



**OFFICE OF THE OMBUDSMAN**

*Annual Report 2021*

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## Message from the Ombudsman

This year, in spite of our fervent wishes otherwise, we continued to face the challenges of living in a global pandemic. We began to feel the long-term impact of dealing with the pandemic presented both in our work lives and in our personal lives. For me, the distance from my family weighed heavily on my mind, leading me to make the difficult decision to leave Cayman to return to Canada before the end of my term as Ombudsman. I am going to take the opportunity in this, my final annual report, to review our accomplishments since the office's inception in September 2017 and to offer some suggestions for future improvements.

The Office of the Complaints Commissioner (OCC) was created in 2004 and the Information Commissioner's Office (ICO) in 2009. Both of these offices were rolled into the Office of Ombudsman (OMB) in 2017. Both offices were suffering from a perceived lack of permanence – they had been dealing with temporary (acting) appointments for years. The absence of a leader with security of tenure significantly undermined their work.

The offices had separate office space (with a shared reception area) and operated independently of each other. We consolidated the administrative and

financial practices of the offices to create a structure that could also accommodate the addition of three additional areas of responsibility (police complaints, data protection and whistleblower protection). The physical office space also required adjustment to make room for additional staff. One of the first challenges was to locate suitable office space. We were fortunate to be able to stay in the same building and moved to a space with room for everyone. We designed a modern, flexible office which came in under budget and which continues to be fit for purpose.

We selected a customizable case management system to track our complaints and appeals. Initially we used the system in its “out of the box” format so that we could become familiar with its operation and make informed decisions on customization. Over the last four years we have customized this system to improve our ability to capture all of our work. We now know how many general inquiries we receive on the phone and by email in addition to the formal complaints and appeals we receive. The system allows individual case tracking and the creation of statistical reports which assist us in understanding our complete workload. We are continuing this work with the aim of

adding web-fillable forms for complaints, appeals and data breach notifications.

We moved our administrative and operational operations to a paperless and cloud-based system. Considerable time and effort was spent digitizing our historical paper-based records but it has resulted in a well-organized and efficient system which is easily accessible from anywhere. We could not have predicted how beneficial this setup would be for working remotely during a pandemic. Our use of Office 365 allowed us to transition to a work from home program overnight because we had all of the hardware and software in place to continue to work without disruption.

The OCC followed the traditional formal method of complaint handling and appeal management which involved detailed investigations. While the ICO resolved appeals informally, they did not place as much emphasis on communicating the outcomes of this process as is the case with the OMB. The OMB has adopted a more modern approach by creating an informal resolution process and emphasizing this approach as the preferred method of resolving complaints and appeals wherever possible. Parties often prefer this approach because it is a flexible process that enables them to achieve many of the same outcomes as a formal process, but often more quickly. An informal resolution can decrease the uncertainty associated with formal investigation reports or binding decisions. There is also some evidence that

compliance with recommendations is increased with an informal process. However, there are reasons why the formal investigation and hearing processes remain. Where we are unable to resolve complaints or appeals informally, or where the matter warrants a formal investigation or hearing because of its complexity or potential systemic impact, we open a formal investigation or conduct a hearing in order to resolve the matter.

Our most significant accomplishment in dealing with public complaints about police conduct was creating a process and then clearing of 144 historical complaints, some of which were more than ten years old. We were able to do so because we created processes, procedures and relationships to manage the significant demands involved in clearing such a backlog.

Looking forward, we have identified a number of challenges posed by the ***Police (Complaints by the Public) Act*** and are working with the RCIPS as well as the Attorney General's Chambers to make recommendations for amendments to the legislation in order to improve the operation of this complaints system.

We saw the smallest growth in the area of whistleblower disclosures during the past 4 years. Whistleblower Protection is a relatively new area of oversight worldwide. Cayman's legislation is very ambitious seeking to cover both public and private sectors. While we have only had a few disclosures, we have identified some

significant challenges posed by the existing legislation. Our office has commenced a review of the legislation with a view to making recommendations for amendments to improve the process for whistleblowers.

The biggest challenge faced by the office in the last four years was implementing a data protection regime. It would not have been possible without Deputy Ombudsman Jan Liebaers who brought his expertise and commitment to the implementation project. We regularly receive compliments on the guidance documents written by Mr. Liebaers and the data protection team. Once again, we have identified some pressure points that would benefit from legislative amendment. The Attorney General is working with us to address these issues.

While the merger of the OCC and ICO and the creation of three new areas of oversight was successful from an administrative point of view, it is increasingly apparent that the challenge of administering five business lines is significant. Many other countries have separate independent offices for the Ombudsman, Information Commissioner, Data Protection Commissioner and for police oversight. Even small countries have made the decision to fund separate independent offices. For example, Bermuda has an Ombudsman, an Information Commissioner and a Data Protection Commissioner. This allows the offices to develop expertise and depth of

resources in a single subject area. In my opinion, designating one office to lead five important areas of oversight dilutes the impact of the office on many different levels. Having a variety of independent officers increases the opportunity for creative thinking and allows for different perspectives to inform government oversight. I recommend that the Cayman Islands Government consider separating the OMB into three separate offices – one dealing with maladministration and whistleblower protection, another for access to information and data protection and a third for the oversight of public complaints about police conduct. I recognize that a major reason for consolidating the offices was to minimize cost, and I believe that some of these offices could share administrative services (and even perhaps with the Auditor General) which could minimize certain administrative costs. In my opinion, cost savings should not be the determinative factor in these matters.

The most important factor in the remarkable accomplishments we have achieved since 2017 are the members of Team OMB. They have demonstrated a tremendous commitment and dedication to the work of this office. Our work is not easy – it involves hearing difficult stories from people who are often very upset and disillusioned. Achieving resolution requires critical, creative thinking combined with expert mediation skills. It is also lonely work we work in isolation from the entities

over which we have jurisdiction in order to preserve our independence. Day in and day out Team OMB shows up for work with a positive and enthusiastic attitude because they know the importance of the work they do and they believe in it.

On a personal note, I am so very grateful for the unqualified support Team OMB has given me – I will treasure this priceless

gift. I am honoured to have been a member of such a remarkable team and I am confident they have the skills and the tools to continue their important work.

A handwritten signature in black ink, appearing to read 'Sandy Hermiston', written in a cursive style.

**Sandy Hermiston | JP Ombudsman**

## Roles & Goals

Ombudsman is a gender-neutral Swedish word that means “representative of the people”. Generally, an ombudsman acts as an independent and impartial officer who raises concerns with government bodies.

Our office has a broader mandate than most ombudsmen because we have additional responsibilities relating to freedom of information, data protection, complaints about police conduct and whistleblower protection.

We act as a bridge between members of the public and the government, the RCIPS and, in some cases, the private sector (data protection and whistleblower protection). In general, our office will not get involved in a complaint or appeal until regular complaint or dispute mechanisms have been exhausted.

Our work helps maintain public confidence in government or private sector entities by ensuring that people are treated fairly. Through our work as an impartial and objective oversight body, we reduce the imbalance of power that sometimes exists, and we ease relationships when they become strained.

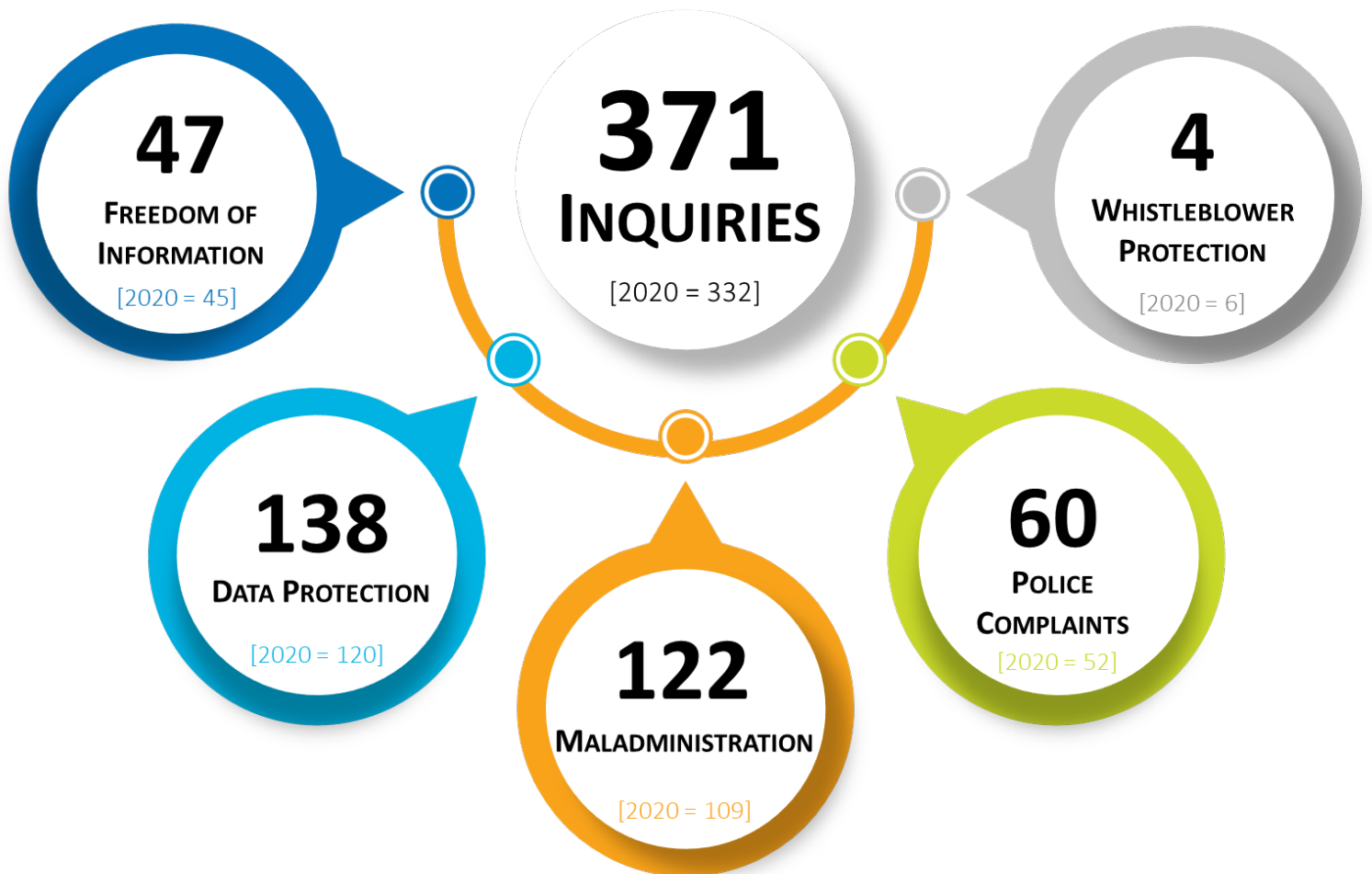
In our complaints handling work we promote fairness, accountability and transparency. Where possible, we seek to resolve matters informally and efficiently while still looking for opportunities to make recommendations that will result in improvements to the system.

