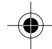

Report of the

HEALTH AND DISABILITY COMMISSIONER

Te Toihau Hauora Hauatanga

For the year ended 30 June 2000

Presented to the House of Representatives Pursuant to Section 16 of the Health and Disability Commissioner Act 1994.

24 October 2000

The Minister of Health
Parliament Building
WELLINGTON

Minister

In accordance with the requirements of Section 16 of the Health and Disability Commissioner Act 1994, I enclose the Annual Report of the Health and Disability Commissioner for the year ended 30 June 2000.

Yours faithfully

Ron Paterson
Health and Disability Commissioner

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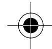

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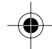
The Kaupapa of the Health and Disability Commissioner is to facilitate improved consumer service and to enhance wellness in New Zealand.

He tautoko, he whiriwhiri kia whaia ko nga taumata e piki ake ai te oranga ki roto i a Aotearoa.



COMMISSIONER'S SUMMARY

Introduction

The June 2000 Annual Report represents my first as Health and Disability Commissioner. I took office in early March 2000, so much of the activity in the year under review was the work of my predecessor, Robyn Stent.

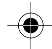
In reviewing the year to 30 June 2000, I am pleased to report that a record number of complaint files were closed. For the first time the organisation closed more files than were opened, and succeeded in reducing the number of complaints still to be resolved to manageable levels. A fundamental role of the Commissioner is to facilitate the *"fair, simple, speedy and efficient resolution of complaints"*, so it is heartening to see success in this area. I have made a commitment to consumers and providers to complete future investigations as promptly as possible.

I inherited a team of dedicated staff, who are committed to the principles of the Health and Disability Commissioner Act and Code, and handle a large volume of investigative and legal work. My thanks to all of the Commissioner's staff for their efforts throughout the 1999/2000 year.

Reflections

It is appropriate to acknowledge the achievements of the founding Commissioner, Robyn Stent. In the face of high expectations from consumers and scepticism from providers, she established a new organisation and prepared (after a public consultation process) a draft Code of Rights. The final Code was made as regulations that came into force on 1 July 1996.

Four years on, the Code can be seen to have worked well, and the Commissioner recommended no changes in her 1999 statutory review. A useful body of opinions has been published on the HDC website (www.hdc.org.nz) and, particularly in the challenging area of standards of care, there are now valuable precedents on the ambit of the duty to provide services with reasonable care and skill, and in compliance with *"legal, professional, ethical and other relevant standards"* (Rights 4(1) and (2)). Quality of care issues lie at the heart of the Code, and the Commissioner's substantial report on Canterbury Health (1998) is an important contribution to the literature on patient safety in New Zealand public hospitals.

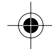


Review of the Act

Robyn Stent recommended a number of amendments in her 'Review of the Health and Disability Commissioner Act 1994 and Code of Rights: Report to Minister of Health' (October 1999), undertaken in accordance with sections 18 and 21 of the Act, and tabled in Parliament in November 1999. Many relate to the complaints investigation process, and seek to give the Commissioner greater flexibility in dealing with complaints. The recommendations that I intend to pursue include clarification that preliminary inquiries may be made, upon receipt of a complaint, before opening a formal investigation. Often a provider will be able to shed useful light on the issues at an early stage. It is also proposed that the Commissioner have the additional options of referring a complaint to the provider to resolve or straight to mediation, or even direct to the appropriate health professional body. The latter power would need to be exercised sparingly, but there might be cases, for example where one professional has raised competence concerns about a colleague, where it would be useful.

One common perception about the HDC complaints process is that it is 'bogged down' with relatively minor matters that do not warrant the time and expense of investigation by an independent public agency. My perception is that it would be helpful to specify that the Commissioner may decide to take no further action if, in all the circumstances, it is 'unnecessary or inappropriate' to do so. That might be the case where initial inquiries reveal that a provider has already responded appropriately following a minor breach of the Code, and nothing further will be gained by a full-scale investigation.

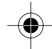
Recommendations by my predecessor in two other areas, advocacy and proceedings, are more controversial. It has been suggested that advocacy services, currently contracted (from three providers based in Auckland, Wanganui and Christchurch) by the independent Director of Advocacy, become employees of the Commissioner. I have seen no compelling arguments for such a change, and am concerned that it would blur the distinction between the impartial Commissioner, who is required to investigate complaints, and the advocates, whose role is a partial one to assist consumers. Although advocates have a valuable role to play as the Commissioner's 'eyes and ears' in the community, I doubt that an employment relationship is necessary to achieve this. The statute already allows advocates to draw matters relating to consumers' rights to the Commissioner's attention (section 30(k)). It is, however, timely to review the overall rationale and structure of advocacy services, and that work is being undertaken.



The area of proceedings is also under review. At present, the Commissioner acts as a gatekeeper for serious breaches of the Code that might warrant proceedings before the relevant health professional disciplinary body (in the case of registered health professionals) and/or the Complaints Review Tribunal (for any provider). The Commissioner may refer 'the matter' of a breach of the Code to the independent Director of Proceedings, who may in turn bring disciplinary proceedings or a claim for damages before the Complaints Review Tribunal. However, the Director is required to give the provider an opportunity to be heard, and must weigh the wishes of the complainant and the public interest (including any public health and safety concerns) before determining what proceedings, if any, to take.

The result is that, in the very cases where the Commissioner considers that further proceedings are necessary, a cumbersome intermediate step is imposed, giving providers' defence lawyers one more opportunity to stall the process. My predecessor's solution was to recommend abolition of the role of Director of Proceedings, vesting the prosecutorial function in the Commissioner. Although that is one possibility, and is a model that seems to work well for the New South Wales Health Care Complaints Commission, it might be preferable to retain the separation of investigative and prosecutorial roles, as is the case for the Human Rights Commission and the Privacy Commissioner. An alternative would be to require the Commissioner to give the provider an opportunity to be heard, and to weigh the wishes of the complainant and the public interest, in determining whether to refer the matter to the Director with instructions to prosecute and/or pursue the claim. This solution would be fair to providers, but would be speedier, by shortcutting the current hearings by the Director.

Another proceedings matter in need of law reform relates to access by consumers to the Complaints Review Tribunal. I support my predecessor's view that "there is no good reason why access to the Tribunal should be more restrictive with respect to health and disability matters than privacy or human rights matters" (Review Report, para. 5.12). It seems to be an accident of drafting that the Act requires referral of a matter to the Director as a trigger for any claim by an individual consumer. The accident compensation bar already poses a significant disincentive to injured health and disability consumers; it seems inappropriate to impose another barrier in a statute intended to 'promote' consumers' rights.



The Year under Review

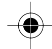
1999/2000 was a busy and eventful year for the Commissioner. The number of open files dropped from 790 at 30 June 1999 to 575 as at 30 June 2000. A total of 1,088 new complaint files were opened during the year and 1,303 files were closed. Complaints are now allocated to an investigator at an early stage and reduced file loads per investigator are enabling a more efficient approach to file management.

Advocacy is the front line for the Commissioner and the three organisations responsible for nationwide advocacy services handled a large volume of complaints and inquiries in the past year. Advocates play an important role assisting consumers with early resolution of issues and seeking to resolve complaints referred by the Commissioner.

Education of consumers and providers about the Act and Code has continued to be a major focus of the Commissioner. As new Commissioner, I met with a wide range of consumer and provider organisations, and health professional bodies, in the months March to June 2000. Publication of Commissioner opinions on the website (www.hdc.org.nz) has created a valuable education resource for consumers, providers and researchers.

In 1999/2000, promotion of the Act and Code to mental health consumers and providers was a priority area, and numerous presentations were delivered throughout New Zealand. The Commissioner's Kaiwhakahaere has also continued to promote the Code to Maori.

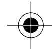
The proceedings area was also one of change throughout the year. A decision to refer a complaint to the Director of Proceedings for consideration of disciplinary action or a Complaints Review Tribunal claim comes at the end of an investigation. The Director has developed significant experience in the holding of section 49 hearings (to give providers an opportunity to be heard) and in the prosecution of cases before disciplinary tribunals and the Complaints Review Tribunal. Although few cases proceeded to a formal hearing in 1999/00, improved processes for referrals to the Director, and additional resourcing of the proceedings area, will facilitate greater throughput of proceedings in 2000/01.



The Commissioner's watchdog role

Although the Commissioner's complaints investigation function looms large in practice, the educational role is in many respects even more important. The Commissioner is New Zealand's only independent statutory watchdog charged with speaking out on matters related to the rights of health and disability consumers. Complaints investigation is but one of the Commissioner's 16 statutory functions. They include making public statements on general matters related to consumers' rights, promoting awareness of their rights "by education and publicity", and reporting to the Minister "on the need for, or desirability of, legislative, administrative or other action to give protection or better protection" to those rights (section 14(1)).

