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PEOPLE'S RIGHTS ARE PROTECTED

Oranga Tamariki investigation progressing

The Chief Ombudsman is progressing his investigation into Oranga Tamariki decision making and practice concerning the removal of newborn babies from their parents, families or whānau.

The investigation will look at Oranga Tamariki's decision making when it applies to the Family Court for a without notice interim custody order, and its practice when it removes a newborn baby under such an order.

"We need to assure New Zealanders that Oranga Tamariki is acting properly to protect the safety of our most vulnerable, while respecting the rights of parents and whānau", Mr Boshier says.

The Chief Ombudsman's investigation will not look at the actions of individual staff members, or at specific complaints. It will focus on the removal of newborns aged up to 30 days old, and will include how Oranga Tamariki works with other agencies (such as Police and District Health Boards) who may be involved in the removal of a newborn.

[More information on our work concerning Oranga Tamariki.](#)

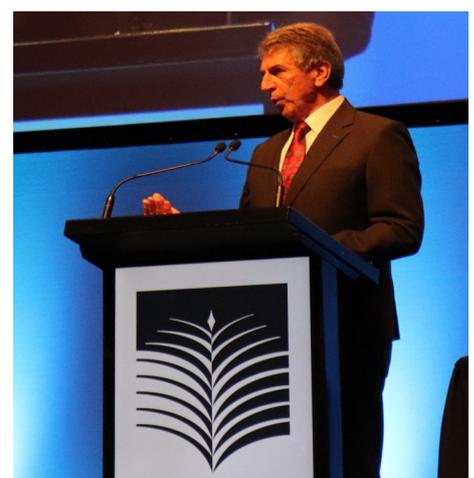
HIGH PUBLIC TRUST

Boards urged to be proactive

Speaking to around 800 people at the School Trustees Association (NZSTA) Annual Conference in July, Chief Ombudsman Peter Boshier reinforced the value of trustees' unpaid work for their schools and communities; and emphasised the value of a proactive approach to sharing information with those communities.

"The OIA is not merely a bureaucratic exercise. Properly used, it's an excellent tool for enhancing the reputations of boards of trustees, by showing their processes will withstand public scrutiny", he said.

"For example, some boards routinely post their meeting minutes on the school website. I would urge all boards to consider a model that promotes this proactive release of information", he said.



The OIA should be treated as a tool for progress, not an administrative burden: Peter Boshier speaking to the NZSTA Annual Conference.

Speech: [Creating Educational Success: the next 30 years](#)

Ombudsman guidance: [The OIA and school boards of trustees](#)



EDITORIAL

From the Chief Ombudsman

Tēnā koutou

More than 100 countries around the world have independent Ombudsman institutions. While their specific roles vary from country to country, each is legitimised by its country’s governance to work to protect human rights and to fight against corruption.

These institutions protect people against the abuse of powers, unfair decisions and poor administration. Internationally, Ombudsmen share a commitment to the growth and strength of integrity institutions across the globe.

Late next month I’ll be travelling to Kuala Lumpur, Malaysia, to assist with the work underway to establish that country’s first Ombudsman.

Building an integrity office is no mean feat. The Ombudsman Malaysia and Independent Complaints and Misconducts Commission is scheduled to be fully established by December 2020, and there’s plenty of work to do until then.

My Office is liaising with the New Zealand High Commission in Malaysia to provide assistance and guidance, and this includes the workshop I’ll deliver in Kuala Lumpur in September.

Key topics will include the New Zealand Ombudsman’s role and functions, our legal framework and jurisdiction, the key features of our Ombudsmen Act and complaint handling processes, and our structure and operations. We’ll continue to offer our assistance as the Malaysian Ombudsman develops, and we look forward to welcoming another new member of the International Ombudsman Institute.

After Malaysia, I’ll be in Taiwan, for the 31st conference of the IOI’s Australasia-Pacific Ombudsmen Region (APOR). The theme of this year’s conference is *The Ombudsman’s role in human rights protection*—a particularly resonant theme for this Office’s growing mandate and oversight.

Over the next year, our OPCAT (Optional Protocol to the Convention Against Torture) inspections will expand to include privately owned secure aged care residential facilities. We’ll conclude our investigation into the removal of newborn babies by Oranga Tamariki, and complete two investigations into the Ministry of Health’s oversight of facilities and services for intellectually disabled people with high and complex needs.

We’ll continue to resolve and investigate complaints from the public about freedom of information and government administration, to build our bank of guidance and resources for agencies and the public, to build focused complaint handling for children in care, and to investigate how different agencies and local authorities work with our freedom of information legislation.