In our information rights-related work, we apply similar principles of fairness, accountability and transparency to resolve cases informally and issue binding orders to ensure compliance with the spirit and letter of the FOI and data protection legislation.

# Overview

## INQUIRIES

(1 January to 31 December 2021)





## CASES

### CASES RECEIVED AS AT 31 DECEMBER 2021

FREEDOM OF INFORMATION	31
DATA PROTECTION	131
MALADMINISTRATION	65
POLICE COMPLAINTS	28
WHISTLEBLOWER PROTECTION	2

### OPEN CASES AS AT 31 DECEMBER 2021

FREEDOM OF INFORMATION	15
DATA PROTECTION	54
MALADMINISTRATION	23
POLICE COMPLAINTS	16
WHISTLEBLOWER PROTECTION	3

81

257

227

111

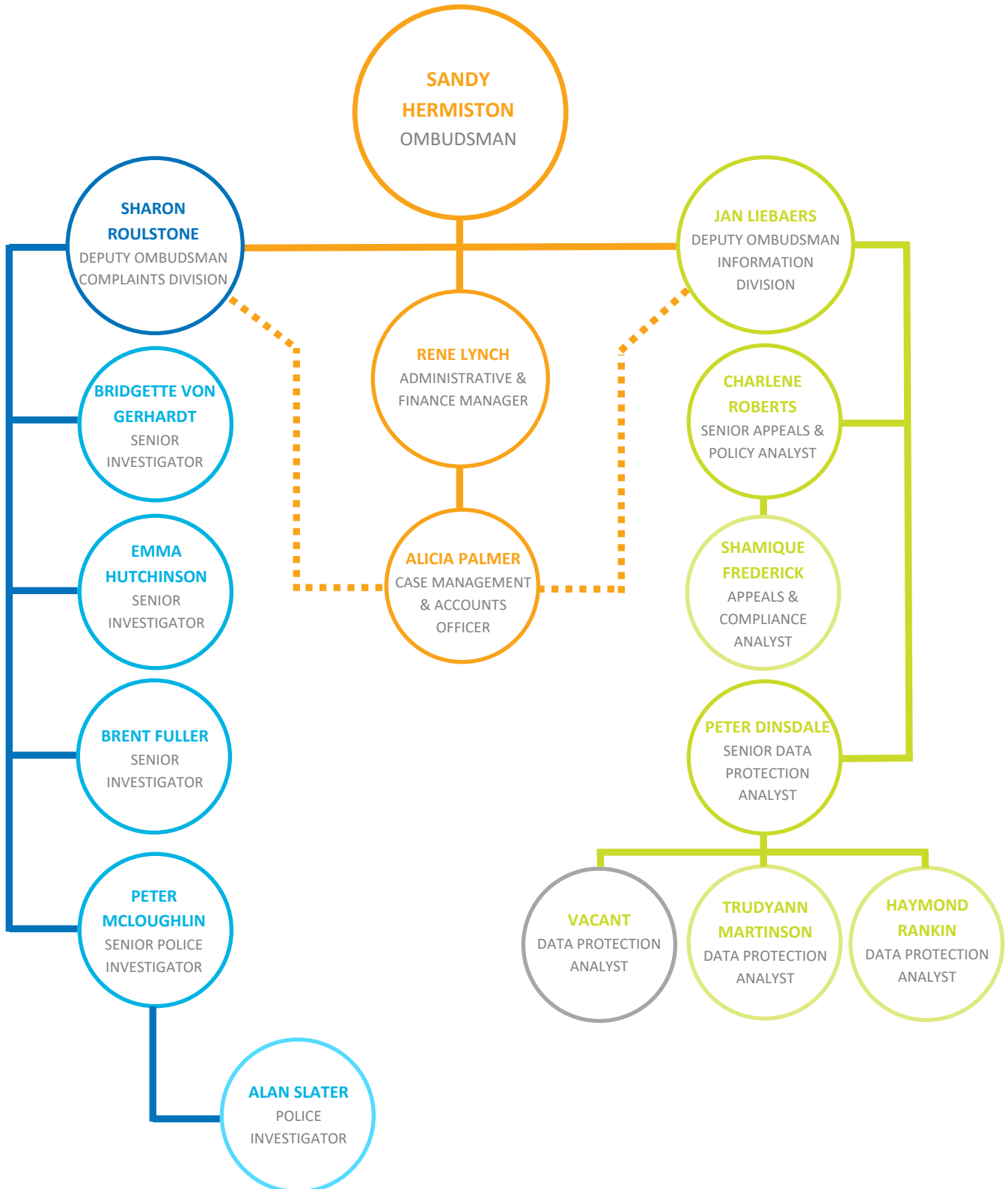
### CASES CARRIED FORWARD

FREEDOM OF INFORMATION	17
DATA PROTECTION	36
MALADMINISTRATION	11
POLICE COMPLAINTS	15
WHISTLEBLOWER PROTECTION	2

### CASES CLOSED AS AT 31 DECEMBER 2021

FREEDOM OF INFORMATION	33
DATA PROTECTION	113
MALADMINISTRATION	53
POLICE COMPLAINTS	27
WHISTLEBLOWER PROTECTION	1

## ORGANIZATIONAL CHART



# Human Resources

Towards the end of the year the Ombudsman announced her resignation by the end of January 2022, to take up a position as the first Ombudsman of Prince Edward Island, Canada. This news was a surprise to all, and her energy, expertise and dedication to the office will be sincerely missed.

The Complaints Division lost two Maladministration Investigators late in the year, one of whom retired from the service.

The position of Appeals and Communications Officer, which had remained vacant for some time, was transformed into an additional Data Protection Analyst position, reflecting the heavy workload in that part of the office.

By year's end, recruitment exercises were started to fill the vacant posts.

## TRAINING AND DEVELOPMENT

Training and development plans continued to be disrupted due to the pandemic, as many workshops and conferences were

cancelled. Nonetheless, we took advantage of online courses and learning events, which also included a number of webinars and learning events in relevant subject areas.

Following the certification of most staff the previous year, the remainder of our staff certified as mediators in 2021.

Two of the maladministration investigators took a course in Essentials for Ombudsmen from Osgoode Hall in Canada.

The FOI Team remotely attended two international workshops organized by the International Conference of Information Commissioners held in Brasil.

One of the Data Protection Analysts started a course in legal research and study skills, towards a postgraduate certificate at the Law School, Northumbria University.

On the recommendation of the Judicial and Legal Services Commissioner, the Deputy Ombudsman (Complaints) was invited by the Chief Justice to participate in a training programme for magistrates.

## INFORMATION RIGHTS DIVISION

# Freedom of Information

*In its 13<sup>th</sup> year of operations the Freedom of Information Act (FOI Act) continued to be used by members of the public to request access to government information, and to appeal access decisions made by public entities to the Ombudsman.*

The FOI Act grants the public a general right of access to records held by public authorities, except where an exemption applies.

After an initial dip caused by the pandemic in the previous year, 2021 was the busiest year in terms of FOI appeals. A total of 17 appeals were carried forward from the previous year and a record-breaking 31 new appeals were received, of which 33 were resolved.

As in preceding years, the vast majority of our cases were resolved informally. These dealt with various topics, including statistics on DOE prosecutions, statistics on trade and business licenses, CINICO health insurance claims, and minutes of the Health Practice Commission.

FREEDOM OF INFORMATION	2018	2019	2020	2021
Inquiries	87	60	45	<b>47</b>
Appeals carried forward	12	15	13	<b>17</b>
Appeals received	23	26	24	<b>31</b>
Appeals resolved	20	28	20	<b>33</b>
Open appeals	15	13	17	<b>15</b>

In addition, the Ombudsman issued 6 binding hearing decisions. In 3 of these the appeals were dismissed, 2 were fully upheld and 1 partially. As usual, the appeals dealt with a wide variety of subjects. The Ombudsman's decisions addressed a number of important topics ranging from the redevelopment of Smith Barcadere, the contract of a Law School employee, retail fuel test results, marriage checks by WORC, a report of the review committee on permanent residence, and fee, duty and tax waivers for large developments.

Our FOI team also responded to 47 inquiries from members of the general public and public officers, some of which came from information managers with questions about the workings of the FOI Act.

Our outreach activities for International Right to Know Day on 28 September were somewhat limited by the pandemic, but we drew attention to the Act with media stories and social media postings.

## FREEDOM OF INFORMATION

# Case Summaries | Informal Resolution

### STATISTICS ON DOE PROSECUTIONS AND TRAINING

#### Department of Environment (DOE)

An applicant requested a wide variety of records from the DOE, including statistics on prosecutions. The DOE disclosed some records while claiming that other records were not held. Disclosure of the statistics was claimed to involve an unreasonable diversion of resources, thus excluding this part of the request from the application of the FOI Act.

**The applicant appealed the DOE's exclusion of the statistics. During our investigation we asked the DOE to consider exporting information in their database to a spreadsheet and disclose the requested statistics in that format. We also encouraged the IM to provide an additional explanation of the limited scope of the statistics, which meant that part of the request could not be answered. The DOE agreed with this approach, and also disclosed additional records. The case was then closed.**

### POLICE REPORT ON HOME FIRE

#### Royal Cayman Islands Police Service (RCIPS)

An applicant was denied access to a police report on the subject of a fire at the applicant's deceased relative's home. Instead, he was referred to the Criminal Records Office where the record could be obtained for a fee.

