



OMBUDSMAN
CAYMAN ISLANDS

Annual Report
2019



TRUDYANN MARTINSON
Data Protection
Analyst



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Message from the Ombudsman

The year 2019 marked a time of growth and change for the Office of the Ombudsman, as we entered our second full year of operations. We made substantial progress in establishing our organization as the public sector oversight body for maladministration complaints, citizen complaints about police officers, whistleblower protection, open records and data protection.

This was no small task. The past year posed considerable challenges, but also presented a myriad of new opportunities for hardworking and dedicated staff members, as well as our external partners, to improve the public services provided by the Cayman Islands Government. I am proud to report that the goals we set ourselves were met, and in many instances, exceeded.

NEW OFFICE SPACE

One of our biggest challenges in 2019 was the completion of our new office space. When I arrived in September 2017, it was apparent that the premises previously designed for the Office of the Complaints Commissioner and the Information Commissioner Office were not fit for purpose. While the two offices had an adjoining door, there were many inefficiencies. For example, we had two supply rooms, too many offices and not enough common space. We presented a business case for developing new office space and received Cabinet approval in 2018. Despite many setbacks along the way, we moved into our new space in

September. I would like to thank all staff for their patience and good humour throughout the process. We are thrilled with the new space. We are now working in an open plan environment which has resulted in many opportunities for collaboration and cooperation.

COMPLAINTS DIVISION

Our Complaints Division saw increases in all areas in 2019. We were able to manage the increased workload in maladministration complaints despite the resignation of two of our experienced investigators. This was accomplished through the continued success of our early resolution process as well as the tremendous effort and cooperation of our remaining team members in pulling together to get the work done.

In addition to our resolution and investigative work, we also made 26 presentations about customer service to the Royal Cayman Islands Police Service.

One of our major goals for 2019 was to clear the backlog of historical complaints about police conduct which we inherited in 2018. We made incredible progress in this regard with only seven of the 143 historical complaints remaining to be resolved at the end of the year. We achieved another significant milestone this year when we completed the investigation of the first disclosure of improper conduct under the ***Whistleblower Protection Law***.

“Change is
inevitable,
growth is
intentional.”

Hermiston

Sandy Hermiston | JP
Ombudsman



INFORMATION DIVISION

Our Information Division faced a major challenge this year with the **Data Protection Law** coming into force at the end of September. We hired three new staff members to take on the responsibility of implementing the data protection program and they have come together as a team in record time to meet the challenge head on. They answered a remarkable 192 inquiries about data protection! In addition, we received 12 complaints in the last quarter of 2019 and resolved 11, leaving only one to carry forward to 2020. We also received 25 data breach notifications of which nine were resolved. Our Data Protection Team made 45 presentations to the community about the new law. In addition, Deputy Ombudsman Jan Liebaers and his team participated on a number of expert panels at conferences as well as making radio appearances and marking international awareness days (Right to Know Day and Data Privacy).

I issued an unprecedented 12 appeal decisions under the **Freedom of Information Law** in 2019. We intend to address this increase in 2020 by reviewing our processes and offering education about our appeals process for Information Managers. Our focus in 2020 will be to resolve as many appeals as possible through our early resolution process.

CONCLUSION

I would like to thank our dedicated team members who contribute their skills, experience, enthusiasm and hard work to fulfill our mandate of providing independent oversight of the public sector by investigating complaints about government maladministration and police conduct, hearing appeals about freedom of information requests, as well as investigating complaints about data protection regulation and whistleblower protection disclosures emanating from the public and private sectors. Our portfolio houses an enormous responsibility and it takes a truly dedicated team to provide the excellent service that we do.

A professional portrait of Shamique Frederick, a woman with long, dark, wavy hair, smiling and looking to the left. She is wearing a dark top and a gold necklace with a diamond-like detail. The background is a bright blue wall with a white vertical stripe on the right. The text is positioned to the left of her head.

SHAMIQUE FREDERICK
Appeals & Compliance
Analyst

Roles & Goals

The Office of the Ombudsman has a wide variety of responsibilities covering both the public and private sectors. We are:

- *the final stage for complaints about the public sector including government ministries, companies, departments, portfolios, statutory bodies and authorities*
- *the oversight body for complaints about police conduct including death or serious harm*
- *the public body authorized to provide whistleblower protection by receiving and investigating disclosures of improper conduct and complaints of detrimental action*
- *the appeal body for freedom of information requests*
- *the regulatory authority for data protection and privacy*

Our strategic goals are to provide independent oversight of the public and private sectors, improve public administration and use our resources efficiently and effectively.



ALAN SLATER
Police Investigator

CHARLENE ROBERTS
Senior Appeals
& Policy Analyst



SANDY HERMISTON
Ombudsman

JAN LIEBAERS
Deputy Ombudsman
Information

Overview

INQUIRIES

(1 January to 31 December 2019)



CASES

92

CASES CARRIED
FORWARD FROM 2018

[2018 = 17]

FREEDOM OF INFORMATION	15
MALADMINISTRATION	9
POLICE COMPLAINTS	67
WHISTLEBLOWER PROTECTION	1

201

CASES RECEIVED
IN 2019

[2018 = 230]

FREEDOM OF INFORMATION	26
DATA PROTECTION	37
MALADMINISTRATION	72
POLICE COMPLAINTS	62
WHISTLEBLOWER PROTECTION	4

233

CASES CLOSED
IN 2019

[2018 = 155]

FREEDOM OF INFORMATION	28
DATA PROTECTION	20
MALADMINISTRATION	75
POLICE COMPLAINTS	105
WHISTLEBLOWER PROTECTION	5

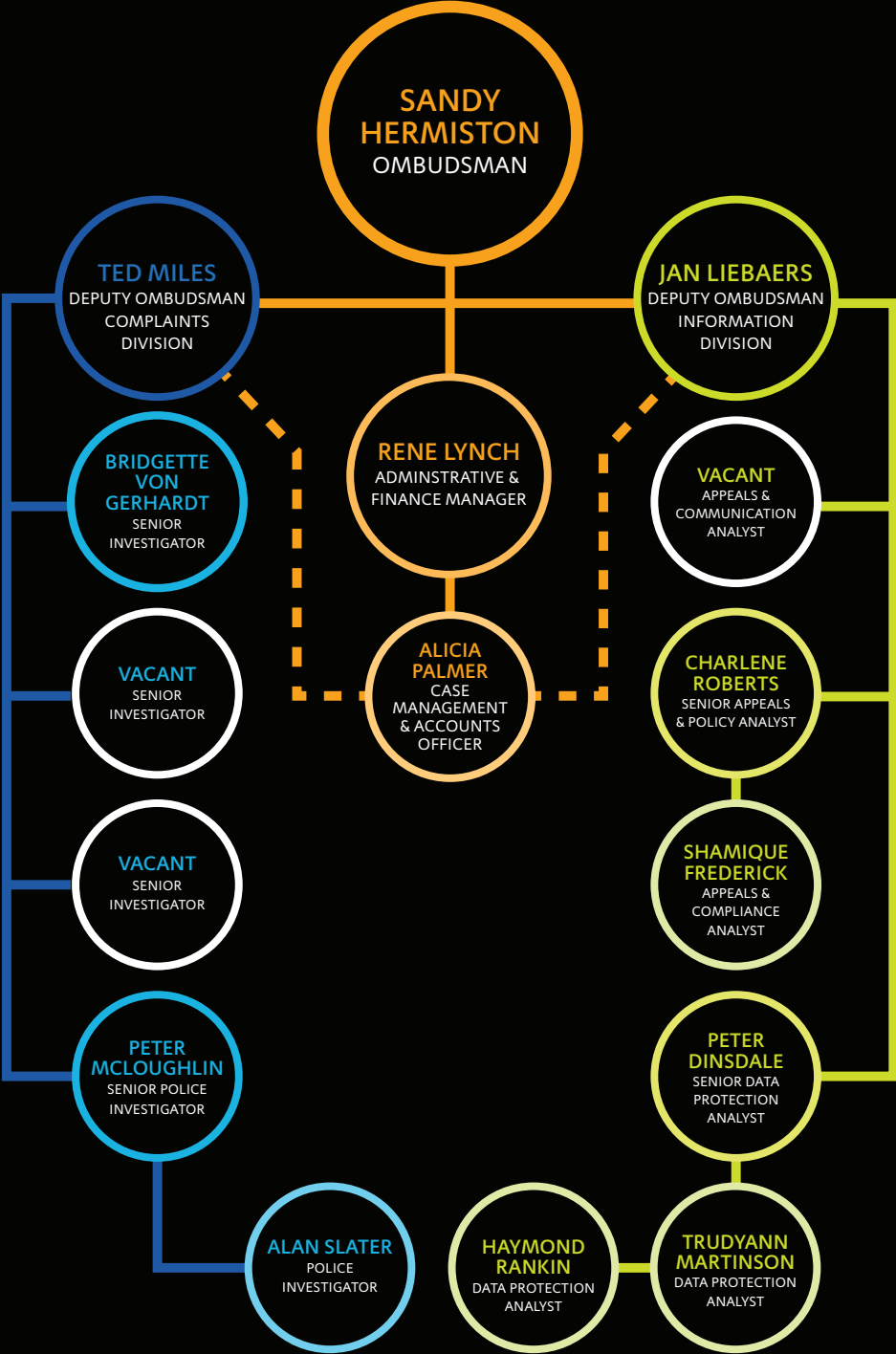
60

OPEN CASES AT
31 DECEMBER 2019

[2018 = 92]

FREEDOM OF INFORMATION	13
DATA PROTECTION	17
MALADMINISTRATION	6
POLICE COMPLAINTS	24

ORGANISATIONAL CHART



Human Resources

In 2019 we hired three new staff members in our Information Division to deal with our newest area of responsibility – data protection. We are pleased to have welcomed two Caymanians as data protection analysts. We have made a commitment to provide all of the training necessary for them to become experts in the field. We also hired a new senior data protection analyst to fill a vacancy created when the previous incumbent resigned because the coming into force of the **Data Protection Law** was delayed.

Our Complaints Division saw significant turnover in 2019. It was a huge loss to our office – but a real gain for the public sector when two of our seasoned senior investigators left us for more senior positions within the public service. We were able to hire two new investigators, both of whom will join us in early 2020.

Our staff complement is 16 full time positions. By the end of 2019 we had filled 15 of those positions and we are planning to fill the 16th in the first half of 2020.

TRAINING AND DEVELOPMENT

Investigators in our Complaints Division attended the Caribbean Ombudsman Association Conference in Bermuda in 2019. The theme of the conference was “Strengthening the Role and Performance of the Ombudsman and Human rights Institutions in the Caribbean and Latin America”. Following the conference, they attended a training session supported by the International Ombudsman Institute. The theme for the training session was “Advancing the Ombudsman’s Impact, Role, Service and Performance”.

The appeals and compliance analyst in our Information Rights Division attended training in UK Information Rights legislation including Freedom of Information and Data Protection in order to assist her in preparing for the Practitioner Certificate in Freedom of Information. Our senior appeals and policy analyst attended a Freedom of Information Workshop in Gibraltar to learn more about case handling and to continue to expand her knowledge and understanding of freedom of information law.

Information Rights Division

FREEDOM OF INFORMATION

The Freedom of Information Law (2018 Revision) (FOI Law) was amended in the course of its 11th year of operation; it remains a valued tool for the public to use to request information from public sector entities, and to appeal access decisions to the Office of the Ombudsman.

The FOI Law grants the public a general right of access to records held by public authorities, except where they are exempted.

