

 **Ombudsman**

Fairness for all

Inside the Office of the Ombudsman ...

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Chief Ombudsman

25 July 2017

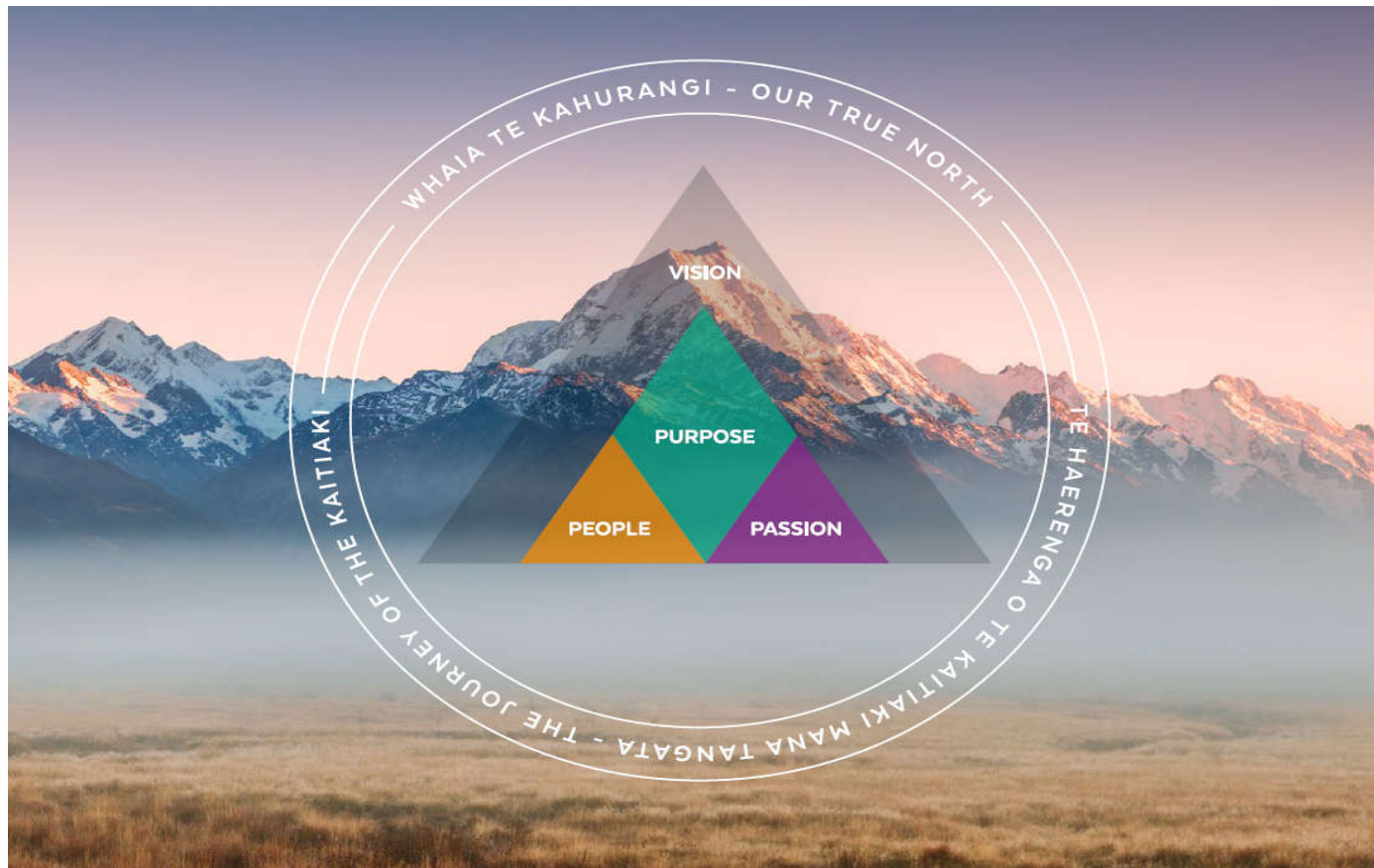
Presentation to the University of the Third Age

Office of the Ombudsman

Tari o te Kaitiaki Mana Tangata



Office of the Ombudsman

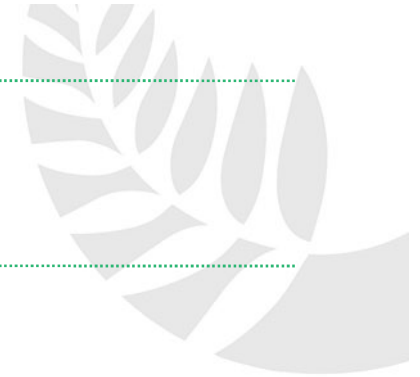


Office of the Ombudsman



- Official Information Act 1982 (OIA)
- Ombudsmen Act 1975 (OA)
- Local Government Official Information and Meetings Act 1987 (LGOIMA)
- National Preventative Mechanism – Crimes of Torture Act 1989 (COTA)
- Independent Monitoring Mechanism – UN Convention on the Rights of Persons with Disabilities
- Protected Disclosures Act 2000 (PDA)