Although the Commissioner effectively acts as a gatekeeper to disciplinary proceedings in the case of individual health professionals, in the case of institutional providers it might be necessary to publicise concerns about patient safety and quality of care. In relation to public and private hospitals, community care facilities, and rest homes, where vulnerable consumers receive care, the Commissioner has a duty to 'blow the whistle' and call the relevant authorities to account in serious cases. There is increasing awareness of the extent of adverse events suffered by hospital patients in New Zealand, and calls for quality assurance activities that seek to remedy 'systems errors' and avoid a culture of blaming individual providers. The corollary of that approach is that systems must be held to account.



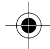
EDUCATION

Introduction

This year the focus of the Commissioner's education and promotional activities has been on identified target groups of mental health and Pacific Island consumers and providers. In addition to the significant numbers of presentations delivered by advocacy services, a total of 425 presentations were delivered by Health and Disability Commissioner staff, representing an increase of 70 over the target set for the year. 196 of these presentations were delivered to identified target groups. Both these and other presentations, highlighting the Code of Rights and the role of the Health and Disability Commissioner, were delivered to a wide cross-section of representative consumer and provider groups throughout New Zealand.

Notable education and promotional activities included:

- Design, production and distribution of a range of new education and promotional resources, including translation of the popular Code brochure into Maori.
- The Commissioner's monthly column in *New Zealand GP*, a publication for general practitioners. This year the Commissioner used this column to address a wide range of topical issues affecting medical practitioners.
- A record 45 articles written and published in targeted consumer and provider publications.
- Publishing on the HDC website (for educational purposes) of 193 Commissioner's Opinions, with identifying features removed.
- Targeted media releases that produced widespread reporting of the Commissioner's activities, and resulted in radio/television interviews with the Commissioner and key staff.
- The Commissioner and members of the management team addressing several major conferences and workshops throughout the year, both nationally and internationally.
- The advocacy service continuing to fulfil a vital educative role in informing providers and consumers about the Code of Rights and the role of advocacy services.

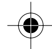


Educational Resources and Publications

In 1999/2000 the Commissioner continued to provide a wide range of educational resources to both consumer and provider groups. These are designed first to educate consumers about their rights under the Code and available avenues of support and complaint, and secondly to provide information for providers regarding their obligations under the Code. This year has seen a major increase in the number of such resources being distributed (320,010 compared with 153,053 in the previous year).

Educational resources distributed included:

- Posters in English and Maori.
- Brochures in English and Maori outlining the Code of Rights in various forms, from the complete regulation to a short list of the ten rights.
- Leaflets providing information about advocacy services.
- Videos for consumers, available in English, and subtitled in English, Maori, Samoan, Tongan and Niuean.
- A video for providers.
- Audio tapes containing information about the Code of Rights and advocacy services.
- Bilingual pocket cards with the brief ten rights in English and another language - these currently include Maori, Samoan, Tongan, Cook Island Maori and Niuean.
- A new National Advocacy Services brochure.
- Opinions, speeches, articles, media releases and other information of public interest were placed on the Commissioner's internet website (www.hdc.org.nz). This website continues to generate significant interest among consumers, providers, professional groups, media, and the general public.
- The Commissioner, through the Legal division, has continued to provide a range of formal responses to enquiries related to both Act and Code



Education, Promotion and the Media

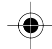
Activities involving the Commissioner continue to produce considerable interest in the print, radio and television media. In September 1999 a decision by the Commissioner to carry out an investigation into Christchurch Hospital's gastroenterology department resulted in a significant amount of media attention.

Other issues which created interest and debate throughout the year were:

- Completion of the Act and Code Review.
- The Commissioner's comments on the Code, informed consent, and the rights of children.
- Completion and release of the Commissioner's report into amputee services in Northland and Auckland.
- The recent announcement that the Commissioner is to carry out an investigation into patient safety and quality systems at Gisborne Hospital.

Media activities have created valuable opportunities for consumers and providers to become better informed regarding the Act, Code and role of the Commissioner. This increase in promotional and informational activity has been accompanied by a significant increase in numbers of people accessing the Commissioner's internet website (www.hdc.org.nz).

On the basis of statistical analysis and anecdotal evidence, there is a clearly identifiable trend towards individuals seeking greater electronic access to information regarding the operation of the Commissioner, the Act, and the Code. A further trend this year, has been a sustained increase in numbers of media enquiries made to the Commissioner's office, requesting both comment from the Commissioner on issues of public concern and information related to specific complaints under investigation.



KAIWHAKAHAERE

Aims

The Kaiwhakahaere (Maori Advisor) was appointed to the senior management team to achieve two principal objectives:

- To assist the Health and Disability Commissioner to promote and protect the rights of Maori consumers of health and disability services; and
- To advise the Commissioner in relation to the role and structure of all services in order to fulfil the aim of effective management consistent with the principles of Te Tiriti o Waitangi.

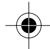
Activities

The Kaiwhakahaere focuses on ensuring the Commissioner's processes are accessible and maintain a consumer perspective. She advises the Commissioner on current issues raised by consumers and community groups and, in particular, Maori, Pacific Island people, and people with a disability. She liaises with Pacific Island people, other ethnic groups and people with a disability to ensure that these groups have confidence in the Commissioner's ability to uphold their rights encapsulated in the Code.

Te Kanohi Kitea (the face that is seen) means that the Kaiwhakahaere needs to travel quite extensively to meet with groups that do not generally access the 'mainstream' networks or information. Delivering education promotion to rural areas has been a particular focus in 1999/2000.

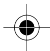
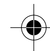
The Kaiwhakahaere contributes to all the Health and Disability Commissioner goals and therefore spends time in the Auckland and Wellington offices. The contribution to legal work includes policy advice, submissions and opinions – bringing a Maori and consumer perspective to legal discussion. In relation to human resources and executive services, the Kaiwhakahaere has developed and maintained a policy of Tiriti o Waitangi inclusion in all the Commissioner's operations. In 1999/2000 the Kaiwhakahaere facilitated Treaty training for all staff and training in mental health issues and working with Pacific Island people.

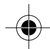
Advice and training is provided to the Director of Advocacy on the implementation of Te Tiriti o Waitangi principles, so that advocacy services are better able to meet the needs of Maori in their communities. In the past year the Kaiwhakahaere organised training for advocates in working with Pacific Island and mental health consumers.



Advising on investigation files involving Maori consumers and/or providers enables the processes to be kept safe for Maori. At times this might mean assisting with interviews or a mediation conference. The Kaiwhakahaere assists investigators to collect relevant information from Maori consumers and providers. Advice is also provided to the Director of Proceedings regarding processes involving Maori consumers and/or providers.

As education is a primary purpose of the Act, the Kaiwhakahaere contributes to the overall education plan for the Health and Disability Commissioner including resource development. In 1999/2000 the Kaiwhakahaere managed a major mental health education project, involving presentations to over 160 consumer, provider, Maori and Pacific Island groups.



ENQUIRIES AND INVESTIGATIONS

ENQUIRIES

The Health and Disability Commissioner classifies any contact with the Office as an 'enquiry'. In contrast, a complaint is a contact where a specific breach of the Code is alleged, and action by the Commissioner is required in relation to the Code.

Most consumers make an enquiry by telephone. A toll-free call line (0800 11 22 33) enables callers to contact dedicated enquiries staff, who also respond to any query of a written nature.

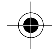
The Enquiries and Complaints Database System (ECDS) is used to record details of both enquiries and complaints. This allows the Commissioner to track and monitor enquiries, both written and verbal.

4,785 enquiries were received during the year.

Actions taken on enquiries	**2000**	**1999**
Became a complaint	16	9
Open	2	27
Provided a formal response	164	163
Provided verbal and written information	452	803
Provided verbal information	2,232	5,211
Referred to advocacy	149	258
Referred to communication /education	23	99
Referred to another agency	879	740
Sent written information	868	579
TOTAL	**4,785**	**7,889**

Explanatory comments

Enquiry staff assist callers by explaining the options available to them, including the availability of advocacy services, send out promotional material and refer the caller to other agencies when appropriate.



Formal responses were made to enquiries requesting information about the Health and Disability Commissioner and clarification or interpretation of various sections of the Health and Disability Commissioner Act 1994. This category includes formal responses by the Legal division. Such formal responses are a significant part of the educational role of the Commissioner, ensuring the rights are understood, in an attempt to promote the delivery of quality services in New Zealand.

The provision of general information to callers is categorised by the provision of information, either in verbal or written form. This year the definition for such calls was tightened, with calls of a general office nature excluded from the statistics.

Only callers transferred directly to an advocacy service are recorded as "advocacy referrals". While other callers may be given information about advocacy, they are included in the statistics as having been provided with verbal or written information.

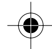
To recognise the substantial referral activity of the Commissioner's enquiry staff, calls more appropriately dealt with by another agency are separately noted. Assisting callers to locate the most appropriate authority is a regular occurrence for the enquiry team.

"Sent written information" refers to sending of pamphlets and educational material.

INVESTIGATIONS

Complaints are initially dealt with by Enquiries staff and, if proceeding to investigation, allocated to one of three investigation teams (two in Auckland and one in Wellington), each consisting of four to five Investigation Officers under the leadership of a Senior Investigator.

