



# Inquiries

Alongside the Auditor-General's primary function, of carrying out annual audits for about 4000 public entities in the public sector, we are able to inquire in detail into issues of concern that are raised with us. The Auditor-General is also an "appropriate authority" under the Protected Disclosures Act 2000. This means that public sector employees who are concerned that there may be serious wrongdoing in their organisation are protected if they disclose information to us under the Act's procedures. We deal with protected disclosures as part of our general inquiries work.

This inquiries function is discretionary. We receive many requests for inquiries each year, and choose carefully which issues warrant investigation by this office. No-one can make the Auditor-General investigate a matter. We make these decisions independently.

Inquiries can be large or small, cover a wide range of issues, and take weeks or months to complete. Larger inquiries can involve significant amounts of staff time and other resources, for both our office and the entity we are investigating.

We carry out inquiries on our own initiative or on request from a member of the public, an employee, a member of Parliament, or another organisation. However, we are not a general complaints agency.

## The types of issues we look at

Our role as auditors of public entities affects how we select matters for inquiries, in two ways.

First, we can only look at issues relating to public entities. We have no role in relation to the activities of private individuals or private sector organisations. If a private organisation is receiving funding from a public entity, we can look at how the public entity is managing the funding relationship but not at what the private organisation is doing.

Second, our focus is on the way public entities use their resources, including financial, governance,

management and organisational issues. The Auditor-General's office is not an avenue for resolving individual complaints or concerns about how a public entity has handled a particular matter.

We examine each request to decide the most appropriate way to proceed. We identify whether the matters raised suggest:

- financial impropriety,
- problems with the organisation's overall governance or management, or
- other systemic or significant concerns that may be important for the organisation, the sector it operates in, or the general public.

Other factors we consider include how serious the issues are, whether we have the resources and technical skills to consider them properly, and whether the issues may be better addressed through other avenues.

## The limits of our role

In both audits and inquiries, our role is to investigate and to report our findings and our opinion. Our scrutiny and reporting helps hold public entities to account, and we can refer issues to other agencies for action. However, we do not have direct power to change what an entity is doing.

When people ask us to inquire into an issue, it is important that they understand the limits of our role. For example:

We cannot intervene in decisions that public entities are making, or the decision-making processes they are following.

- We cannot injunct or stop activities or contracts.
- We cannot make a binding judgement about the legality of actions.
- We cannot order redress or other remedies, or overturn decisions.
- We cannot direct a public entity to act on our findings or recommendations.



*We choose carefully which issues warrant investigation by this office.*

It is also not appropriate for us to take on the role of the entity or attempt to function as a court. Therefore:

- We will not substitute our views for those of elected or appointed decision-makers on matters that are their responsibility (such as policy decisions by local authorities).
- We cannot operate effectively as an appeal body for individual decisions that may be unpopular.
- We cannot take on the judicial review function of the courts, by acting as a forum for detailed assessment of the legality of decision-making processes.

## How to ask for an inquiry

To ask us to consider an inquiry, please use the following process:

### Step 1 – Raise the matter with the entity

If you are concerned about a public entity's use of its resources, first take your concern to the relevant public entity and seek its response. We will usually inquire into a matter only after there has been an attempt to raise the matter with the public entity concerned.

### Step 2 – Are we the best authority to consider your concerns?

Before writing to us, consider if we are best suited to look into your concerns. There may be another authority that is more appropriate or better able to help you. You might also want to contact any central government department that has responsibility for the area (such as the Ministry of Education if the matter involves a school or a tertiary education institution).

### Step 3 – Write to us

If you are not satisfied with the public entity's response and want to raise the matter with us, please provide your request to us in writing. Give us as much information as you can, including:

- a factual description of the matter, and what your specific concerns are,
- what steps you have taken to raise your concerns or resolve these issues, including who you have been in contact with and the outcome of this,
- why you think the matter should be of concern to the Auditor-General, and
- copies of any relevant correspondence or documents that may be helpful to us in understanding and considering the issues.

You must tell us if you are an employee of an organisation and are writing to us under the Protected Disclosures Act 2000. You should also ensure that you have followed your organisation's internal procedures first. If you have not, that can affect whether the Act will protect your employment.

