation of our size. We have also commenced a review and consolidation of all office employment and general policies. The objective is to ensure the Office applies best practice principles wherever practicable. Work on these projects is expected to be completed during the 2009/10 reporting year.

Information management

We have appointed an Information Manager to assist with developing internal information systems and processes that support the ability of investigations staff to progress the work of the Office in a professional and timely manner. The Information Manager is also responsible for ensuring best practice in record keeping and retrieval within the Office and will assist the Office to achieve compliance with the requirements of the Public Records Act.

¹⁶ Includes 4 staff who have returned to office after a period of alternate employment

For many years we have commented about the need to upgrade the Office's 17 year old case management system. While the old system was reliable, it was sustained by use of redundant technology and was not capable of meeting new requirements expected of the Office. We have made major progress in developing the replacement system and plan the new system to go live within the first three months of the next reporting year. The new system includes many enhancements in reporting capability and workflow management, and in ease of use that are expected to improve the efficiency with which the Ombudsmen and investigating staff progress complaints to a resolution. The new system is believed to be sufficiently flexible to incorporate new areas of responsibility that Parliament may assign to us.

The entire database of investigations held on the old case management system will be migrated to the new system.

The Office's information technology systems are reasonably current. We tend to delay the roll out of major system upgrades to allow the market to correct bugs and similar faults that are routinely present in new software releases. We experienced very little system down time over the past year. When systems did fail, in most instances it was a consequence of an external fault at internet or communications supplier level.

Disaster preparedness and risk reduction

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

- the introduction of a Practice Leadership Team that meets daily to assess new work, establish priorities, allocate work and act as a focal point for identifying professional practice issues;
- the ongoing review of professional practice and procedures within the Office, review and updating of support systems and information available to investigators and to external agencies;
- the implementation of staff training and development structures that lessen the risk of performance loss when subject knowledge is held by too few staff;
- the development and delivery of training modules to external agencies that assists their consideration of complaints and requests for official information. This helps to manage down the caseload of work that might otherwise be referred to our office;
- a "code of ethics" by which all members of the Office are expected to abide, including amending employment agreements for new staff to include declarations concerning the truthfulness and accuracy of information they provide in support of their employment application;
- physical security of our offices and for our staff when meeting with complainants. Some complainants are emotionally stressed by the time they request Ombudsman assistance or find it difficult to consider any discussion that runs counter or which they perceive to run counter to their own view of what the outcome of an Ombudsman investigation ought to be;
- self funding of any minor equipment losses that might occur. Limited external insurance arrangements have been put in place to provide for the replacement of equipment, furnishings, fittings and additional operational costs that might be incurred in a disaster situation or because of major disruption. No claims were made in the 2007/08 year;

- computer database security through use of RAID 5 level redundancy for all computer network servers. Weekly and end of month backup tapes sent “off site” and “out of centre”. The weekly tapes are recycled at four weekly intervals and the monthly tapes on a six monthly cycle. Daily backups (excluding the weekly tape) are retained on site and recycled once each week. The tapes retained in Wellington and off site and out of centre are held in secure fireproofed storage. Computer code associated with the new case management system is held in escrow;
- reasonable measures have been implemented to provide for the continuation of services in most circumstances should systems or facilities in one of our offices fail. The installation of a new integrated national telephone system in the reported year is an example where work may be redirected between offices. Work has commenced on identifying further options for the continuation of systems and facilities particularly in the event that a fire or similar was to close the Wellington office. But a major seismic or similar event could potentially disrupt power and communication capabilities in the Wellington, Auckland or Christchurch regions to such an extent that the Office could only operate on a partial basis until full services were restored;
- computer hardware is replaced on a four yearly cycle. This reduces the risk of hardware failure and ensures the main elements of our computer network have supplier backup and support services available; and
- emergency First Aid and Civil Defence equipment and supplies are provided for each office and to all staff; and we maintain a pool of staff holding current First Aid qualifications at each of our offices.



Beverley A Wakem
Chief Ombudsman



David McGee
Ombudsman

Financial and performance information

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Audit Report

Statement Of Objectives And Service Performance

Statement Of Financial Performance

Statement of Financial Position

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Statement Of Cash Flows

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Statement Of Contingent Liabilities And Contingent Assets

Statement Of Departmental Expenses And Capital Expenditure Against Appropriations

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Statement of Responsibility

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

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

In my opinion, these financial statements fairly reflect the financial position and operations of the Office of the Ombudsmen for the year ended 30 June 2009.



Beverley Wakem
Chief Executive
30 September 2009



Peter Brocklehurst
General Manager Corporate
30 September 2009

AUDIT REPORT TO THE READERS OF THE OFFICE OF THE OMBUDSMEN'S FINANCIAL STATEMENTS AND PERFORMANCE INFORMATION FOR THE YEAR ENDED 30 JUNE 2009

The House of Representatives has appointed Deloitte as auditor of the Office of the Ombudsmen ("the Office"). We have audited the financial statements on pages 62 to 85. The financial statements provide information about the past financial performance and statement of service performance of the Office and its financial position as at 30 June 2009. This information is stated in accordance with the accounting policies set out on pages 69 to 75.

Unqualified Opinion

In our opinion:

- The financial statements of the Office on pages 62 to 85:
 - comply with generally accepted accounting practice in New Zealand; and
 - give a true and fair view of:
 - the Office's financial position as at 30 June 2009; and
 - the results of its operations and cash flows for the year ended on that date.
- The statement of service performance of the Office on pages 57 to 61:
 - complies with generally accepted accounting practice in New Zealand; and
 - fairly reflects for each class of outputs:
 - its standards of delivery performance achieved, as compared with the forecast standards outlined in the statement of forecast service performance adopted at the start of the financial year; and
 - its actual revenue earned and output expenses incurred, as compared with the forecast revenues and output expenses outlined in the statement of forecast service performance adopted at the start of the financial year.
- Based on our examination the Office kept proper accounting records.

The audit was completed on 30 September 2009, and is the date at which our opinion is expressed.

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

Basis of Opinion

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

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

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

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

Audit procedures generally include:

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

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

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

Responsibilities of the Chief Ombudsman and the Auditor

The Chief Ombudsman is responsible for preparing financial statements and statement of service performance in accordance with generally accepted accounting practice in New Zealand. Those financial statements must give a true and fair view of the financial position of the Office as at 30 June 2009. They must also give a true and fair view of the results of its operations and cash flows for the year ended on that date. The statement of service performance must fairly reflect, for each class of outputs, the Office's standards of delivery performance achieved and revenue earned and expenses incurred, as compared with the forecast standards, revenue and expenses adopted at the start of the financial year. The Chief Ombudsman's responsibilities arise from sections 45A and 45B of the Public Finance Act 1989.

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

Independence

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

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



DELOITTE
CHARTERED ACCOUNTANTS
WELLINGTON

Statement of objectives and service Performance for the year ended 30 June 2009

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

The following table sets out details of complaints and enquiries received and under investigation during the twelve months ended 30 June 2009 together with comparative statistics for the past four years:

	2004/05	2005/06	2006/07	2007/2008	2008/09
On hand as at 1 July	840	854	994	918	1,040
Adjustment	-	-	-	105	(5)
Received during the year	6,757	9,708 ¹⁷	9,090	8,808	9,150¹⁸
Total under investigation	7,597	10,562	10,084	9,831	10,185
Completed during the year	(6,743)	(9,568)	(9,166)	(8,791)	(8,855)
On hand at 30 June	854	994	918	1,040	1,330

The growth in "Received" and "Completed" work since June 2005 arises largely from more accurate recording of minor complaints and enquiries that have been received by the Office Early Assistance Group (EAG). During the year ended June 2009, 5,033 complaints and enquiries were received by the EAG. Of these, 3,292 complaints made by prisoners or prisoner advocates and were resolved by informal processes. Demand for investigations in other areas of our jurisdiction and with regard to requests made under the official information legislation has been more or less consistent with recent past reporting periods.

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

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

¹⁷ The significant growth in recorded work follows the establishment of the Early Assistance Group (EAG) in the Wellington office and much improved recording of complaints and enquiries made to the Office by telephone. Previously many of these complaints and enquiries that had been quickly resolved without need of opening a formal investigation file had not been recorded.

¹⁸ Includes 3,292 complaints and enquiries from prisoners and 1,741 general enquiries from the public received by the EAG during the year ended 30 June 2009.

The following performance measures were applicable throughout the 2008/2009 year:

Performance Measures	2008/09		2007/08
	Budget Standard	Actual	Actual
Raising Awareness and Increasing Accessibility¹⁹			
Provide for a minimum of 10 operational visits (clinics) by staff and Ombudsmen to local authorities and smaller population centres.	100%	100%	100%
Make presentations to community groups of the role of the Ombudsmen and their jurisdiction.	Meet	Meet	Meet
An average of 2 visits by investigating staff to each of the 40 public sector tertiary institutions throughout New Zealand.	100%	- ²⁰	100%
Publishing information pamphlets on the functional role of the Ombudsman and Ombudsmen jurisdiction to schools, service groups, government bodies at central regional and local level and to other users or potential users of the Ombudsmen's services.	25	- ²¹	-
Publishing the Office's Annual Report to the House of Representatives and financial statements and any other reports appropriate for public release.	Meet	Meet	Meet
Publishing the Ombudsmen's report as National Preventive Mechanism for prisons, immigration, child youth and mental health detention centres.	Meet	Meet	-
Maintaining a presence on the internet and providing information and resources relating to the Ombudsman role within New Zealand.	Meet	Meet	Meet
Preparing and distributing the Ombudsmen's Quarterly Review (Te Arotake) and Practice Guidelines to make available information about the Ombudsmen's general approach to major issues which come before them.	Meet	- ²²	Meet
Preparing and distributing the Case Notes of the Ombudsmen on a quarterly basis.	4	-	-
Quality, Professional and Unbiased Investigation of Complaints			
All complaints to be investigated by suitably qualified and trained staff.	Meet	Meet	Meet
All final opinions on complaints are to be made or drawn by an Ombudsman.	Meet	Meet	Meet

¹⁹ Refer to page 37 Communications for more extensive comment on actions and initiatives taken by the Office relating to raising awareness and increasing accessibility to the services of the Ombudsmen.