During the year substantial attention was paid to improving workflow and productivity. All complaints were assessed on arrival and immediately allocated to an Investigation or Enquiry Officer. The progress of complaint files was monitored on a regular basis and was subject to a careful and ongoing review by Senior Investigators. The ECDS reporting system was upgraded to provide better information about file activity. The result was a substantial increase in the number of closed complaints.



For the first time since the introduction of the Code of Health and Disability Services Consumers' Rights, there was a decrease in the number of new complaints received during the year. Since the period also saw substantial success in closing files, the Commissioner was able to reduce the number of complaints still open at 30 June 2000. This reduction in outstanding work was a key achievement for the year.

Complaints Summary

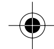
The Commissioner received slightly fewer complaints than in the previous year; reversing the trend seen in the first three years of the Commissioner's activity.

The year saw a further increase in productivity and output, with 1,303 complaints dealt with, representing a 12% improvement on last year's 1,162 closures.

It was gratifying to note that at 30 June 2000, the number of open complaints stood at 575; 215 less than the year before and only half the number open in early 1999. The progress in clearing the 'backlog' of complaints has been a significant achievement for the Office in 1999/2000. For the first time, the Commissioner cleared more complaints than were received.

With the number of open complaints down to manageable levels, investigation work on new complaints is now under way within a few weeks of their receipt. Further attention is still needed to complete work on some of the remaining older files, and a continued reduction in the time taken to close files will be a focus for next year.

Complaints	**2000**	**1999**	**1998**	**1997**
Open at the Beginning	790	778	419	0
New during the Year	1,088	1,174	1,102	1,000
Closed during the Year	1,303	1,162	743	591
Open at the End	**575**	**790**	**778**	**419**



Source of Complaints

Although complaints direct from individual consumers represent the source of most complaints, there are many other ways the Commissioner is notified about issues.

In particular, health registration boards are required to send all complaints to the Health and Disability Commissioner and may not take any action until the Commissioner has determined what action (if any) is to be taken under the Act.

The number of complaints sourced from professional bodies is steadily reducing as the public become more aware of their ability to complain directly to the Commissioner.

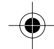
Source of Complaint	2000	1999
Chiropractic Board	2	3
Dental Council	8	9
Dental Technicians Board	2	4
Medical Council	42	73
Nursing Council	8	19
Occupational Therapy Board	-	1
Opticians Board	3	1
Pharmaceutical Society	6	16
Physiotherapy Board	1	1
Psychologists Board	9	10
Subtotal (Professional Boards)	**81**	**137**
Accident Compensation Corporation	3	39
Advocacy	40	75
Coroner	1	-
Disability Consumer	1	5
Disability Provider	2	5
Employee	5	3
Friend	14	6
Health Consumer	748	618
Health Funding Authority	1	-
Health Provider	17	37
Human Rights Commission	-	6
Lawyer	15	29
Medical Laboratory	1	-
Member of Parliament	9	-
Member of Public	2	22

Minister of Health	-	1
Ministry of Health	3	4
Ombudsman	-	6
Police	3	3
Professional Association	2	2
Regional Licensing Office	2	2
Relative	138	174
Subtotal (Other Sources)	**1,007**	**1,037**
TOTAL	**1,088**	**1,174**

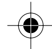
Type of Provider subject to Complaint

Complaints may involve more than one health provider, and so the 1,088 complaints received involved 1,227 providers. Many of these involved the employer of a provider. An employing authority may be vicariously liable under section 72 of the Act for the acts or omissions of an employee or agent.

Group Provider	**2000**	**1999**
Accident and Emergency Centres	9	8
Accident Compensation Corporation	10	18
Ambulance Services	2	3
Dental Providers	6	7
Disability Providers	8	-
Educational Facilities	3	-
Government Agencies	7	-
Health Professional Bodies	3	-
Health Funding Service	7	18
Intellectual Disability Organisations	2	-
Laboratories	1	-
Medical Centres	16	12
Other	13	58
Pharmacies	28	26
Prison Service	23	15
Private Medical Hospitals	15	4
Private Surgical Hospitals	20	8
Public Hospitals	264	269
Radiology Practices	2	-
Rehabilitation Providers	8	-
Rest Homes	54	75
Trusts	10	-
Subtotal (Group Providers)	**511**	**521**



Individual Providers		
Acupuncturist	-	2
Alternative Therapist	-	3
Ambulance Officer	4	1
Anaesthetist	6	6
Cardiologist	1	1
Caregiver	6	6
Chiropractor	8	6
Counsellor	1	6
Dental Nurse	1	2
Dental Technician	8	7
Dentist	39	46
Dermatologist	5	4
ENT Specialist	3	4
General Practitioner	220	251
General Surgeon	31	15
Gynaecologist	3	13
House Surgeon	4	7
Laboratory Technologist	1	-
Mental Health Provider	-	12
Midwife	28	19
Needs Assessor	-	2
Naturopath	3	-
Neurologist	3	9
Nurse	55	38
Obstetrician	23	7
Occupational Therapist	6	3
Ophthalmologist	6	9
Optician	2	-
Optometrist	2	1
Oral Surgeon	1	-
Orthopaedic Surgeon	33	20
Osteopath	3	1
Other Providers	75	116
Paediatrician	9	8
Pathologist	3	-
Pharmacist	13	34
Pharmacy Technician	1	-
Physician	24	34
Physiotherapist	8	8
Plastic Surgeon	4	6
Podiatrist	1	2
Psychiatrist	16	19
Psychologist	25	26

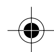


Radiologist	2	2
Registrar	11	14
Rest Home Manager	2	17
Rheumatologist	-	2
Social Worker	-	3
Surgeon	5	12
Urologist	11	6
Subtotal (Individual Providers)	**716**	**810**
TOTAL	**1,227**	**1,331**

Outcome of Complaints

There were 1,303 complaints closed during the year. Of these, 346 did not involve an investigation, 241 were resolved or withdrawn and 716 were the subject of an investigation.

No Investigation	**2000**	**1999**
Referred to a Health Professional Body	72	55
Outside Jurisdiction	172	240
Referred to Privacy Commissioner	36	28
Referred to Human Rights Commission	5	3
Referred to Ombudsman	2	-
Referred to Other Agency	59	52
Subtotal	**346**	**378**
Resolved or Withdrawn		
Complaint resolved by parties	113	86
Complaint withdrawn	42	26
Mediation	14	14
Resolved with Advocacy	72	95
Subtotal	**241**	**221**
Investigation		
Breach and Report	227	144
No Breach Found	236	182
No Breach Found, detailed written report	48	41
No Further Action	205	196
Subtotal	**716**	**563**
TOTAL CLOSED	**1,303**	**1,162**



No Investigation

There are a number of reasons why there is no investigation following a complaint. A complaint may be outside jurisdiction (172) because it concerned events prior to 1 July 1996, or did not relate to the provision of a health or disability service. It may be more properly referred to a health professional body (72) for action, or to another agency such as the Privacy Commissioner (36) or the Human Rights Commission (5).

Resolved or Withdrawn

In some complaints consumers chose not to proceed or chose to withdraw their complaint (42). At other times, consumers and providers resolved the complaint between themselves (113). The Commissioner can refer the matter to an advocate, either prior to or during an investigation, if this seems an appropriate way to achieve resolution. Some 72 complaints were resolved this year.

Advocacy represents one way to empower the consumer to resolve complaints with the provider, when there is no concern about public safety. Often the issue is one of communication, and can be best resolved directly between the parties. Advocates provide regular reports to the Commissioner on outcomes of referred complaints.

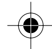
Mediation, using both internal staff and external mediators, was used on 14 occasions during 1999/2000.

Investigation

Following investigation of a complaint, the Commissioner reviews the evidence and makes a decision as to whether there has been a breach of the Code.

In relation to 227 complaints, the Commissioner found that a breach did occur. In such cases, the Commissioner's opinion is reported to the parties, with such recommendations as the Commissioner thinks fit. Other interested parties, such as the appropriate health professional body or the Ministry of Health, may also receive a copy of the report. The Commissioner may also refer the file to the Director of Proceedings to consider further action under the Act.

In relation to 236 complaints, the Commissioner found that there was no breach of the Code. In these cases, the evidence established that the complaint was unwarranted or that the provider acted reasonably in the circumstances, or there was insufficient evidence to find the complaint was



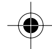
established. In a further 48 complaints, a detailed report was provided to the parties, to assist their understanding of the conclusion and to provide an educational resource.

Of the complaints closed, 205 resulted in no further action. In these cases, there were further remedies available to the consumer, or investigation into the matter was not appropriate in terms of the reasons listed under the Act. In many cases significant investigation was undertaken prior to this decision.

Breach of Code

227 complaints resulted in a breach of the Code. The following table shows the type of service provider involved in these breaches.

