Dear Lyn Provost, dear Maria Rawiri, dear staff at the Office of the Auditor-General

I have received your letter dated 09 April 2015, which was attachment to an email received by me on that same day. With honest disbelief do I take note of your third response to the third request I presented to your Office in this matter of serious concern. I must inform you that I remain to be convinced that certainly my last request from 30 December 2014, under the Public Audit Act 2001 (the Act), falls into your scope of responsibilities. Yet you have once again decided to take no action, to neither conduct an inquiry, nor an audit, under sections 16 (1) (a), (b) and (d) and 18 (1) of the same Act.

After having reviewed the information I sent you, you wrote the following: “It is clear from your correspondence that both the Health and Disability Commissioner and the Ombudsman have looked into the various concerns you have directed to them about breaches of the Code of Health and Disability Services Consumers Rights and the handling of your complaint(s) by the Health and Disability Commissioner.” You also wrote: “This office has no powers to change the outcome of the assessments made by those agencies”.

You furthermore stated in your letter: “The Chief Ombudsman has been very open about the challenges her Office faces in her annual reports and briefings to Parliament. In our view any work on our part is unlikely to provide further significant insights on the performance of the Office of the Ombudsman.” You also made clear that it is the Auditor General’s decision whether an inquiry is initiated. You admitted that amongst other mentioned focus areas, your Office also examines management and organisational issues of public entities. You wrote that you identify whether 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.

You stated that other factors you consider include how serious the issues are, whether you have the resources and technical skills to consider them properly, and whether the issues may be better addressed through other avenues. You justified your decision not to conduct an inquiry with the comment, that “there is sufficient public information available to enable the Office of the Ombudsman to be held to account for its performance and to inform decision making by the Executive and Parliament.” With that you considered the matter closed.
As I informed you in my earlier correspondence, I did not expect that your Office’s possible actions in the form of conducting an inquiry and/or special performance audit would change the outcome of assessments or decisions made by the Health and Disability Commissioner and the Office of the Ombudsman. What I expected was that your Office takes the above actions, to establish what particular performance issues there are in the specified areas at the Office of the Ombudsman, and to report on this, nothing more or less. Hence your comments about outcome changes are in my view irrelevant. Of course have both Offices “looked into the various concerns” I directed to them, but neither Office did properly assess and address them. They both decided to take no action, despite of ample evidence I presented re breaches of the Code of Health and Disability Services Consumers’ Rights, and also re unprofessional or inappropriate conduct by some staff members, primarily at the Office of the Health and Disability Commissioner. Through close analysis it becomes clear, that neither of both Offices considered all the factual and relevant information or evidence, and the investigating and assessing staff at both Offices based their decisions on rather irrelevant considerations.

I have noted your new acknowledgment re the challenges the Chief Ombudsman’s Office faces, which appears to be in some contrast to your comments in your letter from 30 October 2014, where you wrote: “The Office of the Ombudsmen recently released its Annual Report for 2013/14. This report includes comments on several of the issues you raised, especially around timeliness and resourcing, which you may find of interest.” I informed you before, that I read that Annual Report 2013/14 and that the report would not sufficiently address, and not at all resolve, any of the concerns I have.

In regards to some of the problems mentioned in past annual reports by the Office of the Ombudsmen, I may inform you that my recent experience shows me, that nothing has changed or improved in the performance at the Office of the Ombudsman. This is despite of some information in the annual report 2013/14 stating that more funding had been provided. I am still waiting for an Official Information Act related complaint from mid 2013 (ref. 3xxxxx), about the Ministry of Social Development withholding specified information that I sought, to be resolved by the Ombudsman. Over that time two or three other complaints about other cases where MSD did not provided the reasonably sought and expected information, have been added to that complaint, and are still only extremely slowly “progressed”. Also did I have reason to file a complaint about a decision by the Privacy Commissioner, dated 15 December 2014, and sent to the Ombudsman’s Office on the following day, which has up to this date not even been assessed. That matter under file reference 39xxx9 appears to be still in the process of being allocated to an investigator, as an email from the Office, dated 12 January 2015, informed me. Xxxxx Pxxxx, Manager Intake and Assessment, informed me that “due to the volume of complaints this Office is managing we are experiencing delays in progressing some of the complaints before us.” She also wrote: “We will work through the complaint you have made and the facts you have given us and contact you again. If we have not allocated your complaint to an investigator within the next six weeks, we will send you an update on your complaint.” No update or response has been received by me until this day!