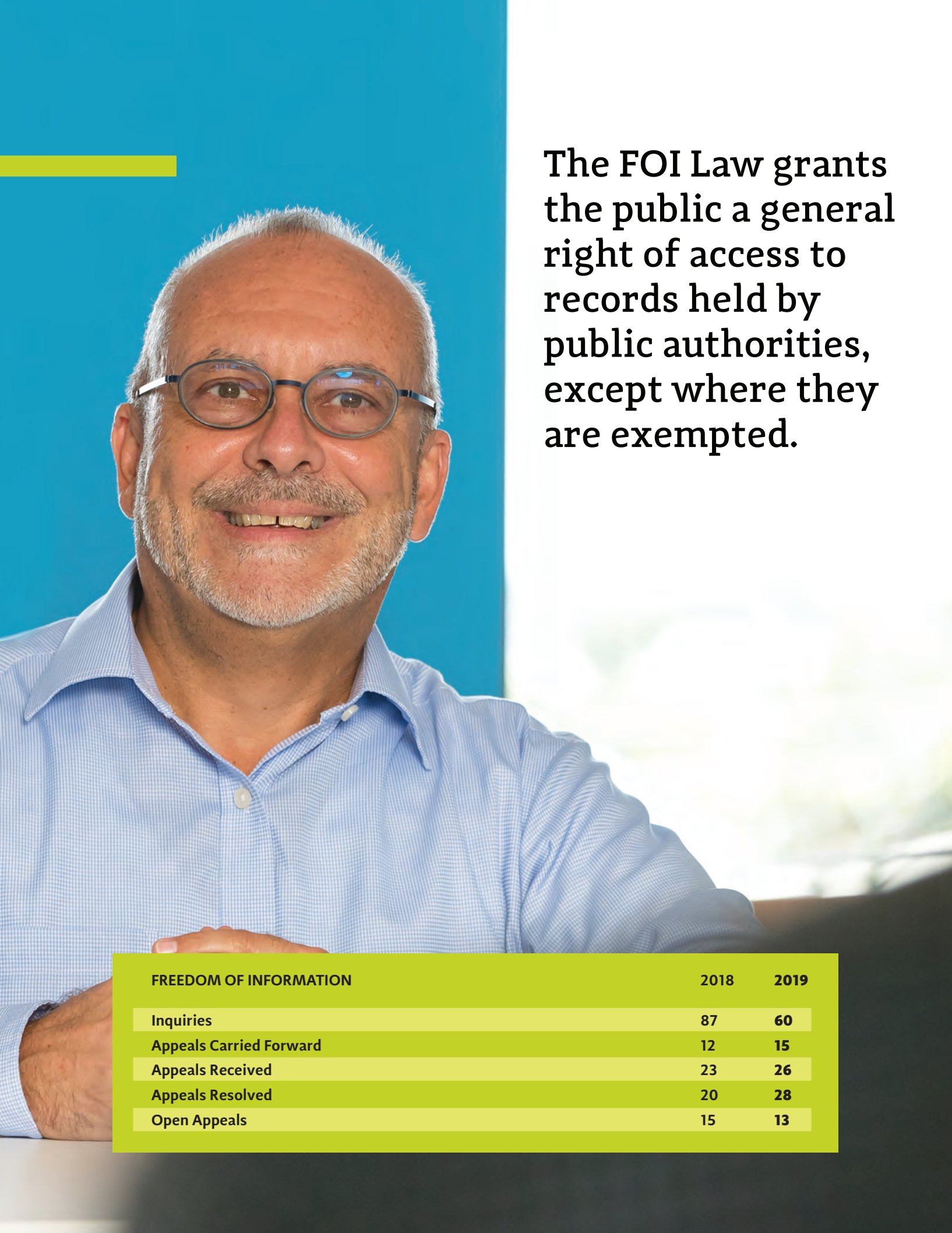
We carried forward 15 appeals from 2018, received 26 new appeals in 2019 and resolved 28. The Ombudsman issued a record-breaking number of formal hearing decisions during the year, covering 12 appeals.

We also responded to 60 FOI-related inquiries from the public and public officers – including many information managers.

International Right to Know Day (28 September) was marked with media appearances on radio and television, and an advertisement in the newspaper.

During the year, we continued to provide essential assistance to the FOI Working Group tasked with the review of the FOI Law and Regulations. These amendments were needed to ensure that provisions and exemptions relating to personal information did not clash with the **Data Protection Law, 2017**, which commenced at the end of September 2019.

We have included a sample of appeals which were resolved successfully in our informal resolution process. We have also summarised representative decisions issued by the Ombudsman, which are available in full text on our website ombudsman.ky



The FOI Law grants the public a general right of access to records held by public authorities, except where they are exempted.

FREEDOM OF INFORMATION	2018	2019
Inquiries	87	60
Appeals Carried Forward	12	15
Appeals Received	23	26
Appeals Resolved	20	28
Open Appeals	15	13

Case Summaries

(Informal Resolution)

AIRPORT CONCESSION CONTRACTS

Cayman Islands Airports Authority (CIAA)

A request was made for the contracts between the CIAA and vendors that will operate concession facilities in the renovated airport terminal. The CIAA denied access to the records claiming that their disclosure would prejudice commercial interests.

We reviewed the matter and discussed the redactions with the CIAA and, as a result, it was agreed that CIAA would conduct a new review of the agreements and release them with limited redactions of personal information. Twenty-eight redacted records were disclosed, which satisfied the applicant and the appeal was closed.

AUDIO RECORDING OF 911 CALL

Department of Public Safety & Communications (DPSC)

An applicant asked for an audio copy of a 911 call made by boaters stranded near the South Sound Channel on March 19, 2018. The DPSC denied access to the record as it contained personal information and the matter was appealed to the Ombudsman.

During our investigation we inquired whether the DPSC had the facility/software necessary to redact or obscure the parts of the recording containing the exempted information. The DPSC did not have the facility to edit the recording. We then contacted the Cayman Islands National

Archive (CINA) and confirmed that they did possess an audio editing suite. The DPSC and CINA worked jointly to apply the relevant redactions to the audio recording, which was subsequently disclosed. The applicant was satisfied with this outcome and the appeal was closed.

APPLICANT'S OWN PERSONAL INFORMATION

Ministry of Education, Youth, Sports, Agriculture & Lands (EYSAL)

An applicant requested records relating to herself, generated in the course of her employment. The Ministry initially did not respond to the request under the FOI Law, because it was contained in a broader complaint letter.

We brought the matter to the attention of the chief officer who conducted an internal review and disclosed some records. However, the applicant was not satisfied and raised an appeal. We explained to the Ministry that the FOI (General) Regulations require that reasonable efforts be made to locate records responsive to an access request. After a new search EYSAL released additional records to the applicant along with an apology for initially not providing the requested records. The applicant was satisfied with the disclosure and agreed to close the appeal.

LIST OF SUPPLIERS TO IMMIGRATION DETENTION CENTRE Ministry of Human Resources & Immigration (HRI)

An applicant asked for a list of suppliers of goods or services to the Immigration Detention Centre, but was dissatisfied after receiving a record with all supplier names redacted as personal information. HRI asked the applicant to narrow the request but was not satisfied with their response, and claimed that complying with the request would be an unreasonable diversion of its resources.

The applicant asked for an explanation concerning the number of hours it would take to fulfill the request and described his willingness to wait, depending on the estimated time. However, HRI responded that the time could not be estimated and refused to comply with the request.

In the course of the ensuing appeal we asked HRI to consider a particular record for release which we felt would provide the applicant with the requested information. However, HRI disagreed and upheld their initial decision. We then reviewed the responsive records and expressed our views that complying with the request would not be an unreasonable diversion of resources, and encouraged HRI to review and apply any relevant redactions. Eventually the record was released to the applicant in a form that was satisfactory.

FREEDOM OF INFORMATION	2018	2019
Assessment/Disposition	n/a	7
Non-Jurisdictional	n/a	7
Informal Resolution	16	9
Full Disclosure	7	1
Partial Disclosure	5	5
Late Appeal Request Denied	1	0
Non-disclosure	1	3
No Records Found	1	0
Deferred	1	0



RENE LYNCH
Administrative &
Finance Manager



ALICIA PALMER
Case Management &
Accounts Officer

Case Summaries

(Appeal Decisions)

IMMIGRATION POLICIES

Workforce Opportunities & Residency Cayman (WORC)

An applicant requested records relating to various topics, including policies, procedures and guidelines on the handling of applications for permanent residency. No initial response was given, and no internal review was conducted by WORC. Before the final decision was issued various records were disclosed, including policies relating to applications for permanent residency which WORC said were not in use. The applicant asked for clarification, but WORC did not respond.

The Ombudsman found that WORC failed to respond to the requests within the time limits established in the FOI Law, and failed to indicate whether it held the requested records. WORC also failed to publish “records used in making decisions” as required by the FOI Law.

The Ombudsman directed WORC to provide a full answer to the Applicant, and publish its guiding documents related to the making of decisions.

AMENDMENTS TO PENSION PLAN TRUST DEED

Department of Labour and Pensions (DLP)

This appeal related to a request to the DLP for records relating to amendments to a pension plan trust deed made in 2016 and 2017. In the course of the appeal the DLP referred the request to the Pension Plan Administrator, who is required under the National Pensions Law to provide certain information to members of the pension plan. This resulted in the disclosure of some 900 pages of relevant information. However, the DLP’s own records were withheld on the basis that they were privileged legal advice. Other records were claimed to be internal communications which, if disclosed, would prejudice the conduct of public affairs.

The Ombudsman agreed that the legal advice was exempt as claimed. However, she found that the internal communications were inconsequential and/or dealt with matters already known to the applicant, and therefore were not exempt under the FOI Law as claimed. The Ombudsman also found that the DLP had not properly responded to two points in the initial request and directed them to do so. The Ombudsman expressed concerns regarding the DLP’s record keeping practices and recommended that all future internal discussions on amendments to pension plan trust deeds, as well as the DLP’s other business and affairs, be recorded fully and accurately as required by law.

CADASTRAL CLAIM FILES Lands & Survey Department (L&S)

A request was made for cadastral land claim files relating to some 30 land registration blocks, dating from the 1970s. L&S withheld access, claiming that compliance with the request would be an unreasonable diversion of resources. L&S also claimed several exemptions.

Since a public authority is not required to comply with a request if one of the conditions in section 9 of the FOI Law applies (including the unreasonable disclosure of resources), that argument must be considered before any exemptions are taken into consideration. Due to the labour-intensiveness of the historical search which would have to be undertaken to identify each parcel of land in the 30 blocks, the Ombudsman agreed that complying with the request constituted an unreasonable diversion of resources, and the Department was not required to comply with the request. The request was sent back to the Department for consultation with the applicant with a view to narrowing the request, as required under the FOI Regulations.

EMPLOYMENT SETTLEMENT Ministry of Health, Environment, Culture & Housing

A request was made for the details of a settlement agreement between the Government and the former Director of the Department of Environmental Health (DEH).

Although the matter related to public expenditure, the Ombudsman agreed that public authorities should not sidestep the provisions of the FOI Law by inserting confidentiality clauses in agreements. She found that the information in the agreement was confidential and related to private negotiations between the parties, and the information was only known to those parties. The information was shared in circumstances importing an obligation of confidentiality which was expressly stated in the confidentiality clause that formed part of the agreement, thereby creating a strong expectation of confidentiality. Disclosure of the information in the agreement by either party would open them to a claim by the other party that it was unauthorised, given the explicit statement in the confidentiality clause.