	2000	1999
Accident and Emergency	9	6
Ambulance	2	1
Anaesthesia	1	1
Alcohol and Drug Services	-	1
Cardiothoracic	1	-
Counselling	1	-
Chiropractor	2	-
Community Service	1	-
Dental	13	10
Dermatology	-	2
Diagnostic	3	-
Disability Services	-	2
Gastroenterology	1	1
General Medical	37	10
General Practice	37	30
Geriatric	1	-
Homeopathic	1	-
Home Services	-	1
Intellectual Disability Services	-	4
Medical Administration	-	2
Mental Health Services	5	2
Midwifery	11	7
Naturopathic	-	-
Neurology	2	2
Nursing	12	4
Obstetrics and Gynaecology	11	4

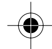


Ophthalmology	-	1
Optometry	1	-
Orthopaedic	4	3
Other Health	1	1
Paediatric Medicine	3	1
Pharmaceutical	18	22
Physiotherapy	3	2
Plastics	-	2
Podiatry	-	1
Prison Medical	1	-
Psychology	1	1
Psychiatry	2	-
Radiology	1	1
Rehabilitation	3	-
Rest Homes	12	10
Surgical	26	8
Urology	-	1
TOTAL	**227**	**144**

Age of Open Complaints

The following table shows the number of open complaints, by date received, and the progress made in closing old complaints. However, a number of older files still remain open and these will be the subject of special effort in 2000/ 2001.

Date Complaint Received	**2000**	**1999**
Up to 30 June 1997	5	52
Up to 30 June 1998	44	236
Up to 30 June 1999	162	502
Up to 30 June 2000	364	-
TOTAL	**575**	**790**



Age of Closed Complaints

The following table shows the time taken to close complaints. Nearly half of all complaints received by the Commissioner are dealt with within a few weeks of receipt. Others take longer to close due to the complexity of the complaint, the need to wait for the findings of other parties and so on. It was heartening to note the substantial number of older files closed this year.

Time taken to close Complaints	2000	%	1999	%
Less than 5 weeks	392	30	273	23
5 to 13 weeks	188	14	254	22
14 to 26 weeks	169	13	184	16
27 to 39 weeks	105	8	106	9
40 to 52 weeks	89	7	94	8
Greater than 52 weeks	360	28	251	22
TOTAL	**1,303**		**1,162**	

REPORT OF THE DIRECTOR OF PROCEEDINGS

Introduction

This year was the second year in which the Health and Disability Commissioner had a full-time Director of Proceedings.

A total of 21 cases were referred to the Director of Proceedings during the year, compared to 34 in 1999, 12 in 1998 and 2 in 1997.

File management of cases with the Director was helped by the introduction of a computerised case management system, similar to that available for the Commissioner's complaints and enquiries. This also enabled better analysis of case outcomes, including cases dealt with in earlier years.

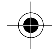
Case Summary

A notable feature of the 1999/2000 year was a comprehensive review of all open files and decisions either to prosecute or to take no action. As a result, the number of open files dropped. As at 30 June 2000, 24 cases were at various stages of the proceedings process.

DP Cases	2000	1999	1998	1997
Open at the Beginning	33	14	2	0
New during the Year	21	34	12	2
Closed during the Year	30	15	0	0
Open at 30/06/200	**24**	**33**	**14**	**2**

Case Outcomes

Twelve cases were concluded through proceedings before the various professional disciplinary bodies or the Complaints Review Tribunal, with 75% resulting in successful prosecutions. The majority of these cases were briefed to external counsel. In addition, the Director decided not to prosecute a number of cases, after conducting section 49 hearings and reviewing the options available.



	2000	Pre- 2000
No Action to be Taken	18	5
Successful CRT Prosecution	1	-
Successful Tribunal Prosecution	8	6
Unsuccessful Prosecution	3	4
TOTAL CLOSED	**30**	**15**

Disciplinary Proceedings

The Director took no action on a number of the files involving health professionals referred by the Commissioner. Sometimes the shortcomings of a health professional do not reach the threshold for a disciplinary offence. In other cases, the evidence was not sufficient to support a formal prosecution before a disciplinary tribunal.

Complaints Review Tribunal

No proceedings were filed in the Complaints Review Tribunal (CRT) in 1999/2000.

Section 52(2) of the Health and Disability Commissioner Act 1994 provides that where any person has suffered personal injury covered by the Accident Rehabilitation and Compensation Insurance Act 1992, no damages arising directly or indirectly out of that personal injury (other than punitive damages) may be sought or awarded. Given the nature of many of the matters referred to the Director by the Commissioner, a substantial number of consumers are not able to claim damages due to this ACC bar.

In May 1999 the CRT ruled in *The Director of Proceedings v O* that the meaning of the phrase *"injury to feelings"* (for which damages may be awarded by the Tribunal under section 57(1)(c) of the Health and Disability Commissioner Act 1994) is limited by the foregoing words *"humiliation, loss of dignity"*.

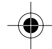
In the referrals received by the Director, the emotion experienced is often grief or anger rather than humiliation or loss of dignity. Whilst there are cases that satisfy the CRT definition of *"injury to feelings"*, the narrow definition limits the number of potential claims for damages.

The Director appealed the decision of the CRT. In *The Director of Proceedings v O* (Gendall J, 11/8/00) the High Court adopted a broader interpretation of the phrase *"injury to feelings"* which encompasses grief, anger and despair. This is likely to lead to more proceedings being issued by the Director before the CRT in the future.

Providers

As with complaints to the Commissioner, many cases have more than one provider. A total of 69 cases were referred to the Director in the four years to 30 June 2000, with 79 providers being the subject of a referral. Some of those cases are yet to be resolved and a number were not proceeded with. Sixteen providers have been successfully prosecuted to date.

	Providers Referred	Successful Prosecutions	Unsuccessful Prosecutions	No Action Taken	Still Open
Chiropractor	1	-	1	-	-
Dental Technician	3	1	-	2	-
Dentist	5	1	-	3	1
Medical Practitioner	39	7	5	10	17
Medical Trust	1	-	-	-	1
Nurse	16	5	1	2	8
Optometrist	1	-	-	1	-
Pharmacist	5	1	-	3	1
Pharmacy	2	-	-	1	1
Physiotherapist	1	-	-	1	-
Podiatrist	1	1	-	-	-
Public Hospital	2	-	-	1	1
Rest Home Operator	2	-	-	2	-
TOTAL	**79**	**16**	**7**	**26**	**30**



REPORT OF THE DIRECTOR OF ADVOCACY

Introduction

Key features of the fourth year of Advocacy have been:

- Maintaining and improving consistency in advocacy practice
- Consolidating work processes
- Increasing the profile of advocacy services and the Code to both consumers and providers
- Supporting services working under new service contracts with bigger regions and significantly reduced funding.

BACKGROUND

Under Section 25 of the Health and Disability Commissioner Act 1994, the Director of Advocacy has the following functions:

a) To administer advocacy service agreements

b) To promote advocacy services by education and publicity

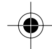
c) To oversee the training of advocates

d) To monitor the operation of advocacy services and to report to the Minister from time to time on the results of the monitoring.

Statement of Service Performance

The National Health and Disability Consumers' Advocacy Service is committed to the delivery of the services which contribute to objectives in the Health and Disability Commissioner's Statement of Service Performance. For 1999/2000 the specific objective relating to advocacy was:

Operation of a New Zealand wide advocacy service from 1 July 1996, designed to assist health and disability service consumers resolve complaints about breaches of the Code at the lowest appropriate level.



Advocacy Contracts

Three new advocacy service contracts were in place during 1999/2000 to provide nationwide cover in four advocacy regions. The transition from ten service providers to three went smoothly with minimal disruption to consumers.

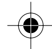
An integral part of the advocacy contracts is the Advocacy Contracts Operating Manual. This document provides guidance to services on the functions of advocates under the Health and Disability Commissioner Act 1994 and interpretation of the Advocacy Guidelines issued by the Commissioner. The document also outlines the Advocacy Service Organisation Standards, which set service quality standards for advocacy service providers.

SERVICE DELIVERY

The Commissioner notified the Director at the end of 1998 that from 1 July 1999, the funding for Advocacy would be reduced from around $2.6 million to $2 million per annum. This represented a 23% reduction in funding. Advocacy service providers have worked well and achieved a great deal during a challenging year in which there have been a significant number of changes to the operating environment for Advocacy.

In addition to significantly reduced funding, there were a number of changes to the contracting arrangements for advocacy services compared with the previous advocacy agreements. From 1 July 1999 these changes included:

- Four service regions instead of ten covered by three service providers
- The allocation of resources for the new contracts was made on the basis of population to ensure fairness and equity across New Zealand
- The previous agreements were based on the delivery of full-time equivalent hours of service with no output measures
- The new contracts are volume based for the delivery of the following outputs with closure performance measures:
  - Enquiries (closed)
  - Complaints (open)
  - Presentations/displays
  - Networking contact visits.
- A new set of quality standards has been developed for the service focussing on outputs and outcomes of advocacy services.



The reduction in funding has had a significant impact on the amount of service that could be purchased under the new purchasing arrangements, in comparison to what had been delivered in previous years. Contracted volumes for 1999/2000 were lower than those delivered in 1998/1999 as a result of the reduced funding. Activity levels recorded for 1999/2000 reflect this. Despite reduced resources, all advocacy service providers have delivered in excess of contracted volumes and there is high consumer satisfaction with services provided.