Some of this work is taking us into very new areas, and we’re working hard to ensure we have the right capability, attitudes, values and skills to engage with and help all of New Zealand’s very diverse communities.

E noho rā
Peter Boshier

REGIONAL INTEGRITY

Investigator training provided to seven Pacific countries

Fourteen representatives from seven Pacific countries attended investigator training in Fiji in August.

Senior Ombudsman staff from New Zealand and Australia took participants through the investigation process from first communication to final conclusion.

Providing training such as this is part of New Zealand’s commitment to assisting integrity organisations in the Pacific to increase their capabilities.

Bringing people together from across the region also strengthens relationships and networks.

PEOPLE’S RIGHTS ARE PROTECTED

Making disability rights real

Thank you to everyone who took part in our survey about the state of disability rights in New Zealand.

You’ve helped to make sure that the voices of disabled New Zealanders will be part of the forthcoming report to the United Nations, *Making disability rights real*.

The report, produced by New Zealand’s Independent Monitoring Mechanism (IMM), will provide an independent view of the current state of disability rights in New Zealand.

We’ll provide it to Parliament and the United Nations later this year, to inform review of New Zealand’s implementation of the UN Convention on the Rights of Persons with Disabilities. It will also be published online.

[Previous reports](#) are available on our website.

More about the Chief Ombudsman’s IMM role

The Ombudsman is one of three partners in New Zealand’s Independent Monitoring Mechanism (IMM); the other two are the Human Rights Commission and the New Zealand Convention Coalition of disabled people’s organisations.

The IMM’s role is to promote the Disability Convention, and monitor how well it’s implemented by New Zealand’s government.

The Ombudsman also resolves and investigates complaints from people who believe a public sector agency has denied their rights under the Convention.

[More about disability rights and the work of the IMM](#)

[How to make a complaint with the Ombudsman](#)



Further lifting LGOIMA performance in local authorities



The Local Government Official Information and Meetings Act (LGOIMA) is the local body counterpart to the Official Information Act. Its purpose is to increase the availability of information held by our local authorities, and promote the open and public transaction of business at meetings.

LGOIMA is crucial to good governance, communications and engagement, and provides a genuine opportunity for councils to be proactive and transparent with communities.

So how well are our local authorities working with LGOIMA?

For the first time, the Chief Ombudsman is undertaking systemic investigations of LGOIMA compliance and practice in New Zealand’s local authorities. Reports have been published on five councils so far: Horowhenua District Council, Tasman District Council, Auckland Council, Greater Wellington Regional Council, and Far North District Council. The sixth report, on Christchurch City Council, will be published later this year.

Mr Boshier says that given the differing sizes and communities of our local authorities, he expects to find variations in practice. “We’re not looking for a one-size-fits-all model across the country. What we’re looking for are the policies and practices that enable councils to embrace the potential of LGOIMA to its fullest extent”.

Mr Boshier says a common factor in all the investigations to date was the importance of leadership, and a positive culture toward openness and transparency.

“The attitude from the top can make all the difference”, he says. “Whether in central government or a local authority, Chief Executives and senior managers need to show and share their commitment to proactive, open information, and make sure the building blocks are in place for their staff to achieve this’.

[Official information practice reports](#)



REGIONAL INTEGRITY

Workshop to help Indonesia inspect detention facilities

The Indonesian National Human Rights Commission (KOMNAS HAM) is leading work among Indonesian agencies to coordinate inspections of the conditions and treatment of detainees in some of the country’s detention facilities.

In August, KOMNAS HAM invited our Principal Advisor Ruth Nichols to Indonesia, to present at a three-day workshop for 25 staff from five agencies.

Topics included OPCAT in New Zealand, the Chief Ombudsman’s role as a National Preventive Mechanism, definitions of detention and of detainees, and the use of monitoring and assessment criteria for systemic improvement.

Other presenters included a representative from the Association of the Prevention of Torture, the Indonesian Chief Ombudsman and two Indonesian NGO representatives, including one from Amnesty International.

Serious issues at Northland Regional Corrections Facility

During a 10-day unannounced inspection of Northland Regional Corrections Facility (NRCF) in February, the Chief Ombudsman identified serious issues concerning prisoner treatment and rights.

Most concerning was the lack of access to fresh water and toilet facilities in the exercise yard. The Chief Ombudsman described this as degrading treatment and a breach of Article 16 of the United Nations Convention Against Torture.