The Ombudsman concluded that the disclosure of the record would constitute an actionable breach of confidence, and agreed that the agreement should be withheld.

HISTORY AND CULTURE TEST Workforce Opportunities & Residency Cayman (WORC)

Two applicants applied for access to the History and Culture Tests they completed as part of their application for permanent residency.

WORC claimed that disclosing the tests would undermine its ability to apply the History and Culture Test in a fair manner in the future, and would therefore prejudice the conduct of public affairs. The Ombudsman agreed with WORC and found that the public interest did not override the exemption.

AGREEMENT WITH TECH CITY Ministry of Commerce, Planning and Investment (CPI)

The request in this case was for an agreement between CPI and Tech City, a private company. CPI disclosed most of the agreement, but the redactions of some parts were disputed by the applicants.

The Ombudsman agreed with some of the redactions because they withheld information with a commercial value, or information concerning the commercial interests of a person. This included redactions of information which could undermine CPI's future bargaining position in similar deals. The public interest in disclosure did not outweigh the public interest in withholding the information.

However, other redactions including those relating to the government's non-binding plans to enact legislation did not constitute commercial interests as claimed. They were not legally privileged and their disclosure would not inhibit CPI's ability to manage its public affairs. The Ombudsman required CPI to disclose the remainder of the agreement.

LETTERS OF INTENT Ministry of District Administration, Tourism and Transport (DATT)

This appeal related to two letters of intent between the government and two cruise lines in relation to a procurement exercise for a cruise berthing facility in George Town.

DATT argued that the procurement process was ongoing and claimed a number of exemptions. The Ombudsman found that the exemption relating to the commercial interests of the cruise lines and the government applied, and that it was not in the public interest to disclose the responsive records while the negotiations relating to cruise berthing continued.

FREEDOM OF INFORMATION	2018	2019
Decisions	4	12
No jurisdiction	1	0
Appeal Upheld	1	1
Appeal Partially Upheld	0	3
Appeal Dismissed	2	6
Reasonable Search	0	2

Information Rights Division

DATA PROTECTION

The Data Protection Law, 2017 (DPL) came into effect on 30 September 2019 after intensive preparations by our office.

The DPL regulates how personal data is used by public and private entities, and grants important rights to individuals in regard to their own personal data.

Our initial focus was on raising awareness, especially of data controllers, who are required to comply with the new rules relating to personal data. We conducted 45 two-hour awareness presentations to businesses, organisations, public authorities and individuals, with a particular focus on facilitating entities' compliance with the new law. Many of the sessions were held at the public library and were open to the general public.

After the DPL came into effect on 30 September 2019 we received 12 complaints and 25 personal data breach notifications, of which respectively 11 and 9 were informally resolved by year's end.

We also responded to 192 inquiries received by phone, by email or, in person. Many of these came from businesses in the financial and legal sectors.

Extensive updated guidance for data controllers was published on our website, as well as specific guidance for low-risk entities and individuals. We also developed a number of tools, forms and templates which were made available on our website. We also published guidance on monetary penalties, after consultation with the Cabinet.

In preparation for the new law, we hired a senior data protection analyst and two data protection analysts, and conducted a review of our personal data processing and complaint handling practices.

DATA PROTECTION	2018	2019
Inquiries	65	192
Presentations	45	45

COMPLAINTS

Case Summaries

(Informal Resolution)

PERSONAL DATA OF FORMER EMPLOYEES ON COMPANY WEBSITE

Four individuals requested that their professional profiles were deleted from the website of a company they no longer were associated with. The owners of the website refused to grant their request, so a complaint was lodged to attempt to secure the removal of the personal data.

Our investigation focused on establishing whether the data controller for the personal data processed on the website was a Cayman-based entity. In the course of the investigation the website was taken down, and the personal data was no longer being processed against the wishes of the individuals. The case was closed with no further action required.

ARTIST’S PROFILE ON ART WEBSITE

An artist contacted the owners of an art website requesting that they take down his public profile as he no longer wished for it to be available on that website. The owners of the site refused to comply with his request, so he asked us to ensure that his personal data was removed.

We found that the website was not hosted in Cayman, and the company that owned it was not established here. Since they were not a data controller under the DPL and the data was not being processed in Cayman, the complaint was out of our jurisdiction and the case was closed.

DATA PROTECTION - COMPLAINTS	2018	2019
Complaints Carried Forward	n/a	0
Complaints Received	n/a	12
Complaints Resolved	n/a	11
Open Complaints	n/a	1
Assessment/Disposition	n/a	7
Non-Jurisdictional		2
Complaint Refused (s. 43(4))		5
Informal Resolution	n/a	4
Successfully Resolved		4
Assessment/Disposition	n/a	0
Enforcement Order Issued		0
Monetary Order Issued		0
Enforcement and Monetary Order Issued		0

DATA BREACHES

Case Summaries

(Informal Resolution)

BANK CARD STATEMENT

We received a data breach notification from a financial services company that had mailed a card statement to the wrong customer. The recipient returned the statement to a branch office, and the company has now added an extra layer of verification to their process of preparing statements in order to prevent this type of breach from recurring.

We were satisfied with the actions taken by the company to rectify the issue, and no further action was required.

GOVERNMENT E-SERVICES WEBSITE

A government ministry notified us of a data breach involving an e-services website. Two staff members were using the website and one noticed that he could see the personal data of the other person. The website was taken offline and an investigation launched into how the breach had occurred. It was discovered that there had been an error in implementing certain global attributes on the web page, which had caused the breach. Further testing was undertaken to ensure that this problem would not arise in the future.

After verifying the steps undertaken to prevent a repeat of this incident, there seemed to be no prejudice to the rights of the individuals involved, and the case was closed without a formal enforcement notice.

DATA PROTECTION - BREACH NOTIFICATIONS	2018	2019
Breach Notifications Carried Forward	n/a	0
Breach Notifications Received	n/a	25
Breach Notifications Resolved	n/a	9
Open Breach Notifications	n/a	16
Assessment/Disposition	n/a	1
Non-Jurisdictional		1
Informal Resolution	n/a	8
Resolved Informally		6
No Further Action Required		2
Order	n/a	0
Enforcement Order Issued		0
Monetary Order Issued		0
Enforcement and Monetary Order Issued		0

Complaints Division

MALADMINISTRATION

While the Cayman Islands has had a complaints law on its books since 2004, this is only the second full year that the Office of the Ombudsman has had responsibility for investigating complaints about maladministration.

An outcome of maladministration investigations is to identify to government entities administrative practices which do not align with law, policies or are administratively unfair. This aligns with the civil services goal to be a world class organisation as it increases accountability of these organisations. We strive to work collaboratively with government entities while achieving fair resolution for complainants when they have not received a just decision. We do this by way of formal investigations and when possible, by encouraging an informal resolution.


One of the most common complaints of maladministration in 2019 was the length of time the public sector entities took to respond to the complaint. Unreasonable conduct, as defined in the **Complaints (Maladministration) Law**, includes delay and non-response. We are working with many areas of government to ensure appropriate acknowledgements and response times are in

place. This issue will remain a focus of our office as poor communication is a leading frustration for the public in dealing with government.

Our investigative approach when dealing with maladministration complaints has continued to evolve over the past year with the implementation of a more rigorous assessment and investigative planning structure. We are placing more emphasis on identifying and articulating the issues to be investigated. This helps us manage the expectations of complainants and assists the public sector to respond more effectively and to address our specific concerns. This, combined with our early resolution structure which was implemented last year, has contributed to improved file management and reduced timelines in many cases.

We are proud of the relationships that we have built within the community and with key people in the public sector. We believe this is the most effective tool available to us to resolve complaints as quickly and informally as possible. We see the development and maintenance of these vital relationships as a cornerstone of our business and service delivery model.

We resolved 75 complaints in 2019, of which 65 were dealt with in our early resolution process and only 10 required formal investigation.



We are proud of the relationships that we have built within the community and with key people in the public sector

TED MILES
Deputy Ombudsman
Complaints

MALADMINISTRATION

	2018	2019
Inquiries	58	106
Complaints Carried Forward	5	9
Complaints Received	59	72
Complaints Resolved	55	75
Open Complaints	9	6

Case Summaries

(Early Resolution)

HEALTH RISK AT THE PRISON Her Majesty's Prison Service Northward (HMPS)

The wife of an inmate at HMPS complained that her husband, who had a very serious lung condition, was placed in a cell in the smoking area of the prison. She tried several times over a one-week period to speak with prison officers in person to stress the seriousness of her husband's health condition and ask that he be transferred to a non-smoking cell. The prisoner ended up spending a night in the hospital because of breathing difficulties. His wife came to us because she was concerned that her husband would be returned to a cell in the smoking zone.

Our office is an office of last resort which means that we only accept complaints after the internal complaints process (ICP) has been completed. In this case, the ICP had not been completed so we recommended that the wife contact the Deputy Director of the prison and that she include our office in her email about her concerns. She called us the following morning to report that she received an immediate response from the prison advising her that her husband would be transferred to the non-smoking zone.

FEEDING FAMILIES IN NEED Needs Assessment Unit (NAU)

A father sought our urgent assistance for his young family which included two young children. He was the only family member earning an income, but the income was not adequate to support his family. He applied to the NAU for food stamps, rental and utilities assistance one month

before the expiration of his benefits. Despite having made the application a month early and having followed up several times, he had not received a response from the NAU. The situation at home was dire as there was no food, and the electrical company was warning him that his utilities would be disconnected.

We contacted the NAU due to the urgency of the matter and arranged an appointment at once with their compliance manager to ensure a quick resolution. The family received immediate benefits.

ASYLUM ISSUES

Cayman Islands Customs & Border Control (CBC), Ministry of Commerce, Planning & Infrastructure and the Department of Vehicle (CPI) & Driver's Licensing (DVDL)

Six Cubans who had recently been granted asylum by the government complained that the travel documents issued to the group had caused significant difficulties when they tried to use them. They claimed the documents did not appear official and did not contain a security bar or a stamp to associate it with the Cayman Islands. They also noted the documents were handwritten and were concerned they would not be recognized by most countries as authentic.

They also complained that they were unable to apply for Cayman Islands driver's licenses as a result of their inability to speak, read or write in English. Our investigator translated their requests and forwarded them to CPI and DVDL.

We recognized that there was a genuine language barrier which prevented the group from communicating directly with the government. Our Spanish speaking investigator translated their concerns into English and acted as a liaison with the government.

As a result of our involvement, we have been advised that the government is considering revising the documents to modernize them. In addition, government allowed the group to take the written driver’s test in Spanish.

COOPERATIVE APPROACH CREATES BREAKTHROUGH Department of Labour and Pensions (DLP)

We received a complaint that the Labour Tribunal had not delivered a ruling within the 28 days required by the **Labour Law** – four months had elapsed since the hearing. We contacted the Deputy Director of DLP who immediately followed up on the matter.

The complainant received a written decision in their favour from the Labour Tribunal within one week after our contact with DLP. The Tribunal found that the complainant was unfairly dismissed by their employer who was ordered to pay compensation.

PROVIDING DIRECTION RESULTS IN REDUCED PENALTY Port Authority Cayman Islands (PACI)

An individual felt they were treated unfairly when they were banned from the Royal Watler Terminal for one year following an altercation at the terminal.

We referred the complainant to the internal complaints process for PACI. The complainant appealed the decision and the Acting Port Director reduced the ban from 12 months to 6.

