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Report of the

**HEALTH AND DISABILITY  
COMMISSIONER**

*Te Toihau Hauora  
Hauātanga*

for the year ended  
30 June 1995

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

16 November 1995



Health and Disability Commissioner  
*Te Toihau Hauora, Hauātanga*

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 period ended 30 June 1995.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Robyn K. Stent', is written over a large, faint circular stamp or watermark.

Robyn K. Stent  
Health and Disability Commissioner

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## **Introduction**

The Health and Disability Commissioner Act was enacted in October 1994 and my appointment as the Commissioner was made effective 12 December 1995.

### *Purposes*

The purposes of the Health and Disability Commissioner Act include to

- promote and protect the rights of health consumers and disability services consumers; and
- to that end facilitate the fair, simple, speedy and efficient resolution of complaints relating to infringement of those rights.

### *Applicability*

The Act applies to all providers whether or not any charge is made for the services. The definition of a provider is very extensive and encompasses many forms of health and disability services.

### *Health Care Providers*

The Act sets out a list of health care providers which includes "any other person who provides, or holds himself or herself or itself out as providing, health services to the public or to any section of the public". Health care provider includes, for example, acupuncturists, reflexologists, health clinics and health shops.

### *Disability Services Providers*

A disability service provider "means any person who provides, or holds himself or herself or itself out as providing, disability services". Disability services include goods, services and facilities provided to people with disabilities for their care or support or to promote their independence. It will, for example, extend to special education units, voluntary agencies and families providing support in the home to people with disabilities.

## Office and Functions of the Commissioner

### Statutory Positions

The Act establishes three statutory positions. The Health and Disability Commissioner is appointed by the Governor General on the recommendation of the Minister. The Director of Advocacy and the Director of Proceedings are appointed by the Commissioner but have independent statutory functions. They are accountable to the Commissioner for the efficient, effective and economical management of their activities.

#### *The Health and Disability Commissioner*

The Commissioner's functions are scheduled in Section 14 of the Act and include to

- firstly draw up a Code of Health and Disability Services Consumers' Rights
- promote, by education and publicity, respect for and observance of consumers' rights
- make public statements and publish reports in relation to any matter affecting consumers' rights
- investigate either on complaint, or on the Commissioner's own initiative, any action that is or appears to be in breach of the Code
- make recommendations to the Minister and any other body regarding the rights of consumers and
- mediate resolution of complaints where appropriate.

The Commissioner must act impartially in exercising these functions and is therefore independent from the Director of Advocacy (whose role is to contract advocates to empower consumers) and the Director of Proceedings (who takes proceedings on behalf of complainants).

In carrying out the functions required by the Act it will be imperative to co-operate with many agencies. The Act specifically requires consultation and co-operation with the Human Rights Commission, the Race Relations Conciliator, the Privacy Commissioner, the Ombudsmen, the Director of Mental Health and the Commissioner for Children. In addition, interfaces will need to be established with the Coroner, the Police, Regional Health Authorities and many other agencies, including statutory health professional bodies. Under the legislation any complaints that go to statutory health professional bodies are to be directed in the first instance to the Health and Disability Commissioner. This will assist in ensuring there is a simple process for dealing with complaints.

#### *Director of Advocacy*

The Director of Advocacy is required to establish independent advocacy services nationally. On 1 May 1995, Mr Paul Curry was appointed the first Director of Advocacy and plans to have national advocacy services in place to coincide with the introduction of the Code in 1996. The advocates' role and function include assisting health and disability consumers with complaints they may have about services provided. Advocates do not have a role as mediators.

#### *Director of Proceedings*

The Director of Proceedings' function is to decide, on referral from the Commissioner, whether to institute or participate in proceedings against a person against whom a complaint has been made. The Director of Proceedings may provide representation in any court or before any health professional body. This statutory position will ensure all consumers have effective independent representation. The Director of Proceedings will be appointed in 1996, once the Code is in place.

## **The Code of Rights**

The establishment of a Code of Rights is fundamental to achieving the purpose of the Act and is the first function the Commissioner has to undertake. The Code is important as it creates legally enforceable rights.

### *Consultation*

The Act specifies the detailed process for establishing the Code.

The Commissioner must:

- Consult with and invite submissions from representatives of consumers and providers and specified statutory agencies, so that the Commissioner has a wide range of views available to assist in the preparation of the proposed draft Code.
- Publicly notify the proposed draft Code and request submissions from all persons who may have an interest.

The consultation commenced in March and 542 submissions were received by the Commissioner.

A proposed draft Code was prepared in June as a result of those submissions and research undertaken. A final draft Code will be prepared taking into account public submissions arising from this consultation.