**It is the standard approach of the FOI Act to follow existing administrative or statutory access procedures, where they exist, rather than the FOI process. Nonetheless, upon appeal the RCIPS was willing to disclose a redacted copy of the report, and the case was closed.**

**CORRESPONDENCE AND OTHER  
INFORMATION RELATING TO THE  
APPLICANT  
Cayman Islands National Insurance  
Company (CINICO)**

A request was made for the applicant's own personal information relating to the decision-making processes of CINICO. CINICO claimed that no records were held, and the applicant made an appeal. This request was separately considered under the *Data Protection Act* since it concerned the applicant's own personal data.

**We investigated the appeal and met with the two parties, during which it emerged that the applicant was interested in an explanation for delays encountered with health insurance claims. It was clear that the type of record being sought was in fact not held. The applicant accepted CINICO's explanations and apologies. The claim was settled and CINICO committed to developing further internal policies and procedures, and streamlining their processes, and the case was closed.**

**TRADE AND BUSINESS LICENSING  
STATISTICS & BOARD POLICIES  
Department of Commerce &  
Investment (DCI)**

This appeal followed from a request for Trade and Business Licensing (TBL) statistics and board policies. The DCI advised the applicant that the requested records were not held.

**In the course of the appeal, we met with the DCI to discuss their records. At least some of the requested data were held in the TBL database. Upon our suggestion, DCI was able to export selected data fields to a spreadsheet, and provide further explanations for possible distortions of the figures to the applicant. This satisfied the applicant and the appeal was closed.**

**MINUTES RELATING TO THE  
APPLICANT'S BUSINESS**  
**Department of Health Regulatory  
Services (HRS) and Health Practice  
Commission (HPC)**

An applicant's business was affected by a decision of the HPC. He requested the minutes of the meetings in which that decision was made, but was denied access and appealed.

**During our investigation we requested unredacted records of the minutes for our routine internal analysis. However, we received heavily redacted copies with virtually all items unrelated to the**

**applicant's business blacked out. The IM sought to explain to us that the redacted parts of the records did not relate to the case, and we would not be provided with unredacted copies of the minutes.**

**We met with the HPC's legal counsel and explained the powers of the Ombudsman under the FOI Act. Given the broad formulation of the request, they agreed that the minutes should be provided in full for our analysis. More discussions ensued, and HPC disclosed further records with some redactions (and reasons) to the applicant. He then agreed the case could be closed.**

<b>FREEDOM OF INFORMATION</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Assessment/disposition</b>	n/a	7	3	<b>1</b>
Non-jurisdictional	n/a	7	3	<b>1</b>
<b>Informal resolution</b>	16	9	9	<b>26</b>
Full disclosure	7	1	3	<b>12</b>
Partial disclosure	5	5	2	<b>7</b>
Late appeal request denied	1	0	0	<b>0</b>
Non-disclosure	1	3	4	<b>2</b>
No records found	1	0	0	<b>0</b>
Deferred	1	0	0	<b>0</b>
Other	0	0	0	<b>5</b>



## FREEDOM OF INFORMATION

# Case Summaries | Appeal Decisions

### **EXTRACT OF CABINET MINUTES ON PROPOSED SMITH BARCADERE REDEVELOPMENT PROJECT Cabinet Office (CO)**

This request was for various records relating to the Smith Barcadere Redevelopment Project. The CO withheld the extract of Cabinet minutes that showed the Cabinet's decision on granting an exemption under the *Development and Planning Act*.

**The Ombudsman confirmed that openness is the default starting point under the FOI Act, and exemptions to the right of access should be interpreted narrowly. The exemption the CO relied on was recently amended and extended, and it was no longer subject to a public interest test. Nonetheless, it remains focused on deliberative processes and not on decisions. As well, the exemption of a planning permission is required to be published under the Planning Act. The other records that were disclosed had already clearly indicated the decision that had been made by the Cabinet.**

**Therefore, the extract was not exempt from the general right of access, and the CO was required to disclose it.**

### **REPORT OF REVIEW COMMITTEE ON PERMANENT RESIDENCE Ministry of Border Control & Labour (MBCL)**

An applicant made a request for a report written by the "Review Committee on Permanent Residence" in 2013, as well as the names of the members of the Committee. The MBCL released the names of the members but withheld the report itself under the exemptions relating to the free and frank exchange of views, opinions, advice and recommendations for the Cabinet, and legal advice given by or on behalf of the Attorney General.

**The Ombudsman found that the Report was exempted as it consisted of "opinions, advice or recommendations... prepared for... proceedings of the Cabinet". As it was not purely factual, scientific or technical in nature the Ministry, no further steps were required.**

## END OF CONTRACT OF LAW SCHOOL EMPLOYEE

### Portfolio of Legal Affairs (PLA)

An applicant requested information on the circumstances in which the employment of a former Cayman Islands Law School employee came to an end. The PLA released the dates of employment of the former employee, but withheld correspondence claiming that it consisted of personal information that was not reasonable to disclose. Another part of the request was for the personal data of the applicant, which was considered separately under the *Data Protection Act* (DPA).

**The Ombudsman agreed that the correspondence was the personal information of the former public officer as it related to her personal life, not to her public duties as a civil servant. After considering the impact of the DPA – as required when considering the FOI exemption relating to personal information - disclosure was found to be unreasonable, and the exemption was appropriate. There was no overriding public interest, and no further action was required on the part of the Portfolio.**

## FEE, DUTY AND TAX WAIVERS AWARDED TO LARGE DEVELOPMENTS

### Ministry of Finance & Economic Development (MFED)

A request was made for records relating to fee, duty and tax waivers awarded by the government to large developers since 2017. MFED released a wide scope of documents in redacted form, claiming exemptions relating to Cabinet deliberations, legal privilege, breach of confidence, personal information and commercial information.

**Upon review, the Ombudsman found that some of the records were out of scope, as the agreements they related to were older than 2017, or because they were agreements between private companies. Cabinet papers, Caucus papers and a memorandum to the Cabinet were exempt because they contained “opinions, advice or recommendations... prepared for or arising in the course of proceedings of the Cabinet”. A diagram showing the interrelationship between companies was exempt since disclosure would constitute an actionable breach of confidence. A driver’s license and partial credit card numbers were exempt as personal information that would be unreasonable to disclose. Other records were prohibited from disclosure or were subject to disclosure procedures under other laws that overrule the FOI Act.**

**The majority of other responsive records were not exempt, and the Ombudsman ordered their disclosure, as was done.**

#### **LOCATION KEY LISTING RELATING TO RETAIL FUEL TEST RESULTS**

##### **Utility Regulation and Competition Office (OfReg)**

A request was made for fuel test results from OfReg. Those records are regularly published on the OfReg website, but codes are used instead of the names of the retail locations tested. OfReg exempted the location key listing, which links the codes to the underlying retail businesses, claiming that it constituted information concerning commercial interests that would be prejudiced by disclosure. OfReg also claimed that the names of two fuel retailers who were sole traders constituted personal information that would be unreasonable to disclose.

**The Ombudsman found that neither of the two exemptions applied. OfReg did not demonstrate that commercial interests would be prejudiced by the disclosure, and the names of the two sole traders were not personal information. In any event it would not be unreasonable to disclose the redacted information, as it was already in the public domain. Even if the exemptions applied, the disclosure would be in the public interest. Therefore, the Ombudsman required OfReg to disclose the location key listing.**

## MARRIAGE CHECK QUESTIONS Workforce Opportunities & Residency Cayman (WORC)

An applicant made a request for the questions used by WORC to detect and investigate potential marriages or civil partnerships of convenience under the *Immigration (Transition) Act*. Marriage checks are conducted where an application for Caymanian Status or Permanent Residency on the basis of marriage is submitted, and there are suspicions about the veracity of the marriage or civil partnership. WORC claimed that the list of

questions was exempted under the FOI Act, since disclosure would “reveal lawful methods ... for preventing, detecting, investigating or dealing with matters arising out of breaches or evasions of the law...”.

**The Ombudsman found that the record could be withheld because it is a law enforcement record whose disclosure would reveal lawful methods of detecting and investigating breaches of the law, which would prejudice the effectiveness of those methods. WORC had correctly withheld the responsive record and no further action was required.**

FREEDOM OF INFORMATION	2018	2019	2020	2021
<b>Decisions</b>	4	12	8	6
Non jurisdictional	1	0	0	0
Appeal upheld	1	1	4	2
Appeal partially upheld	0	3	2	1
Appeal dismissed	2	6	2	3
Reasonable search	0	2	0	0

## INFORMATION RIGHTS DIVISION

# Data Protection

*Our workload continued to grow in the second full year of operations under the Data Protection Act (DPA)*

The DPA regulates how personal data is used by public and private entities, and grants important rights to individuals regarding their personal data. The Ombudsman is tasked with investigating complaints and data breaches, and may issue binding information, enforcement and monetary penalty orders.

We received 30 complaints and 101 data breach notifications, as well as 138 inquiries about data protection. The Ombudsman issued 5 formal enforcement orders in the course of the year, and we resolved 17 complaints and 96 data breaches. These numbers are significantly higher than in the previous year.

In response to the pandemic we published additional guidance on vaccination and the Covid-19 status of employees and patrons of fitness establishments, and further guidance on our methodology for monetary penalty orders.

Outreach continued to be severely hampered by the pandemic, but we did mark International Data Protection Day early in the year with media appearances, social media posts, and participation in a roundtable on cybersecurity and data protection.

Below is a selection of case summaries relating to our formal decisions and informal resolutions of data protection complaints and data breaches.

DATA PROTECTION	2018	2019	2020	2021
Inquiries	65	192	120	138
Presentations	45	45	9	4

## DATA PROTECTION - COMPLAINTS

# Case Summaries | Informal Resolution

### CONTESTED DEBT IN BANK RECORDS

An individual's bank records showed a debt that she thought had been cleared in 2012 when she had reported a fraudulently incurred credit card transaction and closed her account. However, in 2020, this debt caused her application for a loan with another financial institution to be rejected. She filed a complaint under the DPA, claiming that the bank was processing inaccurate personal data which she wanted corrected.

