

Ombudsman

Fairness for all

Inside the Office of the Ombudsman ...

Judge Peter Boshier

Chief Ombudsman

4 May 2017

Presentation to the Institute of Public Administration New Zealand

Office of the Ombudsman

Tari o te Kaitiaki Mana Tangata



IOI Board of Directors, 2017



Purpose of the Ombudsman: IOI

To protect the people against violation of rights, abuse of powers, unfair decisions and maladministration ...

To improve public administration while making the government's actions more open and its administration more accountable

The OIA in New Zealand



- The Act is a lynchpin of openness and accountability
- The presumption is that Official Information should be released unless there is a statutory reason not to
- Withholding grounds differ (for instance sections 6 and 9) and public interest is relevant (section 9)

Not a game of hide and seek, December 2015

REPORT

Review of government OIA practices

[Read >](#)



Key findings of the report

- Agencies overall compliant, but ...
- Too many not fully complying, even 'gaming' the system
- Need for training, resources, systems and leadership across state sector

Key obligations on agencies

- To provide reasonable assistance to a requester to make their request
- To tell the requester the decision on their request as soon as reasonably practicable
- To release information without undue delay unless there is a valid reason for refusal
- To give reasons for refusal and advise of the right to complain to the Ombudsman

Our Office and the need for change



Our context has been a way of working which is not fit for purpose. We needed to change.

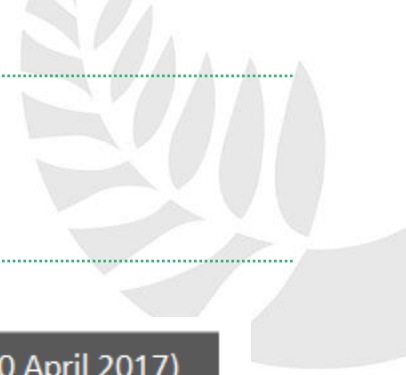
As of April 2016

- 1, 812 complaints on hand
- 637 of these were 'aged' complaints, more than a year old
- Long delays in a creaky system, and a backlog holding up progress
- *Nota bena*: 44% increase in 2015/16 compared to 2010/11

Snapshot of completed complaints



Snapshot of open complaints



| Complaints profile | 31 December 2015 | 31 December 2016 | Current (30 April 2017) |
|-------------------------|------------------|------------------|-------------------------|
| Received in calendar | 3491 | 3304 | 1100 |
| Closed in calendar year | 3343 | 3838 | 1176 |
| Clearance rate | 96% | 116% | 107% |
| Total on hand | 1908 | 1413 | 1339 |
| Aged under 12 months | 1290 | 839 | 833 |
| Aged over 12 months | 618 | 224 | 236 |

Snapshot of backlog complaints

| Complaints profile | 31 December 2015 | 1 July 2016 | 31 December 2016 | Current (30 April 2017) |
|----------------------------|------------------|-------------|------------------|-------------------------|
| Backlog complaints on hand | 618 | 561 | 350 | 271 |

As of April 2017

- Backlog should be halved by end of June 17, cleared by end of June 18 – a year earlier than planned
- More than 70% of complaints received since 1 July 2016 resolved within three months of receipt (currently running at 90%)
- Complaints on hand down to 1,339
- By 2020, no complaint will take more than 12 months to resolve

Changes in practice

- Increased focus on early resolution and more flexible practices
- Working for the most part electronically and undertaking many more direct (including telephone) discussions
- Employing specialized staff to work with agencies
- Working with the State Services Commission to improve understanding of and compliance with the OIA
- Production of guides and a more active website

Publishing statistics

- First publication of OIA data on 31 January
- At the same time, the SSC published its data on the number of requests and timeliness of response
- Shows that of thousands of OIA requests made every year, a very small proportion result in a complaint
- Data release every six months; use and value of data will evolve

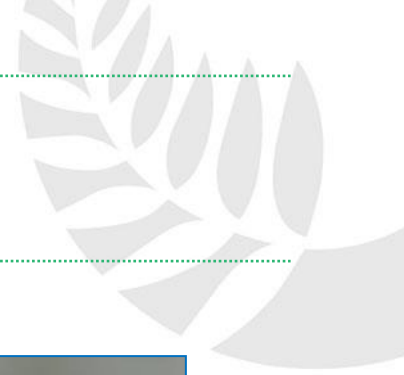
OIA complaints data

- Regular six monthly publication
- Includes all OIA complaints against Ministers and agencies
- Names the Minister or agency complained about and includes:
 - the nature of the complaint made;
 - the type of complainant;
 - the outcome of the complaint;
 - in cases where a full investigation was completed, whether any deficient conduct was identified;
 - the nature of any deficient conduct identified;
 - the remedies achieved as a result of the Ombudsman's intervention.

Places of Detention



Restraints (Tie down beds) Report



Detention of the unwell



Inspections of private facilities

- New Zealand has around 180 privately run dementia units currently not subject to OPCAT inspections
- There have been reports of abuses occurring in such homes
- This will become an increasingly important issue as our ageing population increases
- Inspecting private facilities would involve a constitutional shift, but it's not a matter we can ignore

To sum up

- We are requiring and supporting stronger compliance with the OIA
- A much stronger focus on early response, communication, and training and guidance for agencies
- We're putting more emphasis on investigating wider issues of compliance and administration
- In particular, OPCAT inspections will increase and we will name unacceptable practice where we find it

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