



---

Report of

# The Ombudsmen

*Nga Kaitiaki Mana Tangata*

for the year ended

30 June 2005

---

-

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

Madam Speaker

We submit to you our report for the year 1 July 2004 to 30 June 2005.



John Belgrave  
Chief Ombudsman



Beverley Wakem  
Ombudsman



Mel Smith  
Ombudsman

## CONTENTS

	Page
<b>DIRECTORY</b>	7
<b>STATEMENT OF PURPOSE</b>	8
<b>RELEVANT OUTCOMES</b>	8
<b>SIGNIFICANT ISSUES</b>	9
<b>EDITORIAL</b>	10
<b>PART I – JURISDICTIONAL ISSUES</b>	13
<b>The Ombudsmen Act 1975 (OA)</b>	
Overview	13
Progress on issues raised as at 30 June 2004	
Accident Compensation Corporation	
- <i>Complaints against medical assessors</i>	
Earthquake Commission	
- <i>Time limit for reporting claims</i>	14
Prisons	
- <i>Installation of video camera surveillance at Auckland Prison</i>	
- <i>Prison vehicle transport</i>	
OA issues arising in the reporting year	
Accident Compensation Corporation	
- <i>Payment notices</i>	15
- <i>Assessment of sensitive claims</i>	
- <i>Individual rehabilitation plans</i>	
Inland Revenue Department	16
Education Sector	
- <i>Student suspensions and expulsions</i>	
Prisons	
- <i>'Own motion' investigation</i>	17
- <i>New agreement between Chief Ombudsman and Chief Executive of the Department of Corrections</i>	
United Nations protocol against torture	

Public Records Act	
- <i>New obligations on public bodies</i>	
Department of Labour Immigration Service	18
Local Government	
Recommendations not accepted	19
- <i>Ruru Primary School</i>	
Where significant numbers of OA complaints arose	
<b>The Official Information Act 1982 (OIA)</b>	
Overview	20
OIA issues arising in the reporting year	21
Trans-Tasman organisations	
- <i>Application of OIA</i>	
Confidentiality of advice and free and frank opinions – political advisers	22
Assessing the countervailing public interest in disclosure – section 9(1)	23
Urgent requests	24
Charging for the supply of official information – Members of Parliament	25
Recommendations not accepted	
Where significant numbers of OIA complaints arose	
<b>The Local Government Official Information and Meetings Act 1987 (LGOIMA)</b>	
Overview	26
Improving understanding and capability	
Recommendations not accepted	
Where significant numbers of LGOIMA complaints arose	
<b>The Protected Disclosures Act 2000 (PDA)</b>	27

**PART II – GENERAL INFORMATION**

Publicity and public awareness programmes	28
Communications strategy	
Ombudsmen Quarterly Review ( <i>Te Arotake</i> )	29
Practice Guidelines	
Compendium of Case Notes	
Clinics/Regional meetings	
Speaking engagements	30
International contacts	32
Australasian Pacific Ombudsman Regional Conference (APOR)	34
Office of the Ombudsmen web site	

**PART III – OPERATIONS**

Chief Ombudsman's report on operations	35
How the Ombudsmen contribute to "good" government	
Business risks identified at the beginning of the 2004/2005 reporting year	36
Strategic issues with the potential to impact on Vote Ombudsmen	37
- <i>Variations in understanding of the Official Information Act and role of the Ombudsmen</i>	
- <i>Widening of Ombudsman jurisdiction</i>	
- <i>Investigation of complaints from prisoners</i>	38
- <i>United Nations protocol against torture</i>	
- <i>On-line Authentication Agency</i>	
Management structure	
Management performance	39
Financial and asset management	40
Information management	41
Disaster preparedness and risk reduction	42
Human resource management	43
The output of the Office of the Ombudsmen	44
<i>Cost of resolving complaints</i>	45

**PART IV – PERFORMANCE INFORMATION**

Statement of responsibility	47
Audit Report	48
Financial statements	
Statement of objectives and service performance	51
Statement of accounting policies	56
Statement of financial performance	59
Statement of movements in taxpayers' funds	60
Statement of financial position	61
Statement of cash flows	62
Reconciliation of net surplus to net cash flow from operating activities	63
Statement of commitments	
Statement of contingent liabilities	64
Statement of unappropriated expenditure	
Statement of departmental expenditure and appropriations	
Statement of trust monies	
Statement of objectives specifying the financial performance forecast for the office	65
Notes to the financial statements	66

**PART V – ANALYSIS AND STATISTICS**

Throughput of investigations	72
Ombudsmen Act	73
Official Information Act	76
Local Government Official Information and Meetings Act	80
Geographical distribution of complainants	84

## DIRECTORY

### LEGAL AUTHORITIES FOR ESTABLISHING THE OFFICE OF THE OMBUDSMEN

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

### THE OFFICES OF THE OMBUDSMEN ARE FOUND AT:

#### Wellington

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

#### Auckland

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

#### Christchurch

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

**New Zealand** wide freephone  
with answerphone service  
(0800) 802-602

#### AUDITOR

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

#### BANKER

Westpac Government Business a  
division of Westpac Banking  
Corporation

#### INSURANCE BROKER

Marsh Limited

#### WEB SITE

[www.ombudsmen.govt.nz](http://www.ombudsmen.govt.nz)

#### EMAIL

[office@ombudsmen.govt.nz](mailto:office@ombudsmen.govt.nz)

## STATEMENT OF PURPOSE

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

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

## RELEVANT OUTCOMES

The outcomes sought by the Ombudsmen are:

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



**SIGNIFICANT ISSUES**

- Clarification of Ombudsmen's role in relation to school boards of trustees (p16)
- New agreement being developed between Chief Ombudsman and Chief Executive of the Department of Corrections (p17)
- The Public Records Act imposes new obligations that are likely to impact on the administrative actions of agencies subject to the Ombudsmen jurisdiction (p17)
- Significant number of complaints in the reporting year related to local authorities (p18)
- Application of the OIA to trans Tasman organisations (p21)
- Clarification of the application of the OIA to advice to Ministers from political advisers (p22)
- Assessing the countervailing public interest in disclosure – clarifying the test (p23)
- Urgent requests under the OIA (p24)
- Charging Members of Parliament for supply of official information – clarification of when a charge may be reasonable (p25)
- Progress in review of Communications Strategy to facilitate access to the Office by the wide range of communities that make up contemporary New Zealand society (p28)
- Widespread interest in the work of Ombudsmen both within New Zealand and from international quarters (p12, 30)
- Office website being rebuilt to improve its usefulness – over 23,000 hits recorded this year (p34)
- Widening of Ombudsman jurisdiction following enactment of Crown Entities Act (p11, 37)
- “Call centre” established to deal with straightforward enquiries and complaints (p40)

## EDITORIAL

We are noticing that more citizens are using the Official Information Act (OIA) not only to glean information about specific issues of concern to them, but also as a method of determining the reasons behind decisions by both central and local government agencies which affect them personally. The outcome of such requests under the OIA can form the basis of complaints to this office under the Ombudsmen Act (OA) either as a result of the information disclosed providing a basis for a complaint about administrative acts or omissions or, on occasion, the absence of information raising doubts about whether a decision or recommendation by a government agency was justified.

In this context it is important to remember that the OIA remains a very important public accountability mechanism. The Act is also proving to be a direct support for one of the prime objectives of the OA which is to give the widest possible range of citizens the opportunity for redress against decisions of central and local government agencies. Later in this report we detail some of the initiatives being taken by our office as part of our ongoing strategy to widen community access to the jurisdiction and services of an Ombudsman. This is in the interests of more meaningful involvement by citizens in the processes of Government, which remains one of the cornerstones of New Zealand's constitutional democracy.

It is of concern however to have to record that while generally much more official information is now released as a matter of course we still find that some agencies including some Ministers' offices remain unwilling or unable to meet official information requests in a timely fashion. Sometimes reasons for withholding information are advanced which seem to relate more to political or administrative convenience than to legitimate withholding grounds under the OIA. We feel that holders of official information need to be reminded that by denying citizens access to information they are in fact denying those same citizens their right to participate in democratic processes.

We and our staff are doing our best to educate an increasing range of organisations about how to respond to OIA requests. We will continue to respond to OIA education and related requests. Although one can question whether education programmes are our core business we feel that the more organisations are informed about their obligations under the OIA the more likely the withholding provisions will be correctly and consistently applied and the objectives of the Act better realised.

In parallel we are attempting to expand our outreach programme generally. 'Clinics' in 16 regional centres were held in the year just ended. These clinics provide opportunities to inform local organisations such as Citizens' Advice Bureaux and Community Law Centres about the functions of the office so they in turn can pass on how we can help citizens who call on them. The ongoing support of these organisations for the office is very much appreciated.

We have also made a conscious effort to expand our programme of addresses about our role and functions to law and political science faculties at universities and to community organisations including school trustees, again with the objective of increasing awareness of how we can assist a wider range of citizens to access the services we provide. This programme will continue. Details of the more formal addresses and presentations made during the year can be found at page 30.

During the year our jurisdiction was extended to include all Crown Entities (except the Police Complaints Authority), including any subsidiaries controlled by Crown Entities. A number of organisations which had previously not been subject to either the OIA or OA (or both) are now within an Ombudsman's jurisdiction. These include the office of the Privacy Commissioner, the Commerce Commission and the Securities Commission. This is a further recognition of the Ombudsmen's overarching 'last resort' role across the whole of Government.

Disturbingly we still find from time to time that the application of our OA jurisdiction is questioned, which has the effect of delaying the start of an investigation. It is opportune also to remind agencies generally that if we decide to take up a complaint we expect them to give our investigations priority attention at a senior level. Agencies with which we have fairly regular contact, eg: Accident Compensation Corporation, Inland Revenue and the Department of Labour are now well organised to respond in a timely manner to approaches from this office. The same unfortunately cannot be said for some other agencies. Government agencies must recognise that when citizens approach our office it is usually after they have exhausted regular avenues of complaint. Complainants have every right to expect that when we take up a complaint the agency complained against will respond promptly.

Agencies with unsatisfactory response times to our investigations include the Ministry of Agriculture and the Ministry of Defence. We observe also an increasing tendency on the part of some agencies to engage legal counsel through whom responses to our investigations are channelled. While we cannot dictate how agencies respond to us, legalistic responses to our inquiries can often result in drawn out adversarial exchanges as a consequence of fixed positions being adopted which mitigate against speedy complaint resolution. Such an approach also acts to diminish the role conceived by Parliament in establishing the office of Ombudsman as a less legalistic, less costly and less adversarial, but nonetheless highly professional investigation and resolution process.

We also seriously question the economics of some secondary and tertiary institutions for example, expending scarce resources on expensive legal counsel aimed at rebutting complaints from their own students whose fees should not be dissipated on legal costs and for what sometimes seems to relate more to issues of "patch or self protection" than fairly considering the complaint at issue. This can slow down our inquisitorial approach to complaint investigations which is designed to reduce formality in the interests of simplicity of process, minimisation of expenditure and speedy resolution of complaints. We see our role as not about "pointing the finger" or blaming agencies when things "go awry", but helping to improve governance generally and assisting the interaction between individuals and the State.

We intend, as we have done previously, to arrange briefings after the election for staff in Ministers' offices, particularly political advisers, which will concentrate on Ministers' responsibilities under the OIA and the operation of the OA.

Our jurisdiction and the way in which it is implemented continues to attract significant interest outside New Zealand. The Chief Ombudsman addressed a conference of Information Commissioners in Mexico on New Zealand's experience with the Official Information Act and also made a presentation to the First General Assembly of the African Ombudsman Association in Johannesburg; the first sponsored by the Ministry of Foreign Affairs and Trade and the second by the Commonwealth Secretariat.

As an Ombudsman office of medium size, wide jurisdiction and significant history, some of our experiences and methods of operation are of considerable interest particularly to countries that are seeking to develop an effective and efficient Ombudsman service often in the context of a desire for more openness and transparency in government.

New Zealand hosted the 22<sup>nd</sup> meeting of the Australasian and Pacific Ombudsman Region (APOR) in Wellington in February. Some 53 Ombudsmen and observers from a wide range of countries from as far afield as Iran and the Seychelles, attended. The meeting which was opened by the Prime Minister, the Rt Hon Helen Clark, featured presentations by a number of overseas Ombudsmen in support of the theme "The Small Ombudsman Office".

Ombudsman Mel Smith attended the 2005 International Ombudsman Institute meeting in Quebec.

The general workload of the office continues to increase, and is becoming more complex. We record our appreciation of the additional resources made available to the office through the Officers of Parliament Committee. This will enable us to continue developing our outreach programme particularly amongst Maori, Pacific Island and Asian communities, and also to make the office more accessible through a redesigned website and a better and more focussed initial handling of complaints in an attempt to improve our response times. This approach was trialled in the prisons jurisdiction during the last six months of the year and is being extended to our complaint handling generally as additional resources allocated to the office come on stream.

## PART I – JURISDICTIONAL ISSUES

### THE OMBUDSMEN ACT 1975 (OA)

#### Overview

While the number of complaints received under the OA has increased over the past year, many are resolved during the process of investigation. In addition, in many cases the provision of advice and guidance has enabled complainants to take positive steps to pursue their concerns without the need for further intervention by an Ombudsman. The theme behind the complaints we receive under the OA remains constant; namely a perception by citizens that they have not been treated fairly. However, as our investigation statistics reflect, in a not insignificant number of cases we have been satisfied that complaints cannot be sustained. Simple disagreement with a decision is not a valid basis for grievance. However, in such cases an Ombudsman's independent investigation often helps to bring acceptable closure to the matter.

In cases where we have found a complaint to be justified, it is not always on the basis that the administrative processes followed by agencies were unfair. On occasion the process followed was fair and reasonable but the outcome reached was inconsistent with the relevant facts or legal requirements. Reasonable processes increase the likelihood of reasonable outcomes but they cannot guarantee them.

Developing good administrative processes is one thing; implementing them in a consistent manner is another thing altogether. Poor record keeping, ineffective communication, failure to explain properly the reasons for decisions and lack of sufficient trained staff can all lead to administrative outcomes at odds with an agency's established policies and procedures. Improved record keeping, better communication between agencies and citizens, commitment to giving explanations for decisions and adequate training of staff should remain ongoing priorities.

#### Progress on issues raised as at 30 June 2004

#### Accident Compensation Corporation (ACC) – complaints against medical assessors

Last year we indicated that complainants felt at times they had been given "*the run around*" by various agencies in consideration of their complaints about medical assessors. They have no one to whom they can turn who is prepared to investigate their complaints and as a consequence they contact our office. We note that no action has been taken to clarify this issue. We intend to take up with the Health and Disability Commissioner, the ACC Complaints Investigator and the Medical Council the issue of how we can work together to resolve who is to investigate these complaints. It may be that a protocol or possibly legislative intervention is necessary.

### **Earthquake Commission - time limit for reporting claims**

In last year's report, we noted that following several complaints about the time limit in the Earthquake Commission Act for reporting damage claims, it had been concluded that the current three month time limit is unreasonable. The Commission had suggested a statutory amendment to allow a two-year timeframe for reporting earthquake damage. However, to date there has been no progress in effecting this amendment. We will continue to monitor the steps taken to address the unfairness in the current legislation.

### **Prisons**

#### ***Installation of video camera surveillance at Auckland Prison***

In our last three annual reports we have advocated the installation of permanent video camera surveillance at Auckland Prison to assist in investigations of complaints alleging assaults on prisoners by prison staff. Investigation of such complaints can be difficult, especially where there are few or no independent witnesses. We noted that video surveillance may provide credible evidence to assist investigation of such incidents; it may also provide a safeguard for staff in the case of false allegations being made.

In October last year, the Department of Corrections advised that installation of closed circuit TV cameras at Auckland Prison had commenced. The cameras installed have been programmed to record 24 hourly and to provide continuous monitoring of key areas throughout the prison.

#### ***Prison vehicle transport***

In last year's annual report we noted that the Corrections Department had a responsibility to provide safe, secure and humane conditions for the transfer of prisoners notwithstanding prison escort vehicles being exempt from the Land Transport Safety Authority Rules. In March 2004 the Department of Corrections' Assurance Board approved new standards in regard to heating, ventilation, and seating, for prison escort vehicles. Since August 2004 all new vehicles have been fitted with the appropriate heating and ventilation systems so that they meet the required standard. As vehicles are currently being replaced every five to six years it is expected that the majority of prison escort vehicles will meet the required standards by 2010.

### **Ombudsmen Act issues arising in the reporting year**

#### **Accident Compensation Corporation (ACC)**

The table below sets out the number of complaints received against ACC in the past three years:

<b>2002/2003</b>	<b>2003/2004</b>	<b>2004/2005</b>
186*	175*	190*

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

The number of complaints has risen marginally even though as noted in last year's report, ACC has made significant efforts to improve its complaint handling and it continues to do so.

Last year we reported there were a number of issues coming to our attention regarding ACC which we were in the process of resolving. We are now able to report on the outcome of some of these issues.

### ***Payment notices***

One complaint was that ACC had not kept a complainant fully informed about how her weekly compensation was calculated and paid. ACC acknowledged that the information provided to the complainant regarding her compensation was insufficient, and agreed to review the quality of its payment advice documents in general. This review revealed that a number of different advice notices are sent to claimants. Our concern was that claimants may be confused by the receipt of so many different notices. ACC acknowledged the problem but advised that it is not possible to send a single payment notice, as a claimant's gross and net entitlements are calculated by different parts of ACC. However, ACC has agreed to include with the initial payment notice a general explanation of the other notices that will also be sent.

### ***Assessment of sensitive claims***

When a claim is made to ACC for an injury arising out of sexual abuse, it is dealt with as a '*sensitive claim*'. When a sensitive claim is lodged, ACC requires the claimant to attend up to three counselling sessions before a decision is made as to whether to accept the claim. Until recently, a co-payment was required from the claimant for those initial counselling sessions, to cover the cost of the counsellor's fee over and above the amount paid to the counsellor by ACC.

Following a complaint made to us about the required co-payment, ACC acknowledged there were legitimate concerns with the process for determining cover for claimants who had lodged sensitive claims. Following discussion with Ministers, ACC was successful in a budget bid for the 2005-2006 year, to increase the level of funding for sensitive claims and so remove the requirement for claimants to pay a co-payment for the costs of the initial counselling. The new regime was implemented on 1 July 2005.

### ***Individual rehabilitation plans***

As a result of our investigation of a complaint, ACC has reviewed its procedures relating to individual rehabilitation plans. Following discussions between ACC and this office, ACC has made a number of changes to its procedures for the preparation of individual rehabilitation plans, to ensure that legislative requirements are met. In particular, changes have been made to:

- the letters sent to claimants about their individual rehabilitation plans;
- relevant fact sheets; and
- the layout of the individual rehabilitation plan form that is completed for each claimant.