**During our investigation the complainant was not able to support her claims with any evidence. The bank was able to send us a credit card statement showing the debt, and claimed that the amount was still owed. Since we were not able to take a position in this dispute, the complaint was not supported and the case was closed.**

### DIRECT MARKETING BY HOTEL

An individual made several attempts to unsubscribe from a hotel's email marketing, but was still receiving messages from them. Their attempts to contact the hotel directly about this issue were unsuccessful so they filed a complaint with us and asked if we could investigate.

**The DPA grants individuals an absolute right to require (in writing) that a data controller cease, or not begin processing personal data for direct marketing purposes. We contacted the privacy office of the hotel's parent group who ensured us that the hotel removed the complainant's email address from their mailing list. They also confirmed that the "unsubscribe" option on their emails was working and promised that similar issues would not reoccur in the future. The case was closed with no further action required.**

### **RETAIL BANK'S LACK OF RESPONSE TO A SUBJECT ACCESS REQUEST**

An individual made a request to her bank for her own personal data, a so-called subject access request. She received an acknowledgement of the request, but did not receive any of the requested records or even subsequent follow-up emails.

**During our investigation the bank conceded that it should have responded to the application. The non-response was due to a lack of monitoring of the bank's customer care inbox on the part of a designated customer sales representative, in line with the bank's Privacy Handbook. The bank assured us that steps were taken internally to prevent this issue from reoccurring. The complainant received all the requested information. We made a number of recommendations relating to the way the bank responds to subject access requests, and the case was closed.**

### **EXCESSIVE DATA COLLECTED BY JOBS PORTAL**

An individual complained that WORC's online Jobs Portal required her to provide her own personal data when using the website to set up a profile for her employer.

**Our investigation determined that the data controller had a valid legal basis for processing the personal data it required from individuals setting up a personal**

**profile on the platform. However, we found that the extent of the personal data the data controller collected from individuals who were setting up a personal account for the sole purpose of carrying out operational functions on behalf of their employer was excessive.**

**The data controller agreed to make the necessary technical changes to its online platform to reduce the amount of personal data that is collected from individuals acting on behalf of their employer. The data controller also agreed to develop and publish additional guidance on how to register on the online platform.**

### **REUSE OF PRE-PAID MOBILE NUMBER**

An individual complained that their pre-paid mobile service was disconnected and the number reassigned after a period of inactivity. He alleged violations under the first, fifth and sixth data protection principles.

**We investigated the complaint, but did not uphold it. The mobile operator acted within the terms of the customer agreement. They had a lawful basis for deactivating the pre-paid SIM card when they did, and since the complainant had signed the customer agreement, he had been correctly informed of the processing and its purpose. The phone number was the individual's personal data only for the duration of the contract, and the number**

was properly reassigned 60 days after it had become inactive. There was no violation of the fifth or sixth principle, and the data controller was not required to take any further steps.

### ENHANCED DUE DILIGENCE BY A FINANCIAL SERVICES PROVIDER

A complainant was unhappy with a request from his financial services provider for personal data as part of their due diligence obligations under the *Anti-Money Laundering Regulations* (AMLR). He alleged that the demand was excessive and therefore violated the third data protection principle.

Our investigation found that the requested personal data was consistent with the requirements of the AMLR, as part of enhanced due diligence grounded in a risk-based approach to assessing clients' financial activities. Therefore, the provider had a legal basis for the processing under the DPA, and the requested documentation was not excessive. No further action was required.

### UNSUBSCRIBING FROM AN IT SERVICE PROVIDER

An individual received unsolicited electronic marketing from an IT service provider. After she had made several unsuccessful attempts to unsubscribe from the marketing lists, she filed a complaint with us. She also wanted to know where they had obtained her data, as she had never been a customer of theirs.

We contacted the company and established that the complainant's attempts to unsubscribe had landed in the company's junk mailbox and so hadn't been seen. They immediately contacted her to apologize and deleted her details from their system. They were unable to tell her where they had obtained her email address.

The complainant was not entirely satisfied with the response, but agreed that no further action could be taken. We made several recommendations to the company on how to improve their compliance with the DPA, including the development of a privacy policy and a policy on managing requests for unsubscribing from marketing lists.



## INDIVIDUAL'S DETAILS DISCUSSED IN PARLIAMENT

A complainant raised concerns about her work permit renewal being discussed in a meeting of the Finance Committee in Parliament, which she believed was a violation of the sixth and seventh data protection principles and section 8 of the DPA. She was seeking compensation for damages.

We reviewed the complaint but did not support it since parliamentary privilege applies to the statements under the *Legislative Assembly (Immunities, Powers and Privileges) Act (2015 Revision)*. As well, the DPA requires any claim for compensation for damages suffered as a consequence of the actions of a data controller to be pursued in court. We advised the complainant to submit a subject access request (a request for her own personal data) to learn more about the apparent disclosure of her personal data by her former employer.

DATA PROTECTION – COMPLAINTS	2018	2019	2020	2021
Complaints carried forward	n/a	0	1	7
Complaints received	n/a	12	22	30
Complaints resolved	n/a	11	16	17
Open complaints	n/a	1	7	20
<b>Assessment/disposition</b>	n/a	7	6	4
Non-jurisdictional		2	2	1
Complaint refused (s. 43(4))		5	1	3
Complaint withdrawn		0	2	0
Other		0	1	0
<b>Informal resolution</b>	n/a	4	9	10
Complaint supported		4	8	7
Complaint not supported		0	1	3
Complaint withdrawn		0	0	0
Complaint abandoned		0	0	0

## DATA PROTECTION - COMPLAINTS

# Case Summaries | Enforcement Orders

### HR MATTERS AT SCHOOL

We received a complaint about alleged data protection failures at St. Ignatius Catholic School (SICS).

The SICS did not obtain proper consent for the recording of a meeting between the complainant and the line manager, as it was not unambiguous or freely given. As well, the imbalance between the employer and employee was not recognized. There was no legal basis for making the recording and for further processing. The SICS also failed to provide access to the complainant's own personal data, as requested. A separate request for minutes of a performance assessment meeting was not made in writing, and therefore did not constitute a proper request under the DPA. However, we asked the SICS to recognize the verbal request or ask the complainant to provide the request in writing.

**The Ombudsman ordered all copies of the recording to be destroyed, and recommended that the SICS develop procedures for using consent, including how to document it and how to handle cases where consent is withdrawn. We also noted that the SICS did not have a privacy notice that explained what**

**personal data from staff is being processed and for what purpose.**

### PUBLIC AUTHORITY GATHERS EXCESSIVE PERSONAL DATA

A member of the public submitted a complaint to the Ombudsman against the Department of Agriculture (DoA). The complainant alleged that the DoA unnecessarily collected personal data from individuals who were purchasing simple retail goods such as plants and trees.

Our investigation found that the DoA contravened the first and third data protection principles of the DPA by collecting personal data of retail customers excessively, without providing a privacy notice, and without a legal basis.

**The Ombudsman ordered the DoA to cease collecting personal data of retail customers purchasing goods such as plants and trees, to delete any personal data collected without a legal basis, and to provide data subjects with a privacy notice when their data are being collected, within 30 days.**

## SUPERMARKET RECRUITMENT PROCESS

An individual applied for a job at Foster's Supermarket but was not shortlisted for an interview. He was told that this was as a result of concerns that were raised during reference checks. He submitted a subject access request under the DPA for copies of all information held in relation to his job application, including all correspondence with his previous employers. The data controller provided information that was partially redacted. The individual wanted to be supplied with the full information and complained to us.

The complainant had not been told that references would be contacted prior to any interview, and it was unclear who would be contacted for references. He was also concerned that some of the reference

requests had been sent to generic role accounts rather than to specific individuals within organizations. He felt that this was a data security issue as it exposed his data to more people than necessary.

**We found that none of the redactions, aside from the names of junior employees on one page of the disclosed information, were justified. The Ombudsman required Foster's to disclose the remaining information in full. We also recommended that a more comprehensive privacy notice be developed relating to the recruitment process, to inform job applicants how their personal data would be used throughout the process. We recommended that the controller's approach to employment references be changed so that only named individual are contacted for references.**

DATA PROTECTION – COMPLAINTS	2018	2019	2020	2021
<b>Order</b>	n/a	0	1	<b>3</b>
Enforcement order issued		0	1	<b>3</b>
Monetary order issued		0	0	<b>0</b>
Enforcement and monetary order issued		0	0	<b>0</b>

## DATA PROTECTION – BREACHES

# Case Summaries | Informal Resolution

### PHARMACY GIVES PRESCRIPTION MEDICINE TO THE WRONG PATIENT

A pharmacy provided one patient (“X”) with another’s (“Y”) medication which included Y’s name and other personal data. Patient X reported the issue to the pharmacy and to patient Y. The pharmacy seemed unaware of its obligations under the DPA and Y insisted that the incident be reported to us. After some delays, proper notification took place.

**We found that the breach carried a risk of harassment or embarrassment but it was quickly contained. The Ombudsman recommended that the data controller develop a privacy notice and an internal data protection policy especially in the areas of data breach reporting, subject access requests and compliance with the data protection principles, and provide staff with training, to ensure compliance with the DPA.**

### ACCIDENTAL DISPOSAL OF DOCUMENTS OUTSIDE COURTS BUILDING

A member of the public found what appeared to be documents containing personal data lying by one of the bins outside the court building. The Judicial Administration investigated this apparent breach and determined that the vast majority of the documents were already in the public domain, although a few did contain personal data that had not been published. The accidental disposal of the documents in the garbage bin was likely caused by the overfilling of shredding bins during the lockdown period, along with the unavailability of regular cleaning staff.

**We were satisfied with the measures taken by the data controller to ensure that such incident does not recur, including obtaining more shredding bins and reminders to staff about how to securely dispose of documents in an appropriate manner. The case was closed with no further action taken.**

## **VERIFICATION OF EMPLOYMENT LETTER BY RETAIL BANK**

While in the process of opening a bank account for the data subject, an employee of a retail bank attempted to verify the authenticity of the data subject's employment letter by sending a copy of the letter to the employer's general inquiries e-mail address which is accessible by other members of the employer's staff. The next day, the employer informed them of the breach.