Besides of the ongoing timeliness issues, my main concern has though been the conduct and performance of investigating Officers at the Ombudsman’s Office, when handling complaints. Also the unwillingness of the Chief Ombudsman, to look herself at relevant correspondence and evidence, instead of simply relying on her staff member’s judgment and advice, has been a concern. Miss Wakem did as employer regrettable refuse to examine her investigating Officer’s performance and conduct. I even presented the fact that staff at the Office of the Health and Disability Commissioner lied about email evidence they received with one of my complaint, and that the investigating Officer at the Ombudsman’s Office ignored that and other relevant information. There are evident problems with the whole Office’s and management’s performance, there are systemic performance issues causing significant concerns, important for the organisation and the role the Office of the Ombudsman is meant to perform. Given the Ombudsman’s own admissions, and reports of other complainants experiencing numerous problems, the matters I raised with your Office are of serious concern for the general public.

In my view such serious matters should have compelled you to take some action. It is in my view not sufficient to simply conduct the ordinary annual financial audits for the Office of the Ombudsman and have this included in that Office’s Annual Report. The evidence I provided should have been more than sufficient reason for your Office to conduct a separate, independent and thorough inquiry and audit, as you have done re matters of apparently even lesser significance. Besides of its many other functions, the Office of the Ombudsman is
expected to perform a high level watchdog and complaints resolution role, but with the ongoing problems that persist, it has to some degree become dysfunctional.

With much regret, I must inform you that I have now lost confidence in the Office of the Auditor General, same as I have already previously lost faith in the Office of the Health and Disability Commissioner and the Office of the Ombudsman. My experiences have sadly been extremely negative, and it astounds me, that a justifiably aggrieved person, who is seeking an honest and proper effort in the form of a proper assessment and investigation of complaints, is being passed on from one agency to another. From each Office I was simply asking for a proper assessment, followed by an investigation. From the Health and Disability Commissioner and the Ombudsman I expected an official, formal acknowledgment of failures or wrongdoings I experienced at the hands of mentioned persons or agencies. Even just a fair and reasonable recommendation for problems to be remedied would have sufficiently addressed my concerns.

Given my previous experiences, and the recent, third decision by your Office, to take no action, I am left to wonder, whether this decision was made, so as to not upset persons working at the Ombudsman’s Office, who may be personally known to some of your staff. I am indeed missing a sense of integrity to the purpose of the existence of the Office of the Auditor General. But I dare not raise further questions based on such speculations.

While I note that at the end of your letter from 09 April 2015 you “cc” The Right Honourable David Carter, Speaker of the House of Representatives, there was no clear mention whether you have now actually passed on all the correspondence and evidence I presented to your Office also to the Speaker’s Office. In order to clarify matters, I must therefore ask you to at least confirm to me in writing, that this has been done, and that I can look forward to a response from the Speaker or his staff in due time.

Please find attached to this letter two PDF files containing two emails from the Office of the Ombudsman, confirming the already known, and unchanged serious problems the Office faces. Your written response in this matter will be expected in due time.

Yours sincerely

Xxxxxxx Xxxxxx

Attachments (2 PDF files with last correspondence from Ombudsman Office):

2. Ombudsman, complaint, Priv. Cmnsr, ref. 39xxx9, update, delay, email, 12.01.15.pdf.