### **Inland Revenue Department (IRD)**

This year has shown a reduction in the number of complaints received against IRD. Again a significant proportion of complaints received related to child support matters. During the year a number of complaints were able to be resolved on an informal basis with the IRD. The process has worked well with IRD and has allowed for more timely and practical responses to many types of complaint.

### **Education sector**

The education sector is notable for containing a number of organisations whose functions are closely linked, for example the Ministry of Education, the Tertiary Education Commission, the New Zealand Qualifications Authority, and the Education Review Office. While we have not received complaints that show that communication across the sector is a significant problem at present, we observe that the separation into distinct agencies necessarily requires good coordination processes to avoid a loss of unity of purpose.

### ***Student suspensions and expulsions***

School boards of trustees have been subject to the OA since they were first established by the Education Act 1989, and Ombudsmen have been investigating complaints about suspensions and expulsions from schools as they have arisen ever since. However, during the course of the year it became apparent that the Ombudsmen's role in this area was not fully understood and there was an incorrect perception in some quarters that there was no independent mechanism which could investigate whether boards of trustees have acted in a procedurally fair manner.

Where media reporting was misinformed we took steps to correct misconceptions. We briefed the Education and Science Committee considering the Education Amendment Bill to clarify the Ombudsmen's role in relation to school boards of trustees. We also published an article in the Ombudsmen Quarterly Review (Vol 11, issue 2) explaining how our role operates in practice.

There is no doubt that the issue of suspension and expulsion of students from schools is a matter of significant concern to the individuals affected and their families. Quite apart from the question of whether suspension or expulsion or exclusion decisions taken by boards of trustees are fair, wider issues arise concerning how circumstances developed to the point that such actions were contemplated and how the ongoing education needs of suspended or expelled students are to be adequately met. A number of agencies and review bodies may be asked, to varying degrees, to consider these issues. In the coming year we propose to discuss with the Ministry of Education, Human Rights Commission and the Children's Commissioner how we may better coordinate responsiveness to complaints from students and their families about suspension or expulsion decisions.



## **Prisons**

### ***Prisons 'Own Motion' investigation***

We decided to initiate an 'own motion' investigation focused on current prisoner treatment at Christchurch and Auckland Prisons. The investigation may need also to consider the extent to which any issues identified in these two institutions are relevant to prisons generally. We anticipate reporting to Parliament and to the portfolio Minister before the end of the calendar year.

### ***New agreement between Chief Ombudsman and Chief Executive of the Department of Corrections***

The Corrections Act 2004 came into force on 1 June 2005. The Act requires the Chief Executive of the Department of Corrections and the Chief Ombudsman to develop an Agreement relating to how the Ombudsmen will fulfil their responsibilities as they relate to prisoners. A draft Agreement has been forwarded to the Department for consideration and discussion. We expect the new Agreement to be in place before the end of the calendar year.

## **United Nations Protocol against Torture**

We have worked with officials on the development of legislation to give effect to the Government's accession to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Given the Ombudsmen's existing jurisdiction to investigate under the OA complaints from prisoners and other individuals detained or placed in a public custodial setting (such as youth residences or detention centres approved under the Immigration Act), we understand that the Ombudsmen are likely to be designated as part of the "national preventive mechanism" required in order to give effect to New Zealand's obligations under the Optional Protocol.

## **Public Records Act – new obligations on public bodies**

At the heart of many complaints we receive (both under the OA and OIA) is the failure of some public bodies to adequately communicate and explain processes followed and decisions or outcomes reached. The ability to communicate and explain is often dependent on the quality and accessibility of records of a citizen's interaction with public sector agencies. The Public Records Act which came into force on 20 April 2005 creates two key obligations that will impact on agencies, namely:

- they must create and maintain full and accurate records in accordance with normal, prudent business practice; and
- they must not dispose of records without authorisation.

These obligations, together with the development over time of consistent record keeping standards (for both paper and electronic records) will inevitably raise public expectations in regard to the ability of agencies to provide information and explanations. Where, in particular cases, citizens perceive that they have been adversely affected by a failure to meet obligations or standards arising from the Public Records Act, complaints under the OA are likely.

### **Department of Labour Immigration Service**

Although the number of complaints received against the Immigration Service has not reduced, the Immigration Service has recently developed guidelines on the handling of investigations notified under the OA. These guidelines should serve to assist officers in the preparation of reports to the Ombudsmen, thereby facilitating our investigations.

We are also pleased to report that the Immigration Service has demonstrated a willingness to consider whether complaints may be capable of being resolved informally without the need for formal investigation. This accords with our view that it is in the interests of all concerned that, wherever possible, complaints should in the first instance be addressed by departments themselves.

### **Local Government**

A significant number of complaints received in the reporting year related to the acts, omissions and decisions of local authorities. While these complaints encompassed a wide range of matters, those concerning issues under the Resource Management Act 1991 and the Local Government (Rating) Act 2002 tended to generate strongly held views on the part of residents and ratepayers.

Complaints relating to the Resource Management Act included issues such as decisions not to notify resource consent applications, enforcement of consent conditions, responses to complaints from residents about noise and other nuisances, and delays in processing applications. Some such complaints arise from intractable disputes between neighbours in which local authorities subsequently become embroiled. When considering such matters, we have tended in the first instance to look at whether or not the relevant local authority had reasonable grounds for any decision made and, where appropriate, whether or not reasonable steps had been taken to investigate any alleged breach of the Act or the District Plan. Each case must be considered on its merits having regard to all the circumstances.

While there have been some cases where we found that matters might have been better handled, we note that local government is generally quite responsive to the concerns of residents. Local authorities have a wide interface with members of the public and many have developed effective and appropriate customer service strategies. In general, we are satisfied that local authorities act to resolve residents' complaints in a fair and reasonable manner.

Our ability to look into complaints about local authority rating is limited. This is because decisions on rating levels are made through resolutions passed by elected members at full Council meetings. Section 13(1) of the OA precludes the direct investigation of decisions taken in such a manner. However, we may consider the adequacy of advice provided to Councillors at the time such decisions were made. Apart from the setting of rates, we have received a number of complaints where individual ratepayers considered that errors had been made in respect of the rates imposed on their properties. Again such cases are considered on their individual merits.

### Recommendations not accepted

The Board of Trustees of Ruru School, Invercargill, excluded a child. The Ombudsman recommended that the child's exclusion be reversed as the teacher's representative on the Board had not only given evidence to the Board which resulted in the child being excluded on the grounds of misconduct, but also actively participated in the deliberations of the Board, and voted for the child's exclusion. The Ombudsman considered the teacher's participation in the deliberations, because of her close involvement in the incident which led to the child's exclusion, was unreasonable and unjust.

The Board refused to comply with the Ombudsman's recommendation and the Minister of Education was informed accordingly.

Subsequent enquiries have revealed that the child seems to have settled well into his new school.

The Ombudsman was of the opinion that, taking an overall view, the school's Board had conscientiously applied itself to its tasks of considering the complaint which led to the child's exclusion and several other complaints which he did not uphold. He decided to take no further action.

### Where significant numbers of OA complaints arose

	Year ended 30/6/04	Year ended 30/6/05
<b>Central Government &gt;=30 complaints †</b>		
Department of Labour	227	‡232
Inland Revenue Department	133	116
Ministry of Social Development	*117	80
Ministry of Justice	**41	38
Child, Youth and Family Services	43	35
<b>Local Government &gt;=15 complaints</b>		
District Councils – all ***	220	225
Queenstown Lakes	7	23
Far North	16	18
Rodney	7	17
City Councils – all ***	120	126
Auckland	24	20
Manukau	4	16
Waitakere	8	15
Regional Councils – all ***	59	33
<b>Other Organisations &gt;=15 complaints</b>		
Accident Compensation Corporation	175	190
Educational institutions	117	††111
District Health Boards	26	43
Police	46	‡‡42
Health and Disability Commissioner	20	39

† excludes complaints from prisoners. See page 51

†† comprises Schools Boards of Trustees (46), Universities and Polytechnics (65)

‡ 229 involving the New Zealand Immigration Service and 3 other

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

\* includes complaints directed at the former Ministry of Social Policy and Department of Work and Income

\*\* includes complaints directed at the former Department for Courts

\*\*\* total for all Councils inclusive of those detailed

## THE OFFICIAL INFORMATION ACT 1982 (OIA)

### Overview

In general terms, we believe the Official Information Act (OIA) continues to operate well in most circumstances. Any request for information, whether oral or in writing, is covered by the OIA if the person or agency receiving the request is subject to the Act. Most requests for official information are straightforward; often they simply seek confirmation or provision of known factual information that is readily accessible. In such cases the information requested can usually be made available promptly without undue concern. There is no reason to expect otherwise. Many of these requests are received and responded to orally and the process is so simple that it is often unrecorded. In this context, there are no accurate whole of government statistics recording precisely how many requests for official information are received and actioned in a particular year. However, anecdotal evidence and annual reports of various individual departments and organisations suggest that most requests are processed without difficulty within the time frames envisaged by the OIA.

The requests that give rise to complaints about delay, cost, conditions imposed on the use of information or the withholding of information (in part or in whole) comprise, to the best of our knowledge, only a relatively small part of the total number of requests received and processed by agencies subject to the OIA. These complaints tend to be the more difficult cases where the volume, perceived sensitivity of the information at issue or the complexity of the issues raised cause concern. However, as our complaint statistics show, the continuing high proportion of complaints resolved either informally or during an Ombudsman's investigation suggest initial decisions on requests are not as sound as they should be. As noted in last year's report, too often the initial reaction to requests that are more difficult (either in terms of volume of information or substantive issues raised) seems to have been to ask "*why should we comply with the request?*" rather than "*is there any valid reason not to grant access to the information requested?*"

Conversely, in a number of cases the essential difficulty has resulted from poorly framed requests or unreasonable expectations on the part of requesters. The degree to which the purposes of the OIA are met satisfactorily in difficult as well as straightforward cases, requires a positive attitude and intelligent application of the principles of the OIA by holders and requesters of information alike. While requesters are required to identify the information they are seeking with "due particularity", holders have a duty under the OIA to provide reasonable assistance if the request is poorly framed.

In this context, it is relevant to recall the comments made by the Danks Committee in its first general report "Towards Open Government" at page 7. The full Report is viewable on the office web site, [www.ombudsmen.govt.nz/publications.htm](http://www.ombudsmen.govt.nz/publications.htm)

*“The effectiveness of the reforms recommended by the Committee will depend largely on the attitudes of those directly concerned – not only of Ministers and officials, but also individuals, interest groups, and the public media. A new approach will be required for Ministers and officials to place greater emphasis on the positive information functions of the Government. By making intelligent and fair use of the official information that is made available, the interest groups and the media can in turn encourage Ministers and officials to adopt a still more open approach, and thus speed up the process of change. Unfair or inept use of information may have the opposite effect. Balance is a goal that can seldom be fully achieved, but if it is not actively sought after the credibility of those involved may suffer.”*

## **Official Information Act issues arising in the reporting year**

### **Trans-Tasman organisations – application of the OIA**

In last year’s annual report, we noted issues that had arisen in respect of an OIA request for information generated by the Australia New Zealand Food Regulation Ministerial Council, which is the body primarily responsible for setting the policy framework for food standards development in New Zealand and Australia. The Council is not subject to the OIA but information generated by the Council, to the extent it is held by the Minister of Health in her capacity as a Minister of the Crown, could be the subject of an OIA request. We noted that while, in the circumstances of the case under reference, the Council constituted an international organisation and section 6(b) allowed the request to be refused, consideration might be given as to whether section 6(b) should be available given the nature of the Council and its function of proposing food standards for application in New Zealand. Given the impact of the function on New Zealand citizens, it may be more appropriate for any refusal to be considered under section 9 rather than section 6 so that, in appropriate circumstances, any countervailing public interest in disclosure can be considered. We noted that a possible solution may be to limit the definition of “international organisation” in section 2 of the OIA so that it does not include Trans-Tasman bodies that regulate standards impacting on New Zealand citizens.

In the past year a further similar enquiry was received from a New Zealand citizen who had unsuccessfully sought access to information held by a separate Trans-Tasman agency, the Food Standards Authority Australia/New Zealand (FSANZ). We confirmed that FSANZ is not currently subject to the OIA although it is subject to the Australian Federal Freedom of Information Act (FOI). The enquirer advised that she had applied for access to information held by FSANZ under the FOI but was advised that as she could not provide an Australian address her request was not valid. At present, the only way information held by FSANZ can become the subject of a request under the OIA is if it is held separately by a New Zealand agency subject to the OIA. We are not certain to what extent the Ministry of Justice or other relevant agencies have considered the desirability of Trans-Tasman agencies with regulatory functions impacting on both New Zealand and Australian citizens being subject to the FOI regime in Australia only. There would seem to be a logical inconsistency. We propose to take the matter up with the Ministry of Justice in the coming year.

### Confidentiality of advice and free and frank opinions – political advisers

In our 2002 annual report, we commented on the issues raised concerning the confidentiality of advice from the Department of the Prime Minister and Cabinet (DPMC) to the Prime Minister. We noted that there was no basis for blanket withholding of such advice as an exempt “*class*” of information. However, for the reasons summarised in our earlier report, we observed that the characteristics of the relationship between DPMC and the Prime Minister will mean that sections 9(2)(ba)(i) (“...*information subject to an obligation of confidence...*”) and 9(2)(g)(i) (“...*free and frank expression of opinions...*”) are often relevant. Subject to the circumstances of the particular case and any countervailing public interest considerations, those provisions are likely to provide good reason for refusal in many cases.

During the past year, similar arguments were advanced in respect of advice tendered to the Prime Minister and other Ministers of the Crown by political advisers. This is an important issue. The number of political advisers employed in Ministers’ offices would seem to have increased over the last few years and they are involved in a range of issues. While some of their functions are purely political and outside the ambit of the OIA, other functions relate directly to the work of Ministers in their official capacity as Ministers of the Crown.

The general issues which arose concerned:

- whether any advice generated by political advisers is, by its very nature, exempt from the OIA; and
- whether, to the extent that the OIA applies, any advice generated by political advisers will always be protected by either of sections 9(2)(f)(iv) or 9(2)(g)(i) of the OIA on the basis that it will always be confidential in nature.

Political advisers themselves are not subject to the OIA. However, if information generated by political advisers comes to be held by a Minister in his or her official capacity, or by an agency subject to the OIA in its own right, then that information is subject to the OIA.

We appreciate that the blurring of the “*political*” and “*policy/administrative*” boundaries, particularly following the advent of MMP, may complicate the process of determining whether Ministers hold certain information received from political advisers in their “*official capacity*” as Ministers or in their separate capacity as members of a political party caucus. Nevertheless, objective assessments can be made in individual cases having regard to considerations such as:

- the nature and content of the information;
- the use to which it was/is to be put;
- the audience to whom it was/is addressed or circulated.

In this regard, we do not accept the proposition that any advice provided by political advisers will be exempt from the OIA. Advice provided by political advisers to Ministers of the Crown in their official capacity will be held by the Minister in that capacity and therefore will be official information for the purposes of the Act.

Similarly, we do not accept that there is any proper basis to argue that sections 9(2)(f)(iv) and 9(2)(g)(i) will provide blanket protection under the OIA for advice generated by political advisers for Ministers acting in their official capacity. In assessing whether sections 9(2)(f)(iv) or 9(2)(g)(i) are relevant, the normal tests under the OIA apply. Each case must be considered on its merits. Given the context in which political advisers are often called on to provide advice to Ministers, section 9(2)(g)(i) may often be relevant. Even so, in each case there is still a requirement under section 9(1) (see separate discussion immediately following) to consider whether other considerations favouring disclosure outweigh the interest in withholding.

As in the case of DPMC advice to the Prime Minister, any request which covers advice from political advisers to Ministers must be considered on its own merits. While there may often be good reason for refusal in particular cases, there can be no presumption of protection in all cases.

### **Assessing the countervailing public interest in disclosure – section 9(1)**

In cases where one or other of the reasons for refusal under section 9(2) of the OIA applies (for example section 9(2)(a) to protect privacy of natural persons), section 9(1) allows other considerations favouring disclosure in the public interest to be weighed against the reason for refusal. If the considerations favouring disclosure are judged to be so important that they outweigh, in the public interest, the need to withhold, then the information must be made available.

In several cases during the past year, complainants believed mistakenly that the issue was simply whether there was “a public interest” in making the information available. Similarly, some organisations believed that once it was established that one of the harms identified in section 9(2) was relevant, that should be the end of the matter. However, the scheme of section 9 recognises that the interests identified in section 9(2), unlike those in section 6, are not conclusive. Section 9(1) does not seek to define or otherwise identify public interest considerations that may support disclosure. Rather, the test under section 9(1) is simply whether, despite the harm that would follow disclosure (being a harm covered by section 9(2)), other considerations favouring release in the public interest are more important.

Any attempt to provide in the OIA an exhaustive list of public interest considerations favouring disclosure would be doomed to fail. Our experience in OIA reviews over the last 20 years has been that it is impossible to predict all the possible situations that may arise where access to certain information may become critical to a requester’s wider interests. The reasons why a requester wants access to information may essentially reflect personal interests but often the right to pursue personal interests will reflect a wider public interest recognised by New Zealand society. A conclusion that it is in the public interest for any New Zealand citizen, in the same circumstances as the requester, to be able to access similar information can often emerge as a determining factor. However, each case must be considered on its merits. Different circumstances will naturally tend to give rise to different outcomes both in terms of identifying the considerations favouring disclosure in a particular case and subsequently assessing whether those considerations require disclosure in the public interest.

The safeguard in section 9 is that the interest in withholding under section 9(2) will prevail unless the considerations favouring disclosure in the public interest **outweigh** the need to withhold. If the decision maker believes that the competing considerations are evenly balanced, or too close to decide between, then that is not enough to require disclosure under the OIA.

### **Urgent requests**

The OIA recognises that there will be occasions where requesters will need to ask that their requests be treated as urgent regardless of the obligation to make a decision on a request for official information as soon as reasonably practicable and in any event within 20 working days of receiving the request. The OIA requires requesters to give reasons for seeking urgency. This enables the agency holding the information to identify any public interest considerations requiring urgency and any alternative options that may enable a satisfactory response to be made more quickly. There is no obligation on agencies to process requests faster than “as soon as reasonably practicable” simply because a requester demands urgency. However, where reasons for urgency are given, agencies need to bear in mind that, in certain circumstances, there will be compelling reasons to give priority to responding urgently within a time deadline. In some cases, not to do so could amount to maladministration.