**We found that the existing protocol created ambiguity and increased the risk of errors, and in any event procedures were not followed when the letter was sent. This was a violation of the seventh data protection principle which requires that appropriate organizational measures (such as policies and procedures) against unauthorized or unlawful processing be established. The notification of the breach to the data subject was not fully compliant, and the bank offered the customer a fee waiver.**

**Although five employees at the recipient organization read the letter, we were satisfied that the breach was contained. We recommended that the bank review and update its procedures to identify and mitigate potential risks, and develop additional staff training.**

## **PHISHING ATTACK AT PROFESSIONAL ASSOCIATION**

A staff member of a professional association fell victim to a phishing attack. The password was immediately reset and all active sessions were terminated. Audit logs showed that no other email accounts were compromised, and no access to SharePoint was gained. All recipients of the phishing email were notified of the breach. Multi-factor authentication (MFA) had not been implemented, but was quickly enabled.

**We determined that the risk to data subjects was low. We advised the association to provide regular cybersecurity awareness training and engage in periodic phishing simulation testing among staff. We also recommended that an incident response procedure be developed to establish clear reporting lines in case of a future attack.**

### **CONFIRMATION OF JOB APPLICATIONS BY CABINET OFFICE**

The Cabinet Office was sending an email to job applicants to confirm receipt of their applications. They intended to send the same email to all recipients, adding their addresses into the BCC field. However, the addresses were erroneously inserted into a visible field (cc), disclosing all of the names and email addresses to all recipients.

The breach was noticed within 4 minutes and a recall notice was issued. It is not known how successful this was. Shortly after that, the Cabinet Office sent an email to all recipients asking them to disregard the previous email and to delete it from their inboxes. They carried out training with all staff on how to prevent such breaches from reoccurring and on what do to in the event of a breach.

**We were satisfied that the breach would not cause serious prejudice to data subjects' rights and that appropriate steps were taken to mitigate the breach, so the case was closed with no further action.**

### **SPREADSHEET DATA TOOL CAUSES UTILITY EMAILS TO BE SENT TO WRONG CUSTOMERS**

A major utility mistakenly sent delinquency emails and form letters containing personal data to unintended recipients via a mail merge process based on the erroneous use of a data tool in a spreadsheet. The data involved the names, addresses, account numbers, account balances and delinquent balances of 123 individuals. Customers who did not use email as their primary contact were unaffected.

**During our investigation the Ombudsman had to issue an information order before getting a delayed but comprehensive response from the data controller. It appeared that incorrect contact details were merged with customer account details when the mail merge was executed, resulting in the breach.**

**The data controller took a number of technical steps to prevent a similar breach from re-occurring, including limiting the data presented in disconnection notices to strictly necessary data such as customer account numbers and delinquent balances.**

## **NEWSPAPER LINKS TO PERSONAL DATA OF FOOTBALL PLAYERS**

A link posted as part of an online news story inadvertently linked to a document that contained personal data of national football players and related individuals, including passport numbers and dates of birth. The CI Football Association brought the issue to the attention of the newspaper.

**The link was immediately removed and web statistics confirmed that only three people had viewed the document through the link. Awareness training was undertaken to confirm staff responsibilities, and the editorial department will now review documents before they are posted, to check whether they contain personal data.**

**We were satisfied that the breach would not cause serious prejudice to data subjects' rights and that the Compass had taken appropriate steps to mitigate the breach, so the case was closed with no further action required.**

## **MALWARE ATTACK ON ELECTRONIC PAYMENT SYSTEM**

An electronic payment system owned by six retail banks was informed of a malware attack on its main service provider, Prism Services. We were notified while the full parameters of the breach were still being investigated by a reputable cybersecurity firm under whose guidance containment actions were taken and suitable technical measures were put in place. Each of the affected banks reported the breach to us independently.

**The attack was attributed to malware designed to deploy cryptocurrency mining software on infected systems. The breach was not discovered until several months after the intrusion. We were concerned that, at the time of the intrusion, vulnerabilities existed that had not been patched. Fortunately, we also determined that no personal data appeared to have been impacted. Our recommendations included updating server and client operating systems and applications with the latest patches, improving threat detection and prevention for the network and endpoints, and ongoing vulnerability testing and assessments.**

## **OVERSEAS FUND ADMINISTRATOR SUFFERS RANSOMWARE ATTACK**

An overseas fund administrator, who is also the data processor for over one hundred Cayman Islands-based funds, suffered a data breach after one of its third-party vendors was the target of a ransomware attack. The attack resulted in simple personal data ultimately belonging to the Cayman Funds being made public by the malicious actors.

**All of the data controllers had data processing agreements in place with the data processor in compliance with the seventh data protection principle. However, the data processing agreements were lacking additional provisions that contemplated data breach reporting and personal data processing matters. We recommended that the data controllers implement appropriate mechanisms to ensure all obligations in regard to data breach notification under the DPA are observed in the future. We also recommended that the data controllers consider introducing assurance mechanisms, such as the auditing of processors' data processing activities, in order to ensure personal data is processed securely.**

**We considered the likelihood of the affected data subjects' rights and freedoms being adversely impacted as low.**

## **PHARMACY SUFFERS RANSOMWARE ATTACK**

In October 2019 a pharmacy discovered a data breach that had been ongoing for three months. The breach involved sensitive personal data of some 242 individuals whose emails to the pharmacy, many of which contained sensitive personal data, had been diverted to an external email address.

The data controller and its IT service provider took immediate action and implemented a number of technical and organizational measures to mitigate the issue and prevent it from re-occurring. The Ombudsman and the data subjects were notified, as required under the DPA.

**The Ombudsman conducted an extensive investigation, focused on the technical and organizational measures that were in place at the time of the breach, as well as any mitigation that took place after the incident. Despite the severity of the breach, the Ombudsman decided not to impose a financial penalty because of the timing of the breach (which started well before the commencement of the DPA) and the thoroughness and timeliness of the data controller's response.**



## RETAIL BANK REVEALS OVERDRAWN ACCOUNT

A retail bank provided a client's (overdrawn) account balance to a close family member who had erroneously transferred funds to that account. The bank took action by apologizing, reprimanding the staff involved, providing further training and communicating with all relevant staff

about client confidentiality, in order to avoid a similar breach from re-occurring.

**We found that the bank had not adequately notified the data subject in accordance with the requirements of the DPA. We recommended that data breach procedures we reviewed to ensure compliance.**

<b>DATA PROTECTION – BREACH NOTIFICATIONS</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Breach notifications carried forward	n/a	0	16	<b>29</b>
Breach notifications received	n/a	25	65	<b>101</b>
Breach notifications resolved	n/a	9	52	<b>96</b>
Open breach notifications	n/a	16	29	<b>34</b>
<b>Assessment/disposition</b>	n/a	3	42	<b>85</b>
Non-jurisdictional		1	4	<b>6</b>
Appropriate actions taken		2	34	<b>78</b>
Other		0	4	<b>1</b>
<b>Informal resolution</b>	n/a	6	9	<b>9</b>
Resolved informally		6	9	<b>9</b>

## DATA PROTECTION - BREACHES

# Case Summaries | Enforcement Order

### RETAILER SUFFERS RANSOMWARE ATTACK

Jacques Scott Group Ltd. (JSG) suffered a ransomware attack that led to employees being denied

access to the enterprise network and critical systems. JSG notified the Office of the Ombudsman and the affected data subjects as required by law.

The breach was investigated and mitigating actions were started with the help of external consultants. The attack affected various types of personal data of some 150 employees, shareholders and pension account members, but their passwords and financial data remained secure. Because critical logs were not available, some

questions could not be answered, but it was unlikely that the data were exfiltrated.

**The Ombudsman found that JSG violated the seventh data protection principle, which requires data controllers to ensure that adequate technical and organizational measures are taken against unauthorized or unlawful processing. JSG also failed to incorporate certain mandatory provisions required by the DPA into the agreement with its data processor, which constituted a separate violation of the seventh principle. The Ombudsman recognized that JSG took appropriate steps to mitigate the effects of the ransomware and adopted the recommendations made by Deloitte, and we formulated a number of additional recommendations.**

DATA PROTECTION – BREACH NOTIFICATIONS	2018	2019	2020	2021
<b>Order</b>	n/a	0	1	<b>2</b>
Enforcement order issued		0	1	<b>1</b>
Monetary order issued		0	0	<b>0</b>
Enforcement and monetary orders issued		0	0	<b>0</b>
Other		0	0	<b>1</b>

## COMPLAINTS DIVISION

# Maladministration

*Maladministration can succinctly be described as “the actions of a government body which can be seen as causing an injustice”. Complaints of maladministration are governed by the **Complaints (Maladministration) Act (2018 Revision)** and generate most of the work of the Complaints Division.*

Demonstrating this, we had 122 new inquiries, an increase over the 109 received the previous year. It should come as no surprise that the impact of COVID restrictions was the area which generated the most complaints, across a number of government agencies.

We received 65 complaints, in addition to 11 that were carried forward from the previous year, across all sectors of government. Of these, 53 complaints were resolved with 21 being informally resolved. We have 23 open cases that will carry forward to 2022 and 28 complaints that were rejected for lack of jurisdiction.

As in previous years, we were able to resolve most complaints informally, thanks to the cooperation of many across the public sector.

<b>MALADMINISTRATION</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Inquiries	58	106	109	<b>122</b>
Complaints carried forward	5	9	6	<b>11</b>
Complaints received	59	72	59	<b>65</b>
Complaints resolved	55	75	54	<b>53</b>
Open complaints	9	6	11	<b>23</b>

There continues to be a need for the development of, and public access to, policies and procedures for almost all government departments. This is one of our most common complaints and we continue to encourage the development and accessibility of these important tools to the public. Without them, there is a risk of inconsistency in decision making leading to a perception of bias.

The ***Complaints (Maladministration) Act*** provides authority to the Ombudsman's office to launch investigations on its 'own initiative' when potential systemic issues are identified. The objective of these investigations is to identify concerns regarding processes and service delivery and make recommendations for improvement. This year, we initiated three own-initiative investigations involving appellate boards, initial decision-making boards and the Elections Office.