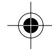
Reduced funding has also affected the accessibility of advocacy services and the style of advocacy that can be delivered. All new service providers operate an 0800 number to assist consumers to have access to advocacy services across the larger regions. With reduced resources and the consequent reduction in staff time, more telephone advocacy has been provided. Some rural areas now have a regular visiting service rather than a permanent advocacy presence in their community. Face to face advocacy is still occurring where required. Within the funding available, advocacy services have worked towards providing a range of staff who are able to meet the needs of the communities they serve. Advocates from a range of ethnic and other backgrounds have been employed. Less time has been available for proactive educational/promotional work and relationship building/networking compared with previous years. All advocacy staff have been very busy managing demand for the service and meeting the needs of consumers.

Monitoring and Operation of Advocacy Services

The Director monitored compliance with the Advocacy Service Contract and the performance standards in the Advocacy Contract Operating Manual through quarterly and annual reports from advocacy services. The Director made six monthly visits to all services.

An audit of the advocacy service providers will take place in 2000, following the completion of the Annual Report for each service for the 1999/2000 year. The audit will be conducted by independent auditors and will review advocacy service delivery against annual plans, the Advocacy Contract, Advocacy Guidelines and Advocacy Contracts Operating Manual service standards.

High levels of consumer satisfaction were reported from regular surveys undertaken by advocacy services. There continues to be some disappointment that advocacy services are not able to assist consumers with access to services issues and ACC entitlements. Levels of the awareness of the service vary around New Zealand. New promotional initiatives will be explored during the year with advocacy service providers.



Services are using standard data definitions and reporting formats. This has improved activity reporting and enhanced consistency. The ECDS data base was provided to advocacy services to record complaints and enquiries when they began working in July 1996. Some enhancements were made to the ECDS prior to the new contracts beginning to enable information on promotional work to be recorded and reported electronically from July 1999.

There were some issues in establishing the IT system for the new advocacy service providers earlier in the year however these issues are now largely resolved. The database and electronic reporting system continues to be monitored to ensure it remains relevant to the needs of the Director and Advocacy service providers.

ACHIEVEMENTS

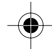
Networking Contacts

Networking contacts are part of the proactive work that advocacy service providers undertake with consumers and providers to promote the service and raise awareness of the Code and the Commissioner. Regular contacts are a good way to establish and maintain positive working relationships between advocacy services, health and disability service providers and consumer groups. They also assist in informing providers that the role of advocates is to support consumers to resolve concerns rather than to investigate or mediate.

For 1999/2000 the networking contact outputs recorded in this report are for provider and consumer group visits. The definition of networking contacts for 1998/1999 changed so output volumes for 1998/1999 and 1999/2000 are not comparable. During 1999/2000 3,212 networking contacts visits were made. In addition to visits, networking and relationships with consumers and providers were also maintained by letters and telephone calls from advocacy service staff.

Promotion

While promotional work still continues to be of high priority for advocacy services, the reduced funding has made it more difficult for services to allocate time to proactive educational work. During the year 1,893 presentations and displays were provided. In addition to presentations delivered to consumer and provider groups, static displays put up in such places as hospital foyers, public libraries and conferences publicising the Code of Rights. Other opportunities for promotional work have included stalls with advocates in attendance at such events as agricultural shows and the Aoteoroa Festival.



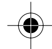
New promotional materials were supplied to advocacy service providers during the year. These included a revamped advocacy leaflet, overheads, flipcharts and banners. A new advocacy service logo was developed during the year which gave the service identifiable branding as the National Health and Disability Consumers' Advocacy Service provided under the Health and Disability Commissioner Act. This will also assist in giving the Service a more distinct profile. The new logo portrays advocates standing at the shoulder of consumers supporting and empowering them to uphold their Rights under the Code of Health and Disability Services Consumers' Rights.

Enquiries and Complaints

Contracted volumes were lower than those delivered in 1998/1999 as a result of the reduced funding. The Service handled 5,286 complaints (including 149 section 36/42 referrals to Advocacy from the Commissioner) and 7,677 enquiries during 1999/2000. This represents a 10% decrease in the number of complaints and a 22% decrease in enquiries compared with 1998/1999. The fact that complaint statistics remain high illustrate that there is still a significant demand from consumers for support and assistance to resolve issues and concerns with providers at low level. Advocacy also responded to a number of telephone referrals made to advocacy services as a result of calls to the Commissioner's 0800 telephone line. An increased emphasis on recording and the use of consistent definitions have contributed to more reliable statistics.

Under section 30(k) of the Health and Disability Commissioner Act 1994, advocates may report to the Commissioner any issues which they believe should be brought to his attention. Where appropriate, reports have been sent to the Commissioner during the year for his information.

Under sections 36 and 42 of the Act the Commissioner may, before or during an investigation, refer a matter to an advocate for resolution between the parties. The Commissioner made a total of 149 formal referrals to advocacy services during 1998/1999.



Working With Maori

Under the new contracts more emphasis has been placed on advocacy services working with Maori in their regions. This has been achieved by services having representation from Maori on community based Trusts operating the services, development and enhancement of links with local iwi, marae and Maori service providers, hui being held, establishment of dedicated advocacy positions to work with Maori, and the employment of staff who are Maori. All advocacy staff received training and support to enable them to work well with Maori.

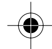
In working with the empowerment model of advocacy required by the Advocacy Guidelines issued by the Commissioner, advocacy services must be flexible in meeting the needs of individual consumers within the framework of the Code and the Act. Maori and Pacific Island consumers are not always comfortable with the empowerment approach, as it does not always fit with traditional support models.

Working with Pacific Island Consumers

Advocacy services have been aware of the need to provide services that meet the needs of Pacific Island consumers. Services have employed Pacific Island staff able to develop links with Pacific Island communities. During the year services were pleased to attend presentations to promote Advocacy services with Karl Pulotu-Endemann, who was contracted by HDC to assist in increasing awareness of the Act, the Code and Advocacy, amongst Pacific Island groups and mental health consumers. Karl also undertook training with advocacy service staff on working with Pacific Island and mental health consumers.

Community Linkages

All of the current advocacy service providers are operated by community based trusts. Providers are required to have good linkages with their communities and have a good understanding of their needs. All of the trusts have community representatives as part of their membership.

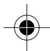
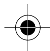


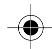
Training

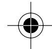
The Director held 'best practice' training for advocacy staff in Wellington in November 1999. Prior to the commencement of this training advocacy staff who are Maori had the opportunity to gather to discuss issues relating to issues in undertaking advocacy for Maori. Under the new contracts there is more emphasis on advocacy service providers providing support and training for staff. This has been accomplished by having regular training sessions attended by all staff, peer review and closer management supervision.

Activity by Region in 1999/2000

Service	Enquiries	Complaints	Presentations	Contacts
Auckland/Northland	2,650	1,763	664	1,101
Mid & Lower North Island	3,078	1,779	818	1,479
South Island	1,949	1,744	415	632
Total	**7,677**	**5,286**	**1,897**	**3,212**





LEGAL SERVICES

Overview

1999/2000 was once again a busy and productive year for the Legal division, with the legal staff providing support and advice to the Commissioner, managers and other staff. This advice spanned the range of functions and activities undertaken by the Office.

Formal advice was provided to the Commissioner and staff on the interpretation of various aspects of the Health and Disability Commissioner Act 1994, the Code of Rights and related legislation. Formal written responses were prepared to enquiries from the public and other agencies on the Act and Code and many verbal enquiries were also dealt with. A significant number of submissions on legislative and policy proposals were drafted; complaint files and educational materials were reviewed; conference papers were prepared and presentations delivered.

Review of the Act and Code

The Review of the Health and Disability Commissioner Act and Code of Rights commenced in early 1999 was completed, and a report was presented to the Minister in October 1999, and tabled in Parliament.

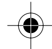
Formal Responses to Enquiries

The Commissioner receives a number of enquiries about the interpretation and application of the Health and Disability Commissioner Act and the Code of Rights. While the Commissioner is unable to give advance interpretations of the Act and Code, as this may be seen to pre-empt his investigation function, it is nevertheless the Commissioner's policy to give as much assistance as possible to those seeking guidance on the legislation.

As a consequence, considerable time and effort is put into providing comment on a wide range of topics. A steady stream of verbal enquiries on the Act and Code were also dealt with.

Submissions

Submissions drafted by the Legal division have addressed a wide range of policy and legislative initiatives in the health and disability sector. The number of submissions made (28) was in excess of the annual target. Priority was given to those matters which most directly impact on consumers' rights to



quality health and disability services, or which related to the Health and Disability Commissioner Act. Submissions included comments on the following:

- Dental Council's paper on registration of overseas dentists
- Law Commission's review of Coroner's Act 1998
- Psychologists Board's paper on supervision before registration
- Opticians Board's paper on draft Code of Practice and Professional Conduct
- Intellectual Disability (Compulsory Care) Bill
- Ministry of Health's consultation document on legislation for Standing Orders
- Ministry of Health's consultation document on Immunisation Standards
- Privacy Commissioner's "Health Amendment Privacy Code – Proposed Amendment No. 4"

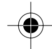
Interface with Office of the Ombudsmen and Privacy Commissioner

Information Requests

Many requests for information from investigation files were received during the year (made pursuant to the Official Information Act 1982 and Privacy Act 1993). Responding to such requests is a time consuming aspect of the Legal division's workload.