One case during the past year provided a very good example of an urgent request being recognised as such and sensible, time sensitive options under the OIA being adopted to meet the compelling public interest considerations favouring urgent disclosure. The complainant, a news media organisation, had sought an urgent investigation and review of the Ministry of Social Development’s refusal to make available a particular report that it had commissioned. The complainant needed the information to assist in making submissions to a Select Committee and had been given a strict deadline. The Ministry refused the request on the basis that the report was currently being edited. The anticipated public release date was after the deadline for submissions to the Select Committee. The request for an Ombudsman’s urgent investigation and review was received 3 days before the Select Committee deadline. Despite the short time frame, an urgent investigation and review was commenced. The reason for urgency, namely to enable informed submissions to a Select Committee on a matter of considerable public interest, was clearly in accord with the stated purpose in section 4(a)(i) of the OIA of making information available to enable more effective participation by the people of New Zealand in the making of laws and policies.

Following urgent discussions, the Ministry agreed to release a copy of the report subject to the condition that it was used only for the purpose of submissions to the Select Committee and not used in any other way that would disclose its contents more widely before its public release 5 days later. The Ministry had not previously considered the option of conditional release as a means of balancing the competing concerns about premature disclosure and the requester’s urgent need for the information. The complainant was satisfied with the proposed resolution and received a copy of the report in time to complete submissions before the Select Committee deadline.

The Ministry advised that it would review its standard guidance to staff so that the possibility of release subject to conditions is considered in the normal course of responding to urgent requests.



### Charging for the supply of official information – Members of Parliament

Although departments and organisations and Ministers have the power to charge for the supply of official information requested under the OIA, any such charge must be reasonable. The government guidelines on charges under the OIA, prepared by the Ministry of Justice, recognise that the administrative cost (in time, labour and materials) of providing access to official information needs to be balanced against the wider public interest in promoting readier access to information. No requester is automatically exempt from charges. However, where the requester is a Member of Parliament, the usual approach has to been to waive any charge that may otherwise have been fixed. This approach recognises the public interest in Members of Parliament having access to official information to assist in the reasonable exercise of their democratic responsibilities.

However, in several cases in the past year decisions were taken to charge Members of Parliament in particular cases. In reviewing complaints received from the Members of Parliament that the decisions to charge were unreasonable we carefully considered the nature of the requests. In several cases we found that it was not unreasonable to fix a charge even though the requester was a Member of Parliament. These were cases where a Member made serial, virtually identical requests, repeated on a monthly basis, for information coming within a widely framed category. They were essentially broad “empty your pockets” type requests which lacked differentiation or focus as to subject matter. In these circumstances it was difficult to identify how the wider public interest in Members of Parliament having readier access would be met. As an alternative option to lessen the administrative burden (which was the essential reason for the charge) we have suggested that in cases where the range of information potentially covered is necessarily wide, an initial request for a list of information held may enable requesters to narrow down wide requests or identify priorities to reduce the administrative cost of responding.

### Recommendations not accepted

All OIA recommendations were accepted.

### Where significant numbers of OIA complaints arose

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

	Year ended 30/6/04	Year ended 30/6/05
<b><u>Departments and organisations &gt;= 20 complaints</u></b>		
Police	128	111
Department of Labour	43	†49
Educational Institutions	51	48
District Health Boards	50	47
Ministry of Social Development	59	43
Ministry of Health	40	41
Department of Child, Youth and Family Services	35	41
ACC	39	29

**Ministers >=15 complaints**

Associate Ministers of Education	15	††24
Minister of Social Development and Employment	18	34
Minister of Education	18	26

† 37 involving the New Zealand Immigration Service, 2 Employment Relations and 10 other  
 †† comprises Assoc. Min. of Education 16, Assoc. Min of Education (Tertiary Education) 8.

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

**Overview**

Generally, the majority of local authorities are meeting their obligations under the LGOIMA in a reasonable manner.

**Improving understanding and capability**

Complaints about a number of decisions on requests for official information have highlighted the need for regular training of staff on the application of the LGOIMA. This may sometimes be overlooked with the appointment of new staff or the reallocation of duties. The Ombudsmen and our senior staff are happy to assist in this regard by facilitating training sessions for individual local authorities. In addition, informal discussions have been held with Local Government New Zealand with a view to developing and distributing a simple guide to the LGOIMA that can be used as a resource by front-line officers processing requests.

**Recommendations not accepted**

All LGOIMA recommendations were accepted.

**Where significant numbers of LGOIMA complaints arose**

	Year ended 30/6/04	Year ended 30/6/05
District Councils	109	83
City Councils	64	84
Regional Councils	15	19

**THE PROTECTED DISCLOSURES ACT 2000 (PDA)**

In our report for the year ending 30 June 2004 we referred to the report of Mary Scholtens QC to the Minister of State Services tabled in Parliament on 16 December 2003 on the operation of the PDA.

Little progress seems to have been made with amendments to the legislation which the report foreshadowed. If the PDA is to function successfully we believe it is important that the amendments be made.

As in previous years, the actual number of potential disclosures which have come to our attention has not been great, 7 for the year to 30 June (last year 19), and most have been dealt with by providing information and guidance in accordance with section 15 of the PDA.

As the present Act contains no mechanism for the gathering of data regarding its use, it is impossible to obtain a clear picture of the extent of actual use. Disclosures can be made to a variety of agencies, ranging from public sector organisations required to establish internal disclosure procedures in accordance with section 11 of the Act, to the "appropriate authorities" nominated in section 3 of the Act, such as the Commissioner of Police and the Ombudsmen.

Our web site continues to provide information about the PDA. Our brochure and booklet explaining our functions under the PDA continue to be available.

## **PART II – GENERAL INFORMATION**

### **Publicity and public awareness programmes**

We have four publications, the “Ombudsmen Quarterly Review (*Te Arotake*)”, “Practice Guidelines”, “Case Notes of the Ombudsmen” and our Annual Report. With the exception of the Annual Report, all have as a primary focus the provision of information on and guidance about the Ombudsmen’s application of the Ombudsmen Act (OA) and official information legislation. Our Annual Report includes comment on particular themes that have become apparent within our jurisdiction during the reported year but also provides significant comment on operational matters.

The publications are designed generally to assist agencies to improve their decision-making in light of their responsibilities under the official information legislation and the OA. The objective is for improved decision-making to minimise the incidence of complaints received by both agencies and our office. These publications also assist users to more precisely frame requests for official information and agencies to review systems and procedures.

### **Communications strategy**

During 2004/05 the various forms of communication prepared by the office were examined to determine whether these could be improved and if so, how, with a particular emphasis on improving communications with the various communities that now make up a significant proportion of the New Zealand population.

To date our published information pamphlets have been prepared solely for an English speaking population. With the additional funding provided in the 2004/05 financial year we have reviewed both the content and presentation of our pamphlets to reflect the more diverse range of languages used within the general population. The pamphlets have been translated into Maori, Samoan and Chinese.

We have had discussions with contacts in the Maori, Pacific Island and Asian communities aimed at identifying the most effective and efficient mechanisms to advise their respective communities of the role of the Ombudsmen. We have also identified a need for greater use to be made of the Department of Internal Affairs interpreter service to assist us with handling complaints from new immigrants for whom English is a second or third language. These initiatives aim to assist greater participation of different communities in our system of democracy.

We also formed the view that greater use may be made of “plain English” in our written communications. In the past our approach has generally inclined towards a more formal and legalistic mode of writing. There are times when formality in writing is critical to achieving legal accuracy and for reasons of completeness but equally there are occasions when an accurate précis of the matter under consideration would provide sufficient explanation or comment particularly in regard to correspondence with complainants. We intend to make greater use of “plain English” in all our communications.

## **Ombudsmen Quarterly Review – Te Arotake**

Over 1,000 subscribers regularly receive the hard copy version of the Ombudsmen's Quarterly Review (*Te Arotake*). A much smaller but growing number of individuals receive the publication by email. An electronic version of the Quarterly Review is viewable and downloadable from our web site [www.ombudsmen.govt.nz](http://www.ombudsmen.govt.nz). We have found the Review to be a useful means of disseminating up-to-date information about issues that have been considered by us, including generic matters that can arise out of these issues.

## **Practice Guidelines**

To date our Practice Guidelines have focussed particularly on the application of the official information legislation but new guidelines relating to the OA jurisdiction are in preparation and are expected to be published in the coming year. The purpose of the guidelines is to assist agencies gain a better understanding of the application of the official information legislation and the OA. The guidelines are available in hard copy format from our Wellington office or can be downloaded from our web site.

No new guidelines were published in the reported year.

## **Compendium of Case Notes**

We had anticipated the 14<sup>th</sup> Compendium of Case Notes being published during the 2004/05 reporting year; however issues associated with the publishing of the Case Notes on the office web site and other work of a higher priority have temporarily deferred publication. It is expected that the Case Notes will be published before the end of December 2005 in both hard copy and electronic form downloadable from our web site [www.ombudsmen.govt.nz](http://www.ombudsmen.govt.nz). The Compendium will contain summaries of cases investigated under the OA, the OIA and the LGOIMA in the period 1 January 2002 to 30 June 2004.

This 14<sup>th</sup> Compendium of Case Notes is expected to be the last published in booklet form. Future versions will be available for reading or downloading from our web site and in an information sheet format to be published regularly.

## **Clinics/Regional Meetings**

We recognise that with an increasingly urbanised society focused primarily in 5 major metropolitan centres, there is a real risk of a large proportion of the population living outside those centres not receiving the same access to government services and facilities, and right of redress when things go awry. Over the past decade the office has retained its linkages to communities throughout New Zealand by maintaining a programme of clinic visits to these smaller population centres. Many smaller settlements and rural hubs are visited on a 2 to 3 yearly cycle. Our visits are frequently the subject of local press and radio media attention. The clinics enable people living outside of the major metropolitan centres to have their complaints heard in person by an Ombudsman or members of our staff.

We take the opportunity provided by these clinic visits to meet with executive staff of local councils to discuss general issues within our jurisdiction or specific complaints. We also visit other organisations such as Citizens Advice Bureaux and Community Law Centres and provide briefings on the role of the Ombudsmen. Clinics were held this year in Levin, Otaki, Featherston, Pahiatua, Masterton, Palmerston North, Wanganui, Gisborne, Kaitia, Kerikeri, Westport, Hokitika, Queenstown, Alexandra, Timaru, Oamaru and Ashburton.

### Speaking engagements

In addition to our programme of visits to smaller communities we and our staff gave presentations on the role of the Ombudsmen and on particular aspects of our jurisdiction to various groups within the New Zealand community and to overseas bodies.

<b>Date</b>	<b>Speaking To</b>	<b>Topic</b>
July 2004	Australian Administrative Law Conference	Shaping Administrative Law for the Next Generation
	District Health Boards' Communication Conference	Official Information Act: Transparency and Accountability – What are an Organisation's Obligations
	Westland CAB staff	Work of the Ombudsmen
	Employees of West Coast Regional Council, Gore District Council, Buller District Council and the Department of Conservation	Official Information Act and Local Government Official Information and Meetings Act
	Westport CAB staff	Work of the Ombudsmen
	Chief Reporters' Conference	Working with the Official Information Act – Issues for the Media
	Rotorua West Rotary Club	The Role of the Ombudsman
August	Victoria University of Wellington	The Role of the Ombudsman
	Department of Corrections, Community Probation Service	The Official Information Act
September	Department of Internal Affairs	The Official Information Act
	Commonwealth Secretariat – Training for Ombudsmen	Managing an Ombudsman's Office Optimising Ombudsman Office Communications Promoting Good Governance Putting it Right – Redress and Remedies Tackling Corruption
	Commerce Commission	The Official Information Act
	Senior managers & CEO of the Canterbury District Health Board	The Official Information Act
	NZ Law Society	Freedom of Information
	Ministry of Supervision, China	Snapshot of New Zealand and the Ombudsmen's Jurisdiction

	Ministry of Supervision China	Briefing for Officials re Governance: Effective structures of Government at central, regional and local levels; specialised accountability mechanisms, information and education plus the Role of the Ombudsmen. Comparison of Supervisory Mechanisms and the Future of Supervisory Mechanisms
October	Community Law Centres' Annual Hui	The Role of the Ombudsmen and the Challenges Currently Facing the Office
	Local Government New Zealand, New Mayors' Workshop	The Role of the Ombudsmen in Local Government
November	Elected Members Workshop (new Councillors)	The Local Government Official Information and Meetings Act: Transparency and Accountability – What are an organisation's obligations
	Gisborne Citizens Advice Bureau	Role and functions of the Ombudsmen
	Departmental Chief Executives	Role and Functions of the Ombudsmen
	Queenstown CAB	Role and Functions of the Ombudsmen
December	West Coast Disabilities Centre	Role and Functions of the Ombudsmen
February 2005	3 <sup>rd</sup> International Conference of Information Commissioners	The Role of Control Bodies in Access to Information and Experiences on Access to Information in Asia, Africa, Australia and New Zealand
March	Wellington City Council Management Team	The Local Government Official Information and Meetings Act: Transparency and Accountability – What are an organisation's obligations
April	7 <sup>th</sup> Annual Public Law Forum	The Role of the Ombudsmen
	CAB volunteers	The role and functions of the Ombudsmen
	Ministry for the Environment	Operation of the Official Information Act
	African Ombudsman Association Conference	The Ombudsman and Citizen Participation
	Department of Internal Affairs	The Role and Functions of the Ombudsmen
	Ministry for Culture and Heritage	Operation of the Official Information Act
	New Zealand Association for Migration and Investment Seminar	The role and functions of the Ombudsmen in relation to immigration complaints
May	Auckland Prison Managers Meeting	Ombudsmen requirements in relation to prisoner complaints
	Howard League for Penal Reform	Role of Ombudsmen concerning prisoners
	School of Journalism Canterbury University	The Official Information Act and the Local Government Official Information and Meetings Act
	Mount Eden Prison Managers Meeting	Ombudsmen requirements in relation to prisoner complaints
	Kaitaia Citizens Advice Bureau	Role and functions of the Ombudsmen
	Kerikeri Citizens Advice Bureau	Role and functions of the Ombudsmen
	Warkworth Business & Professional Women's Club	Role and functions of the Ombudsmen

	Wairarapa Citizens Advice Bureau	The Work of the Ombudsmen
June	Symposium – The Official Information Act in an Election Year	The Official Information Act in an Election Year
Ongoing	Department of Corrections – Induction Training Course for New Corrections Officers	The Role of the Ombudsmen

### International contacts

With the widespread international interest in our work we received many visits from overseas government officials, delegations and researchers who sought information about the Ombudsman role and how it fits within the New Zealand system of governance. Our visitors' interest ranged from how the Ombudsmen role might contribute to reducing corruption, to improving human rights and to increased government accountability. The New Zealand official information legislation continues to attract considerable positive interest because of the extent of official information routinely made available to the public. Many overseas countries considering establishing similar jurisdictions use New Zealand as a benchmark.

Visits were received from:

DATE	DELEGATION
July 2004	Sir Shridath Ramphal, Commonwealth Secretary-General – 1975-1990
November	Dr Victor Ayeni, Director Governance and Institutional, Development Division, Commonwealth Secretariat
	The Federal Belgian Ombudsman and Ombudsman, Korea
December	The Speaker, House of Representatives, Fiji
February 2005	Ombudsman Hong Kong
	Deputy Commissioner and Director of Ombudsman Bureau, Commission Against Corruption, and delegation, Macau
	From the Judiciary Branch, State General Inspection Organisation, Tehran: His Excellency Mr Mohammad Niazi, Head Mr Hamidreza Disfani, Director General Mr Mahdi Naderi Fard, Deputy for Cultural & Social Affairs Mr Jahangir Sheikh Sofia
	From the Embassy of the Islamic Republic of Iran, Wellington: His Excellency Mr Kambiz Sheikh-Hassani, Ambassador Mr Reza Ghadami,
	Dr Josefina Del Prado, Advisor to the Chief Ombudsman, Defensoria del Pueblo, Peru His Excellency Mr Javier Leon, Peruvian Ambassador to NZ
	Mr Haji Khalid bin Haji Ibrahim, Director General, Public Complaints Bureau, Prime Minister's Department, Malaysia Mr Mohd Jamalludin Kasbi, Management Director, Public Complaints Bureau, Prime Minister's Department, Malaysia



March	<p>Visit to New Zealand by Australian Political Exchange:  Ms Catherine King MP (Delegation Leader, Federal Member for Ballarat (Vic), Shadow Parliamentary Secretary for Regional Development, Australian Labor Party)  Mr Ari Margossian (President, Australian Young Labor)  Mr Cameron Thompson MP (Federal Member of Parliament for Blair (Qld) (Liberal Party of Australia)  Ms Josephine Barfield (Chief of Staff in the Office of Andrew Laming MP for Bowman (Qld), (Liberal Party of Australia)  Mr Brendan Lyon (Office Manager for Hon Bruce Baird MP for Cook (NSW) (Liberal Party of Australia)  Ms Sarah Burnheim (Secretary of the NSW Young Nationals, Solicitor Egan Murphy Solicitors, National Party)  Ms Janeen Bulsey (Central Australian Representative, Northern Territory Field Operations Manager, Southern Barkly Aboriginal Corporation, Australian Democrats)  Accompanying Official: Ms Jody Chapman, Council Representative</p>
	Colin Crawford, University of Birmingham
April	<p>Mr Lawrence Springborg, Queensland Leader of the Opposition/Shadow Attorney General  Chinese Education Delegation</p>
May	<p>Ms Marta Oyhanarte, Argentine Human Rights Organisation  Mr Tau Pasisi, Ombudsman-designate of Niue</p>
June	<p>Vietnamese Delegation:  Mr Le Quang Binh, Head of Commission for Petition and Aspirations, the Vietnam National Assembly (VNA) (Leader of the Delegation)  Mr Vu A Phia, Head of MP delegation, Dien Bien province cum Chairman of the Dien Bien People's Council  Mr Huynh Thanh Lap, Deputy Head of MP delegation, Ho Chi Minh City cum Vice Chairman of People's Council, Ho Chi Minh City  Ms Nguyen Tuyet Suong, Deputy Head of MP delegation, Ben Tre province  Ms Nguyen Thi Hu Hong, Member of Committee on Culture, Education, Youth and Children, the Vietnam National Assembly (VNA)  Mr Ha Cong Long, Deputy Head of the Commission of Petitions and Aspirations (VNA)  Mr Vu Ba Quang, Office of the Vietnam National Assembly  Mr Nguyen Binh Khang, Deputy Director, Department of Petitions and Aspirations, the ONA (The Office of the Vietnam National Assembly)  Ms Vu Thi Tu, Specialist, Department of Petitions and Aspirations, ONA (The Office of the Vietnam National Assembly)  Mr Nguyen Ngoc Hung, Specialist, Department of Petitions and Aspirations, the ONA (The Office of the Vietnam National Assembly)  Mr Nguyen Duc Thuan, Project Management Division, Office of the Vietnam National Assembly (ONA)  Ms Nguyen Thi Quynh, Interpreter</p>

We maintained our links and contributions to the International Ombudsmen community through participation by Ombudsman Satyanand in the faculty of the Commonwealth Secretariat programme for newly appointed Ombudsmen and their staff. Ombudsman Mel Smith attended the International Ombudsmen Institute conference in Quebec, Canada. At the request of the Ministry of Foreign Affairs and Trade and the Commonwealth Secretariat, the Chief Ombudsman attended the International Conference of Information Commissioners held at Cancun, Mexico and the inaugural meeting of the African Ombudsman Association, Johannesburg, South Africa.