²⁰ Visits to tertiary institutions were suspended following the resignation of both of the two experienced investigators assigned to this role.

²¹ No new publishing occurred during the year pending a review of the media and means of disseminating the information. However more guidance information to agencies and the public is being made available on the Office website.

²² No new publishing occurred during the year pending a review of the media and means of disseminating the information. However more guidance information to agencies and the public is being made available on the Office website.

Performance Measures	2008/09		2007/08
	Budget Standard	Actual	Actual
Conduct a survey of randomly selected complainants and enquirers about the perceived quality of the investigation or advice provided.	Meet	Meet ²³	-
Maintain an internal review process for particularly complex complaints or those identified as having policy implications.	Meet	Meet	Meet
Quantity			
Complete investigations under the Ombudsmen Act 1975.	7,200	7,435 ²⁴	7,317
Complete investigations under the Official Information Act 1982.	1,300	754	822
Complete investigations under the Local Government Official Information and Meetings Act 1987.	108	202	211
Provide guidance and information under the Protected Disclosures Act 2000.	15	6	13
Complete between 10 and 15 inspections of detention facilities under the Crimes of Torture Act 1989 and United Nations Convention Against Torture and publishing of inspection reports.	10 - 15	108 ²⁵	-
Number of investigations open at year end.	800 -900	1,330	1,040
Conduct preliminary consideration or investigation of complaints later found to be outside the Ombudsmen's jurisdiction.	505	458	428
Timeliness of Investigation - Average Number of Working Days to Complete an Investigation.			
Ombudsmen Act 1975 - general complaints	62	59 ²⁶	70
Ombudsmen Act - prisoner complaints	10	7 ²⁷	16
Official Information Act 1982	72	97	88
Local Government Official Information and Meetings Act 1987	54	61	61

²³ See page 38 and 39 for the survey results.

²⁴ Includes 3,268 complaints and enquiries from prisoners resolved by the EAG. A further 1,686 enquiries from the general public were also resolved. These enquiries and complaints are generally resolved by informal process on the same day as they are received or shortly thereafter.

²⁵ Comprises the following scoping visits: Immigration Detention facilities (2), Mental Health sites (74), Care and Protection facilities (2), Prisons (11), Court cells (1) and focussed visits to Mental Health sites (15), Prisons (2), Immigration Detention facilities (1)

²⁶ The 4,954 complaints and enquiries processed informally by EAG and investigative staff have been excluded from average "Timeliness" calculations because the majority of these complaints and enquiries are resolved by telephone or email communication directly with the prison or agency concerned on the same day as they are received. Their high number, if included, would seriously distort the average "Timeliness" performance of more difficult investigations undertaken using formal processes.

²⁷ Does not include prisoner complaints and enquiries actioned by the EAG.

Performance Measures	2008/09		2007/08
	Budget Standard	Actual	Actual
Timeliness of Investigation - Age Profile as at 30 June 2009 of Open (incomplete) Complaint Investigations from Date of Receipt			
Ombudsmen Act 1975 - general complaints			
- Open complaints 6 months and under	90%	60%	75%
- Open complaints 7 to 9 months	5%	13%	7%
- Open complaints 10 to 12 months	3%	10%	6%
- Open complaints >12 months	2%	17%	12%
Ombudsmen Act 1975 - prisoner complaints			
- Open complaints 6 months and under	99%	84%	90%
- Open complaints 7 to 9 months	1%	9%	3%
- Open complaints 10 to 12 months	-	6%	2%
- Open complaints >12 months	-	1%	4%
Official Information Act 1982			
- Open complaints 6 months and under	80%	64%	68%
- Open complaints 7 to 9 months	6%	11%	11%
- Open complaints 10 to 12 months	4%	6%	11%
- Open complaints >12 months	10%	19%	10%
Local Government Official Information and Meetings Act 1987			
- Open complaints 6 months and under	88%	81%	79%
- Open complaints 7 to 9 months	7%	6%	8%
- Open complaints 10 to 12 months	4%	3%	6%
- Open complaints >12 months	1%	10%	7%
Protected Disclosures Act 2000			
- Open requests for guidance and assistance 6 months and under	100%	67%	-
- Open complaints 10 to 12 months	-	-	100%
- Open complaints >12 months	-	33%	-
Timeliness of Investigation - Age Profile as at 30 June 2009 of Completed Complaint Investigations from Date of Receipt			
Ombudsmen Act 1975 - general complaints			
- Completed within 6 months from date of receipt	90%	94%	96%
- Completed within 7 to 9 months from date of receipt	5%	3%	1%
- Completed within 10 to 12 months from date of receipt	3%	1%	1%
- Completed >12 months from date of receipt	2%	2%	2%
Ombudsmen Act 1975 - prisoner complaints			
- Completed complaints 6 months and under	99%	100%	-
- Completed complaints 7 to 9 months	1%	-	-

Performance Measures	2008/09		2007/08
	Budget Standard	Actual	Actual
Official Information Act 1982			
- Completed complaints 6 months and under	80%	76%	79%
- Completed complaints 7 to 9 months	6%	12%	9%
- Completed complaints 10 to 12 months	4%	6%	4%
- Completed complaints >12 months	10%	6%	8%
Local Government Official Information and Meetings Act 1987			
- Completed within 6 months from date of receipt	80%	89%	86%
- Completed within 7 to 9 months from date of receipt	6%	7%	7%
- Completed within 10 to 12 months from date of receipt	4%	2%	4%
- Completed >12 months from date of receipt	10%	2%	3%
Protected Disclosures Act 2000			
- Completed requests for guidance and assistance within 6 months from date of receipt	100%	100%	100%

The cost of investigation and resolution of complaints concerning government agencies for the period under review was approximately \$7.475 million excluding GST.

The total cost of Vote: Ombudsmen

30/6/08 Actual \$(000)		30/06/09 Actual \$(000)	30/06/09 Main Estimates \$(000)	30/06/09 Supp. Estimates \$(000)
6,878	Crown Revenue	7,638	8,208	7,993
49	Other Revenue	1	-	-
-	Interest	-	-	-
6,927	Total Revenue	7,639	8,208	7,993
(6,875)	Total Expenses	(7,475)	(8,208)	(7,993)
52	Net Surplus	164	-	-

Figures are GST exclusive.

Statement of financial performance For the year ended 30 June 2009

30/06/08 Actual \$(000)		Note	30/06/09 Actual \$(000)	30/06/09 Main Estimates \$(000)	30/06/09 Supp. Estimates (see Note 1) \$(000)
	Revenue				
6,878	Crown		7,638	8,208	7,993
49	Other	(2)	1	-	-
<u>6,927</u>	Total Revenue		<u>7,639</u>	<u>8,208</u>	<u>7,993</u>
	Expenses				
5,147	Personnel costs	(3)	5,399	6,619	6,404
1,639	Other operating costs Depreciation and	(4)	1,920	1,430	1,426
85	amortisation	(5)	131	133	137
4	Capital Charge	(6)	25	26	26
<u>6,875</u>	Total Expenses		<u>7,475</u>	<u>8,208</u>	<u>7,993</u>
<u>52</u>	Net Surplus		<u>164</u>	<u>-</u>	<u>-</u>

Explanations of significant variances against budget are detailed in Note 20

The accompanying accounting policies and notes on pages 69 to 85 form part of these financial statements

Statement of financial position
As at 30 June 2009

30/06/08 Actual \$(000)		Note	30/06/09 Actual \$(000)	30/06/09 Main Estimates \$(000)	30/06/09 Supp. Estimates \$(000)
	Assets				
	Current Assets				
614	Cash		651	285	280
43	Prepayments		32	13	18
-	Debtors and other receivables		4	-	-
<u>657</u>	<i>Total current assets</i>		<u>687</u>	<u>298</u>	<u>298</u>
	Non-current assets				
278	Property, plant and equipment	(8)	489	434	492
	Intangible assets				
<u>23</u>	- Software	(9)	<u>41</u>	<u>21</u>	<u>33</u>
<u>301</u>	<i>Total non-current assets</i>		<u>530</u>	<u>455</u>	<u>525</u>
<u>958</u>	Total assets		<u>1,217</u>	<u>753</u>	<u>823</u>
	Liabilities				
	Current Liabilities				
206	Creditors and other payables	(10)	263	159	159
52	Repayment of surplus	(11)	164	-	-
<u>336</u>	Employee entitlements	(12)	<u>411</u>	<u>232</u>	<u>300</u>
<u>594</u>	<i>Total current liabilities</i>		<u>838</u>	<u>391</u>	<u>459</u>
	Non-Current Liabilities				
<u>35</u>	Employee entitlements	(12)	<u>50</u>	<u>33</u>	<u>35</u>
<u>629</u>	Total Liabilities		<u>888</u>	<u>424</u>	<u>494</u>
<u>329</u>	Net Assets		<u>329</u>	<u>329</u>	<u>329</u>
	Taxpayers' Funds				
329	General funds	(13)	329	329	329
<u>329</u>	<i>Total taxpayers' funds.</i>		<u>329</u>	<u>329</u>	<u>329</u>

The accompanying accounting policies and notes on pages 69 to 85 form part of these financial statements