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

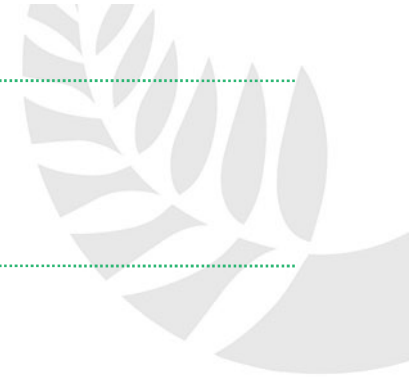
[Read >](#)

The image shows the cover of a report titled "Not a game of hide and seek" by the Ombudsman. The cover is purple and white, with the title in large white letters. The Ombudsman logo is visible in the top left corner of the cover. The report is shown at an angle, with a hand holding it.

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



- Not a game of hide and seek found that overall, agencies were motivated to be compliant with the Act. But that compliance and goodwill were not universal.
- Not a game of hide and seek found that too many agencies were simply not complying with the law, both in terms of the content provided in a response and in the time taken to respond.



The essential question that must always be asked when |
an information request is received is not ‘Why should
we, or how can we, withhold this information?’ but
‘How can we quickly and responsibly make a good
decision to release as much information as possible?’

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 due 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.

Towards better practice



- As of April 2016 we had 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 bene*: 44% increase in 2015/16 compared to 2010/11

Snapshot of completed complaints



Snapshot of open complaints

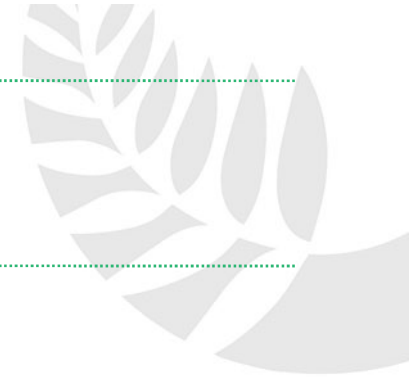


Complaints profile	31 December 2015	31 December 2016	Current (30 April 2017)
Received in calendar	3491	3304	1100
Closed in calendar year	3343	3838	1176
Clearance rate	96%	116%	107%
Total on hand	1908	1413	1339
Aged under 12 months	1290	839	833
Aged over 12 months	618	224	236

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 has been halved and will be 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



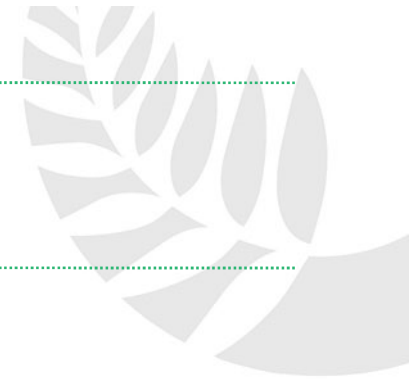
- Increased focus on early resolution and more flexible practices
- Working for the most part electronically and undertaking many more direct (including telephone) discussions
- Employing specialized staff to work with agencies
- Working with the State Services Commission to improve understanding of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