### **Australasian Pacific Ombudsman Regional Conference (APOR)**

The 22<sup>nd</sup> meeting of APOR was held at Wellington in February 2005. Attended by 53 Ombudsmen and observers from around the world, the theme for the meeting was "the Small Ombudsman Office". Papers presented by APOR members highlighted the differing environments in which Ombudsmen work and the challenges they face. The papers may be viewed on the office web site [www.ombudsmen.govt.nz](http://www.ombudsmen.govt.nz)

### **Office of the Ombudsmen web site**

The office web site [www.ombudsmen.govt.nz](http://www.ombudsmen.govt.nz) is being rebuilt to improve its usefulness as a tool for distributing information about the role of the Ombudsmen within New Zealand society and to assist organisations subject to Ombudsmen jurisdiction through the improved provision of guidance on the Ombudsmen's approach to a wide range of matters that come before them. An important new component of the web site will be the ability to access and search a library database containing published Case Notes of the Ombudsmen, Ombudsmen Quarterly Reviews, "Own Motion" reports, Speeches, Annual Reports and similar publications. The site is expected to "go live" when linkages between it and the office library system have been completed during November 2005.

The site, initially rebuilt only in English, has tags in its structure to allow for a Maori version of the static content to be made available in the 2005/06 or 2006/07 year.

There were in excess of 23,000 visits recorded to the web site during the year.

## PART III - OPERATIONS

### CHIEF OMBUDSMAN'S REPORT ON OPERATIONS

#### How the Ombudsmen contribute to "good" government

During the 12 month period ending 30 June 2005 we received 6,757 new complaints or requests from the public arising from transactions between citizens and the State. Generally most complaints that we receive affect individuals, although some reveal systemic issues. While the number of complaints may at first reading seem to be quite large, the reality is otherwise. Our jurisdiction is very broad covering organisations and agencies within the local, regional and central government sectors with responsibilities for providing a very diverse range of services to the public, from building, dog and similar permits, to benefit payments and immigration and educational matters to water reticulation and issues associated with land subsidence. Even with the governance systems existing in the New Zealand public sector, some of the many transactions that take place each day between citizens and State will inevitably "go wrong" and require input from an external, impartial and independent reviewer to ensure a fair resolution.

We have as our primary objective the ongoing improvement and accountability of the wider public sector. Our powers of investigation under the OA in particular, and the official information legislation, support us in this work.

All complaints and requests for review referred to us are recorded on the office Case Management System. We monitor this database to identify areas of activity where the nature of complaints received suggests a possible systemic failure or where benefit might accrue from a meeting of an Ombudsman and the relevant Chief Executive and/or senior staff within an organisation.

A simple checklist indicating whether organisations within our jurisdiction are generally fulfilling their functions in a fair and reasonable manner will result in a "yes" response to each of the following statements:

- complaints are resolved in a timely manner; and
- the complaints lodged are generally of a 'one-off' kind or minor in nature and do not indicate systemic failure; and
- the number of complaints against an organisation is generally few; and
- a majority of the complaints lodged are not sustained.

The following table provides a snapshot of two of the office performance measures applied to the primary workload of the office completed during each 12 month period ended on 30 June. Detailed performance measures are found at page 52.

## Office of the Ombudsmen

A3

- 36 -

	Year Ended			
	30/6/02	30/6/03	30/6/04	30/06/05
<b>Ombudsmen Act</b>				
Complaints informally or formally resolved in favour of complainant (in whole or part) or where assistance is given to the complainant	75%	74%	78%	†84%
Average # of working days required to resolve a complaint	35	38	41	44
<b>Official Information Act</b>				
Complaints informally or formally resolved in favour of complainant (in whole or part) or where assistance is given to the complainant	66%	70%	65%	66%
Average # of working days required to resolve a complaint	79	72	64	73
<b>Local Government Official Information and Meetings Act</b>				
Complaints informally or formally resolved in favour of complainant (in whole or part) or where assistance is given to the complainant	59%	67%	87%	60%
Average # of working days required to resolve a complaint	51	73	45	69

† the increase in the proportion of favourable resolutions recorded follows the improved recording of complaints/enquiries from prisoners.

### Business risks identified at the beginning of the 2004/2005 reporting year

Part of the office's annual Estimates request to Parliament includes the identification of risks to the forecast financial and output performance of the Office of the Ombudsmen. Two particular risks were identified for the year ended 30 June 2005.

#### **Statutory right to complain**

The OA, OIA, LGOIMA and PDA each provide a statutory right of complaint or disclosure with a corresponding obligation upon the Ombudsmen to investigate that complaint and/or provide guidance and advice as appropriate.

#### **More complex complaints**

As mentioned earlier in this report we have noted an adversarial element entering the investigation process of complaints referred to us for review. The development appears to be associated with an increase in the use of private sector law firms by both government agencies and complainants and a need for government agencies to improve their understanding of the official information legislation and the role of the Ombudsmen.

To date we have met the challenges posed by recruiting and retaining a skilled and experienced staff to assist us with our investigations. Additional resources approved as part of the 2004/05 Estimates have assisted with staff recruitment and retention.

**Strategic issues with the potential to impact on Vote Ombudsmen*****Variations in understanding of the Official Information Act and role of the Ombudsmen***

We have previously reported significant variations in organisations' understanding of the purpose of the official information legislation, particularly the OIA and the application of its withholding provisions. This also extends to understanding the general role of the Ombudsmen in reviewing and forming a view on complaints made by individual citizens and the public at large. With the latter, the Ombudsmen provide a low cost, less adversarial resolution mechanism than the Courts. We have moved to promote training within government agencies on their responsibilities under the OA and official information legislation and where appropriate offered assistance in its provision. We have also increased our availability for making presentations about the role of the Ombudsmen to organisations within our jurisdiction and other service groups such as Community Law Centres and Citizens Advice Bureaux. An improved understanding of the Ombudsman role and associated legislation is expected to contribute to better decision-making and fewer complaints being lodged with government agencies and our office.

***Widening of Ombudsman jurisdiction***

The Crown Entities Act 2004 came into force on 25 January 2005. The definition accorded Crown Entities is broad and brings within OA jurisdiction many organisations formerly excluded such as the office of the Privacy Commissioner and the Commerce and Securities Commissions. The Crown Entities Act also allows the investigation of matters predating the commencement date of the Act. There is now potential for complaints about the processes applied by these bodies to be referred for Ombudsman review; similarly, the actions of subsidiary bodies established by government agencies previously excluded from Ombudsman review may now be investigated. Time will be required to identify whether additional resources are necessary to deal with the probable increase in workload resulting from the new legislation.

***Investigation of complaints from prisoners***

Prison complaint procedures are being reviewed by the Ministry of Justice. We are working with the Ministry to assist with the review.

The office presently employs 6 staff who are directly engaged with investigations and enquiries relating to prisoners. We are not aware of any proposal to limit an Ombudsman's powers of investigation in relation to prisoners in the context of the current review of prison complaint procedures but observe that there is scope for the Department of Corrections to improve its handling of prisoners' complaints and through improved management, to reduce the number of matters referred to our office and the resources required in their consideration. In our view such improvement would include more timely responses by the Department to interventions by this office, and would likely go a long way towards remedying concerns about prison complaint handling.

The Corrections Act 2004 requires that the Chief Executive of the Department of Corrections enter into an Agreement with the Chief Ombudsman in respect of the handling of complaints made by prisoners and staff within the corrections system. This legislative provision formalises what has been standard practice since 1995. A draft Agreement, which includes a number of performance measures, has been forwarded to the Chief Executive for consideration.

**United Nations Protocol Against Torture**

The Government has agreed to be party to the United Nations Protocol against Torture. The Protocol has still to be signed but the Office of the Ombudsmen has been identified as a key agency in inspecting and monitoring prisons and other detention facilities. Advice is awaited as to the exact nature of the protocol's requirements for examining and monitoring places of detention – whether they represent a minor or major variation to existing practice of the Ombudsmen. An implementation date has yet to be fixed.

**On-Line Authentication Agency**

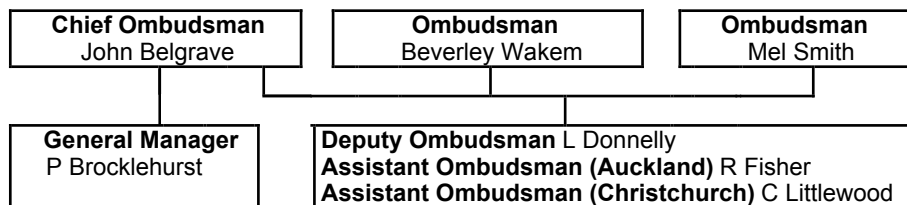
The Government is continuing development of an all of government “On-Line Authentication Agency” to verify the identities of citizens who wish to transact business with government agencies over the internet. A need for an “Authentication Review Authority” to consider complaints concerning the agency has been identified.

Current proposals support the use of existing agencies such as the Office of the Ombudsmen and the Privacy Commissioner as review authorities. Each has sufficient jurisdiction and powers to perform the role.

Current indications are that there will be a limited rollout of the on-line authentication facility in the latter portion of the current financial year. Insufficient information is available to comment on the impact this new activity may have on our workload and the resources available to us, but it is potentially significant.

**Management structure**

The management structure of the office for the year ended 30 June 2005 was as follows:



Ombudsman Anand Satyanand retired from office on 14 February 2005 and was succeeded by Beverley Wakem who took up her appointment on 1 March 2005. The management structure was otherwise unchanged during the reported year.

## Management performance

We use a case management system to assist 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; and
- identifying where emerging trends have potential to impact on office performance.

A range of performance measures is agreed each year with the Officers of Parliament Select Committee and applied to the investigative workload of the office. Actual performance relative to the measures is examined each month and taken account of in the management decision-making processes of the office. The measures are published in the office Statement of Intent and the Ombudsmen's Annual Report to Parliament. Performance for the 2004/05 year relative to the agreed measures is shown at pages 52 to 55.

Additional to the office internal work management systems mentioned previously, we have maintained and where possible enhanced our more proactive mode of complaint resolution by:

- encouraging public sector organisations to develop credible and responsive internal complaint review systems that aim to resolve as many complaints as possible at organisation level without recourse to our office. We see this approach as beneficial because an organisation that seeks to resolve complaints in a fair and reasonable manner using its own internal review processes encourages greater confidence by the public in the organisation and in government services generally. An additional benefit is that the review of complaints using internal mechanisms is another vehicle by which an organisation may review its practices and procedures and relationship with the public.
- meeting with Chief Executives and senior staff within agencies to discuss particular aspects of our work where it relates to their organisations or where there is an identified need for an organisation to modify its work practices to minimise exposure to complaint. We seek to do this in a positive manner that encourages cooperation between our office and the agency concerned and improved delivery of government services generally.
- the Ombudsmen and senior staff making presentations to agencies within jurisdiction and to service groups such as Community Law Centres and Citizen Advice Bureaux on the role of the Ombudsmen. We and our staff have also indicated to government agencies a willingness to assist in providing training about agency responsibilities under the OA and the application of the official information legislation.

### ***Call centre establishment***

The frequency and number of telephone enquiries/complaints received from prisoners has increased in recent years and had potential to disrupt the investigation of the main body of our work under the OA and official information legislation. Many of the enquiries and complaints received from prisoners are relatively uncomplicated and open to resolution by informal process such as telephone and email but some relate to serious incidents such as assaults and deaths in custody or systemic issues that require formal investigation. While, as stated, many of the matters referred to us are relatively minor they nonetheless, particularly in the prison environment, have potential to take on major significance to the prisoner concerned and potentially to affect the security of other prisoners and the relevant institution.

In November 2004 a "call centre" was established initially to deal with the more straightforward enquiries and complaints received from prisoners but soon to be extended to also include all enquiries from the general public. The aim here is for "call centre" staff to assist the many enquirers who contact our offices by providing guidance and information relating to the Ombudsman jurisdiction and complaint investigation process, as well as information about other agencies or organisations that may be of assistance in resolving a particular matter. The "call centre" will allow investigative staff more uninterrupted time to progress their workloads and through that process assist the office with achieving improved timeliness of performance.

To date the "call centre" has proved successful in resolving satisfactorily many requests in a timely manner and without the need for commencing formal investigations.

### ***Early Resolution Team***

During the 2005/06 reporting year we propose reorganising the process by which all work is received and distributed within our Wellington office. Wellington is the largest of our three offices and has the most potential to achieve performance gains from improved work management systems. The intent here is to identify complaints that appear more open to early resolution and to route them directly to a team of investigators specially tasked to undertake the work. With time and experience, consideration will be given to extending the work of the team to include matters where urgency has been requested or is required. Overall we expect to see an improvement to the timeliness with which complaints are resolved and a generally more structured and stable investigative workflow.

### **Financial and asset management**

The "financial health" of the office is routinely monitored using the "Greentree" accounting and reporting package and our internal financial planning and monitoring systems. These contribute 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. We used minor savings in some areas of Vote Ombudsmen to offset cost increases in other areas. We completed the year with a \$4,465 operating surplus on a budget of \$4.930 million (excls GST).

No issues of significance have been identified by Audit New Zealand in respect of the office accounts for the year ended 30 June 2005. Our office is open to suggestions about how to further improve its performance.



Financial management and service performance achieved during the last four years as assessed by Audit New Zealand was as follows:

<b>Management Aspect</b>	<b>Assessment Rating</b>			
	<b>Year ended 30/6/02</b>	<b>Year ended 30/6/03</b>	<b>Year ended 30/6/04</b>	<b>Year ended 30/6/05</b>
Financial control systems	Excellent	Excellent	Excellent	Excellent
Financial management information systems	Excellent	Excellent	Excellent	Excellent
Financial management control environment	Excellent	Excellent	Excellent	Excellent
Service performance information and information systems	Excellent	Excellent	Excellent	Excellent
Service performance management control environment	Excellent	Excellent	Excellent	Excellent

The office uses a relatively narrow range of services and consumables with most expenditure committed to personnel, accommodation and GST. We access the GSB Supplycorp range of contracts and services to benefit from group bulk purchase discounts wherever possible as the primary method of supply. Where a good or service is not available at contract rates, we seek the best price possible by negotiation or competitive quote.

The office maintains a “no surprises” policy and a close working relationship with the Treasury and Audit New Zealand. The office benefits from their advice and guidance in matters relating to improving the transparency of the office performance and reporting systems. The liaison also ensures both agencies have a sound understanding of the Ombudsmen’s working environment. We are open to suggestions about how to further improve performance and in the past year undertook work relating to cash management, working capital, taxation exposures and risk management policies.

### **Information management**

The office’s computer and information management systems were reliable and stable for most of the reported year. Computer hardware is replaced on a 4 yearly cycle and is generally Hewlett Packard/Compaq branded. Software upgrades are normally delayed to provide opportunity for the general market to identify previously unknown bugs in the software.

A rebuild of the office web site commenced in the latter portion of the 2004/05 reporting year and is progressing well. The functionality of the new site is being extended to include access and a search capability to a library of the office publications. The library system holds electronic copies of the office publications: the Ombudsmen’s Quarterly Review (*Te Arotake*), Practice Guidelines, Case Notes of the Ombudsmen, Annual Reports etc.

We have previously advised of a need to upgrade the office case management system that is now in excess of twelve years old. The existing system remains fully operational but requires updating to provide for changes to Microsoft product functionality, new office requirements and other general changes within the IT sector. In essence, the age of the office case management system and the programming language in which it is written makes it more viable to rebuild the system than attempt to further modify the existing program. A new "enquiries" module written using Sequential Query Language is being refined and tested. The "enquiries" module will form part of the new case management system that is in development.

### **Disaster preparedness and risk reduction**

We are conscious of the risk to office performance that is posed by physical risks such as earthquake and fire, and of other business risks associated with legislative exposure and risk to key assets such as our staff. Our approach to risk amelioration is multifaceted and includes:

- the engagement of a security specialist to provide advice on physical security within our offices and guidance to our staff when meeting with complainants. Some complainants are emotionally stressed by the time they request Ombudsman assistance or are "wedded" to a particular view of what the outcome of an Ombudsman investigation ought to be.
- limited insurance 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;
- redundancy to RAID 5 level within the primary office computer systems. A copy of the Thursday network backup tape is routinely sent "off site" and "out of centre". These backup tapes are recycled at 3 weekly intervals. Daily backups (excluding Thursdays) are retained on site and recycled once each week. End of month backups are stored on site and recycled on a 6 monthly basis. The office has implemented reasonable measures to provide for the continuation of services in most circumstances with basic services being provided out of our Christchurch and Auckland offices. But a major seismic event could potentially disrupt power and communication capabilities in the Wellington region to such an extent that the office could only operate on a partial basis until full services were restored;
- emergency First Aid and Civil Defence equipment and supplies are provided for each office as well as a basic range of food and water sufficient for 3 days;
- maintenance of a pool of staff having First Aid skills at each site;
- a "*code of ethics*" by which all members of the office are expected to abide, and
- provision of safe and secure work environments including offering annual influenza inoculations, and biennial eyesight tests and "*wellness checkups*" to staff.

## Human resource management

Our staff are our greatest asset. They have diverse skills, qualifications and experiences all of which contribute to the success of the Ombudsman function in New Zealand. We are greatly appreciative of their efforts in supporting us and their commitment to the Ombudsman institution generally.

At 30 June 2005 the office comprised 50 staff (45.375 Full Time Equivalents) excluding the 3 Ombudsmen. The majority of staff is based in Wellington, 7 are located in Christchurch and 8 in Auckland. The gender balance is 50/50 with generally more women participating in job-share and reduced hours of work employment arrangements. These non standard working arrangements follow requests from staff who sought to change their working hours 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.

We aim to have as many staff as possible engaged directly in the process of complaint investigation and resolution. At 30 June the ratio of investigating staff to those engaged in support roles was 2.97:1.