Investigations

There have been 12 investigations by the Office of the Ombudsmen during the course of the year. Such investigations are to be expected and assist as an important quality control check for the administrative actions and decisions of the Commissioner.



ADMINISTRATION

Human Resources

The Health and Disability Commissioner operates from two offices, located in Auckland and Wellington. Staff numbers total 43, with administration based in Auckland. The Legal division and both Directors can be found in the Wellington office, while one of the three investigation teams operates out of Wellington.

During the year, the major personnel change was the arrival of Ron Paterson, the new Commissioner on 4 March, following Robyn Stent's completion of her term of office. The Legal Manager, Annie Fraser, Human Resources Manager, Rowen Elford and the Education and Communications Manager, Philip Beilby, retired in 1999/2000. All these staff have made valuable contributions to the first five years' operation of the Health and Disability Commissioner.

There was reasonable stability of investigation and legal staff and this aided overall productivity, output and institutional knowledge.

Information Systems

Review of Activity

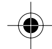
Significant developments in the Office's information systems this year included:

- Case management software. During the year upgrades to the case management software were undertaken to improve usability and reporting. These upgrades assisted in achieving a reduction in the age and number of outstanding complaints.

- Advocacy Services restructuring. Advocacy services were restructured in July 1999. Significant systems support was required for the smooth transfer of computer systems during this period.

- Security policy. The Office developed a Computer Use Policy to prepare for wider staff access to the Internet and external email.

- External email and voice mail. Existing technology was used to



Moving Forward

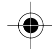
The Office is completing an Information Systems Strategic Plan for the next two years. It is expected to recommend upgrades to network architecture, improved service to internal clients, wider access to the internet and external email, improved security and the development of a knowledge management strategy.

The Office will continue to co-operate with the State Services Commission and other agencies engaged in promoting e-government.

Year 2000 Report

The Office's operations were not adversely affected by the Year 2000 computer problem. All critical systems within the Office's control operated as normal and there has not been any disruption to date. The Office is working with consultants and suppliers to ensure that its Year 2000 activity is in line with good practice for its risk profile and available resources. It is believed that risk to the Office's operations is minimal.

Less than $20,000 was expended on Year 2000 compliance as at 30 June 2000. The bulk of this sum is made up of new assets that would not ordinarily have been purchased until future periods.



FINANCIAL COMMENTARY

Funding

The Office is funded from Vote Health. Funding remained unchanged at **$6,148,444** (excluding GST) for this year and no change is expected for next year.

Investments

The Office invests surplus funds in term deposits lodged with credit worthy institutions. Deposits have a range of maturity dates to maximise interest income while maintaining cashflow. Interest income for the year was **$120,634** and investments totalled **$3,300,000** at 30 June 2000.

Publications

The Office produces a range of educational materials for use by the public and health and disability service providers. Members of the public receive these items for free while providers are charged a modest amount to recover costs. Revenue from this source in 1999/2000 was **$31,975** offset by production costs.

Operating Surplus

This year the Office budgeted for a loss of $756,543 and achieved a surplus of **$445,334**. The variance was mainly due to lower levels of activity in the areas of Proceedings and Legal. Also, contingencies included in divisional budgets did not eventuate.

Expenditure by Type

Expenditure is summarised by significant categories below. Service contracts, staff costs and occupancy costs (collectively 76.74% of total expenditure in 1999/2000) largely represent committed expenditure. Much of the remaining 23.26% (or $1.36 million) is discretionary.

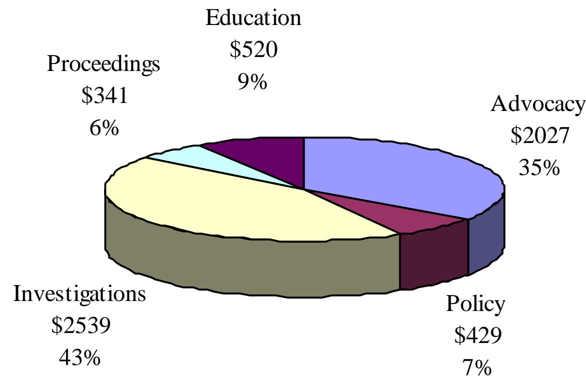
	99/00		98/99	
	$000	%	$000	%
Service Contracts	$1,760	30.05%	$2,462	38.33%
Audit Fees	$6	0.10%	$5	0.08%
Allowance for Bad Debts	$0	0.00%	$2	0.03%
Staff Costs	$2,469	42.16%	$2,270	35.34%
Travel & Accomodation	$198	3.38%	$137	2.13%
Depreciation	$214	3.65%	$268	4.17%
Occupancy	$265	4.53%	$208	3.24%
Communications	$484	8.27%	$549	8.55%
Operating Costs	$460	7.86%	$523	8.14%
TOTAL	**$5,856**	**100.00%**	**$6,424**	**100.00%**

(Figures GST exclusive)

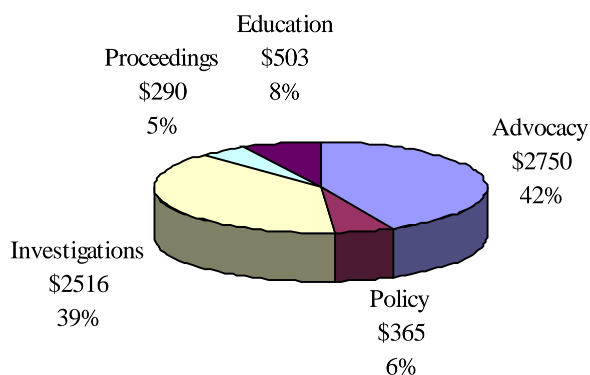
Expenditure by Output

The Office has only one output class but this has been broken down into five interrelated sub-outputs as summarised below.

Expenditure by Output 1999/2000 ($000s)



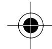
Expenditure by Output 1998/1999 ($000s)



Expenditure on Investigations remained relatively stable at $2,538,980 ($2,515,857 in 1998/1999) while at the same time record numbers of investigations were completed. Spending on Advocacy, although reduced, remained a significant commitment of resources at 35% of total expenditure. The Office continued to look for efficiencies in administration and achieved savings in the areas of Communications and Operating costs. This was partly offset by rising Occupancy costs due to rent increases.

2000/2001

For the coming year the Office has budgeted for a loss of $147,845. This includes an allowance of $150,000 for the Commissioner's major investigation of Gisborne Hospital.



STATEMENT OF RESPONSIBILITY

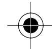
In terms of Section 42 of the Public Finance Act 1989:

1. I accept responsibility for the preparation of these financial statements and the judgements used therein, and

2. I have been responsible for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of financial reporting, and

3. I am of the opinion that these financial statements fairly reflect the financial position and operations of the Office of the Health and Disability Commissioner for the year ended 30 June 2000.

Ron Paterson
Health and Disability Commissioner
24 October 2000



**REPORT OF THE AUDIT OFFICE
TO THE READERS OF THE FINANCIAL STATEMENTS OF
THE HEALTH AND DISABILITY COMMISSIONER
FOR THE YEAR ENDED 30 JUNE 2000**

We have audited the financial statements on pages 45 to 64. The financial statements provide infonnation about the past financial and service performance of the Health and Disability Commissioner and its financial position as at 30 June 2000. This information is stated in accordance with the accounting policies set out on pages 45 to 47.

Responsibilities of the Commissioner

The Public Finance Act 1989 and the Health and Disability Commissioner Act 1994 require the Commissioner to prepare financial statements in accordance with generally accepted accounting practice which fairly reflect the financial position of the Health and Disability Commissioner as at 30 June 2000, the results of its operations and cash flows, and the service performance achievements for the year ended 30 June 2000.

Auditor's Responsibilities

Section 43(1) of the Public Finance Act 1989 requires the Audit Office to audit the financial statements presented by the Commissioner. It is the responsibility of the Audit Office to express an independent opinion on the financial statements and report its opinion to you.

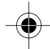
The Controller and Auditor-General has appointed Karen MacKenzie, of Audit New Zealand, to undertake the audit.

Basis of Opinion

An audit includes examining, on a test basis, evidence relevant to the amounts and disclosures in the financial statements. It also includes assessing:

- the significant estimates and judgments made by the Commissioner in the preparation of the financial statements; and

- whether the accounting policies are appropriate to the Health and Disability Commissioner's circumstances, consistently applied and adequately disclosed.



We conducted our audit in accordance with generally accepted auditing standards, including the Auditing Standards issued by the Institute of Chartered Accountants of New Zealand. We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatements, whether caused by fraud or error. In forming our opinion, we also evaluated the overall adequacy of the presentation of information in the financial statements.