### *Implementation*

After the final draft Code is completed, it must be forwarded to the Minister of Health who is responsible for implementing the Code by way of regulation.

### *Review*

The Commissioner is required to undertake a review of the Code every three years but this can be done in a shorter period. The review will involve a further consultation process.

The ability to alter the Code with relative ease will ensure the Code remains relevant.

### *Promotion*

The Code as presented is in the form of regulation. Promotional activities will present and explain the Code to particular community groups in a form and manner that is appropriate.

### **Investigation and Resolution of Complaints**

The Commissioner's role is to investigate complaints alleging any action of a provider is in breach of the Code. The Commissioner may decide to

- take no action on a complaint for reasons including time elapsed, triviality and complaints not made in good faith
- notify other statutory bodies such as the Ombudsman, the Privacy Commissioner, the Human Rights Commission
- notify the relevant health professional body and consult with it on the most appropriate means of dealing with a complaint
- arrange for mediation
- make such reports or recommendations as the Commissioner thinks fit
- refer the complaint to the Director of Proceedings who can decide whether to commence proceedings before a disciplinary board of a statutory body or the Complaints Review Tribunal.

The Commissioner's approach will be to encourage complaints to be addressed directly between the consumers and providers. This will give the opportunity for both parties to discuss the matter and hopefully come to a quick solution. It will also enable both parties to understand the issues which led to the



complaint and assist in ensuring these are not repeated. Support person(s) can often be useful in this process, as well as the independent advocates contracted by the Director of Advocacy. The opportunity to mediate will be a great improvement on the current statutory mechanisms.

### **Offices**

The Head Office has been established at level 3, 100 Molesworth Street, Wellington and an Auckland Office will be established early in 1996.

Functions operating from Wellington are planned to include Director of Advocacy, Director of Proceedings, legal advice and research, financial, technology, administration and investigations.

Functions undertaken through the Auckland Office will include communications, education, enquiries and investigations.

## Performance Statement

In the 7 months under review, the main tasks of the Commissioner were to establish an Office and commence the functions of drawing up a Draft Code of Rights.

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### *Objective 1*

#### **Head Office Establishment in Wellington**

- Ensure a Wellington head office is fully functional in terms of operational systems, policies, processes and human resource to meet the other first year objectives.
- Finalise statement of service performance, budgets, financial and reporting requirements to meet obligations under both the Health and Disability Commissioner Act and the Public Finance Act.

**Achievement:** The objective was met with premises being rented from 1 January. Logo, phones, stationery and administrative matters were complete in February in preparation for the launch of the draft Code in March. Budgets and financial reports have been finalised.

	Actual \$	Budget \$
Total Cost of Producing Output	489,542	817,657

All overheads have been allocated to this objective.

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*Objective 2*

**DRAFT CODE OF HEALTH AND DISABILITY CONSUMERS' RIGHTS**

**Commence as a first priority, preparation of a draft Code of Health and Disability Services Consumers' Rights as required by Section 14(a)**

- Prepare a plan for completion of the consultation process.
- By 30 June complete consultation on preparation and review of the draft Code as required by Section 23.
- Provide three monthly reports to the Minister as required by Section 19(c).

**Achievement:** A plan was prepared to present a draft Code to the Minister in October 1995.

Research was undertaken as well as public consultation which resulted in 542 submissions being received.

Reports to the Minister were sent in January, March and June.

	Actual	Budget
	\$	\$
Total Cost of Producing Output	324,025	408,200

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*Objective 3*

## OPERATION OF ADVOCACY SERVICES

**Appoint a Director of Advocacy and commence preparation of advocacy guidelines as required by Section 29**

- Advertise for, interview candidates and appoint a Director of Advocacy.
- Invite representations on advocacy guidelines simultaneously with the consultation on the draft Code.
- Finalise advocacy guidelines by 30 June 1995.
- Prepare plans for introducing advocacy services nationally.

**Achievement:** The Director of Advocacy, Mr Paul Curry, was appointed on 1 May 1995.

Consultation on advocacy guidelines was undertaken and 93 submissions received.

Research on advocacy internationally was undertaken.

The guidelines were not finalised and given to the Minister until September 1995.

The Director of Advocacy designed the system processes and structures for the implementation and operation of a New Zealand wide health and disability consumer advocacy service. New contracts were drawn up to take over the responsibility from the Minister of Health for the purchase of the current advocacy services in Auckland, Canterbury and Otago. The Request for Proposal Process was advertised nationwide.