Comment has been made of the diversity now present within the New Zealand population. As well as the expected legal and other mainstream qualifications that are required of our staff, some have brought language skills to the office, for example, Te Reo Maori, French, German, Spanish, Chinese and most recently Samoan. We are cognizant of the need to expand our capability in this area to enable all New Zealanders to participate in our democracy and are seeking actively to improve our engagement with all groups that make up New Zealand society.

The balance of work we receive under the OA and official information legislation is not consistent. External factors such as proximity to a general or local body election, public awareness of a new government policy, media statements or the general level of public confidence in government agency decision making can and does impact on the quantum of work referred to us. We use the office case management system database to assist with identifying any new skill requirements or trends developing in work referred to us. We have found a successful approach to addressing the variability of our workload is to recruit and retain staff who because of their skills, experience and qualifications are flexible in being able to undertake work in either the OA or official information jurisdictions.

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. Staff input is sought at an early stage. The outcome has been an employment environment that meets the needs of the office in providing a generally timely response to complaints referred to us and which assists staff to achieve a work/life balance.

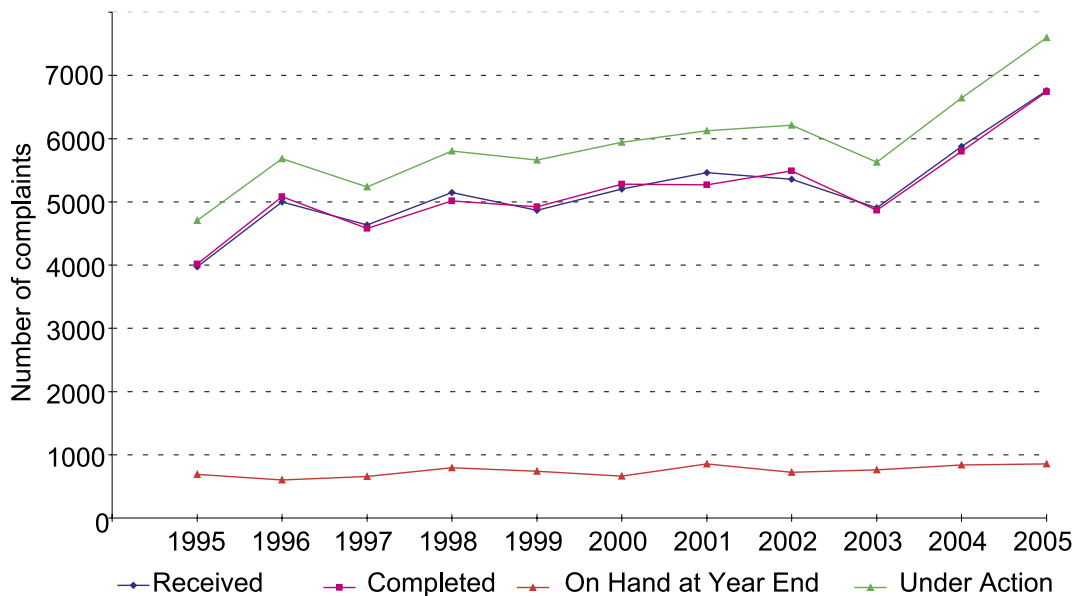
A major addition to the office employment agreement is the introduction of a transparent staff performance assessment and development system. The new system aims to recognise the contribution made by individual staff to overall office performance, identify training and development needs, and assist staff with achieving their career aspirations. We are appreciative of the contribution made by staff in the development of the system.

**The output of the Office of the Ombudsmen**

Statistics on the output and performance of the office are found at pages 72 to 84 of this report. This includes detailed information on the disposition of complaints considered during the reported year, a breakdown of complaints received and under action by jurisdiction, complainant types, geographical distribution of complainants and how complaints were resolved.

During the year to 30 June 2005 we received 6,757 requests for review or guidance and assistance. The number represents an increase to the recent past when we received on average between 5,500 and 6,500 new requests each year with approximately 800 files remaining open and under investigation at year end. The increase in requests received is more apparent than real and stems from a significantly increased prison muster and much improved recording of telephone enquiries and complaints received from prisoners. Since December, telephone requests from prisoners have been directed to an Enquiries Officer who makes the necessary enquiries and records the work directly to the office database. More accurate reporting has resulted.

**Throughput – All Complaints**



On average we completed 27 investigations or requests for guidance and assistance each working day.

**Cost of resolving complaints**

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

	Estimated cost Year ended 30 June 2005
<i>Ombudsmen Act</i>	
Estimated average cost per completed complaint	
- rec'd from prisoners.....	\$193
- rec'd from non prison sources.....	\$892
Estimated average cost work in progress .....	\$1,449
Estimated cost of all investigations complete and incomplete.....	\$2.815 million
<i>Official Information Act *</i>	
Estimated average cost per complaint	
- completed work.....	\$1,225
- work in progress.....	\$2,039
Estimated cost of all investigations complete and incomplete.....	\$1.645 million
<i>Local Government Official Information and Meetings Act</i>	
Estimated average cost per complaint *	
- completed work.....	\$1,158
- work in progress.....	\$1,341
Estimated cost of all investigations complete and incomplete.....	\$0.301 million
<i>Protected Disclosures Act</i>	
Estimated average cost per complaint	
- completed work.....	\$2,009
- work in progress.....	\$405
Estimated cost of all investigations complete and incomplete.....	\$0.021 million
<i>Other Work where the matter is found to be outside the Ombudsmen's jurisdiction but information and assistance is given</i>	
- completed work.....	\$205
- work in progress.....	\$1,044
Estimated cost of all investigations complete and incomplete.....	\$0.143 million

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

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

***Age profile - all complaints closed in the period\****

	30/6/02	Year ended		30/6/05
		30/6/03	30/6/04	
Aged 6 months or less from date of receipt	93%	92%	95%	<b>93%</b>
Aged between 7 and 12 months from date of receipt	6%	6%	4%	<b>5%</b>
Aged more than 12 months from date of receipt	1%	2%	1%	<b>2%</b>

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

***Age profile - all complaints remaining open at 30 June\****

	30/6/02	Year ended		30/6/05
		30/6/03	30/6/04	
Aged 6 months or less from date of receipt	82%	88%	83%	<b>77%</b>
Aged between 7 and 12 months from date of receipt	13%	10%	12%	<b>15%</b>
Aged more than 12 months from date of receipt	5%	2%	5%	<b>8%</b>

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

We also received approximately 1,400 general enquiries by telephone or personal visits to our offices about matters important to members of the public. In all cases we provided guidance on our functions or advice on alternative remedies that might be pursued.

## PART IV - PERFORMANCE INFORMATION

### STATEMENT OF RESPONSIBILITY

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

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

In my opinion, these financial statements fairly reflect the financial position and operations of the Office of the Ombudsmen for the year ended 30 June 2005.



John Belgrave  
Chief Executive

29 September 2005



Peter Brocklehurst  
Director of Finance

29 September 2005



**AUDIT REPORT**  
**TO THE READERS OF**  
**OFFICE OF THE OMBUDSMEN'S**  
**FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2005**

The Auditor-General is the auditor of the Office of the Ombudsmen (the Office). The Auditor-General has appointed me, John O'Connell, using the staff and resources of Audit New Zealand, to carry out the audit of the financial statements of the Office, on his behalf, for the year ended 30 June 2005.

**Unqualified opinion**

In our opinion the financial statements of the Office on pages 51 to 71:

- ▲ comply with generally accepted accounting practice in New Zealand; and
- ▲ fairly reflect:
  - the Office's financial position as at 30 June 2005;
  - the results of its operations and cash flows for the year ended on that date; and
  - its service performance achievements measured against the performance targets adopted for the year ended on that date.

The audit was completed on 30 September 2005, 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 Chief Ombudsman;
- ▲ 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. We obtained all the information and explanations we required to support our opinion above.

### **Responsibilities of the Chief Ombudsman and the auditor**

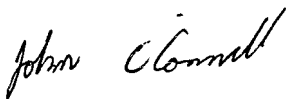
The Chief Ombudsman is responsible for preparing financial statements in accordance with generally accepted accounting practice in New Zealand. Those financial statements must fairly reflect the financial position of the Office as at 30 June 2005. They must also fairly reflect the results of its operations and cash flows and service performance achievements for the year ended on that date. The Chief Ombudsman's responsibilities arise from the Public Finance Act 1989.

We are responsible for expressing an independent opinion on the financial statements and reporting that opinion to you. This responsibility arises from section 15 of the Public Audit Act 2001 and the Public Finance Act 1989.

## Independence

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

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



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

### **Matters relating to the electronic presentation of the audited financial statements**

This audit report relates to the financial statements of the Office of the Ombudsmen (the Office) for the year ended 30 June 2005 included on the Office's web-site. The Chief Ombudsman is responsible for the maintenance and integrity of the Office's web site. We have not been engaged to report on the integrity of the Office's web site. We accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the web site.

The audit report refers only to the financial statements named above. It does not provide an opinion on any other information which may have been hyperlinked to/from these financial statements. If readers of this report are concerned with the inherent risks arising from electronic data communication they should refer to the published hard copy of the audited financial statements and related audit report dated 29 September 2005 to confirm the information included in the audited financial statements presented on this web site.

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

**STATEMENT OF OBJECTIVES AND SERVICE  
PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2005**

***Output***

Investigation and resolution of complaints about government administration.

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

The following table sets out details of complaints under investigation during the twelve months ended 30 June 2005 together with comparative statistics for the past four years:

	2000/01	2001/02	2002/03	2003/04	<b>2004/2005</b>
On hand as at 1 July	663	854	723	763	<b>840</b>
Received during the year	5,460	5,358	4,906	5,878	<b>6,757</b>
Total under Investigation	6,123	6,212	5,629	6,641	<b>7,597</b>
Disposed of during the year	(5,269)	(5,489)	(4,866)	(5,801)	<b>(6,743)</b>
On hand at 30 June	854	723	763	840	<b>854</b>

We recorded an approximate 15 percent growth in the number of requests referred to us for review. The increase in work was recorded primarily in the OA jurisdiction with a smaller growth in requests made under the LGOIMA.

A majority of the increase in workload under the OA was attributable to significantly improved recording of requests from prisoners seeking assistance from us in matters relating to their incarceration. The improved recording follows the establishment in November 2004 of a call centre and appointment of an Enquiries Officer to assist with resolving informally, many of the more minor complaints raised by prisoners. To-date the initiative has been very successful in reducing the workload of prison investigating staff and enabling them to focus on serious incidents such as assaults and deaths in custody. We expect a further increase in the number of minor complaints from prisoners as more accurate recording extends to a full reporting year.

The growth in requests made under the LGOIMA reflects citizens more frequently seeking access to source information held by government agencies generally to assist them to form their own views on particular matters.

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

The following performance measures were applicable for the 2004/2005 year:

<b>Actual Performance 2003/2004</b>	<b>Target Performance Indicators</b>	<b>Actual Performance 2004/2005</b>
4,155	Complete 4,000 investigations under the Ombudsmen Act 1975	<b>5,066</b>
992	Complete 1,300 investigations under the Official Information Act 1982	<b>942</b>
163	Complete 180 investigations under the Local Government Official Information and Meetings Act 1987	<b>207</b>
17	Provide guidance and information on 15 matters under the Protected Disclosures Act 2000	<b>10</b>
840	Limit the number of open complaints at year end to between 650 and 750 or less	<b>854</b>
474	Process 505 complaints which require preliminary consideration and or investigation but which are found to be outside Ombudsman jurisdiction	<b>518</b>
Yes	All conclusions on complaints to be made or drawn by an Ombudsman	<b>Yes</b>
Yes	All complaints to be investigated by suitably trained and qualified investigating staff	<b>Yes</b>
41 w/days 64 w/days 45 w/days 42 w/days	Average number of days to complete an investigation under:  Ombudsmen Act                      39 working days Official Information Act            69 working days Local Government Official Information and Meetings Act    55 working days Protected Disclosures Act        30 working days	<b>44</b> <b>73</b> <b>69</b> <b>119</b>
95% 3% 1% 1%	Age profile at 30 June 2005 of completed complaints from date of receipt  • Ombudsmen Act – complaints completed within: 6 months of receipt            90% 7 to 9 months of receipt       5% 10 to 12 months of receipt    3% >12 months of receipt        2%	<b>96%</b> <b>2%</b> <b>1%</b> <b>1%</b>

Actual Performance 2003/2004	Target Performance Indicators	Actual Performance 2004/2005																								
<p>86%</p> <p>8%</p> <p>4%</p> <p>2%</p> <p>93%</p> <p>6%</p> <p>1%</p> <p>-%</p> <p>94%</p> <p>6%</p> <p>-%</p> <p>-%</p>	<ul style="list-style-type: none"> <li>• Official Information Act – complaints completed within:               <table style="width: 100%; border: none;"> <tr> <td style="padding-left: 20px;">6 months of receipt</td> <td style="text-align: right;">80%</td> </tr> <tr> <td style="padding-left: 20px;">7 to 9 months of receipt</td> <td style="text-align: right;">6%</td> </tr> <tr> <td style="padding-left: 20px;">10 to 12 months of receipt</td> <td style="text-align: right;">4%</td> </tr> <tr> <td style="padding-left: 20px;">&gt;12 months of receipt</td> <td style="text-align: right;">10%</td> </tr> </table> </li>   <li>• Local Government Official Information and Meetings Act – complaints completed within:               <table style="width: 100%; border: none;"> <tr> <td style="padding-left: 20px;">6 months of receipt</td> <td style="text-align: right;">80%</td> </tr> <tr> <td style="padding-left: 20px;">7 to 9 months of receipt</td> <td style="text-align: right;">6%</td> </tr> <tr> <td style="padding-left: 20px;">10 to 12 months of receipt</td> <td style="text-align: right;">4%</td> </tr> <tr> <td style="padding-left: 20px;">&gt;12 months of receipt</td> <td style="text-align: right;">10%</td> </tr> </table> </li>   <li>• Protected Disclosures Act – complaints completed within:               <table style="width: 100%; border: none;"> <tr> <td style="padding-left: 20px;">6 months of receipt</td> <td style="text-align: right;">100%</td> </tr> <tr> <td style="padding-left: 20px;">7 to 9 months of receipt</td> <td style="text-align: right;">-%</td> </tr> <tr> <td style="padding-left: 20px;">10 to 12 months of receipt</td> <td style="text-align: right;">-%</td> </tr> <tr> <td style="padding-left: 20px;">&gt;12 months of receipt</td> <td style="text-align: right;">-%</td> </tr> </table> </li> </ul>	6 months of receipt	80%	7 to 9 months of receipt	6%	10 to 12 months of receipt	4%	>12 months of receipt	10%	6 months of receipt	80%	7 to 9 months of receipt	6%	10 to 12 months of receipt	4%	>12 months of receipt	10%	6 months of receipt	100%	7 to 9 months of receipt	-%	10 to 12 months of receipt	-%	>12 months of receipt	-%	<p><b>83%</b></p> <p><b>10%</b></p> <p><b>4%</b></p> <p><b>3%</b></p> <p><b>84%</b></p> <p><b>6%</b></p> <p><b>2%</b></p> <p><b>8%</b></p> <p><b>70%</b></p> <p><b>-%</b></p> <p><b>-%</b></p> <p><b>30%</b></p>
6 months of receipt	80%																									
7 to 9 months of receipt	6%																									
10 to 12 months of receipt	4%																									
>12 months of receipt	10%																									
6 months of receipt	80%																									
7 to 9 months of receipt	6%																									
10 to 12 months of receipt	4%																									
>12 months of receipt	10%																									
6 months of receipt	100%																									
7 to 9 months of receipt	-%																									
10 to 12 months of receipt	-%																									
>12 months of receipt	-%																									
<p>85%</p> <p>7%</p> <p>4%</p> <p>4%</p> <p>79%</p> <p>11%</p> <p>3%</p> <p>7%</p> <p>79%</p> <p>16%</p> <p>-%</p> <p>5%</p>	<p>Age profile at 30 June 2005 of open (incomplete) complaints from date of receipt:</p> <ul style="list-style-type: none"> <li>• Ombudsmen Act – open complaints:               <table style="width: 100%; border: none;"> <tr> <td style="padding-left: 20px;">6 months and under</td> <td style="text-align: right;">90%</td> </tr> <tr> <td style="padding-left: 20px;">7 to 9 months</td> <td style="text-align: right;">5%</td> </tr> <tr> <td style="padding-left: 20px;">10 to 12 months</td> <td style="text-align: right;">3%</td> </tr> <tr> <td style="padding-left: 20px;">&gt;12 months</td> <td style="text-align: right;">2%</td> </tr> </table> </li>   <li>• Official Information Act – open complaints               <table style="width: 100%; border: none;"> <tr> <td style="padding-left: 20px;">6 months and under</td> <td style="text-align: right;">80%</td> </tr> <tr> <td style="padding-left: 20px;">7 to 9 months</td> <td style="text-align: right;">6%</td> </tr> <tr> <td style="padding-left: 20px;">10 to 12 months</td> <td style="text-align: right;">4%</td> </tr> <tr> <td style="padding-left: 20px;">&gt;12 months</td> <td style="text-align: right;">10%</td> </tr> </table> </li>   <li>• Local Government Official Information and Meetings Act – open complaints               <table style="width: 100%; border: none;"> <tr> <td style="padding-left: 20px;">6 months and under</td> <td style="text-align: right;">88%</td> </tr> <tr> <td style="padding-left: 20px;">7 to 9 months</td> <td style="text-align: right;">7%</td> </tr> <tr> <td style="padding-left: 20px;">10 to 12 months</td> <td style="text-align: right;">4%</td> </tr> <tr> <td style="padding-left: 20px;">&gt;12 months</td> <td style="text-align: right;">1%</td> </tr> </table> </li> </ul>	6 months and under	90%	7 to 9 months	5%	10 to 12 months	3%	>12 months	2%	6 months and under	80%	7 to 9 months	6%	10 to 12 months	4%	>12 months	10%	6 months and under	88%	7 to 9 months	7%	10 to 12 months	4%	>12 months	1%	<p><b>79%</b></p> <p><b>9%</b></p> <p><b>5%</b></p> <p><b>7%</b></p> <p><b>68%</b></p> <p><b>10%</b></p> <p><b>10%</b></p> <p><b>12%</b></p> <p><b>89%</b></p> <p><b>-%</b></p> <p><b>2%</b></p> <p><b>9%</b></p>
6 months and under	90%																									
7 to 9 months	5%																									
10 to 12 months	3%																									
>12 months	2%																									
6 months and under	80%																									
7 to 9 months	6%																									
10 to 12 months	4%																									
>12 months	10%																									
6 months and under	88%																									
7 to 9 months	7%																									
10 to 12 months	4%																									
>12 months	1%																									

Actual Performance 2003/2004	Target Performance Indicators – cont'd	Actual Performance 2004/2005
25% -% 50% 25%	<ul style="list-style-type: none"> <li>• Protected Disclosures Act – open complaints*</li> <li>6 months and under 100%</li> <li>7 to 9 months -%</li> <li>10 to 12 months -%</li> <li>&gt;12 months -%</li> <li>* only 1 complaint was open at 30 June 2005</li> </ul>	100% -% -% -%

Note:

In previous annual reports “timeliness of response” measures have been reported for each Ombudsman jurisdiction. Much the same information is reported under the measure “Age profile at 30 June of the Completed Complaints from date of receipt”. From 2004/05 only the latter representation of the performance measure is reported.