Statement of changes in taxpayers' funds
For the year ended 30 June 2009

30/06/08 Actual \$(000)		Note	30/06/09 Actual \$(000)	30/06/09 Main Estimates \$(000)	30/06/09 Supp. Estimates \$(000)
18	Taxpayers' Funds as at 1 July 2008		329	329	329
52	Net surplus for the year		164	-	-
52	Total recognised revenues and expenses		164	-	-
311	Capital contribution		-	-	-
(52)	Repayment of net surplus to the Crown		(164)	-	-
311	Movements in Taxpayers' Funds for the year		-	-	-
329	Taxpayers' Funds as at 30 June 2009		329	329	329

The accompanying accounting policies and notes on pages 69 to 85 form part of these financial statements

Statement of cash flows

For the year ended 30 June 2009

30/06/08 Actual \$(000)		Note	30/06/09 Actual \$(000)	30/06/09 Main Estimates \$(000)	30/06/09 Supp. Estimates \$(000)
	Cash flow – Operating activities				
	Cash provided from Supply of Outputs to:				
6,878	Crown		7,638	8,208	7,993
49	Other Revenue		1	-	-
<u>6,927</u>			<u>7,639</u>	<u>8,208</u>	<u>7,993</u>
	Cash disbursed to Produce Outputs				
(5,064)	Payments to employees		(5,317)	(6,619)	(6,440)
(1,627)	Payments to suppliers		(1,848)	(1,426)	(1,448)
(4)	Payment for capital charge		(25)	(26)	(26)
<u>(6,695)</u>			<u>(7,190)</u>	<u>(8,071)</u>	<u>(7,914)</u>
<u>232</u>	<i>Net cash from Operating Activities</i>	(14)	<u>449</u>	<u>137</u>	<u>79</u>
	Cash Flow – Investing Activities				
	Cash disbursed for:				
(189)	The purchase of property, plant and equipment		(330)	(119)	(347)
(25)	The purchase on intangible assets - software	(9)	(30)	(4)	(14)
<u>(214)</u>	<i>Net cash from Investing Activities</i>		<u>(360)</u>	<u>(123)</u>	<u>(361)</u>
	Cash Flow – Financing Activities				
	Cash provided from:				
311	capital contributions		-	-	-
	Cash disbursed to:				
-	repayment of net surplus		(52)	-	(52)
<u>311</u>	<i>Net cash from Financing Activities</i>		<u>(52)</u>	<u>-</u>	<u>(52)</u>
329	Net Increase /(Decrease) in cash		37	14	(334)
285	Cash at beginning of the year		614	271	614
<u>614</u>	Cash at end of the year		<u>651</u>	<u>285</u>	<u>280</u>

The GST (net) component of operating activities reflects the net GST paid and received with the Inland Revenue Department. This component has been presented on a net basis.

The accompanying accounting policies and notes on pages 69 to 85 form part of these financial statements

Statement of commitments as at 30 June 2009

Non-cancellable operating lease commitments

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

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

30/6/08 Actual \$(000)		30/6/09 Actual \$(000)
	Operating lease commitments	
594	Less than one year	639
594	One to two years	639
829	Two to five years	830
17	More than five years	-
<u>2,034</u>	Total operating lease commitments	<u>2,108</u>

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

Other non-cancellable commitments

Nil

Capital commitments

The Office does not have any capital commitments as at 30 June 2009 (2008 \$146,000 plus GST)

Statement of contingent liabilities and contingent assets as at 30 June 2009

Quantifiable contingent liabilities

The Office does not have any contingent liabilities or contingent assets as at 30 June 2009 (2008 Nil).

The accompanying accounting policies and notes on pages 69 to 85 form part of these financial statements.

Statement of departmental expenses and capital expenditure against appropriations for the year ended 30 June 2009

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30/6/08 Actual \$(000)		30/06/09 Actual \$(000)	Appropriation		
			30/06/09 Final Voted \$(000)	Supp. Estimates Changes \$(000)	Budget Night Voted \$(000)
	Vote Ombudsmen				
6,148	Appropriation for Output Expenses Investigation and resolution of complaints about government administration Annual Appropriation for Office of the Ombudsmen	6,854	7,369	-	7,369
727	Other Expenses to be incurred by the Office: - Ombudsmen remuneration	621	624	(215)	839
6,875	Sub Total	7,475	7,993	(215)	8,208
214	Appropriation for Capital Expenditure	360	361	238	123
7,089	Total	7,835	8,354	23	8,331

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

The accompanying accounting policies and notes on pages 69 to 85 form part of these financial statements.

Statement of unappropriated expenditure and capital expenditure for the year ended 30 June 2009

30/06/08 Actual \$(000)		30/06/09 Actual \$(000)	30/06/09 Appropriation Voted \$(000)	30/06/09 Unappropriated Expenditure Actual \$(000)
6,148	Investigation and resolution of complaints about government administration	6,854	7,369	-
214	Appropriation for Capital Expenditure	360	361	-

The appropriation Voted includes adjustments made in the Supplementary Estimates.

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

Nil.

Expenses and capital expenditure incurred without appropriation or other authority

Nil.

Breaches of projected departmental net assets schedules

Nil.

Statement of trust monies for the year ended 30 June 2009

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

Notes to the financial statements

Statement of accounting policies for the year ended 30 June 2009

Reporting Entity

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

The primary purpose, functions and outcomes of the Office are disclosed at page 6 of this report. The Office provides services to the public rather than making a financial return. Accordingly, the Office has designated itself a public benefit entity for the purposes of New Zealand equivalents to International Financial Reporting Standards (NZ IFRS).

The financial statements of the Office are for the year ended 30 June 2009. The financial statements were authorised for distribution by the Chief Executive on 21 October 2009.

Basis of preparation

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

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

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

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

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

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

NZ IAS 1 Presentation of Financial Statements (revised 2007) replaces *NZ IAS 1 Presentation of Financial Statements (issued 2004)* and is effective for reporting periods beginning on or after 1 January 2009. The revised standard requires information in financial statements to be aggregated on the basis of shared characteristics and to introduce a statement of comprehensive income. This will enable readers to analyse changes in equity resulting from transactions with the Crown in its capacity as "owner" separately from "non-owner" changes. The revised standard gives the Office the option of presenting items of income and expense and components of other comprehensive income either in a single statement of comprehensive income with subtotals, or in two separate statements (a separate income statement followed by a statement of comprehensive income). The Office expects it will apply the revised standard for the first time for the year ended 30 June 2010, and is yet to decide whether it will prepare a single statement of comprehensive income or a separate income statement followed by a statement of comprehensive income.

NZ IFRS 8 Operating Segments replaces *NZ IAS 14 Segment Reporting*. NZ IFRS 8 extends the scope of segment reporting and requires identification of operating segments and disclosures based on internal reports that are regularly reviewed by the entity's chief operating decision maker in order to allocate resources to the segment and assess its performance. The Office

anticipates that the revised standard will be adopted in its financial statements for the period beginning 1 July 2009 and that the adoption will have no material impact on the financial statements of the Office in the period of initial application.

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

Revenue

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

Revenue crown

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

Sale of publications

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

Capital charge

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

Leases

Operating Leases

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

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

Finance leases

The Office is not party to any finance leases.

Financial instruments

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

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

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

Loans and receivables

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

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

At 30 June 2009 minor staff debts amounted to approximately \$3,700 (2008: \$0).

Property, plant and equipment

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

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

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

Additions

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

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

Disposals

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

Subsequent costs

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

Depreciation

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

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

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

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

Intangible assets

Software acquisition and development

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

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

Staff training costs are recognised as an expense when incurred.

Amortisation

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

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

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

Impairment of non-financial assets

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

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

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

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

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

Creditors and other payables

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

Employee entitlements

Short-term employee entitlements

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

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

Long-term employee entitlements

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

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

The Office's terms and conditions of employment do not include a provision for retirement leave.

Superannuation schemes

Defined contribution schemes

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

Defined benefit schemes

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

Taxpayers' funds

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

Commitments

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

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

Goods and services tax (GST)

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

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

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

Commitments and contingencies are disclosed exclusive of GST.

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

Income tax

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

Budget figures

The budget figures are those included in the Office Estimates of Expenditure for the year ended 30 June 2009 published by the Government in May 2008. In addition, the Estimates of Expenditure for the year ending 30 June 2010 present the updated 30 June 2009 budget information incorporating the 2008/09 Supplementary Estimates.

Statement of cost accounting policies

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

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

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

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

Judgements and estimations

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

These estimates and assumptions may differ from the subsequent actual results. Estimates and judgements are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances. The estimates and assumptions that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year are discussed below:

Long service leave

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

Annual leave

The cost of annual leave is based on accumulated accrued annual leave due to staff as at 30 June 2009 and is calculated using salaries payable at that date. The Office terms of employment do not provide for anticipated annual leave.

Critical judgements in applying the Office's accounting policies

Management has not exercised any critical judgements in applying the Office's accounting policies for the period ended 30 June 2009.

Statement of cash flows

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

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

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

1. Budget composition

		30/6/09	30/6/09	30/6/09
	Notes	Budget Night Forecasts \$(000)	Supp. Estimates Changes \$(000)	Budget Total \$(000)
Revenue				
Crown		8,208	(215)	7,993
Other	(2)	-	-	-
Total revenue		8,208	(215)	7,993
Expenditure				
Personnel costs	(3)	6,619	(215)	6,404
Operating costs	(4)	1,430	-	1,430
Depreciation	(5)	133	-	133
Capital charge	(6)	26	-	26
Total expenses		8,208	(215)	7,993
Net operating Surplus/(deficit)		-	-	-

2. Other revenue

"Other Revenue" of \$1,000 results from the sale of copies of Case Notes of the Ombudsmen, Practice Guidelines and surplus furniture or equipment.