Send the information to:

The Controller and Auditor-General  
Office of the Auditor-General  
PO Box 3928  
Wellington.

Or you can email the information to [enquiry@oag.govt.nz](mailto:enquiry@oag.govt.nz).



*Given the confidential nature of most of our work, the Official Information Act 1982 does not apply to the Auditor-General*



*We do not provide public updates on progress or the substance of what we are doing, because this can hamper our work.*

## Our inquiry process

We will acknowledge that we have received your request within a few days.

If your concern is not suitable for an Auditor-General's inquiry, then we will reply to let you know that we cannot look at it. Where we can, we will redirect you to another agency. We aim to let you know within 30 days whether it is an issue we can consider.

We classify the matters we can look at into three categories – routine, significant, and major – depending on how serious the issues are and how much work is involved.

### Routine inquiries

A routine inquiry involves straightforward issues and can often be carried out by a review of documents or through correspondence and discussion with the entity. Often, we will carry out enough preliminary work to understand the problem and gain assurance that the issues are or will be addressed by those directly responsible.

A routine inquiry will usually not result in a published report. We always advise the correspondent of our conclusions and the reasons for them, and in some cases we advise the public entity of the matter.

We aim to complete routine matters within 3 months.

### Significant and major inquiries

Significant and major inquiries involve more complex issues that require in-depth work. We usually review the public entity's files and may formally interview people. We ensure that we comply with our natural justice obligations, by giving those affected an opportunity to comment before we finalise our views.

We will usually report the results publicly, as well as advising the correspondent of our conclusions.

We aim to complete most significant inquiries within 6 months and major inquiries within a year.

### Confidentiality

When an employee raises a matter with us under the Protected Disclosures Act 2000, we are obliged to protect that person's identity.

As a matter of policy, we apply the same approach to all the requests we receive. We think it is important that people should be able to ask us to look at whether a public entity is using its resources properly without fear or reprisal.

There are times when it is not possible to investigate a matter properly without it becoming obvious who has raised it. In such cases we will check with the correspondent before we proceed.

Given the confidential nature of most of our work, the Official Information Act 1982 does not apply to the Auditor-General. Instead, the Public Audit Act 2001 gives us a discretion on what information we will publicly release.

### Our policy on public and media comment on current inquiries

If we receive a media query, we will confirm that we have received a request and that we are looking into an issue. For major inquiries, we will usually release public terms of reference.

However, we carry out inquiries in private. We do not provide public updates on progress or the substance of what we are doing, because this can hamper our work.

In each case, we decide what information we should release at the end of an inquiry about our findings and conclusions. For significant inquiries, we often publish our findings on our website. For major inquiries, we will usually publish a report and table it in Parliament.

## Exploring other avenues

Other authorities may be able to help you:

- State Services Commission: concerns about the performance of public service departments, and integrity and conduct in the public service and the wider State services.
- Office of the Ombudsmen:
  - complaints under the Ombudsmen Act 1975 about “matters of administration”, such as an allegation of unfair treatment by a public sector organisation or other matter that affects an individual personally, and
  - reviews of decisions under the Official Information Act 1982 or Local Government Official Information and Meetings Act 1987, such as a request for access to official information that has been declined.
- New Zealand Police or Serious Fraud Office: fraud, which can include matters of criminal misconduct involving a public office holder, and related criminal proceedings.
- Privacy Commissioner: complaints about interferences with privacy under the Privacy Act 1993, such as refusal of access to personal information.
- Human Rights Commission: complaints about discrimination on grounds such as age, ethnic origin, and disability.
- Health and Disability Commissioner: complaints of breaches of the Code of Health and Disability Services Consumers’ Rights, concerning both publicly owned and private providers.
- Parliamentary Commissioner for the Environment: concerns that the environment may be, or has been, adversely affected.
- Commerce Commission: anti-competitive behaviour by businesses, and false or misleading trading practices.

Charities Commission: conduct in breach of the Charities Act or serious wrongdoing in connection with a registered charity.

Securities Commission: securities markets activities, matters that may affect the interests of investors, and possible breaches of securities law.