Approximately 99 percent of the expenditure incurred by the office relates directly to the investigation and resolution of complaints. The cost for the period under review (including items 2, 3 and 4 following) was approximately \$4.884 million excluding GST.

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

All of the penal institutions were visited by an Ombudsman or representative on average 10 times throughout the reported year.

The cost of this activity for the year ended 30 June 2005 was approximately \$40,000 excluding GST.

**3. Visit each tertiary institution throughout New Zealand**

An Ombudsman or representative visited each public sector tertiary education institution throughout New Zealand. The cost of travel associated with this activity was approximately \$6,000 excluding GST.

**4. Visits to smaller centres**

Visits were made to smaller population centres to run clinics, provide guidance and assistance to citizens, and attend meetings with Citizens Advice Bureaux and similar community organisations. The cost was approximately \$12,000 excluding GST.

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

- ***publishing information booklets on the functional role of the Ombudsmen and their jurisdiction to schools, service groups, government bodies at central, regional and local level and to other users or potential users of the Ombudsmen's services;***

- ***publishing the office Annual Report to the House of Representatives and financial statements and any other reports appropriate for public release;***
- ***preparing and distributing the Ombudsmen's Quarterly Review (Te Arotake) and Practice Guidelines to make available information about the Ombudsmen's general approach to major issues which come before them, and***
- ***maintaining a presence on the Internet and providing information and resources relating to the Ombudsman role within New Zealand.***

Four issues of "The Ombudsmen's Quarterly Review (*Te Arotake*)" were published during the year.

The office web site was maintained with no periods of downtime. In excess of 23,000 visits to the web site were recorded for the year. The site provides a general outline of the Ombudsman role in New Zealand, advice on how the Ombudsmen might assist citizens aggrieved by the acts or omissions of government agencies, and access to office publications.

A redevelopment of the web site commenced in the later portion of the reporting year and is near completion.

The Ombudsmen's informational pamphlets have been revised and translated into Maori, Samoan and Chinese. The pamphlets will be distributed once printing is complete.

The cost of these activities for the year ended 30 June 2005 was approximately \$24,000 excluding GST.

**6. *Ombudsmens attendance at the International Ombudsman Institute conference in Quebec and attending to international obligations.***

Ombudsman Mel Smith attended the International Ombudsman Institute conference in Quebec, Canada.

With the support of the Ministry of Foreign Affairs and Trade the Chief Ombudsman attended the 3<sup>rd</sup> International Conference of Information Commissioners in Cancun, Mexico. The Commonwealth Secretariat requested he attend the 1<sup>st</sup> general Assembly of the African Ombudsman Association held in Johannesburg, South Africa. Costs associated with the African conference were met by the Commonwealth Secretariat.

Ombudsman Anand Satyanand attended the Commonwealth Secretariat, London to assist with the programme for new Ombudsmen and Ombudsman investigators. He also visited China as a guest of that government to engage in talks with the Ministry of Supervision, Beijing as well as with the Shenzhen Municipal Government Supervision Department.

Overseas travel by the Ombudsmen cost approximately \$17,000 excluding GST in the year ended 30 June 2005.

**Office of the Ombudsmen**

A3

- 56 -

**7. The total cost of Vote: Ombudsmen**

<b>30/6/04</b>		<b>30/6/05</b>	<b>30/6/05</b>	<b>30/6/05</b>
<b>Actual</b>		<b>Actual</b>	<b>Main</b>	<b>Supp.</b>
			<b>Estimates</b>	<b>Estimates</b>
<b>\$(000)</b>		<b>\$(000)</b>	<b>\$(000)</b>	<b>\$(000)</b>
4,303	Crown Revenue	<b>4,927</b>	4,690	4,927
2	Other Revenue	<b>3</b>	-	-
-	Interest	-	-	-
4,305	Total Revenue	<b>4,930</b>	4,690	4,927
(4,298)	Total Expenses	<b>(4,925)</b>	(4,690)	(4,927)
<u>7</u>	Net Surplus	<u>5</u>	-	-

Figures are GST exclusive.

**STATEMENT OF ACCOUNTING POLICIES  
FOR THE YEAR ENDED 30 JUNE 2005**

**Reporting Entity**

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

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

**Measurement system**

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

**Accounting policies**

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

**Budget figures**

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

**Revenue**

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

**Cost allocation**

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



**Debtors and receivables**

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

**Operating leases**

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

**Fixed assets**

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

**Depreciation**

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

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

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

**Employee entitlements**

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

**Statement of cash flows**

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

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

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

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

***Financial instruments***

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

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

***Goods and Services Tax (GST)***

The Statement of Unappropriated Expenditure and Statements of Departmental Expenditure and Appropriations are inclusive of GST. All other statements are exclusive of GST except for Creditors and Payables and Debtors and Receivables which are GST inclusive.

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

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

***Taxation***

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

***Commitments***

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

***Contingent liabilities***

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

***Taxpayers' funds***

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

***Changes in accounting policies***

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

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

**STATEMENT OF FINANCIAL PERFORMANCE  
FOR THE YEAR ENDED 30 JUNE 2005**

<b>30/6/04 Actual</b>			<b>30/6/05 Actual</b>	<b>30/6/05 Main Estimates</b>	<b>30/6/05 Supp. Estimates (see Note 1)</b>
<b>\$(000)</b>	<b>Note</b>		<b>\$(000)</b>	<b>\$(000)</b>	<b>\$(000)</b>
<b>Revenue</b>					
4,303			<b>4,927</b>	4,690	4,927
<u>2</u>	(2)		<u>3</u>	-	-
<u>4,305</u>			<u>4,930</u>	<u>4,690</u>	<u>4,927</u>
<b>Expenses</b>					
3,164	(3)		<b>3,735</b>	3,538	3,754
1,068	(4)		<b>1,124</b>	1,095	1,116
63	(5)		<b>63</b>	54	54
<u>3</u>	(6)		<u>3</u>	<u>3</u>	<u>3</u>
<u>4,298</u>			<u>4,925</u>	<u>4,690</u>	<u>4,927</u>
<u>7</u>			<u>5</u>	-	-

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

**STATEMENT OF MOVEMENTS IN TAXPAYERS' FUNDS  
FOR THE YEAR ENDED 30 JUNE 2005**

30/6/04 Actual	Note	30/6/05 Actual \$(000)	30/6/05 Main Estimates \$(000)	30/6/05 Supp. Estimates \$(000)
7		5	-	-
-		-	-	-
-		-	-	-
7		5	-	-
-	(7)	20	-	20
(7)		(5)	-	-
-		-	-	-
-		20	-	20
<u>37</u>		<u>37</u>	<u>37</u>	<u>37</u>
<u>37</u>		<u>57</u>	<u>37</u>	<u>57</u>

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

**STATEMENT OF FINANCIAL POSITION  
AS AT 30 JUNE 2005**

30/6/04 Actual		30/6/05 Actual	30/6/05 Main Estimates	30/6/05 Supp. Estimates
\$(000)	Note	\$(000)	\$(000)	\$(000)
<b>TAXPAYERS' FUNDS</b>				
<u>37</u>	General funds.....	<u>57</u>	<u>37</u>	<u>57</u>
<u>37</u>	<b>Total taxpayers' funds.</b>	<u>57</u>	<u>37</u>	<u>57</u>
Represented by:				
<b>CURRENT ASSETS</b>				
383	Cash.....	<b>484</b>	382	456
10	Prepayments.....	<b>16</b>	13	13
-	Debtors & receivables....	-	-	-
<u>393</u>	<b>Total current assets.....</b>	<u>500</u>	<u>395</u>	<u>469</u>
<b>NON-CURRENT ASSETS</b>				
143	Fixed assets..... (8)	<b>162</b>	143	143
143	<b>Total non-current assets</b>	<b>162</b>	143	143
<u>536</u>	<b>Total assets.....</b>	<u>662</u>	<u>538</u>	<u>612</u>
<b>CURRENT LIABILITIES</b>				
100	Creditors & payables..... (9)	<b>108</b>	85	85
	Provision for payment of net			
7	Surplus to the Crown...	<b>5</b>	-	-
166	Employee entitlements..... (10)	<b>214</b>	151	191
24	Other short-term liabilities (11)	<b>44</b>	41	41
<u>297</u>	<b>Total current liabilities...</b>	<u>371</u>	<u>277</u>	<u>317</u>
<b>NON-CURRENT LIABILITIES</b>				
202	Employee entitlements... (10)	<b>234</b>	224	238
499	<b>Total Liabilities.....</b>	<b>605</b>	501	555
<u>37</u>	<b>NET ASSETS.....</b>	<u>57</u>	<u>37</u>	<u>57</u>

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

**STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED 30 JUNE 2005**

30/6/04 Actual		30/6/05 Actual	30/6/05 Main Estimates	30/6/05 Supp. Estimates
\$(000)		\$(000)	\$(000)	\$(000)
<b>CASH FLOW –</b>				
<b>OPERATING ACTIVITIES</b>				
Cash provided from Supply of Outputs to:				
4,303	Crown.....	4,927	4,690	4,927
<u>2</u>	Other.....	<u>3</u>	<u>-</u>	<u>-</u>
<u>4,305</u>		<u>4,930</u>	<u>4,690</u>	<u>4,927</u>
Cash disbursed to Produce Outputs				
(3,212)	Personnel.....	(3,655)	(3,499)	(3,693)
(1,085)	Operating.....	(1,116)	(1,083)	(1,102)
(5)	Net GST Paid.....	14	(15)	(15)
<u>(3)</u>	Capital Charge.....	<u>(3)</u>	<u>(3)</u>	<u>(3)</u>
(4,305)		(4,760)	(4,600)	(4,813)
<u>-</u>	<i>Operating Activities net cash flows</i>	<u>170</u>	<u>90</u>	<u>114</u>
<b>CASH FLOW –</b>				
<b>INVESTING ACTIVITIES</b>				
Cash disbursed for :				
(56)	the purchase of physical assets	(82)	(54)	(54)
<u>(56)</u>	<i>Investing Activities Net Cash Flows</i>	<u>(82)</u>	<u>(54)</u>	<u>(54)</u>
<b>CASH FLOW –</b>				
<b>FINANCING ACTIVITIES</b>				
Cash provided from				
-	capital contributions	20	-	20
Cash disbursed to:				
(272)	repayment of surplus.....	(7)	(13)	(7)
<u>(272)</u>	<i>Financing Activities Net Cash Flows</i>	<u>13</u>	<u>(13)</u>	<u>13</u>
(328)	Net Increase in cash held.....	101	23	73
711	Add opening cash and deposits.....	383	359	383
<u>383</u>	<b>Closing cash and deposits.....</b>	<u>484</u>	<u>382</u>	<u>456</u>
<u>383</u>	<b>Cash and deposits comprises</b>	<u>484</u>	<u>382</u>	<u>456</u>
<u>383</u>	Cash.....	<u>484</u>	<u>382</u>	<u>456</u>

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

**RECONCILIATION OF NET SURPLUS TO NET CASH FLOW FROM OPERATING ACTIVITIES FOR THE YEAR ENDED 30 JUNE 2005**

30/6/04 Actual	30/6/05 Actual	30/6/05 Main Estimates	30/6/05 Supp. Estimates
\$(000)	\$(000)	\$(000)	\$(000)
7	5	-	-
<b>Net operating surplus(deficit)</b>			
<i>Add/(less) non-cash items</i>			
63	63	54	54
63	63	54	54
<b>Total non-cash items</b>			
4	(6)	5	(3)
<i>(Inc)/Dec Prepayments</i>			
45	-	-	-
<i>(Inc)/Dec Debtors</i>			
(5)	8	-	(15)
<i>Inc/(Dec) Creditors and Payables</i>			
(48)	80	20	61
<i>Inc/(Dec) Employee Entitlements</i>			
(66)	20	11	17
<i>Inc/(Dec) Short term Liabilities</i>			
(70)	102	36	60
<b>Working capital movements - net</b>			
<b>Net cash flows from</b>			
-	170	90	114
<b>Operating activities</b>			

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

**STATEMENT OF COMMITMENTS  
AS AT 30 JUNE 2005**

The office has long-term leases on its premises in Auckland, Christchurch and Wellington.

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.

30/6/04 Actual	30/6/05 Actual
\$(000)	\$(000)
Operating lease commitments	
430	448
<i>Less than one year</i>	
431	448
<i>One to two years</i>	
1,206	1,195
<i>Two to five years</i>	
1,215	860
<i>More than five years</i>	
3,282	2,951
<b>Total operating lease commitments</b>	

The Office of the Ombudsmen does not have any other leases.

**STATEMENT OF CONTINGENT LIABILITIES AS AT 30 JUNE 2005**

The Office of the Ombudsmen does not have any contingent liabilities as at 30 June 2005 (2004 Nil).

**STATEMENT OF UNAPPROPRIATED EXPENDITURE FOR THE YEAR ENDED 30 JUNE 2005**

The Office of the Ombudsmen has not expended any money or incurred any costs in excess of or without appropriation by Parliament (2004 Nil).

**STATEMENT OF DEPARTMENTAL EXPENDITURE AND APPROPRIATIONS FOR THE YEAR ENDED 30 JUNE 2005**

(Figures are GST inclusive where applicable)

	30/6/05 Actual	30/6/05 Final Voted	Appropriation Supp. Estimates Changes	Budget Night Voted
	\$(000)	\$(000)	\$(000)	\$(000)
<b>VOTE OMBUDSMEN</b>				
D1				
Investigation and resolution of complaints about government administration				
Annual Appropriation for Office of the Ombudsmen.....	4,856	4,861	150	4,711
Other Appropriation for Ombudsmen remuneration....	<u>609</u>	<u>606</u>	<u>104</u>	<u>502</u>
Total.....	<u>5,465</u>	<u>5,467</u>	<u>254</u>	<u>5,213</u>

**STATEMENT OF TRUST MONIES FOR THE YEAR ENDED 30 JUNE 2005**

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

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



**STATEMENT OF OBJECTIVES SPECIFYING THE FINANCIAL PERFORMANCE  
FORECAST FOR THE OFFICE FOR THE YEAR ENDED 30 JUNE 2005**

30/6/04				30/6/05	30/6/05	30/6/04
Actual	Unit	Note		Actual	Main Estimates	Supp. Estimates
<b>Operating Results</b>						
2	Revenue – Other	\$000		3	-	-
7	Net surplus	\$000		5	-	-
Cash disbursed to						
Producing outputs						
4,302	–output expenses	\$000		4,757	4,597	4,810
Net increase/(decrease)						
(328)	in cash held	\$000		101	23	73
<b>Working Capital</b>						
96	Net current assets	\$000	(15)	129	118	152
132	Current ratio	%	(15)	134	143	148
3.83:1	Liquid ratio		(15)	4.48:1	4.49:1	5.36:1
Average creditors						
10	Outstanding	days	(15)	8	10	10
<b>Resource Utilisation</b>						
Physical assets						
Additions as a % of						
39	net physical assets	%		51	37.5	37.8
37	Taxpayers' funds	\$000		57	37	57
<b>Human Resources</b>						
7	Staff turnover	%	(15)	4	10	10
41.4	Total staff (FTEs)	no	(16)	45	46	47
Ratio of investigators						
2.91:1	to support staff		(15)	2.97:1	2.74:1	2.94:1

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

## NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2005

### 1. Budget Composition

		30/6/05 Budget Night Forecasts \$(000)	30/6/05 Supp. Estimates Changes \$(000)	30/6/05 Budget Total \$(000)
<b>Revenue</b>				
Crown.....		4,690	237	4,927
Other.....	(2)	<u>-</u>	<u>-</u>	<u>-</u>
<b>Total revenue.....</b>		<b>4,690</b>	<b>237</b>	<b>4,927</b>
<b>Expenditure</b>				
Personnel costs	(3)	3,538	216	3,754
Operating costs	(4)	1,095	21	1,116
Depreciation	(5)	54	-	54
Capital charge	(6)	<u>3</u>	<u>-</u>	<u>3</u>
<b>Total expenses...</b>		<b><u>4,690</u></b>	<b><u>237</u></b>	<b><u>4,927</u></b>
<b>Net operating Surplus/(deficit)</b>		<u>-</u>	<u>-</u>	<u>-</u>

### 2. Other Revenue

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

### 3. Personnel Costs

30/6/04 Actual \$(000)		30/6/05 Actual \$(000)	30/6/05 Main Estimates \$(000)	30/6/05 Supp. Estimates \$(000)
2,960	Salaries and wages	<b>3,485</b>	3,293	3,491
171	Superannuation	<b>197</b>	206	204
	Accrued retirement			
10	and long service leave	<b>26</b>	15	28
14	ACC levy	<b>12</b>	18	18
<u>9</u>	Other Personnel costs	<u>15</u>	<u>6</u>	<u>13</u>
<b><u>3,164</u></b>	<b>Total Personnel costs</b>	<b><u>3,735</u></b>	<b><u>3,538</u></b>	<b><u>3,754</u></b>

The office comprises 3 Ombudsmen and supporting staff.

For the period to 14 February 2005 two Ombudsmen were paid from Vote Ombudsmen under Permanent Legislative Authority pursuant to s 9 of the Ombudsmen Act 1975. The third Ombudsman was paid as a District Court Judge and charged to Vote Courts. Subsequent to the retirement from office of Ombudsman Judge Satyanand, remuneration for all three Ombudsmen has been paid from Vote Ombudsmen.