3. Personnel costs

30/6/08 Actual \$(000)		30/6/09 Actual \$(000)	30/6/09 Main Estimates \$(000)	30/6/09 Supp. Estimates \$(000)
4,810	Salaries and wages	5,077	6,253	6,038
233	Employer contributions to staff superannuation	219	327	327
11	Accrued long service leave	16	-	-
53	Accrued annual leave	35	-	-
25	ACC levy	25	26	26
15	Other Personnel costs	27	13	13
5,147	Total Personnel costs	5,399	6,619	6,404

Employer contributions to superannuation plans include contributions to Kiwi Saver and other defined contribution plans registered under the Superannuation Schemes Act 1989. The Office contributes to the now closed National Provident Fund Local Government Defined Benefit plan in respect of one employee.

There were two Ombudsmen and 63 supporting staff (58.5 FTE's) as at 30 June 2009.

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

30/6/08 Actual Number in Band	Remuneration Band	30/6/2009 Actual Number in Band
-	\$320,000 to 329,999	1
1	\$310,000 to 319,999	-
-	\$300,000 to 309,999	-
-	\$270,000 to 279,000	1
1	\$260,000 to 269,999	-
-	\$250,000 to 259,999	-
-	\$160,000 to 169,000	1
1	\$150,000 to 159,999	1
1	\$140,000 to 149,999	1
-	\$130,000 to 139,000	-
1	\$120,000 to 129,999	2
1	\$110,000 to 119,999	4
1	\$100,000 to 109,999	4

4. Other operating expenses

30/06/08 Actual \$(000)		30/06/09 Actual \$(000)	30/06/09 Main Estimates \$(000)	30/06/09 Supp. Estimates \$(000)
643	Operating accommodation lease expenses	638	658	658
24	Accommodation costs - other	32	38	38
28	Audit fees	26	28	28
84	Publications, books and statutes	94	79	79
116	Travel	217	227	227
113	Communication costs	135	169	169
631	Other operating costs	778	231	227
1,639	Total operating costs	1,920	1,430	1,426

Increased costs under "Other operating costs" relative to last year arose principally from the restructuring of the Office over the past 12 months and engagement of associated external assistance and expertise to assist with this work. External specialist assistance was also contracted with regard to scoping and introducing the Ombudsmen's jurisdiction under the Crimes of Torture Act to mental health and similar facilities where people may be detained against their will.

5. Depreciation and amortisation

30/06/08 Actual \$(000)		30/06/09 Actual \$(000)	30/06/09 Main Estimates \$(000)	30/06/09 Supp. Estimates \$(000)
7	Furniture and Fittings	14	6	6
38	Plant and Equipment and Other	71	63	63
31	Computer Equipment	34	60	64
9	Intangible Assets – Software	12	4	4
85		131	133	137

6. Capital charge

The Office pays a capital charge to the Crown on its average taxpayers' funds as at 31 December and 30 June each year. The capital charge rate for the year ended 30 June 2009 was 7.5 percent (2008: 7.5 percent).

7. Capital contribution

No capital injections were received in the year ended 30 June 2009. (2008: \$311,000)

8. Plant, property and equipment

2009

	Notes	Plant and Equipment \$(000)	Leasehold improvements \$(000)	IT Equipment \$(000)	Furniture and Fittings \$(000)	Total \$(000)
Cost						
Balance at 30 June 2008		102	282	201	81	666
Additions		49	75	151	55	330
Disposals		(5)	-	(69)	(2)	(76)
Balance at 30 June 2009		146	357	283	134	920
Accumulated depreciation and impairment losses						
Balance at 30 June 2008		95	81	145	67	388
Depreciation		12	59	34	14	119
Disposals		(5)	-	(69)	(2)	(76)
Balance at 30 June 2009		102	140	110	79	431
Carrying amounts						
At 30 June 2008		7	201	56	14	278
At 30 June 2009		44	217	173	55	489

2008

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	Notes	Plant and Equipment \$(000)	Leasehold improvements \$(000)	IT Equipment \$(000)	Furniture and Fittings \$(000)	Total \$(000)
Cost						
Balance at 30 June 2007		125	131	235	74	565
Additions		4	151	27	7	189
Disposals		(27)	-	(61)	-	(88)
Balance at 30 June 2008		102	282	201	81	666
Accumulated depreciation and impairment losses						
Balance at 30 June 2007		112	54	175	60	401
Depreciation		10	27	31	7	75
Disposals		(27)	-	(61)	-	(88)
Balance at 30 June 2008		95	81	145	79	431
Carrying amounts						
At 30 June 2007		13	77	60	14	164
At 30 June 2008		7	201	56	14	278

9. Intangible assets

2009

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

2008

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

The Office has an internally generated case management system but the system uses redundant technology and now has no value. The system will be replaced during the 2009-10 reporting year. Otherwise, the Office does not have any internally generated software.

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

10. Creditors and other payables

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

30/06/08 Actual \$(000)		30/06/09 Actual \$(000)
62	Trade creditors	138
103	GST payable	63
41	Other short-term liabilities	62
<u>206</u>		<u>263</u>

11. Repayment of surplus

The Office completed the year with a surplus of \$164,000 (2008: \$52,000). Repayment of surplus is required by 31 October each year.

12. Employee entitlements

30/06/08 Actual \$(000)		30/06/09 Actual \$(000)
	<i>Current Liabilities</i>	
274	Annual leave	309
9	Long service leave	10
53	Superannuation, Superannuation Contribution Withholding Tax and salaries	92
336		411
	<i>Non current Liabilities</i>	
35	Long service leave	50
<u>371</u>	Total for employee entitlements	<u>461</u>

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

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

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

13. Taxpayers' funds

30/6/08 Actual \$(000)		30/6/09 Actual \$(000)
General Funds		
18	Balance at 1 July	329
52	Net surplus	164
311	Capital contribution from the Crown	-
(52)	Provision for repayment of surplus to the Crown	(164)
<u>329</u>	<i>General Funds at 30 June</i>	<u>329</u>

14. Reconciliation of net surplus to net cash from operating activities for the year ended 30 June 2009

30/06/08 Actual \$(000)		30/06/09 Actual \$(000)	30/06/09 Main Estimates \$(000)	30/06/09 Supp. Estimates \$(000)
52	Net surplus/(deficit)	164	-	-
	Add/(less) non-cash items			
<u>85</u>	Depreciation and amortisation expense	<u>131</u>	<u>133</u>	<u>137</u>
85	Total non-cash items	131	133	137
	Add/(less) movements in working capital items			
(25)	(Inc)/Dec Prepayments	12	-	25
11	(Inc)/Dec Debtors	(4)	-	(47)
26	Inc/(Dec) Creditors and Payables	76	-	(36)
83	Inc/(Dec) Employee Entitlements	90	-	-
-	Inc/(Dec) Short term Liabilities	20	-	-
<u>-</u>	Inc/(Dec) GST	<u>(40)</u>	<u>4</u>	<u>-</u>
<u>95</u>	Net movement in working capital items	<u>154</u>	<u>4</u>	<u>(58)</u>
<u>232</u>	Net cash flows from Operating activities	<u>449</u>	<u>137</u>	<u>79</u>

15. Contingencies

The Office does not have any contingent assets or liabilities as at 30 June 2009 (2008, nil).

16. Financial instruments

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

Market risk

Currency risk

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

The Office is not exposed to currency risk.

Interest rate risk

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

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

Credit risk

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

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

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

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

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

Liquidity risk

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

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

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

2009

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

2008

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

Categories of financial instruments

Actual 2008 \$000		Actual 2009 \$(000)
	Loans and receivables	
614	Cash and cash equivalents	651
-	Debtors and other receivables	4
<u>614</u>		<u>655</u>
	Financial liabilities measured at amortised cost	
206	Creditors and other payables (note 10)	263
<u>371</u>	Employee entitlements (note 12)	<u>461</u>
<u>577</u>		<u>724</u>

17. Capital management

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

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

18. Related Party Information

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

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

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

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

19. Events after the balance sheet date

There were no post balance sheet date events in regard to the Office financial statements for the year ended 30 June 2009.

20. Significant variances from forecast financial performance

The Office did not draw down the full approved appropriation for the Vote for 2008/09. This resulted in immediate savings to the Crown of \$355,000 plus GST and a further \$164,000 at year end. The savings arose from the time taken to implement a new management structure for the Office and to recruit staff to new positions particularly in relation to prison related investigations.

Statement of objectives specifying the financial performance forecast for the office for the year ended 30 June 2009

30/06/08 Actual		Unit	30/06/09 Actual	30/06/09 Main Estimates	30/06/09 Supp. Estimates
Operating Results					
49	Revenue – Other	\$000	1	-	-
52	Net surplus	\$000	164	-	-
	Cash disbursed to producing outputs				
6,691	–output expenses	\$000	7,165	8,045	7,888
329	Net increase/(decrease) in cash held	\$000	37	14	(334)
Working Capital					
63	Net current assets	\$000	(151)	(93)	(161)
111	Current ratio	%	82	76	65
4.1	Liquid ratio		2.5	1.8	1.8
	Average creditor				
11.7	Outstanding	Days	22.1	15.4	15.4
Resource Utilisation					
71	Physical assets – additions as a % of net physical assets	%	68	27	69
329	Taxpayers' funds	\$000	329	329	329
Human Resources					
12	Staff turnover	%	14	-	-
50.3	Total staff (FTEs)	no	58.5	-	-
3:1	Ratio of investigators to support staff		2:8	-	-

Formulae Used

<i>Net current assets</i>	Current assets minus current liabilities.
<i>Current ratio</i>	Current assets as a proportion of current liabilities.
<i>Liquid ratio</i>	Total cash, bank balances and term deposits at end of year divided by creditors and short term (current) payables at end of year.
<i>Average creditors outstanding</i>	$\frac{\text{Trade creditors at end of year} \times 365 \times 8}{\text{Total trade purchases} \times 9}$
<i>Staff turnover</i>	Total full-time equivalent staff at start of reported year divided by full-time equivalent resignations during the reported year.
<i>Total staff (FTEs)</i>	Excludes the 2 Ombudsmen.
<i>Ratio investigators to support staff</i>	Ombudsmen and full-time equivalent investigating staff divided by full-time equivalent support staff.