Publishing statistics



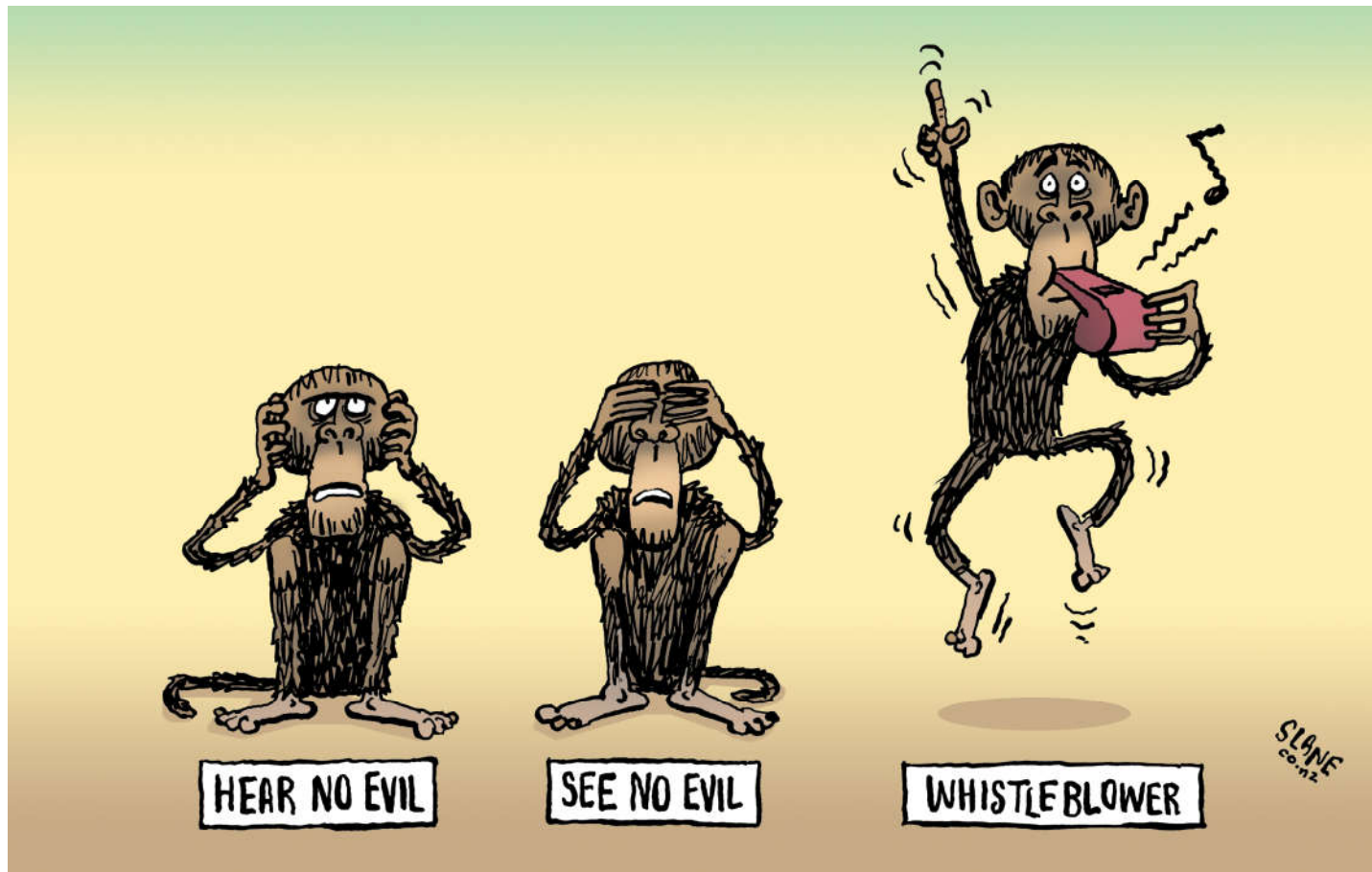
- First publication of OIA data was on 31 January
- At the same time, the SSC published its data on the number of requests and timeliness of response
- Shows that of thousands of OIA requests made every year, a very small proportion result in a complaint
- Next data release will be the beginning of September, covering the period 1 January – 30 June 2017 - will release every six months; use and value of data will evolve

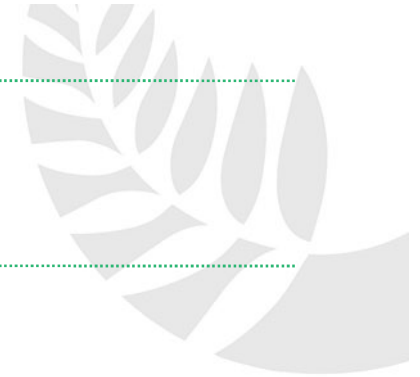
OIA complaints data



- 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.

Protected disclosures - Whistleblowing





Our results, however, are very mixed, with some organisations scoring well but also many scoring poorly. There will be a number of reasons for this, and I'm optimistic that the next phase of the *Whistling While They Work 2* project will give us a more in-depth picture of what we need to do to strengthen our processes around whistleblowing and avoid the problems that can arise when it's not handled well.

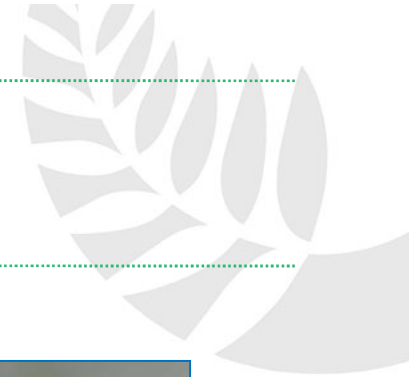


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- People have an obligation to speak up if they see wrongdoing, but to meet that obligation they have to know they are safe and will not suffer detriment if they speak up, and that their concerns will be heard and acted upon.
 - I encourage you to check out the website whistlingwhiletheywork.edu.au, to learn more about the wider project and *Integrity@WERQ*. The more information employers and employees have about processes, the better situated you will be to ensure that you're well prepared to respond if necessary.

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 not covered by the OPCAT mandate
- There have been reports of abuses occurring in such homes
- This will become an increasingly important issue as our ageing population increases
- I am looking to make a budget bid to inspect rest homes

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

Office of the Ombudsman