MALADMINISTRATION	2018	2019
Assessment/Disposition	26	47
Appeals Not Exhausted	16	34
Non-Jurisdictional	10	13
Early Resolution	21	18
Supported	9	7
Not Supported	12	11

Case Summaries

(Investigation)

RENEWAL OF A DENTIST'S LICENSE TO PRACTICE DENTISTRY

Health Regulatory Services (HRS),
Health Practice Commissioner (HPC),
and Medical & Dental Council (MDC)

A dental surgeon complained about the MDC's failure to renew his full-time practicing license in a timely fashion. He submitted his application for renewal in December 2018; however, it remained unprocessed nine months later and emails from his attorney went unanswered.

We met with the registrar of the HRS to discuss the complaint and two days later a non-practicing license was issued. The dental surgeon was advised that once he could satisfy the MDC that he was practicing with a registered health facility, he would be eligible for a practicing license.

REVISION OF PENSION LEGISLATION Public Service Pensions Board (PSPB)

In April 2004, a fire service officer who was receiving treatment for lupus was dismissed from the Cayman Islands Fire Service. The reason given for his release did not involve his medical condition so when he sought to access his pension funds, he was restricted from doing so by the Pension Law. The PSPB's Head of Plan Administration emailed him in January 2008 to tell him that the Financial Secretary was planning to ask Cabinet to amend the Law, allowing people diagnosed with serious illnesses to access their pension funds. The complainant approached us more than 10 years later because the amendments had not been made.

We wrote to the Managing Director of the PSPB to bring the matter to her attention. A draft Pensions Bill was presented to Caucus in March 2019 for furtherance to Cabinet. In August 2019, after 11 long years of suffering by the complainant, the PSPB notified us that their promise had been fulfilled and that the Public Service Pensions (Amendment) Law 2019 was in force. The complainant was able to apply for disability retirement and is awaiting the decision of the PSPB.

JUSTICE DELAYED IS JUSTICE DENIED

Labour Tribunal (LT)

The complainant contacted our office to complain that the LT had failed to issue a decision relating to an appeal hearing held in May 2011.

We met with the Deputy Director of Department of Labour and Pensions and recommended that her case, together with other long-outstanding decisions, be re-heard because it would be unfair to expect a decision-maker to be able to recall enough details of the hearing to issue a fair and reasonable decision. The LT convened a new hearing (eight years after the first hearing) and issued a decision bringing the matter to a close. The DLP has now adopted a policy to ensure tribunals hearings are not unduly delayed and that decisions are issued in a timely manner. The policy includes rules regarding non-attendance of tribunal members and the consequences of failing to attend including removal from the case in certain circumstances.

EMPLOYMENT ISSUE

Department of Immigration and Ministry of Human Resources & Immigration (the employer)

The complainant alleged maladministration regarding a complaint she had made about an employment matter. Her concern was that the internal complaints process (ICP) was not followed. She also complained that the employer failed to respond to her request for copies of minutes of a meeting.

The employer apologised for the delays and gave the complainant a copy of the requested minutes. The employer also arranged for the complaint to be investigated.

We supported the complaint. The failure to follow the ICP resulted in investigative delays, the failure to provide updates regarding the complaint and taking too long to give the complainant copies of minutes of a meeting were unreasonable and amounted to maladministration.

We recommended that the investigation take place on an expedited basis.

SERVICE COMPLAINT

Lands & Survey Department (L&S)

The complainant filed a complaint against L&S alleging the government illegally acquired land and that L&S refused to meet with him to discuss the complaint.

We investigated this matter and discovered that the Grand Court had issued a judgement in relation to the land in question. We also found that the Registrar had in fact met with the complainant.

We did not support the complaint because our office does not have jurisdiction to examine the decisions of the courts and we were satisfied that the L&S had met with the complainant, contrary to the complainant's assertions.

DETENTION & DEPORTATION Customs & Border Control (CBC)

A complaint was received from an individual concerning a decision of the CBC to detain and deport a relative. The relative was released from prison after serving a jail sentence for tampering with the immigration stamp on a passport and being unlawfully in Cayman. Upon his release, he voluntarily left the Island on the basis that he was going to be deported. The complainant felt that he should be allowed to remain on Island while applying for his Residency and Employment Rights Certificate.

We immediately reached out to CBC and were advised that the relative could request permission to return to Cayman to the Director of Immigration or the CBC. The Ombudsman determined that the CBC acted within their authority and in accordance with law and policy. The Ombudsman also found that the decision was administratively fair. The complaint was not supported.



MALADMINISTRATION	2018	2019
Investigation	8	10
Supported	5	7
Not Supported	2	3
Resolved Informally	1	0

Complaints Division

PUBLIC COMPLAINTS ABOUT POLICE CONDUCT

This was our second year dealing with complaints made under *The Police (Complaints by the Public) Law* (the Law). The Law was established to provide independent oversight of public complaints concerning the conduct of officers of the Royal Cayman Islands Police Service (RCIPS). Our goal is to improve public confidence in the police service through this external unbiased and impartial process.

We were very productive in addressing the huge backlog of public complaints that we inherited when the Law came into force. At the end of 2019 only seven historical complaints (those made before the Law came into force in 2018) remain unresolved. We are confident that these cases will be dealt with in early 2020. This achievement will mean that our investigators will be able to focus on current complaints, which will result in better investigative timelines. We recognise that timely resolution of complaints is important to both the complainants and the officers involved.

Many of the complaints we receive concerning police conduct relate to poor communication. Sometimes people are not apprised of the progress of an investigation involving them. Another typical complaint is an objectionable verbal interaction with an officer. To help address

this issue, our office participated in delivering 26 customer service presentations to RCIPS members of all ranks this year. Our presentations highlight the importance of clear and respectful communication when dealing with members of the public.

As part of our investigations we ensure that officers of the RCIPS are held accountable to their core values of respect, courtesy, integrity, professionalism and service.

We received 62 new complaints in 2019, in addition to the 67 complaints we carried forward from 2018, bringing the total number of active cases to 129. We closed 105 cases this year, of which we investigated 28. A further 22 were informally resolved and 10 were outside of our jurisdiction. We assessed 16 historical cases as having been abandoned because we were unable to locate the complainants and 21 cases were withdrawn because the complainants decided not to proceed. Additionally, we refused to investigate eight complaints because we decided they were trivial, vexatious or malicious.

PETER MCLOUGHLIN
Senior Police
Investigator

POLICE COMPLAINTS

Inquiries

2018

18

2019

33

Complaints Carried Forward

0

67

Complaints Received

143

62

Complaints Resolved

76

105

Open Complaints

67

24

Case Summaries

(Informal Resolutions)

HISTORICAL COMPLAINT FINALLY RESOLVED

A complaint was made to the Professional Standards Unit (PSU) of the RCIPS in October 2016 and went unresolved for years until we took it over in 2019.

The complainant was a business owner whose premises were searched under the authority of a search warrant. Several property items were seized as a result of the search. The complainant wanted the items returned.

We met with the Senior Investigating Officer in the case and they agreed to contact the complainant to update him about the status of the property. The property was returned a few weeks later along with an apology to the complainant for the length of time it took to finally resolve this situation.

FEEDBACK FOLLOWING ARREST

An individual complained about being arrested at their workplace. The individual alleged the arresting officer was rude and dismissive. The complainant was seeking clarity regarding the situation and wanted to provide feedback to the officer concerning the way they were made to feel during the arrest process.

Both the officer and the complainant agreed to participate in an informal resolution process where the complainant received answers to their questions and was able to provide feedback to the officer. The officer explained his rationale for the arrest and accepted the feedback appreciating that there was always room to improve.

POLICE COMPLAINTS	2018	2019
Assessment/Disposition	41	48
Non-Jurisdictional	8	10
Investigation Time Barred	2	0
Investigation Refused (s. 3(2)(g))	8	8
Complaint Withdrawn	18	14
Complaint Abandoned	5	16
Informal Resolution	18	22

AIRPORT DISPUTE SETTLED AROUND THE TABLE

A driver pulled over at the Owen Roberts International Airport (ORIA) to let off two passengers who were departing on a flight. While still in the vehicle they were approached by a police officer who advised them that they were not allowed to park in a waiting area. The passenger in the rear seat rolled down the window and asked the officer to open the back door for him, as the inside handle did not work. The officer

reacted negatively to this request and angry words were exchanged. The driver complained to the Professional Standards Unit (PSU) of the RCIPS regarding the attitude of the officer.

The complainant and her passengers agreed to meet with the officer involved under the supervision of a member of the PSU who mediated the discussion. This allowed for everyone to air their perspective and describe how they were made to feel on that day at ORIA. Apologies were exchanged and all agreed to move on from the situation.

Case Summaries (Investigations)

REASONABLE USE OF FORCE DURING SEARCH

RCIPS was investigating an incident in which two people had been shot and they identified a suspect. They obtained a search warrant for the residence where the suspect was staying and the Tactical Firearms Unit (TFU) executed the search warrant early in the morning. The TFU knocked on the door of the house and told all occupants to exit the residence to allow for the search. There were 12 occupants inside the residence, including the suspect. Several of the occupants were children. The mother of the children refused to leave the home until she saw the search warrant. After being shown a copy of the warrant she still refused to leave so the TFU pulled her outside where she was arrested for obstruction and detained while the house was cleared. The complainant alleged that the police used

excessive force when she was removed from the house. She alleged that, as a result of being forcibly removed by the police, she suffered bruising and soreness to her arms.

The Ombudsman found that police had a valid search warrant resulting from a violent incident. She recognised the increased risk in searching a premise in relation to a violent crime and understood why the TFU was involved in clearing the residence. The complainant refused to leave despite the TFU's repeated requests to do so. The Ombudsman found the complainant was lawfully arrested for obstructing the police. Section 153 of *The Police Law (2017 Revision)* gives police officers the authority to use reasonable force in the execution of their duty. Having examined all available evidence the Ombudsman found that the force used in this case was proportionate. The complaint was not supported.

\$50 UNPAID FINE RESULTS IN ARREST OF PREGNANT WOMAN

A pregnant woman was arrested by the police on an outstanding Summary Court warrant for an unpaid fine of \$50.00. The case generated significant public interest as video footage of the arrest was circulated on social media and the Ombudsman decided to investigate as a matter of public interest.

RCIPS officers went to the woman's home to arrest her for the outstanding fine. She was asked to accompany them to the Fairbanks Detention Centre so they could process the arrest warrant. The woman, who was in her last trimester of pregnancy, refused to cooperate with the officers. She said she needed time to get ready and then took a very long time to get dressed. She also told the officers that the warrant wasn't valid. The officers immediately checked to ensure the arrest warrant was valid and continued with their attempts to arrest the woman.

We reviewed the video which was circulated on social media and saw an officer place his hand on the woman's arm. She appeared to resist the officer by sitting down and the officer pulled her along for a short distance. She eventually agreed to go with the officers to the Detention Centre where the warrant was processed, and she was released.

The Ombudsman found that the arrest warrant was valid, and the officers were acting in accordance with their authorities under the *Police Law (2017 Revision)*. The Ombudsman accepted that the officers were acting in good faith and found that they used as little force as was required to make the arrest. However, the

Ombudsman questioned the necessity of the arrest given the very pregnant state of the woman and her refusal to cooperate.

The Ombudsman recommended that the Commissioner of Police remind all officers that they must consider all of the circumstances when conducting their duties and also remind them of their discretionary authority. The Ombudsman questioned the timing of the arrest and suggested that it was not an urgent matter and offered her opinion that it could have occurred later. The Commissioner of Police accepted the Ombudsman's recommendations and they have been fully implemented.