Analysis and Statistics

An Analysis of Complaints by Act
Prisoner Complaints
Geographical Distribution of Complainants and Enquirers
Directory

The throughput of investigations

	2004/05	2005/06	2006/07	2007/08	2008/09
Complaints on hand at 1 July					
Ombudsmen Act	500	531	608	536	576
Official Information Act	261	241	278	289	364
Local Government Official Information and Meetings Act	63	46	70	59	51
Protected Disclosures Act	4	1	1	-	1
Other work for which files were opened	12	35	37	34	42
Adjustment	-	-	-	100	1
Total	840	854	994	1,018	1,035
Complaints received during the year					
Ombudsmen Act	5,097	8,293	7,593	7,257	7,615 ²⁸
Official Information Act	922	754	812	897	809
Local Government Official Information and Meetings Act	190	172	192	204	231
Protected Disclosures Act	7	8	8	14	8
Other work for which files were opened	541	481	485	436	487
Total	6,757	9,708	9,090	8,808	9,150
Complaints disposed of during the year					
Ombudsmen Act	5,066	8,216	7,665	7,317	7,435 ²⁹
Official Information Act	942	717	801	822	754
Local Government Official Information and Meetings Act	207	148	203	211	202
Protected Disclosures Act	10	8	9	13	6
Other work for which files were opened	518	479	488	428	458
Total	6,743	9,568	9,166	8,791	8,855
Complaints on hand at 30 June					
Ombudsmen Act	531	608	536	576	757 ³⁰
Official Information Act	241	278	289	364	419
Local Government Official Information and Meetings Act	46	70	59	52	80
Protected Disclosures Act	1	1	-	1	3
Other Work for which files were opened	35	37	34	42	71
TOTAL	854	994	918	1,035	1,330

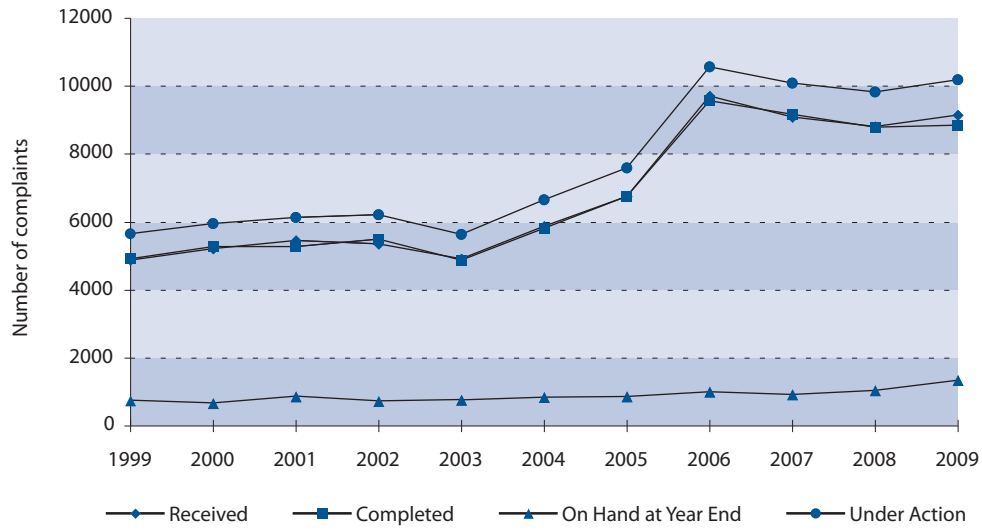
²⁸ Includes 5,033 prison and other enquiries.

²⁹ Includes 4,954 prison and other enquiries.

³⁰ Includes 79 prison and other enquiries.

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

Throughput All Complaints All Jurisdictions



Cost of resolving complaints

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

	Estimated cost Year ended 30 June 2008	Estimated cost Year ended 30 June 2009
Ombudsmen Act		
Estimated average cost per completed complaint		
- rec'd from prisoners	\$115	\$108
- rec'd from non prison sources	\$1,337	\$605
Estimated average cost work in progress	\$2,156	\$2,358
Estimated cost of all investigations complete and incomplete	\$4.004 million	\$4.158 million
Official Information Act		
Estimated average cost per complaint		
- completed work	\$1,670	\$1,767
- work in progress	\$2,487	\$2,938
Estimated cost of all investigations complete and incomplete	\$2,278 million	\$2.564 million
Local Government Official Information and Meetings Act		
Estimated average cost per complaint		
- completed work	\$1,157	\$1,120
- work in progress	\$2,008	\$1,737
Estimated cost of all investigations complete and incomplete	\$0.349 million	\$0.365 million
Protected Disclosures Act		
Estimated average cost per complaint		
- completed work	\$185	\$474
- work in progress	\$1,985	\$3,614
Estimated cost of all investigations complete and incomplete	\$0.006 million	\$0.013 million
Other work where the matter is found to be outside the Ombudsmen's jurisdiction but information and assistance is given		
- completed work	\$239	\$407
- work in progress	\$3,249	\$2,643
Estimated cost of all investigations complete and incomplete	\$0.238 million	\$0.374 million

Age profiles of open and closed complaints

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

Age profile - all complaints closed in the period

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

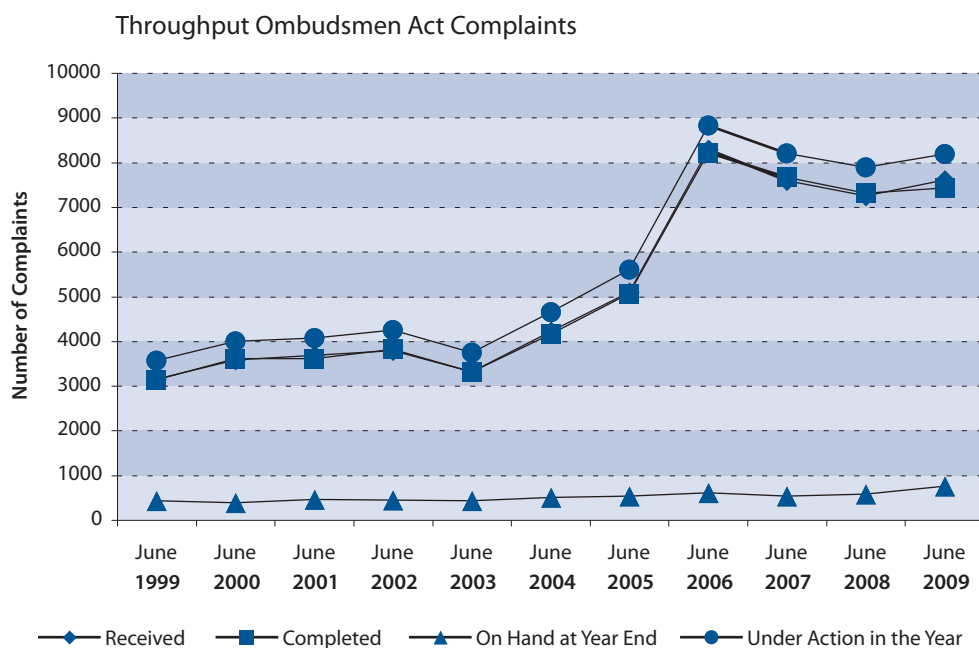
Age profile - all complaints remaining open at 30 June

	Year ended			
	30/6/06	30/6/07	30/6/08	30/6/09
Aged 6 months or less from date of receipt	80%	69%	75%	69%
Aged between 7 and 12 months from date of receipt	14%	19%	15%	16%
Aged more than 12 months from date of receipt	6%	12%	10%	15%

An analysis of complaints by act

Ombudsmen Act

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



Report of the Ombudsmen

Part 3 Report on corporate operations

How complaints and enquiries were resolved	B/f from last year	Rec'd year ended 30/6/09	Total under action year ended 30/6/09
Resolved by department or organisation during course of investigation:			
- investigation discontinued	45	78	123
<i>Sustained after formal investigation:</i>			
- no recommendation warranted or appropriate	25	9	34
- recommendation made	2	-	2
	27	9	36
<i>Not sustained after formal investigation (all)</i>	65	45	110
<i>Not sustained after formal investigation (majority)</i>	4	1	5
<i>Investigation discontinued:</i>			
- further inquiry not warranted	75	84	159
- complaint returned to agency for reconsideration	9	12	21
<i>Declined:</i>			
- organisation not within jurisdiction (explanation/assistance given)	8	50	58
<i>Declined pursuant to Ombudsman's discretion</i>			
- right of appeal to Court or Tribunal	6	52	58
- adequate remedy under law or administrative practice reasonably available	31	228	259
- time lapse	2	11	13
- frivolous or vexatious	-	1	1
- insufficient personal interest	1	4	5
	40	296	336
<i>Formal investigation not undertaken:</i>			
- resolved by informal inquiry	20	3,502	3,522 ³¹
- informal inquiries – explanation advice or assistance provided	126	2,751	2,877 ³¹
- complaint withdrawn by complainant or no response from complainant	28	120	148
- complaint returned to dept for reconsideration	6	15	21
	180	6,388	6,568
Transferred to the Privacy Commissioner	1	11	12 ³²
Transferred to Independent Police Complaints Authority	-	3	3
Administration – adjustment	-	4	4
	454	6,981	7,435
Under investigation at 30 June	123	634	757
Total	577	7,615	8,192

³¹ Includes 3,292 complaints and enquiries from prisoners and 1,741 enquiries from the general public received by the Early Assistance Group and investigative staff and resolved by informal process generally on the same day as they are received.