Mr Boshier also noted that the prison operated a high-security regime for most of its prisoners, even though the prisoners are remand and low security.

Overall, health services were reasonably good, accommodation reasonably well maintained, and staff and prisoner interactions were generally positive.

The Chief Ombudsman made 31 recommendations for improvement, 28 of which were accepted.

The Chief Ombudsman undertakes prison inspections in his role as a National Preventive Mechanism under the Optional Protocol to the Convention Against Torture (OPCAT).

[Report on an unannounced inspection of NRCF](#)

[More on our OPCAT role](#)



New inspections programme being phased in over next 3 years

The Chief Ombudsman's inspections programme is being extended to include people held securely in privately-run aged care facilities – people who cannot leave when they want to, primarily those in locked care facilities ('residents'). The new programme will be phased in over the next three years. Our first step is to familiarise ourselves with privately-run aged care facilities. We will be visiting a number of facilities over the next few months. These visits are part of our ongoing information gathering and will help

inform development of the assessment criteria we will use when conducting inspections. These visits are also a chance for us to introduce ourselves and our inspection function. We expect these orientation visits will start in October 2019. We still have a lot more work to do and, at this point in time, expect that full inspections will not start for at least 18 months. [Update: OPCAT inspections to include people held in privately run aged care facilities](#)

HIGH PUBLIC TRUST IN GOVERNMENT

New protected disclosure guidance and checklist available

Is your organisation looking to encourage an open reporting culture? Or perhaps you're grappling with how to handle a protected disclosure by an employee about serious wrongdoing in your workplace.

The Protected Disclosures Act requires all public sector agencies to have procedures for receiving and handling protected disclosures. It's a good idea for private sector organisations as well.

Two new publications provide practical support in this area to both organisations and employees.

[Protected disclosures: internal policies and procedures](#) is for organisations looking to develop a protected disclosure policy. It will be useful to private and not-for-profit organisations too.

[Checklist: am I ready to make a protected disclosure?](#) lists the things to consider when deciding whether to make a protected disclosure.

See also our [Guide to Making a Protected Disclosure](#).

The OIA: what would make a real difference?

The Chief Ombudsman has made a comprehensive submission to the Ministry of Justice's consultation on the Official Information Act and whether reform is required.

The Chief Ombudsman's view is that the Act itself is fundamentally sound, but there are legitimate issues experienced by both requesters and agencies.

His submission included proposals such as stronger obligations on agencies, particularly around the proactive release of information; stronger measures to deal with 'burdensome requests'; and making certain conduct unlawful under the OIA,

such as intentionally providing misleading information.

The Chief Ombudsman noted that we're now producing more, and clearer, guidance for agencies on working with the OIA, and getting positive feedback on their usefulness.

He also highlighted our official information practice reports (see LGOIMA story p3) as 'a very effective way' of helping agencies to improve their official information practices.

[Chief Ombudsman's submission on OIA consultation](#)

New guides

Passed in 2014, the Parliamentary Privilege Act is intended to ensure adequate legal protection under the OIA for parliamentary proceedings. [The OIA and parliamentary privilege](#) discusses the impact of the Act, and reasons for withholding Parliamentary proceedings.

Latest Opinions

The Minister of State Services was entitled to refuse a request for two emails containing comments on a proposed Cabinet paper: [Request for political consultation emails](#)

Regenerate Christchurch did not act unlawfully or unreasonably in excluding a proposal from a shortlist public notification:

[Decision not to include proposal in shortlist for Christchurch regeneration plan](#)

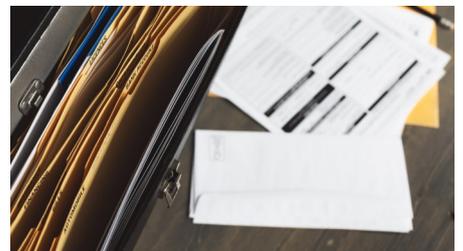
Strategic Intentions

Published in July, our [Strategic Intentions 2019/23](#) sets out our goals for the next four years to ensure that people's rights are protected, there is high public trust in government, that New Zealand contributes to regional stability, and supports regional integrity institutions.

Coming up in September ...

The right of access to information is an important human right, necessary for the enjoyment of other human rights.

Saturday, 28 September is International Right to Know Day, dedicated to raising awareness of your legal right to see your own information that agencies hold. Keep an eye on our [website](#) for details of what we have planned.



OFFICE OF THE OMBUDSMAN

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