DOMESTIC VIOLENCE POLICY APPLIES TO POLICE OFFICERS

The Ombudsman became aware of an incident where a woman was allegedly held in her home by her husband, a member of the RCIPS, who was said to be armed and threatening suicide. A friend of the woman was notified about the incident and called the police who responded and investigated the incident. The Ombudsman decided to review the RCIPS investigation because of an alleged failure to follow their Domestic Violence Policy.

The Ombudsman cited numerous shortcomings in the investigation, finding the RCIPS failed to conduct a thorough, impartial and timely investigation of this matter. Our investigation revealed the RCIPS did not follow their policies regarding domestic violence investigations and did not properly involve the Family Support Unit (FSU)

The Ombudsman recommended the Commissioner address the failures identified, including

consideration of disciplinary action for officers involved. She also recommended that the Commissioner remind all officers of their oath to serve “without favour or affection, malice or ill will”. The Ombudsman also directed the RCIPS to ensure the wellbeing of the officer’s wife and to review the fitness for duty of the police officer involved. The Commissioner accepted the recommendations. The officer was found to be fit to resume duties and the wife was offered support; the Commissioner used the incident as a learning opportunity for all officers and has circulated a service order regarding the requirement to treat officers no differently than members of the public.

USE OF TASER UNREASONABLE FORCE

A man was pulled over for speeding. The officers could smell alcohol on his breath and asked for a breath specimen in accordance with the law. The driver refused to provide the sample and was told he was under arrest, at which time he attempted to flee on foot. An officer ran after him and stopped him from running away by shooting him in the back using a Taser. The driver complained that the use of the Taser was unreasonable and an abuse of power which resulted in injuries to his face and leg.

The Ombudsman found that the officer had grounds to arrest the man for refusal to provide a breath specimen. However, she found the use of the Taser to be an unreasonable use of force given the circumstances. The RCIPS training materials state that the use of a Taser, when a person is

running away, should be avoided to prevent individuals uncontrollably falling to the ground. Tasers should only be used to mitigate threats to police officers or citizens, and there was no evidence of a threat to the officers in this case. The Ombudsman recommended the Commissioner of Police consider disciplining the officer involved. The Commissioner accepted the recommendation and a disciplinary hearing has been scheduled.

UNPROFESSIONAL CONDUCT

A man complained that a police officer at the Owen Roberts International Airport (ORIA) demonstrated unprofessional conduct by name-calling and issuing a ticket for a parking obstruction. The officer was directing traffic at ORIA and was allowing cars to double park in the airport drop off area to help ease the heavy traffic volume. The complainant yelled at the officer telling him that he was not doing his job properly and making other negative comments because the complainant’s vehicle was temporarily blocked by another vehicle which prevented him from leaving. During the heated exchange the officer called the complainant a “jackass”. The complainant got out of his car to record the compliant officer’s badge number. The officer directed the complainant to return to his vehicle because he was blocking other vehicles. The complainant refused and the officer issued a ticket for obstructing traffic.

The Ombudsman found the officer’s conduct contravened the RCIPS Code of Ethics, because he used disrespectful language and failed to demonstrate respect and courtesy. However, the Ombudsman found that the officer had a lawful right and was acting within his authority to issue

the ticket. She recommended customer service training for the officer which was accepted by the Commissioner of Police; the officer has received the training.

FAILURE TO COMMUNICATE

An employee at Owen Roberts International Airport (ORIA) reported her phone and keys stolen while she was at work. CCTV footage captured the image of the man who stole the property and she reported this to the RCIPS. An officer initiated an investigation, identified and located the suspect; however, the suspect was not charged and managed to leave the Island before being brought to justice. The complainant alleged the investigating officer failed to perform their duty.

This case was passed around to numerous police officers by various supervisors before an arrest was made five days after the offence occurred. Unfortunately, the arresting officer did not have enough information about the case, officers involved in the case failed to properly review the case management system and the suspect was released without being bailed. As a result, the suspect was able to leave the Island without facing consequences for his actions.

The Ombudsman found the original investigating officer did his job properly. The investigation was thorough, the case notes were properly made, and he passed the details of the incident on to his supervisor before going on days off.





The Ombudsman found that once arrested, the decision to release the suspect was premature and the poor communication amongst the officers working on this case resulted in a miscarriage of justice.

The Ombudsman recommended the complainant be compensated for the stolen belongings and receive an apology for the investigative failures. The custody sergeant who released the suspect was no longer employed by the RCIPS; otherwise, disciplinary action may have been considered. The Commissioner of Police accepted the recommendations which have now been fully implemented.

DISMAL INVESTIGATION AND UNNECESSARY ARREST

A man complained that he was arrested for fraud and that the arrest was unwarranted and unlawful. He complained that the officer was rude and referred to him using derogatory language. He also alleged that the arresting officer maliciously submitted documents to the Department of Immigration (DOI) with false and misleading information which caused significant financial and reputational damage.

The Ombudsman found that derogatory comments were made in reference to the complainant, including references to his sexuality. The Ombudsman found that this contravened the RCIPS Code of Ethics and amounted to unprofessional conduct on the part of the officer.

Further the Ombudsman found that the arrest, although lawful, was unwarranted.

The complainant had offered to come to the police station after work, but the officer chose to send three officers to arrest the complainant at his workplace. The decision to arrest was not rational, proportionate or necessary given the circumstances.

The Ombudsman found that the information submitted to the DOI was incorrect. The Ombudsman held that the officer was careless, but not malicious, in completing the documentation and submitting it to the DOI which resulted in substantial harm to the individual. This lack of conscientiousness and diligence amounted to a neglect of duty.

The Ombudsman recommended that the Commissioner of Police consider:

- disciplinary action;
- compensation for verified out-of-pocket expenses resulting from the submission of inaccurate information to the DOI; and
- a review of the fraud investigation to ascertain if the 18-month investigative timeframe and 18 bail extensions were appropriate and justified.

The Commissioner accepted the recommendations. We are awaiting notice that the recommendations have been fully implemented.

REASONABLE USE OF FORCE DURING ARREST

A woman approached an ex-boyfriend in the parking lot outside a nightclub and started a physical confrontation. An off-duty police officer witnessed the situation escalate and attempted to intervene until uniform officers arrived at the location. The complainant alleged the officers did not have the authority to arrest her and the amount of force used was unreasonable.

Our investigation established that the officers were acting within their authority and their actions were proportionate given the resistance and lack of cooperation of the complainant. The *Police Law* allows police officers to use reasonable force in the execution of their duties. The Ombudsman did not support the complaint.

POLICE HARASSMENT

We received a complaint from a man who was on conditional release in the community and awaiting court on two criminal charges. He alleged that he was being harassed by the RCIPS. The complainant was required to wear an ankle

monitoring device as a condition of his release. He signed an agreement to keep the device charged and acknowledged that failing to do so would be considered a violation of the terms of his release. Officers were dispatched by the Electronic Monitoring Centre on several occasions one night (between 3:00 a.m. and 5:00 a.m.) because the device was not properly charged. We investigated whether the officers had a lawful authority to be at the complainant's residence and whether they had conducted themselves appropriately.

The Ombudsman found that the officers used their discretion appropriately by asking the complainant to charge the device rather than arresting him in the middle of the night. The investigation found that the officers had behaved professionally. The complaint was not supported.

POLICE COMPLAINTS	2018	2019
Investigation	17	35
Supported	7	10
Not Supported	10	18
Complaint Withdrawn	0	7



PETER DINSDALSE
Senior Data Protection
Analyst

Complaints Division

WHISTLEBLOWER PROTECTION

Whistleblowing is one of the most effective mechanisms an organisation has in exposing fraud or malfeasance. A strong internal whistleblowing system coupled with an independent external option provides the greatest success in tackling improper conduct in the workplace.

We are the designated authority in the Cayman Islands responsible for receiving, investigating and dealing with disclosures as per the **Whistleblower Protection Law, 2015** (the Law). The Law is designed to provide an external option for an employee to report improper conduct by making a protected disclosure and to ensure that the employee is not subject to any detrimental action because they made a disclosure.

While the existence of a legislative framework is important, organisations must do more internally to develop adequate whistleblower programs. They should also promote a culture of “speaking up” and supporting employees who come forward with a safe and protected environment to voice concerns. It is also imperative that the leadership of an organisation actively prohibit detrimental

action and demonstrate that they are willing to punish those who engage in detrimental action. It should be only when the internal system fails or is not supported that employees feel the need to disclose externally.

The challenge in a public whistleblowing regime is to make the legislation work in practice while guaranteeing a high level of protection for the whistleblower. Our office has managed but a few disclosures to date but has identified some shortcomings with the Law. We will be identifying those shortcomings and making recommendations on how to address them to ensure a more effective program is available for those wishing to disclose externally.

In 2019 we received four disclosures of improper conduct and added to them the one disclosure carried forward from 2018 for a total of five active files. We finalised all investigations this year. We referred one disclosure to another agency and assessed two disclosures as outside our jurisdiction. We found improper conduct in one case and no improper conduct in the other case.



WHISTLEBLOWER PROTECTION	2018	2019
Inquiries	1	2
Disclosures Carried Forward	0	1
Disclosures Received	5	4
Disclosures Resolved	4	5
Open Disclosures	1	0

Case Summaries

WHISTLEBLOWER INVESTIGATION SUPPORTS COMPLAINT OF IMPROPER CONDUCT

A whistleblower made a disclosure of improper conduct outlining concerns with the actions of a senior executive in the public sector. Most of the concerns could be described as an overstepping of authority and the use of intimidation. Following an extensive assessment, nine specific allegations were directed for investigation by the Ombudsman.

This investigation involved the first ever interpretation of the *Whistleblower Protection Law, 2015* (the Law). We reviewed numerous internal documents, examined best practices of other jurisdictions and interviewed 10 people as part of the investigation.

The Ombudsman found eight of the allegations ultimately did not rise to the threshold required for improper conduct but that collectively those eight revealed broader administrative concerns with the operations and good governance. In the case of the ninth allegation, the Ombudsman found that the actions amounted to intimidation and constituted improper conduct as defined by the Law.

The Ombudsman made several recommendations to address the concerns about administrative and governance matters which would also have the benefit of minimising the opportunity for improper conduct (harassment) in the future.

To date the report has not been formally acknowledged and there has been no response or action taken as far as the Ombudsman is aware. The Ombudsman has reported the matter to the Select Committee to Oversee the Performance of the Office of the Ombudsman pursuant to s. 9 of the Law.

ANONYMOUS ALLEGATION OF WORKPLACE HARASSMENT

We received an anonymous written complaint about an incident which occurred in 2010 alleging that an internal complaint of workplace harassment was not properly addressed by the management of the organization. We conducted preliminary enquiries and discovered that the alleged female victim had since passed away and that the management team, which was in place then, had been replaced and the people involved had left the Cayman Islands.

This matter was not within our jurisdiction under the *Whistleblower Protection Law, 2015* because the incident occurred before the Law was in effect.

FINANCIAL SERVICES SECTOR

We received a complaint regarding an allegation of improper conduct concerning two associated Cayman Island entities in the financial services industry. The issue related to a fund director charging disproportionate fees to investors for work that was not done. Additionally, it was alleged that the fund director altered fee arrangements, circumventing internal controls without client consent, which breached the client agreements.

Following further discussions with the complainant, and with their consent, these complaints were referred to the Cayman Islands Monetary Authority (CIMA).