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

Remuneration Band	Number in Band
\$270,000 to 279,999	1
\$230,000 to 239,999	2
\$110,000 to 119,999	2
\$100,000 to 109,999	2

#### 4. Operating Costs

30/6/04 Actual	30/6/05 Actual	30/6/05 Main Estimates	30/6/05 Supp. Estimates
\$(000)	\$(000)	\$(000)	\$(000)
Accommodation costs:			
417	444	430	430
32	34	31	31
Audit fees for audit of financial			
12	13	12	12
79	83	66	66
31	40	40	40
4	6	24	24
75	68	99	99
Phone, fax, post, couriers,			
124	110	125	125
294	326	268	289
<u>1,068</u>	<u>1,124</u>	<u>1,095</u>	<u>1,116</u>

The office accommodation budget was increased to meet the full year cost of new accommodation at Auckland following the lease for the former premises expiring on 31 July 2003, additional space at Wellington associated with the appointment of a third Ombudsman, additional investigative and support staff and improved office space utilization and a rental increase in respect of the Christchurch office accommodation.

Travel costs associated with investigations and activity in the public sector tertiary institutions last year were abnormally low because of staff illness. Expenditure in the current year is consistent with expectations.

The increase in "Other Operating Costs" is associated principally with the recruitment of a new Ombudsman to succeed Ombudsman Judge Anand Satyanand who retired from office on 14 February 2005.

Office of the Ombudsmen

A3 – 68 –

5. Depreciation

30/6/04 Actual		30/6/05 Actual	30/6/05 Main Estimates	30/6/05 Supp. Estimates
\$(000)		\$(000)	\$(000)	\$(000)
2	Furniture and Fittings Plant and Equipment –	4	-	-
26	Other	19	-	-
35	Computer Equipment	40	54	54
<u>63</u>		<u>63</u>	<u>54</u>	<u>54</u>

6. Capital Charge

The office pays a capital charge to the Crown on its average taxpayers' funds as at 31 December and 30 June each year. The capital charge rate for the year ended 30 June 2005 was 8.0 percent (2004, 8.5 percent).

7 Capital Contribution

A \$20,000 capital contribution was made to meet costs associated with partition alterations at the Ombudsmen's Christchurch office required to accommodate an additional investigating officer (Prisons).

8. Fixed Assets

30/6/04 Actual \$(000)		30/6/05 Actual \$(000)
	<b>Leasehold improvements</b>	
44	At cost.....	64
(32)	Accumulated depreciation.....	(34)
<u>12</u>	Leasehold improvements – net book value	<u>30</u>
	<b>Computer equipment and software</b>	
240	At cost.....	285
(177)	Accumulated depreciation.....	(216)
<u>63</u>	Computer equipment - net book value....	<u>69</u>
	<b>Plant &amp; equipment other</b>	
126	At cost.....	130
(70)	Accumulated depreciation.....	(87)
<u>56</u>	Plant & equipment other – net book value....	<u>43</u>
	<b>Furniture and Fittings</b>	
60	At cost.....	69
(48)	Accumulated depreciation.....	(49)
<u>12</u>	Furniture and fittings – net book value.....	<u>20</u>
<u>143</u>	Total Fixed Assets - Net Book Value.....	<u>162</u>

**By Category**

30/6/04 Actual Position \$000		Cost \$000	30/6/2005 Accumulated Depreciation \$000	Net Book Value \$000
12	Leasehold Improvements	64	34	30
12	Furniture and Fittings.... Office Equipment	69	49	20
<u>119</u>	including computers	<u>415</u>	<u>303</u>	<u>112</u>
<u>143</u>		<u>548</u>	<u>386</u>	<u>162</u>

Disposals in the year to 30 June 2005 were as follows:

	30/6/05 Actual \$(000)
Computer equipment.....	1
Plant and equipment – Other.....	-
Furniture and Fittings.....	<u>3</u>
Total disposals.....	<u>4</u>

**9. Creditors and Payables**

30/6/04 Actual \$(000)		30/6/05 Actual \$(000)
33	Trade creditors.....	27
<u>67</u>	GST payable.....	<u>81</u>
<u>100</u>		<u>108</u>

**10. Employee Entitlements**

30/6/04 Actual \$(000)		30/06/05 Actual \$(000)
	<i>Current Liabilities</i>	
155	Annual leave.....	195
11	Retirement and long service leave.....	5
-	Superannuation Contribution Withholding Tax, superannuation and salaries.....	<u>14</u>
166		214
	<i>Non current Liabilities</i>	
<u>202</u>	Retirement and long service leave.....	<u>234</u>
<u>368</u>	Total provision for employee entitlements.....	<u>448</u>

**11. Other Short-term Liabilities**

<b>30/6/04 Actual \$(000)</b>	<b>30/6/05 Actual \$(000)</b>
5 Audit 2004/2005.....	<b>6</b>
7 Annual report printing..... PAYE, ACC and Superannuation Contribution	<b>6</b>
- Withholding Tax.....	<b>2</b>
- Partition alterations Christchurch office.....	<b>20</b>
<u>12</u> Miscellaneous.....	<u><b>10</b></u>
<u>24</u>	<u><b>44</b></u>

**12. Contingencies**

The office does not have any contingent assets as at 30 June 2005 (30 June 2004, nil).

Contingent liabilities are disclosed in the Statement of Contingent Liabilities.

**13. Financial Instruments**

The office is party to financial instrument arrangements as part of its everyday operations. These include instruments such as bank balances, trade creditors and accounts receivable.

***Credit Risk***

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

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

***Fair Value***

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

***Currency and Interest Rate Risk***

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

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

#### 14. Related Party Information

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

#### 15. 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>Ratio investigators to support staff</i>	Ombudsmen and full-time equivalent investigating staff divided by full-time equivalent support staff

#### 16. Staff Numbers

The office comprised 50 staff (45.375 Full-Time Equivalents) at 30 June 2005 excluding the three Ombudsmen.

#### 17. Significant variances from forecast financial performance

There were no significant variances in forecast financial performance but there are some variances from the forecast financial position arising from:

- the accrual of fitout costs associated with partition alternations at Christchurch office
- variances in staff accrued annual leave balances, and
- a higher than anticipated GST provision.

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

	2000/01	2001/02	2002/03	2003/04	2004/05
<i>Complaints on hand at 1 July</i>					
Ombudsmen Act	387	459	440	436	<b>500</b>
Official Information Act	235	326	214	280	<b>261</b>
Local Government Official Information and Meetings Act	30	45	49	31	<b>63</b>
Protected Disclosures Act	-	**1	**1	**2	<b>**4</b>
Other work for which files were opened	*11	*24	*19	*14	<b>*12</b>
Adjustment	-	(1)	-	-	-
<b>TOTAL</b>	<b><u>663</u></b>	<b><u>854</u></b>	<b><u>723</u></b>	<b><u>763</u></b>	<b><u>840</u></b>
<i>Complaints received during the year</i>					
Ombudsmen Act	3,679	3,796	3,311	4,220	<b>5,097</b>
Official Information Act	1,128	863	935	973	<b>922</b>
Local Government Official Information and Meetings Act	209	201	172	194	<b>190</b>
Protected Disclosures Act	**13	**10	**15	**19	<b>**7</b>
Other work for which files were opened	*431	*488	*473	*472	<b>*541</b>
<b>TOTAL</b>	<b><u>5,460</u></b>	<b><u>5,358</u></b>	<b><u>4,906</u></b>	<b><u>5,878</u></b>	<b><u>6,757</u></b>
<i>Complaints disposed of during the year</i>					
Ombudsmen Act	3,607	3,814	3,315	4,155	<b>5,066</b>
Official Information Act	1,037	976	869	992	<b>942</b>
Local Government Official Information and Meetings Act	194	197	190	163	<b>207</b>
Protected Disclosures Act	**13	**10	**14	**17	<b>**10</b>
Other work for which files were opened	*418	*492	*478	*474	<b>*518</b>
<b>TOTAL</b>	<b><u>5,269</u></b>	<b><u>5,489</u></b>	<b><u>4,866</u></b>	<b><u>5,801</u></b>	<b><u>6,743</u></b>
<i>Complaints on hand at 30 June</i>					
Ombudsmen Act	459	441	436	501	<b>531</b>
Official Information Act	326	213	280	261	<b>241</b>
Local Government Official Information and Meetings Act	45	49	31	62	<b>46</b>
Protected Disclosures Act	-	**1	**2	**4	<b>**1</b>
Other Work for which files were opened	*24	*19	*14	*12	<b>*35</b>
<b>TOTAL</b>	<b><u>854</u></b>	<b><u>723</u></b>	<b><u>763</u></b>	<b><u>840</u></b>	<b><u>854</u></b>

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

\*\* The Protected Disclosures Act was enacted effective from 1 January 2001.

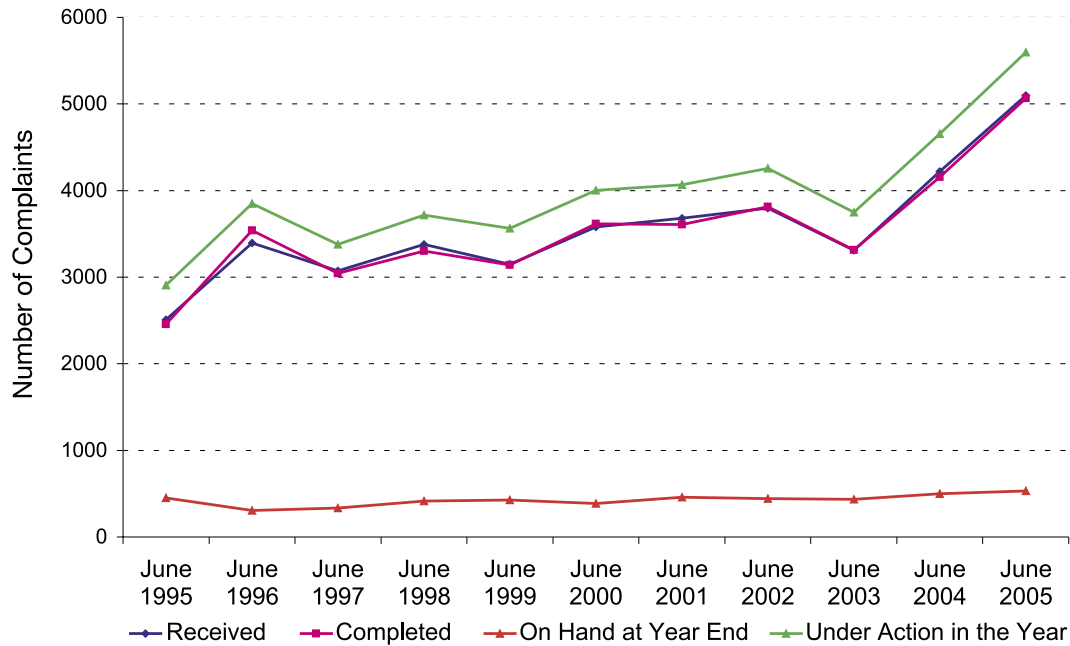


## AN ANALYSIS OF COMPLAINTS BY ACT

### Ombudsmen Act

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

**Throughput Ombudsmen Act Complaints**



Growth in new complaints received in the 2004-05 reporting year results largely from improved recording of complaints received from prisoners. As stated previously, many of these complaints are quickly resolved through informal processes.

5,597 complaints under action in the year ended 30 June 2005 were dealt with as follows:

	B/f from last year	Rec'd year ended 30/6/05	Total Under action
<i>Resolved by department or organisation during course of investigation:</i>			
- investigation discontinued	86	158	244
<i>Sustained after formal investigation:</i>			
- no recommendation warranted or appropriate	17	14	31
- recommendation made	9	4	13
			44
<i>Not sustained after formal investigation:</i>			
<i>Investigation discontinued:</i>	86	72	158
- further inquiry not warranted	70	153	223
<i>Declined:</i>			
- organisation not within jurisdiction (explanation/assistance given)	3	42	45

**Office of the Ombudsmen**

A3

- 74 -

<i>Declined pursuant to Ombudsman's discretion</i>			
- right of appeal to Court or Tribunal	-	<b>34</b>	<b>34</b>
- adequate remedy under law or administrative practice reasonably available	28	<b>241</b>	<b>269</b>
- time lapse	3	<b>2</b>	<b>5</b>
- frivolous or vexatious	-	<b>1</b>	<b>1</b>
- insufficient personal interest	-	<b>3</b>	<b>3</b>
			<b>312</b>
<i>Formal investigation not undertaken:</i>			
- resolved by informal inquiry	16	<b>274</b>	<b>290</b>
- informal inquiries – explanation advice or assistance provided	117	<b>3,520</b>	<b>3,637</b>
- complaint withdrawn by complainant	25	<b>60</b>	<b>85</b>
- complaint returned to dept for reconsideration	-	<b>8</b>	<b>8</b>
			<b>4,020</b>
Transferred to the Police Complaints Authority	-	<b>9</b>	<b>9</b>
Transferred to the Privacy Commissioner	-	<b>*10</b>	<b>*10</b>
Transferred to the Health and Disability Commissioner	-	<b>1</b>	<b>1</b>
Under investigation at 30 June	<u>40</u>	<u><b>491</b></u>	<u><b>531</b></u>
TOTAL	<u>500</u>	<u><b>5,097</b></u>	<u><b>5,597</b></u>

\* 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 were lodged by:

	30/6/03	30/6/04	Year ended 30/6/05	
			B/f from last year	Rec'd during year
Individuals	1,393	1,440	295	<b>1,401</b>
Via legal practices	33	36	7	<b>43</b>
Media	6	3	1	<b>4</b>
Members of Parliament and political party research units	1	9	5	<b>2</b>
Special interest groups	28	48	6	<b>26</b>
Companies associations and incorporated societies	37	56	9	<b>75</b>
Via legal practices	3	7	3	<b>11</b>
Government departments/ organisations/ local authorities	3	3	1	<b>2</b>
Researchers	-	-	-	-
Sentenced prisoners	1,602	2,417	147	<b>3,357</b>
Remand prisoners	183	181	22	<b>147</b>
Prison staff	-	2	1	<b>2</b>
Prisoner advocate	21	16	3	<b>22</b>
Trade unions	1	2	-	<b>1</b>
Own motion	-	-	-	<b>4</b>
			<u>500</u>	<u><b>5,097</b></u>
TOTAL	3,311	4,220	<u>500</u>	<u><b>5,597</b></u>

Complaints were lodged against:

	30/6/03	30/6/04	Year ended 30/6/05 B/f from last year	Rec'd during year
Central government depts (Part I)	2,454	3,348	342	<b>4175</b>
Organisations other than				
Local organisations (Part II)	491	468	88	<b>534</b>
- Local organisations (Part III)	<u>366</u>	<u>404</u>	<u>70</u>	<b>388</b>
			500	<b>5,097</b>
<b>TOTAL</b>	<b>3,311</b>	<b>4,220</b>	<b>5,597</b>	

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

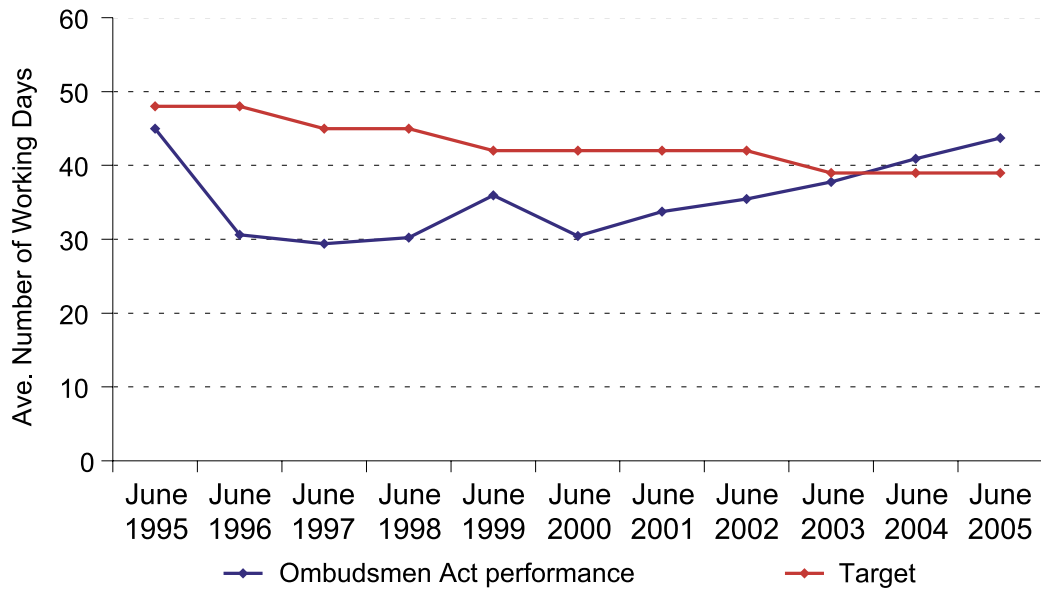
	30/6/02	Year ended		30/6/05
		30/6/03	30/6/04	
Aged 6 months or less from date of receipt	84%	87%	85%	<b>79%</b>
Aged between 7 and 12 months from date of receipt	13%	11%	11%	<b>14%</b>
Aged more than 12 months from date of receipt	3%	2%	4%	<b>7%</b>

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

	30/6/02	Year ended		30/6/05
		30/6/03	30/6/04	
Aged 6 months or less from date of receipt	95%	95%	95%	<b>96%</b>
Aged between 7 and 12 months from date of receipt	4%	4%	4%	<b>3%</b>
Aged more than 12 months from date of receipt	1%	1%	1%	<b>1%</b>

An average 44 working days was required to complete each Ombudsmen Act complaint during the 2004/2005 reporting year (last year 41 working days). The target performance measure for 2004/2005 was 39 working days (last year 39 working days):

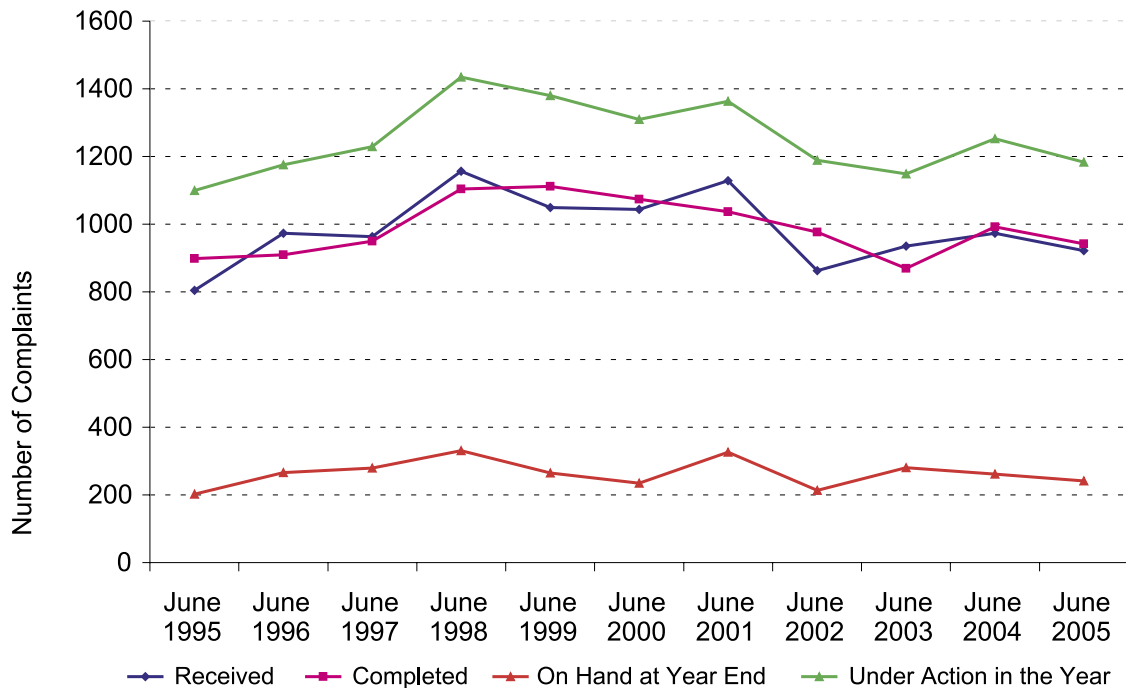
**Average number of working days required to complete Ombudsmen Act investigations**