## MALADMINISTRATION

# Case Summaries | Informal Resolution

### **DELAYED LABOUR TRIBUNAL REPORT Labour Tribunal (LT)**

A complainant attended the Ombudsman's office in March 2021 claiming that he had not received a response from the LT following a hearing in December 2020 involving allegations of wrongful termination. The complainant stated he had called the LT and the Department of Labour and Pensions (DLP) and visited their offices but had not received any written decision. He stated that he had been promised a written decision on his case within 28 days of the hearing.

**We promptly contacted the DLP for an update on the matter. About a month later the complainant received his written decision from the LT. This case is one of several where months-long delays in reporting the outcome of a tribunal hearing are incurred, far beyond the statutory guidelines.**

### **DELAYED RESPONSE TO BULLYING INCIDENT**

#### **Department of Children and Family Services (DCFS)**

This case involved an incident of bullying at a local high school. Part of the matter was under review by our police complaints team, but an additional maladministration complaint of non-response was made against DCFS which had not responded to the complainant's emails for more than two months.

**The complainant reached out to DCFS's internal complaints officer in March 2021 and was informed that the officer had left the job. The complaint was then forwarded to the DCFS director, but no response was received. When we looked into the matter in early June 2021, we found that a new complaints officer had been appointed, and the information was provided within two weeks.**

**As this matter was successfully resolved, no recommendations were made.**

## **DELAYED RESPONSE TO LABOUR - RELATED COMPLAINT**

### **Department of Labour and Pensions (DLP)**

A complainant was involved in an ongoing dispute with their previous employer over non-payment of overtime and alleged unfair dismissal. Among other things, the complainant claimed that the employer did not pay the same amount each month and did not pay for overtime work. As well, the complainant alleged to have been forcibly removed from their place of work.

A labour-related complaint was made to the DLP in September 2020, which continued to investigate the matter. After several months had passed, by mid-January 2021 still no decision had been made. The complainant asserted that this amounted to maladministration by the DLP in failing to decide the case in a timely manner.

**We mediated between the two parties, leading to an in-person meeting in early February 2021. Following this meeting, the complainant indicated they were satisfied with the progress that was made and that the case would now move toward resolution. At this point, our office closed the matter without making further recommendations to the DLP.**

## **CLARIFICATION OF NGO FUNDING**

### **Ministry of Health, Environment, Youth and Culture (HECH)**

This complaint involved a claim of non-response by the Ministry of HECH to a complaint from one of the non-governmental organisations (NGOs) that receives annual public funding. The NGO alleged its annual funding had been withdrawn by government between January 2020 and February 2021 for unknown reasons. During that time, some statements were made about the loss of funding, including in the Legislative Assembly. However, in later in-person meetings, government officials stated that the funding had been withdrawn in error.

**The complainant came to us seeking an explanation for the apparent withdrawal of the funding. We attempted to resolve the issue with the HECH informally before opening a formal investigation. A short while later, the complainant received emails confirming that it could resume collecting its cheques from the government treasury on the understanding that receipts for expenses would be submitted quarterly, as per the normal practice.**

**The complainant informed us at that stage they did not wish to pursue the matter further and the file was closed without the need for recommendations.**

## **PERMANENT RESIDENCE FEE REFUNDS Workforce Opportunities and Residency Cayman (WORC)**

The holder of a Residency and Employment Rights Certificate was required to pay a significant annual fee for the renewal of that immigration status, within a short period of their spouse being granted the Right to be Caymanian. Under the Immigration Law, spouses of Caymanians are not required to pay the same annual fees for permanent residence as other PR holders. Since their residency status had changed, the complainant sought a refund for the remainder of the annual residency fee.

The complainant was informed by WORC that the Immigration (Transition) Act, 2021, does not allow the agency to provide a refund for any portion of permanent residency fees, unlike how it would allow a refund for a portion of an unused work permit fee to a business owner.

**We determined that WORC's position was indeed correct. However, we also informed the complainant they could make an application to the Cabinet, which they did.**

**No recommendations were made, and we continue to monitor the matter.**

## **DELAYS IN DECISION MAKING ON APPLICATIONS FOR ASSISTANCE Needs Assessment Unit (NAU)**

A physically disabled, unemployed man applied for financial assistance from the NAU in July 2020. By May 2021 he had still not received a response to his application. He had received food vouchers between July 2020 and March 2021, but then that benefit was discontinued without an explanation.

**We contacted the NAU to determine what response, if any, the unit had made to the complainant's requests for assistance. The NAU told us that benefits issues were resolved internally and explained why certain benefits can often take longer to process.**

**The NAU told us that the process to apply for personal financial assistance can be a lengthy one for clients because of extensive due diligence requirements. In addition, there is a long waiting list for the service.**

## **DELAYS IN RETIREMENT CASH-OUT Public Service Pensions Board (PSPB)**

We received a complaint alleging a lack of service by the PSPB. The complainant's employment with the Royal Cayman Islands Police Service (RCIPS) ended in December 2020. Prior to his departure from Cayman, he provided the RCIPS' HR Department with the necessary documents to ensure a timely release of his pension funds. Before contacting our office, he had been in regular contact with the HR Department and was informed that the RCIPS was unable to facilitate a response from the PSPB. He suspected that his pension fund was willfully being withheld.

**We commenced an informal investigation querying the PSPB's internal complaints process manager on the matter. The Acting Chief Pensions Officer stated that the PSPB was not informed of the complainant's request for a cash-out of his retirement benefit until 2 March 2021, when RCIPS HR submitted the complainant's cash-out election form, as confirmed by HR. The submission included many documents, some dating as early as October 2020, but the information was not submitted to PSPB until approximately 6 months later. Just before making the complaint, the complainant was informed by PSPB that his package lacked a notarized document as proof of non-residency. This document was provided shortly afterwards.**

**The PSPB informed us in May that the cash-out had been authorized and that a**

**bank draft would be ready for couriering to the complainant by the 24th of that month. Shortly thereafter, as we had requested, the complainant confirmed receipt of the draft and thanked us for assisting him in resolving this matter.**

## **QUERIES ON ONGOING COURT MATTERS**

### **Judicial Administration**

Following an earlier complaint along the same vein, a local attorney stated again in June 2021 that Judicial Administration staff members failed to respond to queries regarding ongoing court matters. The attorney sent an email to the Clerk of the Court seeking information and was told there would be no further engagement with him regarding this matter.

**Upon receiving the complaint, we attempted to resolve the issue informally. Following some negotiations on the matter, the Chief Justice responded directly to the Ombudsman concerning the complaint in September 2021. We encouraged judicial administration officials to respond directly to the attorney, which they did by forwarding the Chief Justice's response to the Ombudsman directly to the complainant. Following this communication, we considered the matter closed as the complainant had received his response.**



## **CONTINUING HEALTHCARE COVERAGE Department of Children and Family Services (DCFS)**

A previous complaint to the Ombudsman had been closed when the NAU agreed to provide three months of temporary healthcare coverage to the complainant. However, she was still unsatisfied since the treatment course would take longer.

We determined that the decision-making authority in this matter was the DCFS, so we asked the complainant to make a direct request to the DCFS. An additional application was needed to resolve some documentary issues and provide information that had not been included in the previous application. The complainant agreed but asked that her medical coverage be extended for another three months to complete her treatment overseas allowing her to return to Cayman to finish the application process.

**We attempted to resolve the conflict between the complainant and the DCFS informally. Following discussions between the Ombudsman, the complainant and the DCFS in October 2021, the director of DCFS informed us that the complainant had been recommended to receive a further extension in her healthcare coverage that would take her through the overseas surgical procedures. We invited the complainant to come back to us if she had further difficulties in the future.**

## **DELAYS IN PROCESSING OF OVERSEAS COMPLAINANT'S MARRIAGE CERTIFICATES AND APOSTILLE Corporate Services Office**

We were contacted by a complainant in the U.S. requesting assistance with issues he and his wife were experiencing involving the Corporate Services Office (CSO) and General Registry (GR). The couple required three certified copies of their marriage certificate, one with an apostille. In early March 2021, they had requested the certificates online, however, the processing of the documents was delayed. On 31 March 2021, they were contacted by the GR informing them that their online credit card payment was insufficient to cover the cost of the apostille. As a result, they had been asked to wire transfer additional funds. However, an error occurred when their bank attempted to send the transfer and it failed to go through. Following this failure, the couple were requested to mail a bank draft to the CSO's post box, which they did on 21 April 2021. The bank's tracking system confirmed its delivery to the Postal Service on 10 May 2021. Nonetheless, the couple heard nothing further from CSO and their follow-up emails went unanswered.

**We commenced an informal investigation by telephoning the CSO regarding the complaint. An urgent email was then sent directly after to the Head of Department (HOD) stressing the urgency of this matter. She responded promptly, acknowledging**

receipt of our correspondence, and stated she had commenced an investigation into the issue and would respond as soon as there was anything to report. Two days later the HOD emailed to say the cheque was received from the Postal Services that morning and they had immediately processed the apostille. The document was delivered to the GR to accompany the copies of the marriage certificates. The documents were then mailed to the complainant.

The HOD confirmed that the cheque had been in their post box since 10 May 2021, but they were unaware of this as it is the norm that their clients pay online or deliver a draft. Regular mail tends to be used only when all other options fail. The HOD apologized to the complainant for the delay and wrote to thank us for the opportunity to resolve this matter informally. The GR committed to making every effort to improve their processes and ensure timely service, including where delivery by post is required. The client also emailed to thank everyone for working together to resolve this issue, and noted he was happy to learn his complaint resulted in improving the CSO's processes.

## PR CERTIFICATE DELAYED

**Workforce Opportunities & Residency  
Cayman (WORC)**

The complainant held a Residency and Employment Rights Certificate as the spouse of a Caymanian. Her husband passed away and she requested that her immigration status be regularized so that she could remain in Cayman with her child. She successfully appealed the matter to the Immigration Appeals Tribunal (IAT) in November 2020, which ordered the issuance of PR certificates for her and her child. Their passports were stamped as PR holders in December 2020. However, by July 2021, they were still unable to obtain their certificates, and she complained to the Ombudsman citing unreasonable delay and/or non-response by WORC.