WHISTLEBLOWER PROTECTION	2018	2019
Assessment/Disposition	4	3
Referred to Another Agency	1	1
Non-Jurisdictional	3	2
Early Resolution	0	0
Supported	0	0
Not Supported	0	0
Investigation	0	2
Supported	0	1
Not Supported	0	1

Financial Information

BUDGET

Once again, we ended the year with a surplus.

This was largely the result of underspending in personnel costs including salary and related costs such as healthcare and training. By October 2019 three new data protection analysts were in post. In early 2020, we also made two offers of employment, which were accepted, to fill the vacant senior investigator positions.







GOVERNMENT OF THE CAYMAN ISLANDS

OFFICE OF THE OMBUDSMAN

FINANCIAL STATEMENTS

31 DECEMBER 2019

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STATEMENT OF RESPONSIBILITY FOR THE FINANCIAL STATEMENTS

These financial statements have been prepared by the Office of the Ombudsman in accordance with the provisions of the *Public Management and Finance Law (2018 Revision)*.

We accept responsibility for the accuracy and integrity of the financial information in these financial statements and their compliance with the *Public Management and Finance Law (2018 Revision)*.

As Ombudsman I am responsible for establishing; and have established and maintained a system of internal controls designed to provide reasonable assurance that the transactions recorded in the financial statements are authorised by law, and properly record the financial transactions of the Office of the Ombudsman.

As Ombudsman and Chief Financial Officer we are responsible for the preparation of the Office of the Ombudsman financial statements, representation and judgments made in these statements.

The financial statements fairly present the financial position, financial performance and cash flows for the financial year ended 31 December 2019.

To the best of our knowledge we represent that these financial statements:

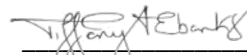
- (a) Completely and reliably reflect the financial transactions of Office of Ombudsman for the year ended 31 December 2019;
- (b) fairly reflect the financial position as at 31 December 2019 and performance for the year ended 31 December 2019;
- (c) comply with International Public Sector Accounting Standards as set out by International Public Sector Accounting Standards Board under the responsibility of the International Federation of Accountants.

The Office of the Auditor General conducts an independent audit and expresses an opinion on the accompanying financial statements which is carried out by its agent. The Office of the Auditor General and its agent has been provided access to all the information necessary to conduct an audit in accordance with International Standards on Auditing.



Sandy Hermiston
Ombudsman

Date: 30 April 2020



Tiffany Ebanks
Chief Financial Officer

Date: 30 April 2020



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AUDITOR GENERAL'S REPORT

To the Ombudsman and the Members of the Legislative Assembly

Opinion

I have audited the financial statements of the Office of the Ombudsman, which comprise the statement of financial position as at 31 December 2019, the statements of financial performance, changes in net assets/equity and cash flows for the year then ended, and notes, comprising significant accounting policies and other explanatory information.

In my opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Office of the Ombudsman as at 31 December 2019, and its financial performance and its cash flows for the then ended in accordance with International Public Sector Accounting Standards.

Basis for Opinion

I have conducted my audit in accordance with International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the *Auditors' Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Office of the Ombudsman in accordance with International Ethics Standards Board for Accountants Code of Ethics for Professional Accountants (IESBA Code) together with the ethical requirements that are relevant to my audit of the financial statements in the Cayman Islands and I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA Code. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion. In rendering my audit opinion on the financial statements of the OMB, I have relied on the work carried out on my behalf by a public accounting firm that performed its work in accordance with International Standards on Auditing.

Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Office of the Ombudsman's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Office of the Ombudsman or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Office of the Ombudsman's financial reporting process.

AUDITOR GENERAL'S REPORT (continued)

Auditors' Responsibilities for the Audit of the Financial Statements

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISAs, I exercise professional judgment and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the OMB's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Office of the Ombudsman's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in our auditors' report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of our auditors' report. However, future events or conditions may cause the Office of the Ombudsman to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I have undertaken the audit in accordance with the provisions of section 60(1)(a) of the *Public Management and Finance Law (2018 Revision)*. I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.



Sue Winspear, CPFA
Auditor General

30 April 2020
Cayman Islands

OFFICE OF THE OMBUDSMAN
STATEMENT OF FINANCIAL POSITION
AS AT 31 DECEMBER 2019
(Expressed in Cayman Islands Dollars)

Prior Year Actual CI\$000		Notes	Current Year Actual CI\$000	Approved Budget CI\$000	Variance (Budget vs Actual) CI\$000
	Current Assets				
532	Cash and cash equivalents	2,15	451	277	(174)
99	Trade Receivables	3,15,16	1	174	173
-	Other Receivables		-	1	1
70	Prepayments	15,16	33	5	(28)
701	Total Current Assets		485	457	(28)
	Non-Current Assets				
222	Property and equipment	4,15	455	47	(408)
43	Intangible Assets	5	31	38	7
265	Total Non-Current Assets		486	85	(401)
966	Total Assets		971	542	(429)
	Current Liabilities				
63	Accruals and other liabilities	6,16	72	151	79
10	Employee entitlements	7	16	11	(5)
-	Other Payable		-	-	-
93	Surplus payable	8,15,16	50	-	(50)
166	Total Current Liabilities		138	162	24
166	Total Liabilities		138	162	24
800	Net Assets		833	380	(453)
	Equity				
861	Contributed Capital		833	380	(453)
(61)	Accumulated surplus/(deficit)		-	-	-
800	Total net assets/equity		833	380	(453)

The accounting policies and notes on pages 9 -23 form part of these financial statements.

**OFFICE OF THE OMBUDSMAN
STATEMENT OF FINANCIAL PERFORMANCE
FOR THE YEAR ENDED 31 DECEMBER 2019
(Expressed in Cayman Islands Dollars)**

Prior Year Actual		Notes	Current Year Actual	Approved Budget	Variance (Budget vs Actual)
CI\$000			CI\$000	CI\$000	CI\$000
Revenue					
1,569	Sales of goods & services	9,15,16	1,743	2,092	349
1,569	Total Revenue		1,743	2,092	349
Expenses					
1,160	Personnel costs	10,15,16	1,320	1,533	213
212	Supplies and consumables	11,15	212	326	114
81	Leases	12	89	97	8
-	Litigation Cost		37	94	57
22	Depreciation	4,5	65	42	(23)
1	Loss on disposal of assets		3	-	(3)
1,476	Total Expenses		1,726	2,092	366
93	Surplus or (Deficit) for the year		17	-	(17)

The accounting policies and notes on pages 9 -23 form part of these financial statements.

**OFFICE OF THE OMBUDSMAN
STATEMENT OF CHANGES IN NET ASSETS/EQUITY
FOR THE YEAR 31 DECEMBER 2019
(Expressed in Cayman Islands Dollars)**

	Contributed Capital	Accumulated Surplus/(deficit)	Total Net Assets/Equity	Original Budget	Variance (Budget vs. Actual)
	CI\$000	CI\$000	CI\$000	CI\$000	CI\$000
Balance at 1 January 2018	281	(61)	220	280	60
Equity Injection from Cabinet	580	-	580	50	(530)
Surplus for the year	-	93	93	-	(93)
Surplus repayable due for the year 2018	-	(93)	(93)	-	93
Balance at 31 December 2018	861	(61)	800	330	(470)
Balance at 1 January 2019	861	(61)	800	330	(470)
Equity Injection from Cabinet	-	-	-	50	50
Unused Equity Injection returned to Cabinet	(28)	-	(28)	-	28
Surplus for the year	-	17	17	-	(17)
Surplus repayable due for the year 2019	-	(17)	(17)	-	17
Retention of surplus	-	61	61	-	(61)
Balance at 31 December 2019	833	-	833	380	(453)

The accounting policies and notes on pages 9-23 form an integral part of the financial statements.

**OFFICE OF THE OMBUDSMAN
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 31 DECEMBER 2019
(Expressed in Cayman Islands Dollars)**

Prior Year Actual		Notes	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI \$'000			CI \$'000	CI \$'000	CI \$'000
	Cash flows managed on behalf of Cabinet				
	Operating Activities				
	Cash received				
1,584	Sales to Cabinet		1,841	2,092	251
	Sales of goods and services to other Govt agencies		-	-	-
<u>1,584</u>	Total Cash Received		<u>1,841</u>	<u>2,092</u>	<u>251</u>
	Cash used				
(1,158)	Personnel costs		(1,314)	(1,533)	(219)
(296)	Supplies and consumables		(203)	(467)	(264)
(81)	Lease Payments		(89)	-	89
<u>49</u>	Net cash flows from (used by) operating activities	13	<u>235</u>	<u>92</u>	<u>(143)</u>
	Investing Activities				
	Cash Used				
(263)	Purchase of property and equipment	4,5	(316)	(50)	266
<u>(263)</u>	Net cash flows used by investing activities		<u>(316)</u>	<u>(50)</u>	<u>266</u>
	Financing activities				
	Cash received/(used)				
80	Equity injections from Cabinet		-	50	50
(484)	Payment of surplus		-	-	-
<u>(404)</u>	Net cash flows from (used by) financing activities		<u>-</u>	<u>50</u>	<u>50</u>
(618)	Net increase/(decrease) in cash and cash equivalents held		(81)	92	173
1,150	Cash and cash equivalents at beginning of year		532	185	(347)
<u>532</u>	Cash and cash equivalents at the end of the year		<u>451</u>	<u>277</u>	<u>(174)</u>

The accounting policies and notes on pages 9-23 form an integral part of the financial statements.

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 DECEMBER 2019
(Expressed in Cayman Islands Dollars)**

Description and principal activities

The Office of the Ombudsman was established on 13 September 2017 by the Ombudsman Law, 2017 as an independent entity responsible for:

- monitoring compliance with the Freedom of Information Law (2018 Revision) by public authorities
- investigating complaints of government maladministration pursuant to the Complaints (Maladministration) Law (2018 Revision)
- public complaints against the police in accordance with the Police (Complaints by the Public) Law, 2017
- receiving and investigation disclosures of improper conduct and detrimental actions under the Whistleblower Protection Law, 2015
- regulating data protection pursuant to the Data Protection Law, 2018

The Ombudsman is an independent office of the Legislature and reports to an Oversight Committee of the Legislative Assembly for the purpose of establishing a budget and accounting for expenditures.

As at 31 December 2019, the Ombudsman had 13 employees (2018: 13). The Ombudsman is located on the 5th Floor of the Anderson Square Building, George Town Grand Cayman, Cayman Islands.

Note 1: Significant accounting policies

These financial statements have been prepared in accordance with International Public Sector Accounting Standards ("IPSAS") issued by the International Federation of Accountants and its International Public Sector Accounting Standards Board using the accrual basis of accounting. Where additional guidance is required, International Financial Reporting Standards ("IFRS") issued by the International Accounting Standards Board are used.

The accounting policies set out below have been applied consistently to all periods presented in these financial statements. There have been no significant changes to the accounting policies during the year ended 31 December 2019.

New and revised accounting standards issued that are not yet effective for the financial year beginning 1 January 2019 and have not been early adopted by the Entity

Certain new accounting standards have been published that are not mandatory for the 31 December 2019 reporting period and have not been early adopted by the Entity. The Entity's assessment of the impact of these new standards are set out below.

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2019
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

IPSAS 41, Financial Instruments was issued in August 2018 and shall be applied for financial statements covering periods beginning on or after 1 January 2022. IPSAS 41 establishes new requirements for classifying, recognizing and measuring financial instruments to replace those in IPSAS 29, Financial Instruments: Recognition and Measurement. It is anticipated that IPSAS 41 will not have a significant impact on the Entity's financial statements. This will be assessed more fully closer to the effective date of adoption.