Other than in our capacity as auditor acting on behalf of the Controller and Auditor-General, we have no relationship with, or interests in, the Health and Disability Commissioner.

Unqualified Opinion

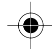
We have obtained all the information and explanations we have required. In our opinion the financial statements of the Health and Disability Commissioner on pages 45 to 64.

- comply with generally accepted accounting practice; and
- fairly reflect:
  - — the financial position as at 30 June 2000;
  - — the results of its operations and cash flows for the year ended on that date; and
  - — the service performance achievements in relation to the performance targets and other measures adopted for the year ended on that date.

Our audit was completed on 24 October 2000 and our unqualified opinion is expressed as at that date.

K B MacKenzie

Audit New Zealand
On behalf of the Controller and Auditor-General
Auckland, New Zealand



STATEMENT OF ACCOUNTING POLICIES

For the year ended 30 June 2000

Statutory Base

The financial statements have been prepared in terms of Section 41 of the Public Finance Act 1989.

Reporting Entity

The Health and Disability Commissioner is a Crown Entity established under the Health and Disability Commissioner Act 1994. The role of the Commissioner is to promote and protect the rights of health consumers and disability services consumers.

Measurement Base

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

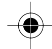
Particular Accounting Policies

(a) *Recognition of Revenue and Expenditure*
The Commissioner derives revenue through the provision of outputs to the Crown and interest on short term deposits. Revenue is recognised when earned.

Expenditure is recognised when the cost is incurred.

(b) *Fixed Assets*
Fixed Assets are stated at their historical cost less accumulated depreciation.

(c) *Depreciation*
Fixed assets are depreciated on a straight line basis over the useful life of the asset. The estimated useful life of each class of asset is as follows:



Furniture & Fittings	5 years
Office Equipment	5 years
Communications Equipment	4 years
Motor Vehicles	5 years
Computer Hardware	4 years
Computer Software	2 years

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

(d) *GST*
The financial statements are shown exclusive of GST and the net GST at the end of the period is included as a receivable.

(e) *Debtors*
Debtors are stated at their estimated net realisable value after providing for doubtful and uncollectable debts.

(f) *Leases*
The Health and Disability Commissioner leases office premises. These costs are expensed in the period in which they are incurred.

(g) *Employee Entitlements*
Annual leave is recognised on an actual entitlement basis at current rates of pay.

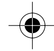
(h) *Financial Instruments*
All financial instruments are recognised in the Statement of Financial Position at their fair value.

All revenue and expenditure in relation to financial instruments is recognised in the Statement of Financial Performance.

(i) *Taxation*
The Health and Disability Commissioner is exempt from income tax pursuant to the Second Schedule of the Health and Disability Commissioner Act 1994.

(j) *Cost Allocation*
The Health and Disability Commissioner has derived the net cost of service for each significant activity of the Health and Disability

Commissioner using the cost allocation system outlined below.



Cost Allocation Policy
Direct costs are charged to significant activities. Indirect costs are charged to significant activities based on cost drivers and related activity/usage information.

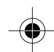
Criteria for direct and indirect costs
"Direct costs" are those costs directly attributable to a significant activity.

"Indirect costs" are those costs which cannot be identified in an economically feasible manner with a specific significant activity.

Cost drivers for allocation of indirect costs
The cost of internal services not directly charged to activities is allocated as overheads using staff numbers as the appropriate cost driver.

Statement of Changes in Accounting Policies

There has been no change in Accounting Policies. All policies have been applied on a basis consistent with the prior period.



STATEMENT OF FINANCIAL PERFORMANCE

For the year ended 30 June 2000

Actual 98/99 $		Actual 99/00 $	Budget 99/00 $
	Revenue		
6,147,556	Operating Grant Received	6,148,444	6,148,444
200,090	Interest Received	120,634	101,939
23,272	Publications Revenue	31,975	15,000
6,370,918	**TOTAL OPERATING REVENUE**	**6,301,054**	**6,265,383**
	Less Expenses		
2,461,840	Advocacy Service Contracts	1,760,446	1,863,475
4,500	Audit Fees	5,792	5,500
2,467	Bad Debts Written Off	0	0
2,269,792	Staff Costs	2,469,161	2,861,373
137,492	Travel & Accommodation	198,181	226,693
268,166	Depreciation	213,916	318,438
207,524	Occupancy	264,756	250,908
549,170	Communications	483,891	486,435
522,636	Operating Costs	459,577	1,009,104
6,423,587	**TOTAL OPERATING EXPENSES**	**5,855,720**	**7,021,926**
(52,669)	**NET SURPLUS (LOSS)**	**445,334**	**(756,543)**

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

STATEMENT OF FINANCIAL POSITION

As at 30 June 2000

Actual 98/99 $			Actual 99/00 $	Budget 99/00 $
	Crown Equity			
2,065,127	Accumulated Funds	(Note 1)	2,510,461	1,308,584
788,000	Capital Contributed		788,000	788,000
2,853,127	**TOTAL CROWN EQUITY**		**3,298,461**	**2,096,584**
	Represented by Current Assets			
164,933	Bank Account		14,771	150,000
2,455,400	Call Deposits		3,300,000	1,848,143
6,942	Prepayments		0	7,000
0	Sundry Debtors		2,547	2,000
128,022	GST Receivable		0	62,502
2,755,297	**Total Current Assets**		3,317,318	2,069,645
	Non Current Assets			
390,358	Fixed Assets	(Note 3)	353,159	118,350
390,358	**Total Non Current Assets**		353,159	118,350
3,145,655	**Total Assets**		3,670,477	2,187,995
	Current Liabilities			
0	GST Payable		39,636	0
292,528	Sundry Creditors	(Note 2)	332,380	91,411
292,528	**Total Liabilities**		372,016	91,411
2,853,127	**NET ASSETS**		**3,298,461**	**2,096,584**

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

STATEMENT OF MOVEMENTS IN EQUITY
For the year ended 30 June 2000

Actual 98/99 $		Actual 99/00 $	Budget 99/00 $
2,905,796	Opening Equity 1 July 1999	2,853,127	2,853,127
(52,669)	Plus Net Surplus (Loss) (Total Recognised Revenues and Expenses)	445,334	(756,543)
2,853,127	Closing Equity 30 June 2000	**3,298,461**	**2,096,584**

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

STATEMENT OF CASH FLOWS
For the year ended 30 June 2000

Actual 98/99 $		Actual 99/00 $	Budget 99/00 $
	Cashflows From Operating Activities		
	Cash was provided from:		
6,147,556	Operating Grant	6,148,444	6,148,444
200,090	Interest on Short Term Deposits	120,634	101,939
40,787	Income Received	(2,547)	2,000
23,272	Publications Revenue	31,975	15,000
6,411,705		6,298,507	6,267,383
	Cash was applied to:		
(2,101,364)	Payments to Employees	(2,342,102)	(2,709,156)
(4,166,813)	Payments to Suppliers	(3,056,112)	(3,997,132)
(6,268,177)		(5,398,214)	(6,706,288)
143,528	**Net Cashflows From Operating Activities (Note 4)**	**900,293**	**(438,905)**
	Cashflows From Financing Activities		
	Cash was provided from:		
0	Capital Contribution	0	0
0	**Net Cashflows from Financing Activities**	**0**	**0**
	Cashflows from Investing Activities		
	Cash was provided from:		
0	Sale of Fixed Assets	0	20,000

STATEMENT OF CASH FLOWS – continued
For the year ended 30 June 2000

	Cash was applied to:		
(186,839)	Purchase of Fixed Assets	(205,856)	(203,285)
(186,839)	**Net Cashflows from Investing Activities**	**(205,856)**	**(183,285)**
(43,311)	**NET INCREASE IN CASH**	**694,438**	**(622,190)**
2,663,644	Cash brought forward	2,620,333	2,620,333
2,620,333	Closing Cash carried forward	**3,314,771**	**1,998,143**
	Cash Balances in the Statement of Financial Position		
164,933	Bank Account	14,771	150,000
2,455,400	Call Deposits	3,300,000	1,848,143
2,620,333		**3,314,771**	**1,998,143**

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

NOTES TO THE FINANCIAL STATEMENTS
For the year ended 30 June 2000

Actual 98/99 $	Note		Actual 99/00 $
	1	***Accumulated Funds***	
2,117,796		Opening balance	2,065,127
(52,669)		Net Surplus (Loss)	445,334
2,065,127		**Closing balance**	**2,510,461**
	2	***Sundry Creditors***	
186,058		Trade Creditors and Accruals	220,738
48,910		PAYE	54,047
57,560		Annual Leave	57,595
292,528			**332,380**

3 ***Fixed Assets***

99/00	*Cost*	*Accum Depn*	*Net Book Value*
	$	*$*	*$*
Computer Hardware	493,710	341,703	152,007
Computer Software	222,467	189,075	33,392
Communications Equipment	28,408	28,392	16
Furniture & Fittings	156,804	115,699	41,105
Leasehold Improvements	199,618	132,358	67,260
Motor Vehicles	42,280	42,280	0
Office Equipment	90,132	30,753	59,379
Total Fixed Assets	**1,233,419**	**880,260**	**353,159**