We contacted WORC and, after an initial delay, were informed that, despite the IAT ruling, there remained an administrative process to formalize the ruling that included bringing the matter before the WORC director. This was completed toward the end of July and the complainants were advised by email they could come and pick up their certificates. WORC officials apologized for the lengthy delay of this administrative matter.

The Ombudsman did not make recommendations. However, the issue was referred to our ongoing own-motion investigation of WORC's administrative processes and boards.

## CANCER PATIENT OBTAINS INSURANCE

### Needs Assessment Unit (NAU)

In February 2021 a retired cancer patient requested assistance from the Needs Assessment Unit (NAU) for CINICO coverage for cancer treatment as her health insurance from a previous employer had expired. The response from NAU was delayed due to an office move. This caused the application not to be relayed to the deciding agency (DCFS) until July 2021. The DCFS approved the application and notified NAU in early September 2021. The NAU apologized for the delay in processing. The applicant's request for insurance coverage was approved for a period of three months.

Although this matter was resolved successfully, questions remained about why the application was only approved for a three-month period and the applicant followed up on those concerns with assistance from the Ombudsman,

### BIRTH REGISTRATION DELAY

#### General Registry

New parents were initially unable to register the birth of their daughter in October 2021. The General Registry (GR) stated that the couple must use the passport version of the parent's name in the native tongue on the child's birth certificate, rather than the English spelling, in order to register the child's birth. The couple stated the use of the name in the native language would cause problems as it would conflict with the name used on other English language documents.

After a delay of a couple of weeks we were able to speak with the internal complaints officer at the GR. This eventually resulted in the complainant getting a birth registry document issued with the English language name of the spouse. This case was closed as having been successfully resolved and no recommendations were made.

MALADMINISTRATION	2018	2019	2020	2021
<b>Assessment/disposition</b>	26	47	28	<b>28</b>
Non-jurisdictional	26	47	26	<b>28</b>
Complaint refused	0	0	1	<b>0</b>
Complaint withdrawn	0	0	1	<b>0</b>
<b>Early resolution</b>	9	7	18	<b>21</b>
Successfully resolved	9	7	17	<b>21</b>
Complaint withdrawn	0	0	1	<b>0</b>

## MALADMINISTRATION

# Case Summaries | Investigation

### **DELAYED NAU POLICY CHANGES Needs Assessment Unit (NAU)**

A complaint had been closed in June 2020 with a finding of maladministration against the government. However, due to delays caused by the pending general election in April 2021 and subsequent ministry changes, recommendations made by the Ombudsman to update NAU policies governing poor relief payments were not implemented more than a year after the complaint was made.

The complainant in this matter had alleged several policy violations by the NAU regarding the level of public housing and other welfare support she was receiving at the time. She stated the NAU was denying her additional financial assistance for rental support that she was due as an elderly and disabled person. She was also at high risk for the COVID-19 virus at the time when a lack of financial support had left her homeless and sleeping in her car.

**Our investigation found that the complainant was correct in stating she was eligible for additional public housing support, as the NAU's written policies did not provide any specific criteria allowing it to deny the additional support. In**

**September 2021, ministry personnel agreed changes to that policy as recommended by the Ombudsman to list specific criteria for receiving financial support as an elderly Cayman resident. Following approval of those changes by the minister, the complaint was closed.**

### **DELAYS IN HEALTHCARE FACILITIES LICENSE**

#### **Ministry of Health (MH) and Health Practice Commission (HPC)**

A representative of a local medical services company made a formal complaint in which he alleged maladministration against both the HPC and the MH in their actions regarding the licensing of his company. The complaint was two-fold: first, that there had been an issue of non-response to a complaint filed with the MH and, second, that a decision on the company's healthcare facilities licence had been unduly delayed in deliberations before the HPC. Non-response and/or unreasonably delayed response may be considered maladministration under the *Complaints (Maladministration) Act (2018 Revision)* ("the Act")

We were not successful in attempting to resolve these issues informally, and we opened a formal investigation. This was a lengthy and complex investigation which involved the review of hundreds of pages of correspondence provided by the complainant and responses from the MH/HPC. The correspondence covered a period of roughly eight years, between 2013 and 2021. We reviewed more than 100 emails between the parties dating from about June 2019 to March 2021, and details of several FOI requests made by the complainant, with an eye toward determining which questions were being handled under FOI and which remained outstanding.

The investigation determined that a number of questions submitted by the complainant had not been answered and that a formal complaint to the Ministry went unanswered during the entire process. The investigation further determined that the delay of a pending decision of the company's healthcare facilities licence was caused by factors in addition to due diligence requirements of the HPC. Concerns about certain services the company was seeking to offer had been ongoing since 2013, with members of the HPC seemingly coming to different conclusions in different years about whether the company should receive its healthcare facilities licence. In total, the delay of the decision of the company's licence lasted for more than a year.

The Ombudsman found maladministration in form of delay and non-response occurred in this case and recommended the following remedial actions:

- That the ministry substantively respond to the formal complaint within 30 days.
- That both the HPC and the Ministry of Health develop and publish a written policy for complaints.
- That the HPC adopt a policy on due diligence requirements for healthcare facilities applications, potentially including a timeline within which such decisions should be made and how applicants may be consulted/informed of these decisions.
- That the HPC update policies / guidelines for meeting minutes identifying the minimum documentation required, a description of the action item before the HPC, a brief summary of the relevant discussion around the item, any action taken on the item (including deferral).

Our office will continue to monitor the implementation of these recommendations.

## **LATE RESPONSE FROM THE COURTS Judicial Administration**

An attorney complained of specific instances of non-response by several members of the court administration staff. The attorney had posed a number of questions that were not answered in a response provided to him and we undertook to resolve these matters informally. After that effort proved unsuccessful, we moved to a formal investigation.

**We found that unreasonable delay did occur in this case. While recognizing the attorney had received written communications from court staff on two**

**occasions, it was determined those responses did not answer the questions asked.**

**Eventually, the Clerk of the Court provided a response to the attorney, approximately five months after his initial queries. The response was comprehensive and professional. However, given that it took such a length of time to produce, a finding of maladministration was made.**

**Given that the matter was ultimately resolved, no formal recommendations were made.**

<b>MALADMINISTRATION</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Investigation</b>	20	21	8	<b>4</b>
Supported	5	7	6	<b>2</b>
Not supported	14	14	2	<b>0</b>
Successfully resolved	1	0	0	<b>0</b>
Complaint withdrawn	0	0	0	<b>2</b>

## COMPLAINTS DIVISION

# Public Complaints About Police Conduct

*The Ombudsman has independent oversight of complaints involving unsatisfactory conduct of a police officer in the performance of their duty, pursuant to **The Police (Complaints by the public) Act, 2017**. Our investigative process is based on fairness and our goal is to informally resolve complaints by allowing the complainant and the police to mediate their respective cases. If informal resolution is not possible, a formal investigation is commenced. Where a complaint is upheld, the Ombudsman may make recommendations for appropriate action, as you will see in our case summaries below.*

We received 60 new inquiries in 2021, a slight increase over the 52 from the previous year. The number of complaints received decreased to 28 over the previous year's 57 and we carried over 15 from 2020. A total of 4 cases were closed by way of formal investigation while 11 were informally resolved. Of the remainder, 3 were rejected for lack of jurisdiction or were time-barred, and 8 were abandoned or withdrawn by the complainant. We have 16 open cases that will carry forward into 2022.

<b>POLICE COMPLAINTS</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Inquiries	18	33	52	<b>60</b>
Complaints carried forward	0	67	24	<b>15</b>
Complaints received	143	62	57	<b>28</b>
Complaints resolved	76	105	66	<b>27</b>
Open complaints	67	24	15	<b>16</b>

This year brought our first complaint relating to death or serious harm forwarded to the Office of the Director of Public Prosecutions (ODPP). It was a test of the new legislation which has not provided procedural guidance nor reveal its intention for reporting incidents of death or serious harm to the ODPP. We continue to build on the relationship established with the ODPP as a result of this complaint.

Despite the pandemic, in 2021 we provided 4 customer service training classes to approximately 40 RCIPS officers. Our

training targets the areas of weakness identified by public complaints or general community concerns and will continue in 2022.

We managed to prevent any service disruptions in our second year of working in a COVID-restricted environment. The complaints reporting process along with our investigations were managed electronically, by mailbox and in person when COVID-19 restrictions permitted. We staggered our staffing to mitigate against transmission with community safety being paramount.



## POLICE CONDUCT

# Case Summaries | Informal Resolution

### COMPLAINANT NOT LISTENED TO

A complainant reported an immigration scam and theft to the RCIPS. After several months he was informed by the police the matter was a civil dispute and the case was closed. Frustrated with this decision he complained to the RCIPS Professional Standards Unit (PSU), who forwarded the complaint to us. We established that the man did not wish to make a complaint about the unsatisfactory conduct of a police officer and just wanted the police to listen to him and review his allegation.

**During our initial assessment we reached out to the RCIPS Head of the Criminal Investigation Department (CID), who agreed, having reviewed all the material, and listened to the complainant, that the case was not a civil matter and did warrant further investigation. The case was re-assigned to a detective, and the complainant informed us that he had been regularly updated on the progress of his case. He withdrew his complaint as he was reassured after our intervention that the matter was now being investigated diligently and expeditiously by the RCIPS.**

### EARLY MORNING SEARCH WARRANT LAWFUL AND PROPORTIONATE

The complainant contacted our office following an early morning search warrant executed at their home. The complainant was unhappy how the armed police officers removed all the complainant's family members, some of whom were still in their night wear. The complainant felt that this was unnecessary and sought explanations from the police.

**We reached out to the RCIPS Chief Firearms Officer who held several meetings with the complainant and was instrumental in explaining the rationale and risk associated with the execution of firearms warrants. The complainant was taken through the operation, including why the police must act swiftly to minimize the risk to members of the public and the officers. After hearing this the complainant agreed to close the complaint informally.**

### **EXPLANATION OF POLICE POWERS AT SCHOOL LEADS TO INFORMAL RESOLUTION**

A complainant contacted us following the arrest of their child at school. The child had been searched, arrested, and put in a police vehicle which contained a security cage. The complainant sought answers and explanations as to the legality and policy of such actions carried out by the police during school hours.