	Actual \$	Budget \$
Total Cost of Producing Output	83,056	67,000

**HEALTH AND DISABILITY COMMISSIONER  
STATEMENT OF FINANCIAL PERFORMANCE  
For the 7 Months Ended 30 June 1995**

	<b>Current (\$)</b>	<b>Budget (\$)</b>
<b>Income</b>		
Operating Grant Received	1,205,985	1,205,985
Interest Received	<u>16,099</u>	<u>0</u>
<b>TOTAL INCOME</b>	<b>1,222,084</b>	<b>1,205,985</b>
<b>Less Expenses</b>		
Audit Fees	3,000	5,000
Staff Costs	353,743	560,200
Travel and Accommodation	58,073	106,500
Depreciation	13,922	32,440
Occupancy	25,942	58,000
Communications	127,828	293,050
Operating Costs	<u>314,115</u>	<u>237,666</u>
<b>TOTAL EXPENSES</b>	<b><u>896,623</u></b>	<b><u>1,292,856</u></b>
<b>Net Operating Surplus/(Deficit)</b>	<b><u>325,461</u></b>	<b><u>(86,871)</u></b>

The notes on pages 17 to 20 form part of and should be read in conjunction with these financial statements.

**HEALTH AND DISABILITY COMMISSIONER  
STATEMENT OF FINANCIAL POSITION  
As At 30 June 1995**

	Note	Actual (\$)	Budget (\$)
<b>Crown Equity</b>			
Accumulated Funds		325,461	(86,871)
Capital Contributed	1	<u>394,000</u>	<u>394,000</u>
		719,461	307,129
<b>Current Liabilities</b>			
Sundry Creditors	2	<u>417,761</u>	
		<u>417,761</u>	<u>350,000</u>
		<u>1,137,222</u>	<u>657,129</u>
<b>Current Assets</b>			
Bank Account		255,147	113,569
Call Deposits		516,412	100,000
Prepayments		73,522	75,000
Bond Payments		1,921	-
Ansett Flight Card		10,000	-
Sundry Debtors		<u>9,541</u>	<u>7,000</u>
		866,543	295,569
<b>Fixed Assets</b>	3	<u>270,679</u>	<u>361,560</u>
		<u>1,137,222</u>	<u>657,129</u>

The notes on pages 17 to 20 form part of and should be read in conjunction with these financial statements.



Health and Disability Commissioner

**HEALTH AND DISABILITY COMMISSIONER  
STATEMENT OF CASH FLOWS  
As At 30 June 1995**

	Note	Actual (\$)	Budget (\$)
<b>Cashflows From Operating Activities</b>			
Cash was provided from:			
Operating Grant		1,205,985	1,205,985
Interest on Short Term Deposits		<u>16,099</u>	<u>0</u>
		1,222,084	1,205,985
Cash was applied to:			
Payments to Employees	190,947		350,000
Payments to Suppliers		<u>462,458</u>	<u>642,416</u>
		<u>653,405</u>	<u>992,416</u>
Net Cashflow From Operating Activities	4	568,679	213,569
<b>Cashflows From Financing Activities</b>			
Cash was provided from:			
Capital Contribution		<u>394,000</u>	<u>394,000</u>
Net Cashflow From Financing Activities		394,000	394,000

**HEALTH AND DISABILITY COMMISSIONER  
STATEMENT OF CASH FLOWS continued  
As At 30 June 1995**

	Note	Actual (\$)	Budget (\$)
<b>Cashflows From Investing Activities</b>			
Cash was applied to:			
Purchase of fixed assets	<u>191,120</u>		<u>394,000</u>
Net Cashflow From Investing Activities		<u>(191,120)</u>	<u>(394,000)</u>
<b>NET INCREASE IN CASH</b>		<u>771,559</u>	<u>213,569</u>
<b>Cash Balances In The Statement of Financial Position</b>			
Bank Account		255,147	113,569
Call Deposits		<u>516,412</u>	<u>100,000</u>
		<u>771,559</u>	<u>213,569</u>

The notes on pages 17 to 20 form part of and should be read in conjunction with these financial statements.



**HEALTH AND DISABILITY COMMISSIONER  
STATEMENT OF ACCOUNTING POLICIES  
As At 30 June 1995**

**Statutory Base**

The financial statements have been prepared in terms of Section 41 and Section 42 of the Public Finance Act 1989. Generally accepted accounting practice recognised as appropriate for the measurement and reporting of results and financial position on a historical cost basis have been followed.

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.