Actual 98/99 $	Note		Actual 99/00 $
	3	***Fixed Assets - continued***	

98/99

	Cost $	*Accum Depn* $	*Net Book Value* $
Computer Hardware	714,492	521,887	192,605
Computer Software	201,114	162,784	38,330
Communications Equipment	28,408	25,315	3,093
Furniture & Fittings	150,178	86,461	63,717
Leasehold Improvements	187,111	119,557	67,554
Motor Vehicles	42,280	35,536	6,744
Office Equipment	63,420	45,105	18,315
Total Fixed Assets	**1,387,003**	**996,645**	**390,358**

4 Reconciliation between Net Cashflows From Operating Activities and Net Surplus

Actual 98/99 $			Actual 99/00 $
(52,669)	Net Surplus		445,334
	Add Non-cash items:		
268,166	Depreciation		213,916
	Movements in Working Capital Items		
(105,610)	Increase/(Decrease) in Sundry Creditors	39,852	
18,424	Adjustment for other Creditors	13,486	
40,787	(Increase)/Decrease in Sundry Debtors	(2,547)	
5,872	(Increase)/Decrease in Prepayments	6,942	
(31,442)	(Increase)/Decrease in GST Receivable	167,658	
(71,969)			225,391
0	Net loss on disposal of assets		15,652
143,528	Net Cashflows From Operating Activities		**900,293**

Actual 98/99 $	Note		Actual 99/00 $
	5	***Commitments***	

(a) Advocacy Service contracts:

Ten contracts for the provision of consumer advocacy services ended on 30 June 1999. They were replaced by three performance based contracts effective from 1 July 1999 for a period of 24 months. The maximum commitment for the second 12 months from 1 July 2000 is $1,756,475.

(b) Premises Leases including leasehold improvements:

Auckland
$192,893 per annum until March 2002

Wellington
$76,000 per annum until March 2006

(c) Rental agreements:
Telecommunications equipment
$42,630 per annum until January 2004

Actual 98/99 $	(d) Classification of Commitments	Actual 99/00 $
2,000,422	Less than one year	2,067,999
2,000,422	One to two years	271,400
461,878	Two to five years	303,598
233,868	Over five years	57,000
4,696,590		**2,699,998**

6 ***Contingent Liabilities***

As at 30 June 2000 there were no contingent liabilities (1998/1999 Nil).

Actual 98/99 $	Note		Actual 99/00 $
	7	***Financial Instruments***	

As the Health and Disability Commissioner is subject to the Public Finance Act, all bank accounts and investments are required to be held with banking institutions authorised by the Minister of Finance.

The Health and Disability Commissioner has no currency risk as all financial instruments are in NZ dollars.

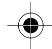
Credit Risk
Financial Instruments that potentially subject the Health and Disability Commissioner to credit risk principally consist of bank balances with Westpac Trust and sundry debtors.

Maximim exposures to Credit risk at balance date are:

Actual 98/99 $		Actual 99/00 $
2,620,333	Bank Balances	3,314,771
0	Sundry Debtors	2,547
2,620,333		**3,317,318**

The Health and Disability Commissioner does not require any collateral or security to support financial instruments with financial institutions that the Commissioner deals with as these entities have high credit ratings. For its other financial instruments, the Commissioner does not have significant concentrations of credit risk.

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



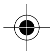
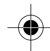
Actual 98/99 $	Note		Actual 99/00 $
	8	***Related party***	
		The Health and Disability Commissioner is a wholly owned entity of the Crown. The Crown is the major source of revenue of the Health and Disability Commissioner.	
		There were no other related party transactions.	
	9	***Exceptional items***	
		Last year the Commissioner began a Review of the Health and Disability Commissioner Act 1994 and the Code of Health and Disability Consumers' Rights as required by statute. This review has now been completed at a total cost of $139,394.	
		The Commissioner is undertaking a major investigation into Tairawhiti Healthcare Ltd in Gisborne. This investigation commenced in the year beginning 1 July 2000 with a budget of $150,000.	
98,122		Act and Code Review	41,272
98,122			**41,272**

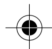
10 *Employee Remuneration*

Total remuneration and benefits	*Number of Employees*	
$000	*98/99*	*99/00*
120 - 130	1	1
160 - 170	1	1

The Commissioner's remuneration and allowances are determined by the Higher Salaries Commission in accordance with the Higher Salaries Commission Act 1977. The Commissioner's remuneration and benefits are in the $160,000 to $170,000 band.

STATEMENT OF SERVICE PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2000



KEY RESULT AREA 1: EDUCATION

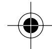
Health and disability services consumers and provider groups, and individuals are aware of the provisions of the Code of Health and Disability Consumers' Rights and Advocacy Services

Objective: *Provider education - Providers will have knowledge of the Code and advocacy services by June 2000. Emphasis on Pacific Island and Mental Health Providers*

	Target	Actual
Presentations to:		
General provider groups	50	63
Disability service provider groups	10	7
Maori provider groups	25	32
Pacific Island provider groups	15	20
Mental Health provider groups	60	86

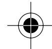
Objective: *Consumer education -Particular focus will be on Mental Health and Pacific Island groups*

	Target	Actual
Presentations to:		
General consumer groups	50	50
Disability consumer groups	10	9
Maori consumer groups	25	35
Pacific Island consumer groups	20	20
Other ethnic consumer groups	5	3
Mental health consumer groups	70	70



Objective: *General and health and disability sector awareness of Code and Advocacy Services. Particular focus will be on Mental Health and Pacific Island groups*

	Target	Actual
Presentations to: Other bodies and professional groups	15	30
General:		
Present educational seminars (re-scheduled due to appointment of new Commissioner)	2	-
Issue Media Releases	40	33
Distribute educational resources	100,000	320,010
Contribute articles to provider publications	40	45
Produce and distribute new educational resources	1	2
Produce and distribute Commissioner's Opinions on Website	50	193
Regularly update website	Up to date	Up to date



KEY RESULT AREA 2: ADVOCACY SERVICES

Operation of a New Zealand wide advocacy service from 1 July 1999 designed to assist health and disability services consumers resolve complaints about breaches of the Code at the lowest appropriate level

Objectives	Performance Measures
Nationwide advocacy services provided	• Three service contracts are in place, giving nationwide coverage
Training opportunities for advocates during the year	• Training held in November 1999
Ensure effective management of contracts	• Comment has been provided to advocacy services on plans and reports sent to the Director • Reports have been sent 6 monthly to Minister • Six monthly joint review meetings held with all services
Ensure effective delivery of contracted outputs	• 7,677 enquries handled • 5,286 complaints handled • 1,897 presentation delivered • 3,212 networking contacts made

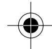
KEY RESULT AREA 3: INVESTIGATIONS

Assess and investigate complaints concerning breaches of the Code of Rights and provide mediation services as required

Objective: *To meet agreed throughput and quantity targets for the year.*

	Target	Actual
Enquires processed	8,000	4,785
Percentage closed within 48 hours	90%	96%
New Complaints	1,267	1,088
Closed Complaints	1,373	1,303
With the following status:		
Outside jurisdiction or referred to another agency.		346
Resolved by advocacy, meditation or between the parties		241
Investigation		716
Complaints still Open	684	575
At the following status:		
Preliminary Action		116
Under investigation		450
Awaiting implementation of recommendations		9
60% of open files will be under 1 year old.	60%	63%
Report regularly on outcomes of complaints processed	Monthly Report	Monthly Report

Note: As with the December 1999 Progess Report, the above reporting on actual complaints closed, or still open, is slightly altered to that in the Letter of Arrangement, so as to provide better outcome data on closure .



KEY RESULT AREA 4: PROCEEDINGS

Initiate proceedings in accordance with the Health and Disability Commissioner Act 1994

Objective: *Successful prosecution of cases where there is significant public interest involved*

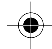
	Target	Actual
Identification of appropriate high priority cases expediting the procedure, ensuring preparation is done promptly and efficiently and achieves at least 80% success	80%	75%

KEY RESULT AREA 5: POLICY ADVICE

Advise the Public, the Minister of Health and Government Agencies on matters relating to the Code of Health and Disability Services Consumers' Rights and the administration of the Act.

Objective: *Commissioner supplies sound advice on the Act and Code of Rights*

	Target	Actual
Formal responses to enquiries regarding the Act and the Code of Rights	150	80
Submissions on policy and other legislation	25	28
Complete a review of the operation of the Act and Code in accordance with sections 18 and 21	Complete	Completed



KEY RESULT AREA 6: MANAGEMENT

The organisational structure and management systems support the efficient and effective delivery of the Commissioner's services and position the office well to deliver high quality services in the future

Objective: *Ensure Health and Disability Commissioner meets all its legislative and employer responsibilities*

	Target	Actual
Audit report clear of major issues	Clear of major issues	Unqualified opinion was signed off 19 October 1999
Policy manuals up to date	Up to date	Substantially revised and updated
Annual report completed on time.	On time	Report tabled and distributed to relevent parties and staff