³² This number relates to matters that were formally transferred to the Privacy Commissioner. It does not include matters investigated by the Ombudsmen requiring consultation with the Privacy Commissioner.

Complaints and enquiries were received from:

93

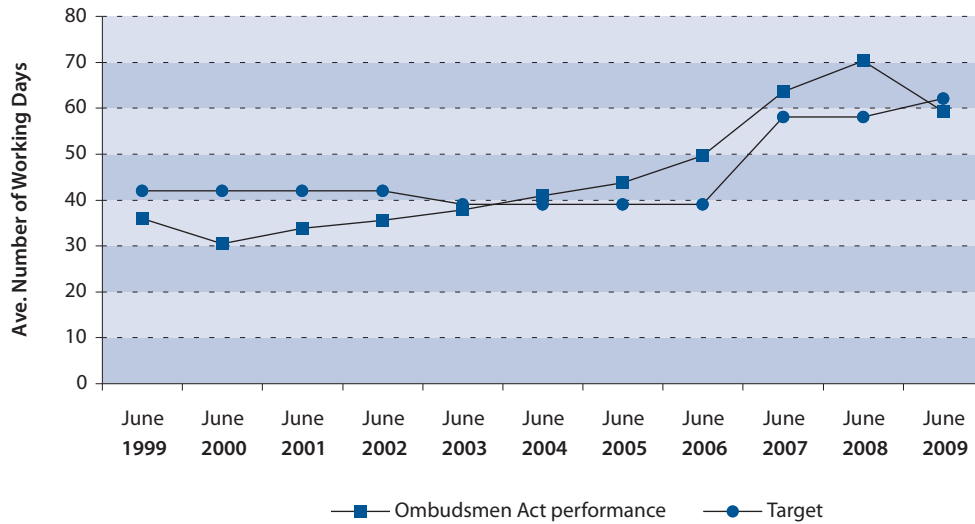
	Year ended		
	30/6/07	30/6/08	30/6/09
Individuals	2,736	2,393	2,923
Via legal practices	313	314	321
Media	2	10	2
Members of Parliament and political party research units	7	4	5
Special interest groups	60	22	29
Companies associations and incorporated societies	68	86	33
via legal practices	10	15	9
Government departments/ organisations/ local authorities	46	59	-
Researchers	1	-	1
Sentenced prisoners	3,583	3,570	4,183
Prisoner Home Detention	-	13	3
Prisoner Parolee	-	14	4
Remand prisoners	556	540	71
Prisoners unspecified	26	-	2
Prison staff	9	7	1
Prisoner advocate	175	208	23
Trade unions	-	2	-
Own motion (Prisoner Transport)	1	-	5
Total	7,593	7,257	7,615

The complaints and enquiries were directed at:

	Year ended		
	30/6/07	30/6/08	30/6/09
Central government depts (Part I)	6,775	6,431	6,791
Organisations other than Local organisations (Part II)	425	432	407
Local organisations (Part III)	393	394	417
Total	7,593	7,257	7,615

Timeliness performance measures are detailed at page 58 to 61

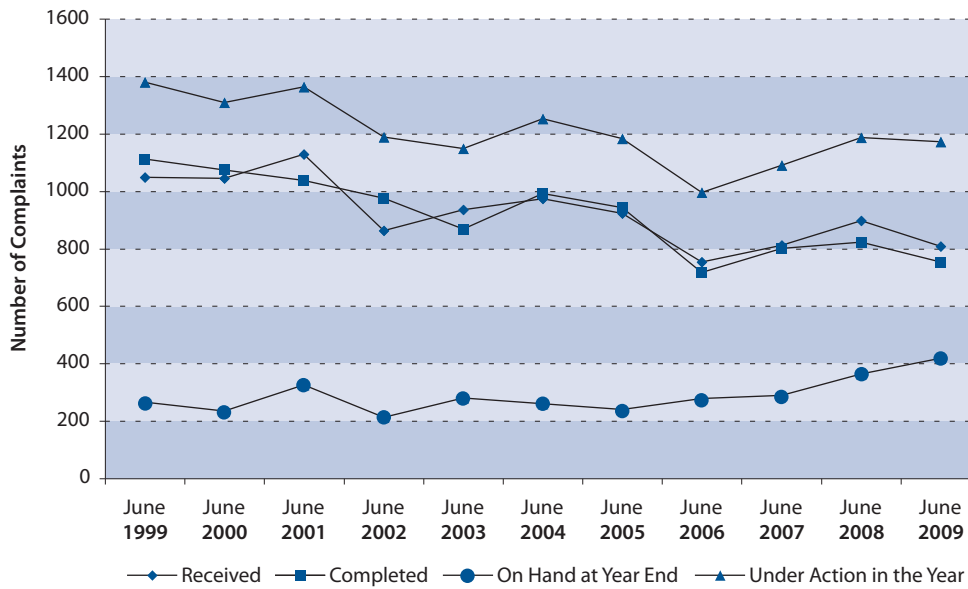
Average number of working days required to complete Ombudsmen Act investigations



Official Information Act

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

Throughput of Official Information Act complaints



How requests for review were resolved:	B/f from last year	Rec'd year ended 30/6/09	Total under action year ended 30/6/09
<i>Resolved by Minister, dept or organisation during course of investigation :</i>			
- investigation discontinued	66	79	145
<i>Sustained after formal investigation:</i>			
- no recommendation made	25	53	78
- recommendation made	<u>15</u>	<u>2</u>	<u>17</u>
	40	55	95
<i>Not sustained after formal investigation</i>	88	81	169
<i>Investigation discontinued</i>			
- further inquiry not warranted	36	55	91
- returned to agency for reconsideration	2	-	2
<i>Declined:</i>			
- organisation not within jurisdiction (explanation/ assistance given)	-	10	10
<i>Declined pursuant to Ombudsman's discretion:</i>			
- adequate remedy under law or administrative practice reasonably available	1	5	6
- time lapse	-	1	1
- frivolous or vexatious	-	1	1
<i>Formal investigation not undertaken:</i>			
- resolved by informal inquiry	18	68	86
- informal inquiries – explanation, advice or assistance given	20	42	62
complaint withdrawn by complainant or no response from complainant	<u>3</u>	<u>49</u>	<u>52</u>
	41	159	200
Transferred to the Privacy Commissioner	<u>3</u>	<u>31</u>	<u>34</u>
	277	477	754
Under investigation at 30 June	<u>87</u>	<u>332</u>	<u>419</u>
Total	<u>364</u>	<u>809</u>	<u>1,173</u>

Why reviews were requested:

	Year ended		
	30/6/07	30/6/08	30/6/09
Refusals	497	522	501
Delays deemed refusals	235	288	213
Delays	19	11	17
Charges	17	21	25
Corrections	1	-	-
Deletions	15	28	26
Extensions	22	23	26
Conditions	-	-	-
Transfers	6	4	1
Total	812	897	809

The requests for review concerned decisions taken by:

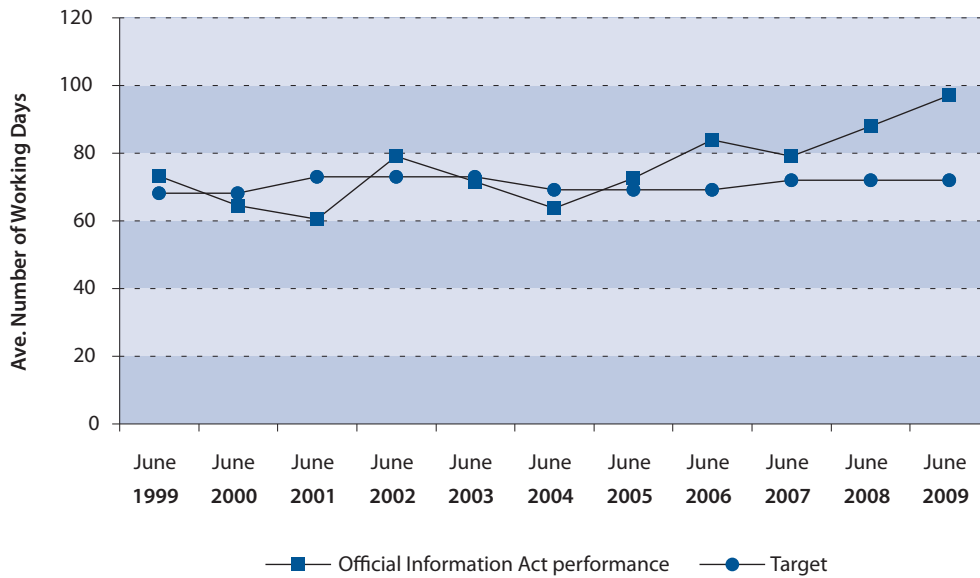
	Year ended		
	30/6/07	30/6/08	30/6/09
Ministers of the Crown	185	212	119
Departments listed in Part I Ombudsmen Act	336	371	329
Organisations listed in Part II Ombudsmen Act and listed in First Schedule to the Official Information Act	291	314	361
Total	812	897	809

Requests for review were received from:

	Year ended		
	30/6/07	30/6/08	30/6/09
Individuals	307	352	363
- Via legal practices	45	45	66
Media	104	113	130
Members of Parliament and political party research units	190	202	83
Special interest groups	59	32	30
Companies associations and incorporated societies	52	91	54
- Via legal practices	27	34	43
Government departments/ organisations/ local authorities	3	3	6
Researchers	3	11	7
Sentenced prisoners	20	14	23
Remand prisoners	-	-	1
Trade unions	2	-	3
Total	812	897	809

Timeliness performance measures are detailed at page 58 to 61

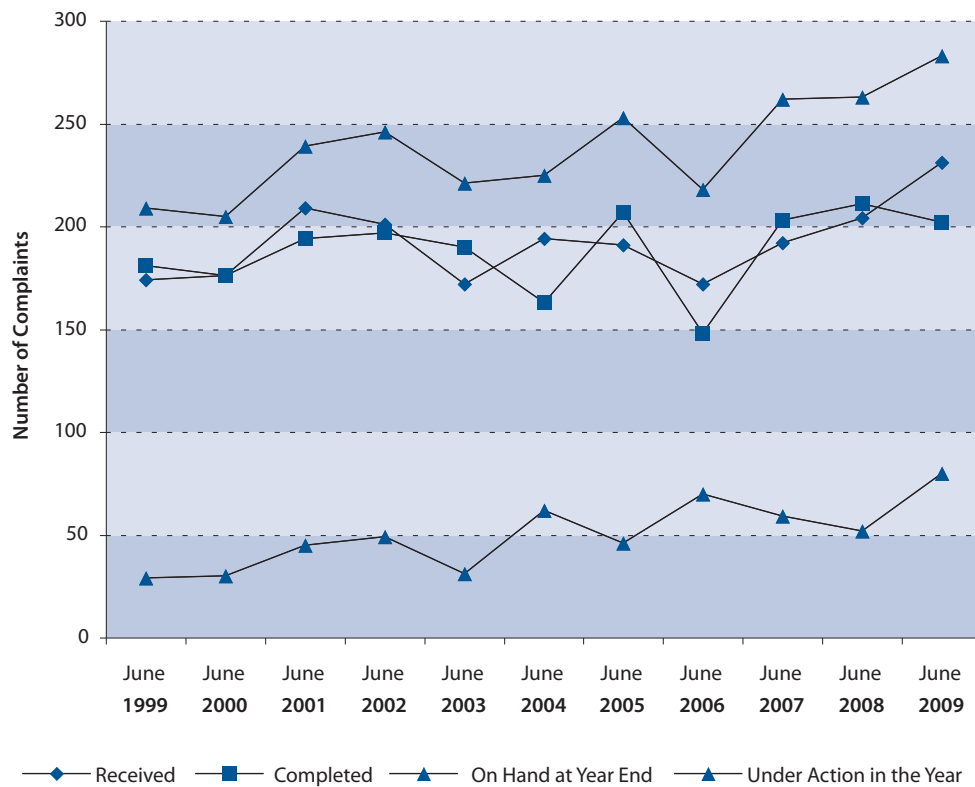
Average number of working days required to complete Official Information Act complaints



Local Government Official Information and Meetings Act

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

Throughput of Local Government Official Information and Meeting



How requests for review were resolved:	B/f from last year	Rec'd year ended 30/6/09	Total Under action year ended 30/6/09
<i>Resolved by organisation during course of investigation</i>			
- investigation discontinued	13	37	50
<i>Sustained after formal investigation:</i>			
- no recommendation made	2	9	11
- recommendation made	1	-	1
	3	9	12
<i>Not sustained after formal investigation</i>			
<i>Investigation discontinued</i>			
- further inquiry not warranted	5	23	28
- returned to agency for reconsideration	1	-	1
<i>Declined</i>			
organisation not within jurisdiction (explanation/assistance given)	-	3	3
<i>Declined pursuant to Ombudsman's discretion</i>			
- adequate remedy under law or administrative practice reasonably available	-	7	7
- Time lapse	-	1	1
<i>Formal investigation not undertaken:</i>			
- resolved informally	2	18	20
- informal inquiries – explanation, advice or assistance given	5	30	35
- complaint withdrawn by complainant or no response from complainant	1	8	9
	8	56	64
Transferred to the Privacy Commissioner	-	1	1
	43	159	202
Under investigation at 30 June	8	72	80
Total	51	231	282

Why reviews were requested:

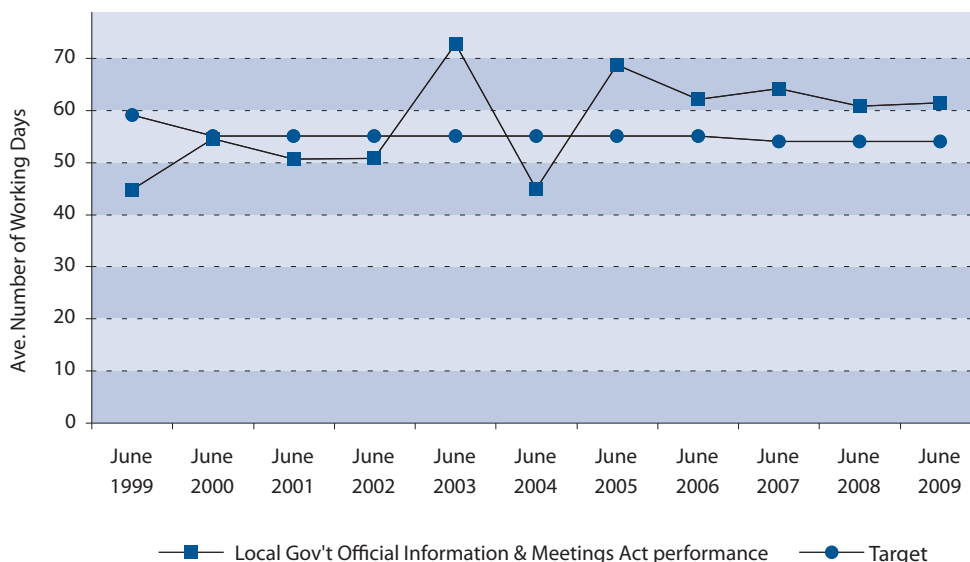
	Year ended		
	30/6/07	30/6/08	30/6/09
Refusals	123	130	162
Delays deemed refusals	52	58	48
Delays	2	6	6
Charges	10	8	12
Deletions	4	1	1
Extensions	1	1	2
Total	192	204	231

We received requests for review from:

	Year ended		
	30/6/07	30/6/08	30/6/09
Individuals	117	129	142
via legal practices	15	6	11
Media	9	24	46
Special interest groups	21	9	12
Companies, associations	12	17	6
via legal practices	15	18	9
Government departments/ organisations/ local authorities	1	1	1
Members of Parliament and political party research units	1	-	3
Researcher	-	-	1
Trade Unions	1	-	-
Total	192	204	231

Timeliness performance measures are detailed at page 58 to 61

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



Prisoner Complaints

During the year ended 30 June 2009 complaints were received from:

Prison	Not Specified	Prisoner Sentenced	Prisoner Convicted	Prisoner Home Detention	Prisoner Remand Accused	Prisoner Remand Convicted	Prisoner Parolee	Prisoner Advocate	Prison Staff	Individual	Own Motion	Total
Akld Central Remand	2	56	-	3	157	11	2	12	-	1	-	244
Akld Prison	-	355	-	-	2	3	1	9	1	4	-	375
Arohata Womens	2	39	-	-	2	-	-	1	-	2	-	46
Akld Regional Womens	-	161	-	-	34	4	3	10	1	3	-	216
Chch	-	281	-	2	59	13	-	16	-	1	-	372
Chch Womens	-	25	-	-	-	-	-	1	-	1	-	27
CPPS	1	8	-	3	-	-	1	2	-	5	-	20
Dunedin	-	-	-	-	-	-	-	-	-	-	-	0
Hawke's Bay Regional	-	321	-	-	15	5	-	9	-	3	-	353
Invercargill	-	31	-	-	-	-	-	1	-	4	-	36
Manawatu	-	111	-	-	5	-	-	2	1	1	-	120
Mt Eden	-	156	-	1	48	3	2	16	2	4	-	232
Northland Corrections Facility	-	96	-	-	20	3	-	5	1	6	1	132
New Plymouth	-	35	-	-	7	-	1	1	-	1	-	45
Otago Corrections facility	-	144	-	-	6	4	-	7	-	6	1	168
Rimutaka	1	384	-	-	17	2	5	21	1	1	-	432
Rolleston	-	46	-	-	-	-	-	-	-	-	-	46
Spring Hill	-	504	-	-	-	-	2	8	1	1	-	516
Tongariro/Rangipo	-	190	-	-	1	1	-	7	1	3	-	203
Waikeria	1	266	-	-	28	2	2	11	2	2	-	314
Wanganui	-	119	-	-	6	-	-	6	-	3	-	134
Wellington	-	1	-	-	-	-	-	1	-	1	-	3
Not Specified	47	172	-	2	6	6	4	6	1	2	1	253
Totals	54	3,501	0	11	413	57	23	152	12	55	3	4,287

During the year ending 30 June 2009 complaints received from and on behalf of prisoners concerned:

Prison	Food services	Temporary releases/ escorted outings	Prison conditions	Staff conduct and attitudes	Prisoner property	Prisoner transfers and movements	Prisoner telephone calls and written movements	Prison work and prisoner pay	Prisoner welfare	OIA/ Privacy Act and general information	Prisoner discipline and misconduct	Use of force	security classification	Prisoner health services	Recreation, exercise and sport	Case management and programmes	Personal and official visitors	Culture and religion	Serious incident	Sudden death in custody	Other	22	Own Motion	Total
Akld Central Remand	3	1	6	26	80	17	28	5	9	8	14	-	1	26	-	1	10	-	-	-	22	15	-	272
Akld Prison	3	16	40	28	63	38	28	10	14	23	27	1	14	22	2	13	7	-	3	3	21	20	-	396
Arohata Womens	2	4	5	1	2	9	4	-	-	1	1	-	-	1	1	3	3	-	-	-	9	1	-	47
Akld Region Womens	2	5	9	37	57	10	42	4	3	8	13	1	5	11	1	3	4	1	2	1	18	17	-	254
Chch	5	7	23	32	68	37	22	4	4	14	40	-	14	32	1	18	33	-	1	1	23	17	-	396
Chch Womens	-	2	3	7	-	2	4	-	1	-	2	-	-	3	-	1	2	-	-	-	-	2	-	29
Dunedin	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Hawke's Bay Region	5	3	14	30	85	54	21	12	13	13	26	-	22	18	1	9	9	-	4	-	30	20	-	389
Invercargill	-	-	3	5	3	6	2	4	1	-	7	-	-	-	-	3	-	-	-	-	2	1	-	37
Manawatu	3	2	11	9	26	9	5	1	8	4	9	-	2	6	3	4	5	-	3	3	4	9	-	126
Mt Eden	3	4	25	21	91	19	13	1	6	11	11	-	-	9	1	7	12	-	2	1	16	8	-	261
New Plymouth	-	1	6	11	3	7	5	3	-	2	3	-	-	5	-	-	1	-	-	-	3	2	-	52
Northland Region Corrections Facility	1	6	4	7	46	3	8	1	2	4	17	-	4	4	-	4	8	-	-	2	9	7	1	138
Otago Correctional Facility	5	4	8	14	33	16	15	5	1	6	12	-	10	18	2	8	10	-	1	-	11	2	-	181
Rimutaka	7	11	12	37	91	74	36	10	9	11	36	1	33	30	6	17	16	2	2	1	24	25	-	491
Rolleston	3	1	2	4	6	1	1	2	-	3	4	-	2	7	1	1	5	-	1	-	2	3	-	49
Spring Hill	21	28	31	21	100	56	41	20	5	21	35	1	22	18	7	56	18	-	-	1	44	21	-	567
Tongariro/Rangipo	6	8	4	18	55	29	18	10	6	6	7	-	-	14	-	10	5	3	-	-	12	8	-	219
Waikeria	3	3	13	36	56	39	19	18	15	13	10	-	12	25	-	14	12	1	2	3	24	30	-	348
Wanganui	1	6	5	10	14	19	3	5	-	4	23	-	9	10	-	8	8	-	3	-	4	8	-	140
Wellington	-	-	-	-	3	2	1	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	7
CPPS	-	-	-	2	-	-	-	-	-	2	-	-	1	2	-	1	-	-	-	-	15	-	-	23
Not Specified	5	1	2	14	25	13	6	1	1	11	40	-	9	5	-	3	6	-	-	-	80	43	-	265
Totals	78	113	226	370	907	460	322	116	98	165	337	4	160	266	26	184	174	7	24	16	374	259	1	4,687³³

33 Some prisoners raise more than one complaint when they contact the office

During the year ended during 30 June 2009 complaints made by and on behalf of prisoners were resolved as follows:

	How complaints received from and on behalf of prisoners were resolved																		Total		
	1(a)	1(b)	2(a)	2(b)	3(a)	3(b)	4(a)	4(b)	5	6(a)	6(b)	6(c)	6(d)	6(e)	7(a)	7(b)	7(c)	7(d)		A5	A8
Akld Central Remand	3	-	-	-	2	-	2	-	-	-	-	-	-	-	36	131	1	64	7	5	251
Akld Prison	3	-	1	-	4	-	9	-	-	-	3	-	-	-	50	207	7	73	6	11	374
Arohata Womens	-	-	-	-	-	-	1	-	-	-	-	-	-	-	3	36	-	2	1	1	44
Akld Regional Womens	1	-	1	-	1	-	1	-	1	-	-	-	-	-	18	136	-	52	6	2	219
Chch	2	-	-	-	-	-	7	-	-	-	3	-	1	-	38	242	7	59	5	5	369
Chch Womens	-	-	-	-	-	-	1	-	-	-	-	-	-	-	5	15	1	4	-	2	28
CPPS	-	-	-	-	-	-	3	-	-	-	1	-	-	-	2	13	2	-	1	-	22
Dunedin	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Hawke's Bay Regional	-	-	-	-	1	-	3	2	-	-	-	-	-	-	24	254	11	53	13	3	364
Invercargill	-	-	-	-	-	-	-	-	-	-	-	-	-	-	6	22	-	8	-	-	36
Manawatu	1	-	-	-	-	1	-	1	-	-	-	-	-	-	11	80	4	9	6	-	113
Mt Eden	-	-	1	-	-	-	3	-	1	-	-	-	-	-	46	105	3	77	2	3	241
New Plymouth	-	-	-	-	-	-	-	-	-	-	-	-	-	-	5	32	-	6	2	2	47
Northland Region	-	1	1	-	-	-	6	-	-	-	-	-	-	-	20	86	2	16	3	1	136
Otago Correctional Facility	1	-	-	-	-	-	2	-	-	-	-	-	-	-	18	115	1	22	5	4	168
Rimutaka	1	-	-	-	-	-	1	1	-	-	-	-	-	-	42	294	7	84	14	9	453
Rolleston	-	-	-	-	-	-	3	-	-	-	1	-	-	-	4	30	-	5	2	1	46
Spring Hill	3	-	1	-	-	-	1	-	-	-	-	-	-	-	59	322	3	95	9	11	504
Tongariro / Rangipo	5	-	-	-	-	-	2	-	-	-	-	1	-	-	24	145	-	18	9	1	205
Waikeria	1	-	1	-	1	-	3	-	2	-	1	-	-	-	22	196	1	38	5	9	280
Wanganui	1	-	-	-	-	-	1	-	-	-	-	-	-	-	10	97	5	17	1	2	134
Wellington	1	-	-	-	-	-	-	-	-	-	-	-	-	-	1	6	-	-	-	-	8
INSPECTOR	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
DPB/NZPB	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
Unspecified	4	-	7	-	3	-	6	-	-	2	1	-	-	-	9	172	1	25	27	-	257
Totals	27	1	13	0	12	1	55	4	4	2	10	1	1	0	453	2,736	56	727	124	72	4,299

Key

- 1(a) Resolved (All)
- 1(b) Resolved majority but not all
- 2(a) Sustained - no recommendation made
- 2(b) Sustained - recommendation made
- 3(a) Not sustained (All)
- 3(b) Not sustained (Majority)
- 4(a) Discontinued - further inquiry not warranted
- 4(b) Discontinued - returned to agency for reconsideration
- 5 Not within jurisdiction
- 6(a) Declined - right of appeal
- 6(b) Declined - adequate remedy available
- 6(c) Declined - time lapse
- 6(d) Declined - frivolous or vexatious
- 6(e) Declined - insufficient personal interest
- 7(a) No formal investigation - complaint resolved through informal intervention
- 7(b) No formal investigation - complaint assessed and advice/ explanation given
- 7(c) Investigation not undertaken - no reply by complainant or complaint withdrawn
- 7(d) No formal investigation - returned to Dept for reconsideration
- A5 Transferred to Privacy Commissioner
- A8 General Enquiry

Geographical distribution of Complainants complaints and enquiries received in year to 30 June 2009

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	JURISDICTION						All Last Year
	OA	OIA	LGOIMA	PDA	Other Work	All	
Auckland	1,598	226	49	4	114	1,991	2,259
Bay of Plenty	113	22	25	-	29	189	259
Northland	200	9	7	-	22	238	337
Waikato	1,150	34	11	-	41	1,236	1,001
	3,061	291	92	4	206	3,654	3,856
Taranaki	66	1	3	-	5	75	120
Hawke's Bay	382	11	6	-	19	418	400
Manawatu/Wanganui	305	33	8	-	23	369	445
Wairarapa	34	7	2	-	5	48	60
East Cape	4	4	2	-	1	11	20
Wellington	909	288	35	2	70	1,304	1,450
	1,700	344	56	2	123	2,225	2,495
Total North Island	4,761	635	148	6	329	5,879	6,351
Complainants based in the North Island as a percentage of total complaints received							
Nelson/ Marlborough and Golden Bay	78	12	2	-	32	124	118
Dunedin	68	32	12	-	23	135	120
Otago	213	12	23	-	3	251	302
Southland	26	10	8	-	5	49	99
Canterbury	69	20	15	-	21	125	198
Christchurch	563	62	11	2	34	672	801
Westland	23	6	11	-	10	50	81
Chatham Islands	-	-	-	-	-	-	-
Total South Island	1,040	154	82	2	128	1,406	1,719
Complainants based in the South Island as a percentage of total complaints received							
Location not known	1,747	4	1	-	16	1,768	624
Overseas	67	16	-	-	14	97	114
Complainants based overseas/address unknown as a percentage of total complaints received							
Totals	7,615	809	231	8	487	9,150	8,808

Directory

Legal authorities for establishing the Office of The Ombudsmen

The Ombudsmen are appointed pursuant to sections 8 and 13 of the Ombudsmen Act 1975 and report annually to Parliament pursuant to this Act and the Public Finance Act 1989. The Ombudsmen are Officers of Parliament pursuant to s 3 of the Ombudsmen Act 1975 and the Public Finance Act 1989.

The Offices of The Ombudsmen are found at:

Wellington

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70 The Terrace
PO Box 10152
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Facsimile: (03) 365-7935

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Website: www.ombudsmen.parliament.nz

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Auditor

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Email: nzinfo@deloitte.co.nz

Banker

Westpac Government Business a division of Westpac Banking Corporation

Insurance Broker

Marsh Limited