**Particular Accounting Policies**

- a) **Accounting Period:**  
These statements cover the financial performance and financial position for the 7 months ended 30 June 1995.
- b) **Comparative Figures:**  
This is the first period of operation for the Health and Disability Commissioner therefore no prior comparative figures are available.
- c) **Depreciation:**  
Fixed assets are depreciated on a straight line basis over the useful life of the asset. The estimated useful life of the class of assets is as follows:
- |                            |         |
|----------------------------|---------|
| - Furniture & Fittings     | 5 years |
| - Office Equipment         | 5 years |
| - Leasehold Improvements   | 2 years |
| - Communications Equipment | 4 years |
| - Motor Vehicles           | 5 years |
| - Computer Hardware        | 4 years |

- d) **GST:**  
The financial statements are shown exclusive of GST and the net GST at the end of the period is included as an asset.
  
- e) **Fixed Assets:**  
Fixed assets are stated at their cost less accumulated depreciation.
  
- f) **Accounts Receivable:**  
Accounts receivable are stated at their estimated net realisable value.

**HEALTH AND DISABILITY COMMISSIONER  
NOTES TO THE FINANCIAL STATEMENTS  
For The 7 Months Ended 30 June 1995**

1. *Capital Contributed*

The Health and Disability Commissioner received equity funding from Government of \$394,000 as contribution towards the purchase of fixed assets.

2. *Sundry Creditors*

	<b>Actual \$</b>
Trade Creditors	286,285
PAYE	17,288
Accruals	<u>114,188</u>
	<u>417,761</u>

3. *Fixed Assets*

	<b>Cost \$</b>	<b>Accum Depn \$</b>	<b>Closing Bk Val \$</b>
Computer Hardware	132,731	5,627	127,104
Communications Equipment	2,524	66	2,458
Furniture & Fittings	37,274	933	36,341
Leasehold Improvements	21,350	3,302	18,048
Motor Vehicles	42,280	1,713	40,567
Office Equipment	<u>48,442</u>	<u>2,281</u>	<u>46,161</u>
	<u>284,601</u>	<u>13,922</u>	<u>270,679</u>

4. *Reconciliation Between Net Cashflows From Operating Activities and Net Operating Surplus*

	<b>Actual \$</b>
Net Operating Surplus	325,461
<i>Add Non-cash Item</i>	
Depreciation	13,922
Increase in Sundry Creditors	417,761
Increase in Fixed Asset Creditors	<u>93,483</u>
	324,278

*Less*

Increase in Sundry Debtors	9,539	
Increase in Prepayments	73,522	
Increase in Bond Payment	1,921	
Increase in Ansett Flight Card	<u>10,000</u>	<u>229,296</u>
Net Cashflow From Operating Activities		<u>568,679</u>

5. *Commitments*

a) Three contracts exist for the provision of consumer advocacy services. They are all effective from 1 July 1995 for a period of nine months. The total commitment of \$661,698 (excl GST) is payable in nine monthly instalments.

b) An agreement to lease offices on Level 3, State Services Commission Building, 100 Molesworth Street, Wellington, for two years from 1 April 1995.

Commitment remaining at balance date, \$79,588 payable monthly.

In addition 3 carparks in this building at \$65 per week for this term.

c) An agreement to lease accommodation at 82b Washington Ave, Brooklyn for a 6 month period from 11 May 1995 payable at \$900 fortnightly.

6. *Contingent Liabilities*

As at 30 June 1995 there were no contingent liabilities.

## **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 period ended 30 June 1995.

R.K. Stent  
Health and Disability Commissioner



Audit New Zealand

**REPORT OF THE AUDIT OFFICE  
TO THE READERS OF THE FINANCIAL STATEMENTS OF  
THE HEALTH AND DISABILITY COMMISSIONER FOR THE  
YEAR ENDED 30 JUNE 1995**

We have audited the financial statements on pages 10 to 20. The financial statements provide information about the past financial and service performance of the Health and Disability Commissioner and its financial position as at 30 June 1995. This information is stated in accordance with the accounting policies set out on pages 17 to 18.

**Responsibilities of the Commissioner**

The Public Finance Act 1989 and the Health and Disability Commissioner Act 1994 requires the Commissioner to prepare financial statements in accordance with generally accepted accounting practice which fairly reflects the financial position of the Health and Disability Commissioner as at 30 June 1995, the results of its operations and cash flows and the service performance achievements for the year ended 30 June 1995.

**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 Mr CR Fabling, 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 judgements 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 in 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 10 to 20

- comply with generally accepted accounting practice *and*
- fairly reflect:
  - ⇒ the financial position as at 30 June 1995 *and*
  - ⇒ 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 17 November 1995 and our unqualified opinion is expressed as at that date.



CR Fabling

Audit New Zealand

On behalf of the Controller and Auditor-General

Wellington, New Zealand