IPSAS 42, Social Benefits was issued in December 2018 and shall be applied for financial statements covering periods beginning on or after 1 January 2022. IPSAS 42 defines social benefits and determines when expenses and liabilities for social benefits are recognized and how they are measured. It is anticipated that IPSAS 42 will not have an impact on the Entity's financial statements, but this will be assessed more fully closer to the effective date of adoption.

(a) Basis of preparation

These financial statements have been prepared on a going concern basis. The financial statements are presented in Cayman Islands dollars and the measurement base applied to these financial statements is the historical cost basis.

(b) Reporting period

The current reporting period is for the 12 months commencing 1 January 2019 and ending 31 December 2019.

(c) Budget amounts

The 2019 budget amounts were prepared using the accrual basis of accounting and the accounting policies have been consistently applied with the actual financial statement presentation. The 2019 budget was presented in the 2019 Annual Budget Statement of the Government of the Cayman Islands and approved by the Legislative Assembly on 15 November 2017.

(d) Judgments and estimates

The preparation of financial statements in accordance with International Public Sector Accounting Standards requires judgments, estimates, and assumptions affecting the application of policies and reported amounts of assets and liabilities, revenue and expenses. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances. The account balances that require judgement are receivables from exchange transactions, property and equipment and accruals and other liabilities. Actual results may differ from these estimates.

The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the reporting period and in any future periods that are affected by those revisions.

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2019
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

(d) Judgments and estimates (continued)

As at 31 December 2019, no reliable fair value estimate of contributed goods and services provided to Office of the Ombudsman by government entities could be made and therefore no estimate of amounts are recorded in these financial statements.

(e) Revenue

Revenue is recognised in the accounting period in which it is earned. Revenue received but not yet earned at the end of the reporting period is deferred as a liability. The Office of the Ombudsman derives its revenue through the provision of services to Cabinet, to other agencies in government and to third parties. Revenue derived from third parties in 2019 were nil (2018: nil). Revenue is recognised at the fair value of services provided.

(f) Expenses

Expenses are recognised when incurred on the accrual basis of accounting. In addition, an expense is recognized for the consumption of the estimated fair value of contributed goods and services received, where an estimate can realistically be made.

(g) Operating leases

Leases, where a significant portion of the risks and rewards of ownership are retained by the lessor, are classified as operating leases. Payments made under operating leases are recognised as expenses on a straight-line basis over the lease term.

(h) Cash and cash equivalents

Cash and cash equivalents include cash on hand, cash in-transit and bank accounts with a maturity of no more than three months from the date of acquisition.

(i) Prepayments

The portion of amounts paid for goods and services in advance of receiving such goods and services are recognised as a prepayment.

(j) Property and equipment

Property and equipment is stated at historical cost less accumulated depreciation. Items of property and equipment are initially recorded at cost. Where an asset is acquired for nil or nominal consideration, the asset is recognized initially at fair value, where fair value can be reliably determined, and as revenue in the statement of financial performance in the year in which the asset is acquired.

Depreciation is expensed on a straight-line basis at rates calculated to allocate the cost or valuation of an item of property and equipment; less any estimated residual value, over its estimated useful life. Leasehold improvements are depreciated either over the unexpired period of the lease or the estimated useful lives of the improvements, whichever is shorter.

Asset Type

Estimated Useful life

- | | |
|----------------------------------|----------------------------------|
| • Computer hardware and software | 3 – 4 years |
| • Office equipment and furniture | 5 – 10 years |
| • Other equipment | 5 – 10 years |
| • Leasehold improvements | 5 years – over the term of lease |

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2019
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

(j) Property and equipment (continued)

The assets residual values and useful lives are reviewed, and adjusted if appropriate, at year end. Assets that are subject to depreciation are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An asset's carrying amount is written down immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amount. The recoverable amount is the higher of the asset's fair value less costs to sell and its value for use in service.

Disposals

Gains and losses on disposal of property and equipment are determined by comparing the sale proceeds with the carrying amount of the asset. Gains and losses on disposals during the year are included in the statement of financial performance.

(k) Employee benefits

Employee entitlements to salaries and wages, annual leave, long service leave, retiring leave and other similar benefits are recognised in the statement of financial performance when they are earned by employees. Employee entitlements to be settled within one year following the year-end are reported as current liabilities at the amount expected to be paid.

Pension contributions for employees of the Office of the Ombudsman are paid to the Public Service Pension Fund and administered by the Public Service Pension Board (the "Board"). Contributions of 12% on basic salary - employer 6% and employee 6% - are made to the Fund by the Office of the Ombudsman. Contributions of 12% on acting, duty allowances – employer 6% and employee 6% - are made to the Fund by the Office of the Ombudsman.

Prior to 1 January 2000, the Board operated a defined benefit scheme. With effect from 1 January 2000 the Board continued to operate a defined benefit scheme for existing defined benefit employees and a defined contribution scheme for all new employees.

All eligible employees for the defined contribution plan are included in these financial statements. Any employees belonging to the defined benefit plan are recognised at the entire Public Sector level as an Executive liability managed by the Ministry of Finance and accordingly not recognised in these financial statements. IPSAS 39, Employee Benefits, effective for annual periods beginning on or after January 1, 2018 has no impact on these financial statements.

(l) Financial instruments

The Office of the Ombudsman is party to financial instruments as part of its normal operations. These financial instruments include cash and cash equivalents, receivables from exchange transactions and trade payables, accruals and other liabilities, employee entitlements and surplus payable all of which are recognised in the statement of financial position.

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2019
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

(l) Financial instruments (continued)

Classification

A financial asset is classified as any asset that is cash, a contractual right to receive cash or another financial asset, exchange financial instruments under conditions that are potentially favourable. Financial assets comprise of cash and cash equivalents and trade receivables.

A financial liability is any liability that is a contractual obligation to deliver cash or another financial asset or to exchange financial assets with another enterprise under conditions that are potentially unfavourable. Financial liabilities comprise of trade payables, accruals and other liabilities, employee entitlements and surplus payable.

Recognition

The Office of the Ombudsman recognises financial assets and financial liabilities on the date it becomes party to the contractual provisions of the instrument. From this date, any gains and losses arising from changes in fair value of the assets and liabilities are recognised in the statement of financial performance.

Measurement

Financial instruments are measured initially at cost which is the fair value of the consideration given or received. Subsequent to initial recognition all financial assets are measured at amortized cost, which is considered to approximate fair value due to the short-term or immediate nature of these instruments.

Financial liabilities are subsequently measured at amortised cost, being the amount at which the liability was initially recognised less any payment plus any accrued interest of the difference between that initial amount and the maturity amount.

De-recognition

A financial asset is de-recognised when the Office of the Ombudsman realises the rights to the benefits specified in the contract or loses control over any right that comprise that asset. A financial liability is derecognised when it is extinguished, that is when the obligation is discharged, cancelled, or expired.

(m) Provisions and contingencies

Provisions are recognised when an obligation (legal or constructive) is incurred as a result of a past event and where it is probable that an outflow of assets embodying economic benefits will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

Contingent liabilities are not recognised but are disclosed in the financial statements unless the possibility of an outflow of resources embodying economic benefits is remote. Contingent assets are not recognised but are disclosed in the financial statements when an inflow of economic benefits is probable.

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2019
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

(n) Foreign currency

Foreign currency transactions are recorded in Cayman Islands dollars using the exchange rate in effect at the date of the transaction. Foreign currency gains or losses resulting from settlement of such transactions are recognised in the statement of financial performance.

At the end of the reporting period the following exchange rates are to be used to translate foreign currency balances:

- Foreign currency monetary items are to be reported in Cayman Islands dollars using the closing rate;
- Non-monetary items which are carried in terms of historical cost denominated in a foreign currency are reported in Cayman Islands dollars using the exchange rate at the date of the transaction; and
- Non-monetary items that are carried at fair value denominated in a foreign currency are reported using the exchange rates that existed when the fair values were determined.

(o) Impairment

An asset is impaired when its carrying amount exceeds its recoverable amount. If there is any indication of impairment present, the entity is required to make a formal estimate of recoverable amount.

(p) Revenue from non-exchange transactions

The Office of the Ombudsman receives various services from other Government entities for which payment is made by the Government. These services include but are not limited to computer repairs and software maintenance by the Computer Services Department and human resources management by the Portfolio of the Civil Service. The Office of the Ombudsman has designated these non-exchange transactions as Services in-Kind as defined under IPSAS 23 - Revenue from Non-Exchange Transactions. When fair values of such services can be reliably estimated then the non-exchange transaction is recorded as an expense and an equal amount is recorded in other income as a service in-kind. Where services in-kind offered are directly related to construction or acquisition of a property and equipment, such service in-kind is recognized in the cost of property and equipment.

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2019
(Expressed in Cayman Islands Dollars)**

Note 2: Cash and cash equivalents

As at 31 December 2019 the Office of the Ombudsman held no restricted cash balances. No interest was earned during the year on the amounts held in these bank accounts.

Prior Year Actual CI\$'000	Description	Current Year Actual CI\$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
-	Cash on hand / Petty Cash	-	1	1
532	Operational Current Account - KYD	451	262	(189)
-	Payroll Current Account - KYD	-	14	14
532	Cash and cash equivalents	451	277	(174)

Note 3: Receivables from exchange transactions

Prior Year Actual CI \$'000	Trade Receivables	Current Year Actual CI \$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
99	Outputs to Cabinet	1	174	173
99	Net Trade receivables	1	174	173

Prior Year Actual CI \$'000	Maturity Profile	Current Year (Gross) CI \$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
80	1-30 days	1	174	173
-	Past due 31-60 days	-	-	-
-	Past due 61-90 days	-	-	-
19	Past due 90 and above	-	-	-
99	Total Trade Receivables	1	174	173

OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2019
(Expressed in Cayman Islands Dollars)

Note 4: Property and equipment
Cost of Property and equipment

	Furniture & Fittings CI\$000	Computer Hardware CI\$000	Office Equipment CI\$000	Leasehold Improvements CI\$000	Work in Progress CI\$000	Total Property and Equipment CI\$000
Balance as at 1 January						
2018	34	9	17	4	-	64
Additions	4	18	-	-	189	211
Disposal/ Derecognition	(9)	(1)	(1)	-	-	(11)
Balance as at 31 December						
2018	29	26	16	4	189	264
Balance as at 1 January						
2019	29	26	16	4	189	264
Additions	121	-	31	326	-	478
Transfers	(18)	-	-	(3)	(189)	(210)
Disposal/ Derecognition	-	(1)	-	(1)	-	(2)
Balance as at 31 December						
2019	132	25	47	326	-	530
Accumulated Depreciation						
	Furniture & Fittings CI\$000	Computer Hardware CI\$000	Office Equipment CI\$000	Leasehold Improvements CI\$000	Work in Progress CI\$000	Total Property and Equipment CI\$000
Balance as at 1 January						
2018	24	2	14	2	-	42
Depreciation Expense	3	5	3	1	-	12
Disposal/ Derecognition	(10)	(1)	(1)	-	-	(12)
Balance as at 31 December						
2018	17	6	16	3	-	42
Balance as at 1 January						
2019	17	6	16	3	-	42
Depreciation Expense	8	8	3	34	-	53
Transfers	(16)	-	-	(2)	-	(18)
Disposal/ Derecognition	-	(1)	-	(1)	-	(2)
Balance as at 31 December						
2019	9	13	19	34	-	75
Net Book value 31						
December 2018	12	20	-	1	189	222
Net Book value 31						
December 2019	123	12	28	292	-	455

OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2019
(Expressed in Cayman Islands Dollars)

Note 5: Intangible Asset

Cost of Intangible Asset

	Computer Software CI\$000
Balance transferred as at 1 January 2018	35
Additions	52
Disposal/ Derecognition	(35)
Balance as at 31 December 2018	<u>52</u>
	Computer Software CI\$000
Balance transferred as at 1 January 2019	52
Additions	-
Disposal/ Derecognition	-
Balance as at 31 December 2019	<u>52</u>

Accumulated Amortization and impairment losses

	Computer Software CI\$000
Balance as at 1 January 2018	33
Eliminate on Disposal/Derecognition	-
Amortization Expense	10
Disposal/ Derecognition	(34)
Balance as at 31 December 2018	<u>9</u>
	Computer Software CI\$000
Balance as at 1 January 2019	9
Eliminate on Disposal/Derecognition	12
Amortization Expense	-
Disposal/ Derecognition	-
Balance as at 31 December 2019	<u>21</u>
Net Book value 31 December 2018	<u>43</u>
Net Book value 31 December 2019	<u>31</u>

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2019
(Expressed in Cayman Islands Dollars)**

Note 6: Accruals and other liabilities

Prior Year Actual CI\$'000	Description	Current Year Actual CI\$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
42	Accruals	37	151	114
21	Core government trade with other public entities	35	-	(35)
63	Total Trade Payables, Accruals and Other Liabilities	72	151	79

Payables under exchange transactions and other payables are non-interest bearing and are normally settled on 30-day terms.