**Official Information Act**

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

**Throughput of Official Information Act complaints**



1,183 complaints under action in the year ended 30 June 2005 were dealt with as follows:

	B/f from last year	Rec'd year ended 30/6/05	Total
<i>Resolved by Minister, dept or organisation during course of investigation :</i>			
- investigation discontinued	81	173	254
<i>Sustained after formal investigation:</i>			
- no recommendation made	5	2	7
- recommendation made	2	1	3
<i>Not sustained after formal investigation</i>	80	112	192
<i>Investigation discontinued</i>			
- further inquiry not warranted	44	40	84
<i>Declined:</i>			
- organisation not within jurisdiction (explanation/assistance given)	-	3	3
<i>Declined pursuant to Ombudsman's discretion:</i>			
- right of appeal	-	-	-
- adequate remedy under law or administrative practice reasonably available	-	8	8
- time lapse	-	1	1
- frivolous or vexatious	-	-	-
- insufficient personal interest	-	-	-
<i>Formal investigation not undertaken:</i>			
- resolved by informal inquiry	4	255	259
- informal inquiries – explanation, advice or assistance given	6	69	75
- complaint withdrawn by complainant	3	20	23
- returned to Dept for reconsideration	-	4	4
			<b>361</b>
Transferred to the Privacy Commissioner	*2	*27	*29
Transferred to the Police Complaints Authority	-	-	-
Under investigation at 30 June	34	207	241
TOTAL	261	922	1,183

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

Office of the Ombudsmen

A3

- 78 -

The nature of decisions complained of was:

	30/6/03	30/6/04	Year ended 30/6/05 B/f from last year	Rec'd during year
Refusals	586	565	211	<b>537</b>
Delays deemed refusals	266	314	19	<b>305</b>
Delays	8	5	-	<b>10</b>
Charges	22	25	11	<b>17</b>
Corrections	-	-	-	-
Deletions	30	36	16	<b>31</b>
Extensions	20	25	3	<b>20</b>
Conditions	-	1	-	<b>1</b>
Transfers	<u>3</u>	<u>2</u>	<u>1</u>	<u><b>1</b></u>
			261	<b>922</b>
TOTAL	935	973	<b>1,183</b>	

Requests for review were received from:

	30/6/03	30/6/04	Year ended 30/6/05 B/f from last year	Rec'd during year
Individuals	412	494	100	<b>344</b>
via legal practices	46	37	12	<b>37</b>
Media	141	120	40	<b>125</b>
Members of Parliament and political party research units	178	161	53	<b>210</b>
Special interest groups	45	23	9	<b>40</b>
Companies associations and incorporated societies	54	69	20	<b>81</b>
via legal practices	24	41	19	<b>57</b>
Government departments/ organisations/ local authorities	1	6	3	<b>1</b>
Researchers	7	5	1	<b>1</b>
Sentenced prisoners	24	12	4	<b>19</b>
Remand prisoners	1	1	-	<b>1</b>
Prison staff	-	-	-	-
Prisoner advocate	-	-	-	-
Trade unions	<u>2</u>	<u>4</u>	<u>-</u>	<u><b>6</b></u>
			261	<b>922</b>
TOTAL	935	973	<b>1,183</b>	

Complaints were lodged against:

	30/6/03	30/6/04	Year ended 30/6/05 B/f from last year	Rec'd during year
Ministers of the Crown	209	189	39	<b>213</b>
Departments listed in Part I Ombudsmen Act	379	378	102	<b>363</b>
Organisations listed in Part II Ombudsmen Act and listed in First Schedule to the Official Information Act	<u>347</u>	<u>406</u>	<u>120</u>	<b>346</b>
			261	<b>922</b>
TOTAL	935	973	<b>1,183</b>	

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

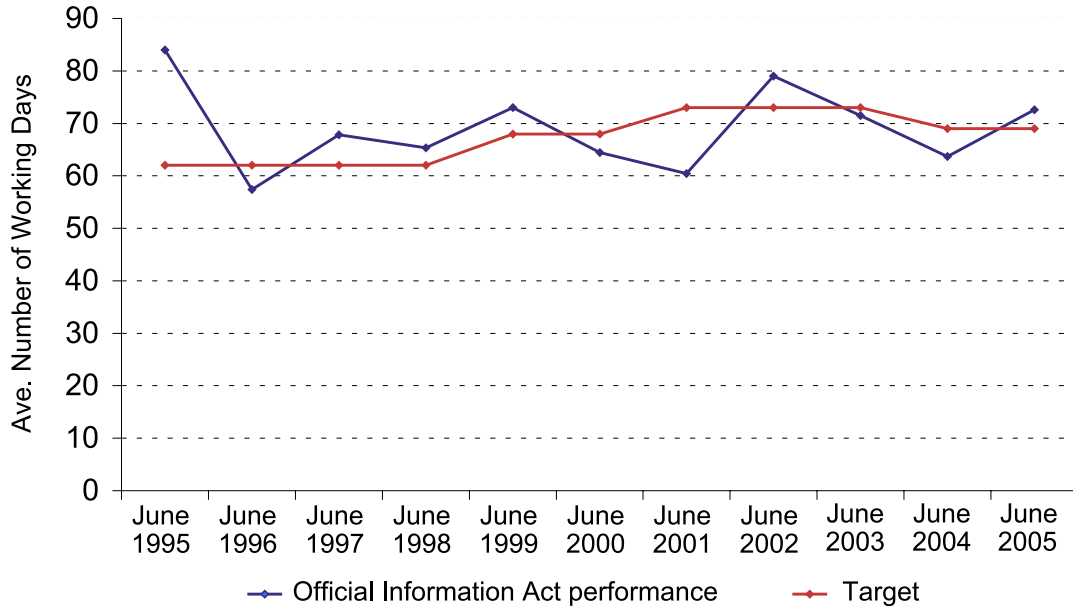
	30/6/02	Year ended		30/6/05
	30/6/02	30/6/03	30/6/04	30/6/05
Aged 6 months or less from date of receipt	78%	86%	78%	<b>68%</b>
Aged between 7 and 12 months from date of receipt	11%	11%	14%	<b>20%</b>
Aged more than 12 months from date of receipt	11%	3%	8%	<b>12%</b>

The age profile of complaints completed during reported years was:

	30/6/02	Year ended		30/6/05
	30/6/02	30/6/03	30/6/04	30/6/05
Aged 6 months or less from date of receipt	78%	85%	87%	<b>83%</b>
Aged between 7 and 12 months from date of receipt	17%	9%	11%	<b>14%</b>
Aged more than 12 months from date of receipt	5%	6%	2%	<b>3%</b>

An average 73 working days was required to complete each Official Information Act complaint during the 2004/2005 reporting year (last year 64 working days). The target performance measure for 2004/2005 was 69 working days (last year 69 working days):

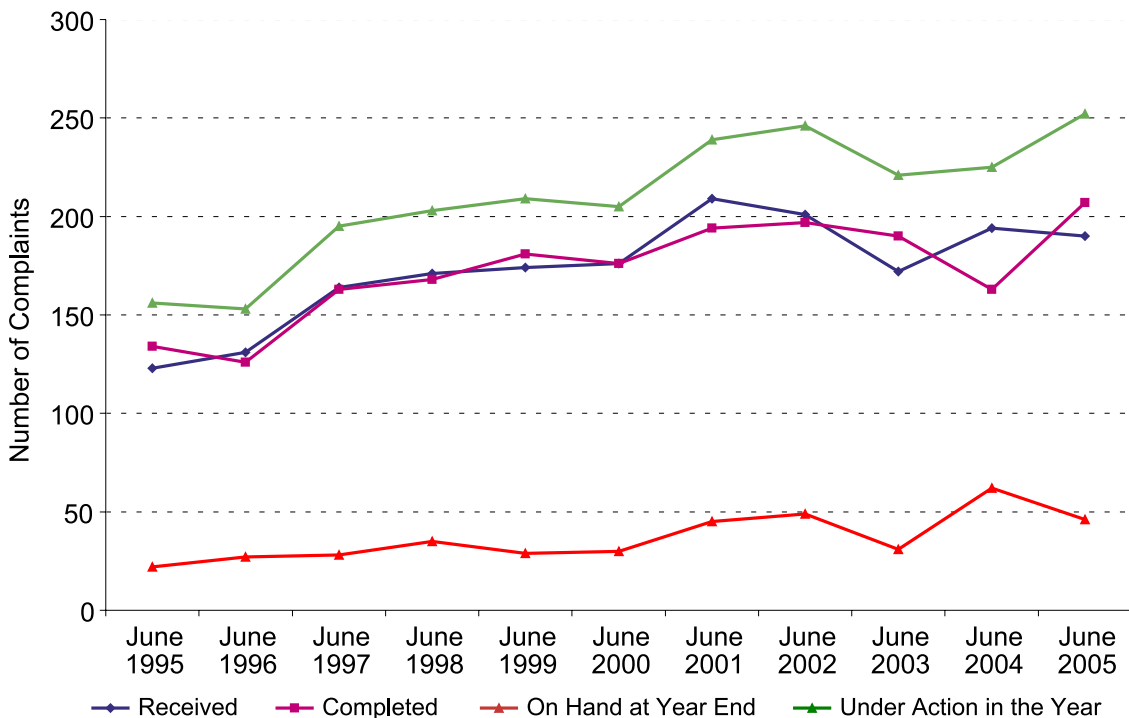
**Average number of working days required to complete Official Information Act complaints**



**Local Government Official Information and Meetings Act**

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

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





253 complaints under action in the year ended 30 June 2005 were dealt with as follows:

	B/f from last year	Rec'd year ended 30/6/05	Total
<i>Resolved by organisation during course of investigation</i>			
- investigation discontinued	26	31	57
<i>Sustained after formal investigation:</i>			
- no recommendation made	1	-	1
- recommendation made	1	-	1
<i>Not sustained after formal investigation</i>	24	13	37
<i>Investigation discontinued</i>			
- further inquiry not warranted	4	19	23
<i>Declined:</i>			
- organisation not within jurisdiction (explanation/assistance given)	-	1	1
<i>Declined</i>			
- right of appeal	-	-	-
- adequate remedy under law or administrative practice reasonably available	-	-	10
<i>Formal investigation not undertaken:</i>			
- resolved informally	1	41	42
- informal inquiries – explanation given	-	23	23
- complaint withdrawn by complainant	2	8	10
			75
Transferred to the Privacy Commissioner	-	*-	*2
Under investigation at 30 June	4	42	46
<b>TOTAL</b>	<u>63</u>	<u>190</u>	<u>253</u>

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

The nature of decisions complained of was:

	30/6/03	30/6/04	B/f from last year	Year ended 30/6/05 Rec'd during year
Refusals	100	120	45	110
Delays deemed refusals	56	54	8	60
Delays	4	3	-	6
Charges	10	16	9	11
Deletions	1	1	1	3
Extensions	1	-	-	-
<b>TOTAL</b>	172	194	<u>63</u>	<u>190</u>

**Office of the Ombudsmen**

A3

- 82 -

Requests for review were received from:

	30/6/03	30/6/04	Year ended 30/6/05	
			B/f from last year	Rec'd during year
Individuals	93	107	25	<b>116</b>
via legal practices	3	9	2	<b>4</b>
Media	22	29	14	<b>18</b>
Special interest groups	8	10	5	<b>15</b>
Companies, associations and incorporated Societies via legal practices	34	23	7	<b>14</b>
via legal practices	9	16	10	<b>14</b>
Government departments/ organisations/ local authorities	2	-	-	-
Members of Parliament and political party research units	1	-	-	<b>1</b>
Researchers	-	-	-	-
Sentenced prisoners	-	-	-	-
Trade Unions	-	-	-	<b>8</b>
			<b>63</b>	<b>190</b>
<b>TOTAL</b>	<b>172</b>	<b>194</b>	<b>253</b>	

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

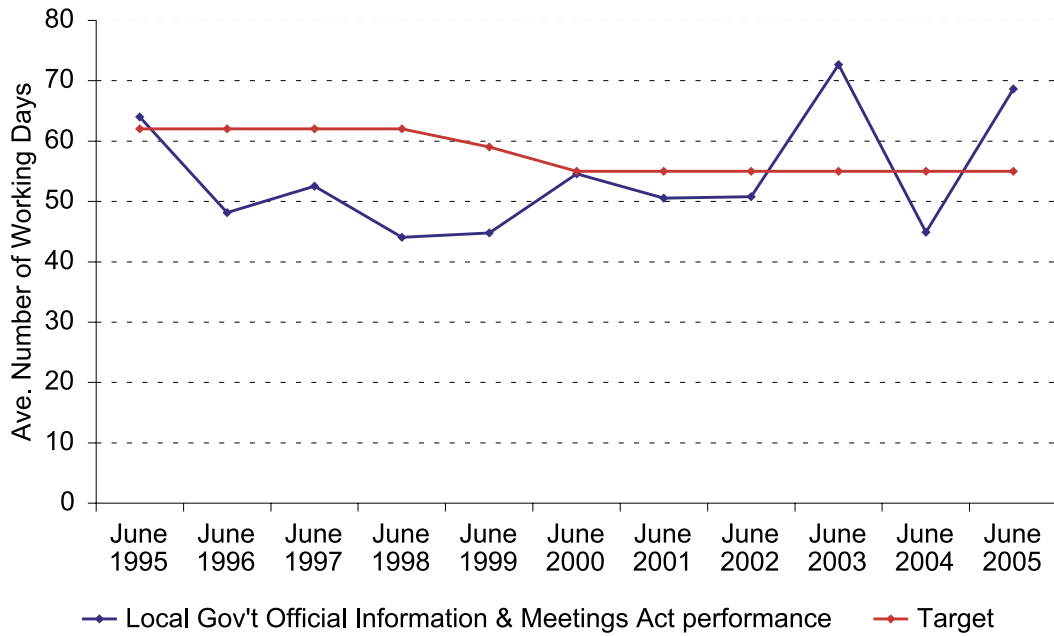
	30/6/02	Year ended		30/6/05
		30/6/03	30/6/04	
Aged 6 months or less from date of receipt	72%	97%	79%	<b>89%</b>
Aged between 7 and 12 months from date of receipt	24%	3%	16%	<b>2%</b>
Aged more than 12 months from date of receipt	4%	-%	5%	<b>9%</b>

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

	30/6/02	Year ended		30/6/05
		30/6/03	30/6/04	
Aged 6 months or less from date of receipt	92%	83%	93%	<b>84%</b>
Aged between 7 and 12 months from date of receipt	7%	11%	7%	<b>8%</b>
Aged more than 12 months from date of receipt	1%	6%	-%	<b>8%</b>

An average 69 working days was required to complete each Local Government Official Information and Meetings Act complaint during the 2004/2005 reporting year (last year 45 working days). The target performance measure for 2004/2005 was 55 working days (last year 55 working days):

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



**GEOGRAPHICAL DISTRIBUTION OF COMPLAINANTS  
COMPLAINTS RECEIVED IN YEAR TO 30 JUNE 2005**

	JURISDICTION					All	<i>All Last Year</i>
	OA	OIA	LGOIMA	PDA	Other Work		
Auckland	1,073	202	58	3	115	<b>1,451</b>	1,474
Bay of Plenty	84	17	12	-	29	<b>142</b>	133
Northland	88	15	10	-	22	<b>135</b>	103
Waikato	751	28	15	-	45	<b>839</b>	356
	<b>1,996</b>	<b>262</b>	<b>95</b>	<b>3</b>	<b>211</b>	<b>2,567</b>	2,066
Taranaki	158	6	3	-	19	<b>186</b>	252
Hawkes Bay	309	23	3	-	17	<b>352</b>	418
Manawatu/Wanganui	378	22	6	-	37	<b>443</b>	433
Wairarapa	30	7	3	-	15	<b>55</b>	30
East Cape	13	7	1	-	7	<b>28</b>	7
Wellington	950	434	22	-	89	<b>1,495</b>	1,394
	<b>1,838</b>	<b>499</b>	<b>38</b>	-	<b>184</b>	<b>2,559</b>	2,534
<b>Total North Island</b>	<b>3,834</b>	<b>761</b>	<b>133</b>	<b>3</b>	<b>395</b>	<b>5,126</b>	4,600
<b>Complainants based in the North Island as a percentage of total complaints received</b>						<b>76%</b>	<b>78%</b>
Nelson/ Marlborough and Golden Bay	55	22	10	-	17	<b>104</b>	143
Dunedin	84	19	9	-	8	<b>120</b>	144
Otago	57	21	5	-	18	<b>101</b>	53
Southland	103	12	9	-	10	<b>134</b>	101
Canterbury	159	15	4	-	10	<b>188</b>	164
Christchurch	627	57	17	4	44	<b>749</b>	554
Westland	56	4	3	-	15	<b>78</b>	46
<b>Total South Island</b>	<b>1141</b>	<b>150</b>	<b>57</b>	<b>4</b>	<b>122</b>	<b>1,474</b>	1,205
<b>Complainants based in the South Island as a percentage of total complaints received</b>						<b>22%</b>	<b>21%</b>
Location Not Known	57	-	-	-	2	<b>59</b>	-
Overseas	65	11	-	-	22	<b>98</b>	73
<b>Complainants based overseas as a percentage of total complaints received</b>						<b>1%</b>	<b>1%</b>
<b>Totals</b>	<b>5,097</b>	<b>922</b>	<b>190</b>	<b>7</b>	<b>541</b>	<b>6,757</b>	5,878