Note 7: Employee entitlements

Prior Year Actual CI\$'000	Details	Current Year Actual CI\$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
<i>Current employee entitlements are represented by:</i>				
10	Annual leave	15	11	(4)
-	Salaries and wages	1	-	(1)
10	Total employee entitlements	16	11	(5)

Note 8: Surplus payable

Surplus payable represents accumulated surplus of \$50 thousand as at 31 December 2019 (2018: \$93 thousand). Under the *Public Management & Finance Law (2018 Revision)* section 39 (3)(f), the Office of the Ombudsman may “retain such part of its net operating surplus as is determined by the Minister of Finance”. During the year the Minister of Finance approved for the Office of the Ombudsman to retain \$61 thousand of its net operating surplus. The Entity did not make a repayment to Cabinet during 2019 but recorded an additional surplus of \$17 thousand for the year ended December 31, 2019. Therefore, the Office of the Ombudsman recorded at 31 December 2019 a surplus payable amount to the Government of the Cayman Islands in the amount of \$50 thousand.

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2019
(Expressed in Cayman Islands Dollars)**

Note 9: Revenue

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI\$'000		CI\$'000	CI\$'000	CI\$'000
1,569	Outputs to Cabinet	1,743	2,092	349
1,569	Total Sale of Goods & Services	1,743	2,092	349

Note 10: Personnel costs

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI\$'000		CI\$'000	CI\$'000	CI\$'000
973	Salaries, wages and allowances	1,088	1,232	144
128	Health care	164	228	64
49	Pension	56	67	11
2	Leave	3	3	-
8	Other Personnel related costs	9	3	(6)
1,160	Total Personnel Cost	1,320	1,533	213

Note 11: Supplies and consumables

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI\$'000		CI\$'000	CI\$'000	CI\$'000
24	Supplies and Materials	23	26	3
123	Purchase of services	114	143	29
32	Utilities	28	42	14
-	General Insurance	-	-	-
17	Travel and Subsistence	28	27	(1)
9	Recruitment & Training	11	40	29
7	Interdepartmental expenses	7	43	36
-	Other	1	5	4
212	Total Supplies & Consumables	212	326	114

OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2019
(Expressed in Cayman Islands Dollars)

Note 12: Leases

Prior Year Actual	Type of Lease	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI\$'000		CI\$'000	CI\$'000	CI\$'000
81	Lease and Rent of Property and Sites	89	97	8
81		89	97	8

Note 13: Reconciliation of net cash flows from operating activities to surplus

Prior Year Actual	Reconciliation of Surplus to Net Operating Cash	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI \$'000		CI \$'000	CI \$'000	CI \$'000
93	Surplus/(deficit) from ordinary activities	17	-	(17)
	Non-cash movements			
22	Depreciation	65	42	(23)
1	Loss on disposal of assets	3	-	(3)
	Changes in current assets and liabilities:			
14	Decrease in receivable	98	50	(48)
(69)	(Increase)/Decrease in prepayments	37	-	(37)
(58)	(Decrease) in payables	-	-	-
44	Increase in accruals and other liabilities	9	-	(9)
2	Increase in employee entitlements	6	-	(6)
49	Net cash flows from operating activities	235	92	(143)

Note 14: Commitments

Prior Year Actual	Type	One Year or Less	One to Five Years	31 December 2019
CI\$000		CI\$000	CI\$000	CI\$000
	Operating Commitments			
532	<i>Non-Cancellable Accommodation Leases</i>	108	288	396
532	Total Operating Commitment	108	288	396
532	Total Commitment	108	288	396

The Office of the Ombudsman has a medium to long-term accommodation lease for the premises it occupies in George Town. The lease is for a period of 5 years and expires 31 August 2023.

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2019
(Expressed in Cayman Islands Dollars)**

Note 15: Explanation of major variances against budget

Explanations for major variances for the Office of the Ombudsman performance against the original budget are as follows:

Statement of financial position

Cash and cash equivalents

The increase in cash and cash equivalents of \$174 thousand compared to budget is mainly due to all Cabinet funding billed during the year was received by 31 December 2019. One month's Cabinet Billing was budgeted as a receivable and not as cash and cash equivalents and this is consistent with Trade Receivables variance noted below.

Trade receivables

The decrease of \$173 thousand from budget is mainly due to one month's Cabinet funding budgeted for but actually received by 31 December 2019. This is consistent with the cash and cash equivalents variance note above.

Prepayments

The increase of \$28 thousand from budget is primarily due to prepayments relating to retainer of legal services and license and support maintenance fees.

Property and equipment

The increase of \$408 thousand in property and equipment is due to the fit-out of office space, which had not been included in the original budget.

Accruals and other liabilities

The decrease of \$79 thousand in accrual and other liabilities is primarily due to timing of payments.

Surplus payable

The Office of the Ombudsman has recorded a surplus of \$50 thousand to be paid to Cabinet. During the year no amounts were repaid, and a surplus of \$17 thousand was recorded for the current year. The variance is because the budget did not include any provision for surplus.

Statement of financial performance

Revenue

The \$349 thousand decrease from budget is as a result of Cabinet revenue billed more in line with actual expenditure.

Personnel Costs

Actual personnel costs are lower than budget by \$213 thousand primarily due to budgeted positions being filled at later dates throughout the year than anticipated.

Supplies and Consumables

Total supplies and consumables was \$114 thousand under budget primarily due to reduced spending in the areas of interdepartmental expenses of \$36 thousand, purchase of services of \$29 thousand, recruitment and training of \$29 thousand, and utilities of \$14 thousand. Interdepartmental expenses of \$36 thousand relates to audit fees budgeted for Office of the Auditor General. The audit however was outsourced and those costs are carried in purchase of services. Purchase of services saw an increase in outsourced audit services of \$28 thousand netted against reduced spending in professional fees and public relations due to the delay of the Data Protection Law. Training was also impacted due to the delay of the Data Protection Law. Utilities were under due to the delay in relocation to new office space.

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2019
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Note 15: Explanation of major variances against budget continued

Litigation costs

Litigation costs are budgeted as contingencies, and may vary from period to period depending on applications for Judicial review. As a result, this expense was \$57 thousand under budget.

Depreciation

Actual depreciation is over budget by \$23 thousand as a result of fit-out costs not budgeted for in 2019.

Note 16: Related party and key management personnel disclosures

Related party disclosure

The Office of the Ombudsman is a wholly owned entity of the Government of the Cayman Islands from which it derives a major source of its revenue. The Office of the Ombudsman and its key management personnel transact with other government entities on a regular basis. These transactions were provided in-kind during the financial year ended 31 December 2019 and were consistent with normal operating relationships between entities and were undertaken on terms and conditions that are normal for such transactions. These transactions are as follows:

Prior Year Actual CI\$'000	Statement of financial position	Current Year Actual CI\$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
99	Trade receivables	1	174	173
35	Prepayments	-	-	-
21	Accrual and other liabilities	35	-	(35)
93	Surplus payable	50	-	(50)
	Statement of financial performance			
1,569	Sale of goods and services	1,743	2,092	(349)

Key management personnel

Key management personnel, defined as the Ombudsman and the Deputy Ombudsmans.

Compensation of Key Management Personnel

For the year ended 31 December 2019 there are three full-time equivalent (2018: three full-time) personnel considered at the senior management level. Total remuneration includes: regular salary, pension contribution, health insurance contribution, allowances, bonus and termination benefits. Total remuneration paid to key management personnel were as follows:

Prior Year Actual CI\$'000	Description	Current Year (Gross) CI\$'000
386	Salaries & other short-term employee benefits	457
386	Total Remuneration	457

**OFFICE OF THE OMBUDSMAN
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Note 17: Financial instrument risks

The Office of the Ombudsman is exposed to a variety of financial risks including credit risk and liquidity risk. The risk management policies are designed to identify and manage these risks, to set appropriate risk limits and controls, and to monitor the risks and adhere to limits by means of up to date and reliable information systems. These risks are managed within the parameters established by the Financial Regulations (2018 Revision).

Credit risks

Credit risk refers to the risk that a counterparty will default on its contractual obligations resulting in financial loss to the Office of the Ombudsman. Financial assets which potentially expose the Office of the Ombudsman to credit risk comprise cash and cash equivalents and receivables from exchange transactions.

The Office of the Ombudsman is exposed to potential loss that would be incurred if the counterparty to the bank balances fails to discharge its obligation to repay. All bank balances are with one financial institution located in the Cayman Islands which management considers to be financially secure and well managed. Receivables from exchange transactions are due from the Government of the Cayman Islands and is deemed financially stable to meet its liabilities.

Liquidity risk

Liquidity risk is the risk that the Office of the Ombudsman is unable to meet its payment obligations associated with its financial liabilities when they are due.

The ability of the Office of the Ombudsman to meet its debts and obligation is dependent upon its ability to collect the debts outstanding to the Office of the Ombudsman on a timely basis. In the event of being unable to collect its outstanding debts, it is expected that the Government of the Cayman Islands would temporarily fund any shortfalls for the Office of the Ombudsman with its own cash flows. As at 31 December 2019, all of the financial liabilities with the exception of surplus payable were due within three months of the year end dates.

Currency risk

The Office of the Ombudsman has minimal exposure to currency exchange risk.

Note 18: Subsequent events

In preparing these financial statements management has evaluated and disclosed all material subsequent events up to 30 April 2020 which is the date that the financial statements were available to be issued.

On March 11, 2020, The World Health Organisation officially declared the COVID-19 outbreak a pandemic. The global and local measures put in place to contain the spread of COVID-19 have caused significant disruption to business and economic activity. While the disruption is currently expected to be temporary, the financial effects on the Entity will depend on factors such as (i) the duration and spread of the outbreak, (ii) the restrictions and advisories from Government, (iii) the effects on the financial markets, and (iv) the effects on the economy overall, all of which are highly uncertain. While the Entity expects this matter may impact its operating results, the financial impact and duration cannot be reasonably estimated at this time.





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