**Our investigators assessed this complaint and identified a senior member of the teaching staff who provided an eyewitness account. It was established that the police acted lawfully, proportionately and within the guidelines accepted by the Education Ministry for dealing with such matters. In relation to the use of a caged police vehicle it was further explained that it is police policy that all persons who are detained and taken to the Detention Centre must travel in this way for the safety of themselves and the transporting officers. Following this explanation and the independent account from the teacher, the complainant and the police officer agreed to resolve the matter informally, and the case was closed.**

### **ARREST AT SUPERMARKET FOR NOT WEARING A FACE COVERING**

The complainant was arrested outside of a Supermarket following reports by staff that he refused to wear a face covering in the store. The complainant said the actions of the police were overzealous given he was exempt from wearing a mask.

**We established that the arrest was lawful, and that the complainant could not provide any medical exemption to not wear a mask in a store. Once this was explained to the complainant, he said that he had reflected on his own behaviour and agreed that the case could be closed.**

### **FEEDBACK IN SENSITIVE INVESTIGATION**

The complainant reported that the RCIPS police officer appointed to their criminal allegation was insensitive and unprofessional during the investigation. From the outset the complainant only ever wanted the officer to receive feedback about how this had made them feel.

**We worked with the complainant and the police officer, who accepted the feedback and asserted that it was never their intention to be perceived in such a way. After both parties were given an opportunity to express their views and feelings we were able to close this case.**

### **APOLOGY SUFFICIENT FOR WITHDRAWAL OF COMPLAINT**

The complainant went to Georgetown Police Station to report the loss of their passport. At the station they became involved in a verbal altercation with two members of RCIPS support staff. This took place in front of the station Sergeant, who in the opinion of the complainant did little to resolve or quell the commotion.

**A review of the incident, including an analysis of CCTV footage at the police**

**station, supported the complainant's version of events. We liaised with senior managers within the RCIPS regarding the conduct of the civilian support staff members. An apology both in person and in writing was provided to the complainant by those involved in the verbal exchange. The RCIPS Professional Standards Unit were instrumental in assisting with this course of action. The complainant decided to withdraw their complaint citing the apologies as sufficient remedy.**

<b>POLICE COMPLAINTS</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Assessment/Disposition</b>	41	48	33	<b>12</b>
Non-jurisdictional	8	10	12	<b>2</b>
Investigation time barred	2	0	1	<b>1</b>
Investigation refused (s. 3(2)g))	8	8	4	<b>0</b>
Complaint withdrawn	18	14	6	<b>4</b>
Complaint abandoned	5	16	10	<b>4</b>
Other	0	0	0	<b>1</b>
<b>Informal resolution</b>	18	22	16	<b>11</b>

## POLICE CONDUCT

# Case Summaries | Investigation

### **POLICE PREVENT MAN INGESTING DRUGS DURING ARREST AND SEARCH**

A complainant contacted us following arrest and search at their home. They were unhappy that the RCIPS had allegedly entered the residence without lawful authority, and that several police officers grabbed their throat and assaulted them during arrest. The complainant believed the officers had used unreasonable force.

**In our investigation we found that a lawful search warrant was issued to search for drugs and a copy was received by a person at the residence. We established that, moments prior to arrest, the complainant tried to put a substance, believed to be cocaine into their mouth.**

**As this is a tactic used to conceal or destroy evidence, the police officers acted to prevent this. While doing so the complainant struggled and resisted. It took considerable effort from the police officers to restrain the complainant and prevent them from ingesting something that could cause them serious harm. *The Police (Complaints by the Public) Act, 2017* gives police officers the authority to use reasonable force in the execution of their duty. The Ombudsman determined, having examined all the available evidence, that the complainant was lawfully arrested, and the force used was necessary and reasonable in the circumstances. Therefore, the Ombudsman did not support the complaint.**

### POLICE CONTACT AT SEA

The RCIPS informed us that during a police interdiction of a drug vessel a man jumped into the rough seas and could not be found after an extensive search and rescue operation. We decided to investigate this matter in the public interest.

**We reviewed this event and found that the accounts of eyewitnesses and police**

**officers were consistent that the man had jumped into the sea of his own volition, most likely to evade arrest. The Ombudsman found there were no suspicious circumstances to lead us to any other conclusion than that the police had acted lawfully trying to prevent the importation of drugs into the Cayman Islands at night during inclement weather conditions and rough seas.**

POLICE COMPLAINTS	2018	2019	2020	2021
<b>Investigation</b>	17	35	17	<b>4</b>
Supported	7	10	3	<b>1</b>
Not supported	10	18	11	<b>1</b>
Complaint withdrawn	0	7	1	<b>0</b>
Complaint abandoned	0	0	1	<b>1</b>
Other	0	0	1	<b>1</b>

## COMPLAINTS DIVISION

# Whistleblower Protection

*Whistleblowing protection relates to the protected disclosures of improper conduct or detrimental action as set out in **The Whistleblower Protection Act, 2015**. It applies equally to the public and private sectors.*

This is the most under-used of the services we provide to the public and yet is essential to good governance in both sectors. However, we chose not to embark on a public awareness campaign due to the need for amendments to the law which we hope to take forward in 2022.

WHISTLEBLOWER PROTECTION	2018	2019	2020	2021
Inquiries	1	2	6	4
Disclosures carried forward	0	1	0	2
Disclosures received	5	4	4	2
Disclosures resolved	4	5	2	1
Open disclosures	1	0	2	3
<b>Assessment/disposition</b>	4	3	2	1
Referred to another agency	1	1	0	0
Non-jurisdictional	3	2	2	1
<b>Early resolution</b>	0	0	0	0
Supported	0	0	0	0
Not supported	0	0	0	0
<b>Investigation</b>	0	2	0	0
Supported	0	1	0	0
Not supported	0	1	0	0

The number of inquiries was relatively low, and lower than in the previous year, at four whistleblowing disclosures, pointing to the need for greater public awareness of this important tool.

We investigated 2 complaints with only one being resolved. We carried over two from the previous year with one non-jurisdictional inquiry. We have three

resolved cases that are being carried over to 2022.

Due to the heightened sensitivity involved in this part of our work, we are not providing case summaries for whistleblowing cases.

# Financial Information

## **BUDGET**

I am pleased to report that we ended the year slightly under budget again, although our surplus is lower than in previous years. This is largely due to the fact that our Office is gradually becoming fully staffed.





**GOVERNMENT OF THE CAYMAN ISLANDS**

**OFFICE OF THE OMBUDSMAN**

**FINANCIAL STATEMENTS**

**31 DECEMBER 2021**

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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 Act (2020 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 Act (2020 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 Act, 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 2021.


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 2021;
- (b) fairly reflect the financial position as at 31 December 2021 and performance for the year ended 31 December 2021;
- (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.

  
Sharon Roulstone  
Ombudsman

Date: 27 April 2022

  
Tiffany Ebanks  
Chief Financial Officer

Date: 27 April 2022

## AUDITOR GENERAL'S REPORT

### To the Ombudsman and the Members of Parliament

#### Opinion

I have audited the financial statements of the Office of the Ombudsman, which comprise the statement of financial position as at 31 December 2021 and the statement of financial performance, statement of changes in net assets/equity and statement of cash flows for the year ended 31 December 2021, and notes to the financial statements, including a summary of significant accounting policies and other explanatory information as set out on pages 9 to 23.

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 2021 and its financial performance and its cash flows for the year ended 31 December 2021 in accordance with International Public Sector Accounting Standards.

#### Basis for Opinion

I conducted my audit in accordance with International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Office of the Ombudsman in accordance with the 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 Office of the Ombudsman, 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 of the financial statements in accordance with International Public Sector Accounting Standards and for such internal control as management determines is necessary to enable the preparation and fair presentation 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's 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 auditor's 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.

## AUDITOR GENERAL'S REPORT (continued)

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 my 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 Office of the Ombudsman'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 my auditor's 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 my auditor's 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 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 Act (2020 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  
Auditor General

27 April 2022  
Cayman Islands

OFFICE OF THE OMBUDSMAN  
STATEMENT OF FINANCIAL POSITION  
AS AT 31 DECEMBER 2021  
(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
	<b>Current Assets</b>				
392	Cash and cash equivalents	2,15	643	370	(273)
202	Trade receivables	3,16	190	190	-
49	Prepayments	15	39	23	(16)
<b>643</b>	<b>Total Current Assets</b>		<b>872</b>	<b>583</b>	<b>(289)</b>
	<b>Non-Current Assets</b>				
354	Property and equipment	4,15	260	343	83
20	Intangible assets	5	9	5	(4)
<b>374</b>	<b>Total Non-Current Assets</b>		<b>269</b>	<b>348</b>	<b>79</b>
<b>1,017</b>	<b>Total Assets</b>		<b>1,141</b>	<b>931</b>	<b>(210)</b>
	<b>Current Liabilities</b>				
30	Accruals and other liabilities	6,16	39	50	11
33	Employee entitlements	7,15	21	6	(15)
109	Surplus payable	8,15,16	221	-	(221)
<b>172</b>	<b>Total Current Liabilities</b>		<b>281</b>	<b>56</b>	<b>(225)</b>
<b>172</b>	<b>Total Liabilities</b>		<b>281</b>	<b>56</b>	<b>(225)</b>
<b>845</b>	<b>Net Assets</b>		<b>860</b>	<b>875</b>	<b>15</b>
	<b>Equity</b>				
845	Contributed capital	15	860	935	75
-	Accumulated surplus/(deficit)	15	-	(60)	(60)
<b>845</b>	<b>Total Equity</b>		<b>860</b>	<b>875</b>	<b>15</b>

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 2021  
(Expressed in Cayman Islands Dollars)**

<b>Prior Year Actual</b>		<b>Notes</b>	<b>Current Year Actual</b>	<b>Approved Budget</b>	<b>Variance (Budget vs Actual)</b>
<b>CI\$000</b>			<b>CI\$000</b>	<b>CI\$000</b>	<b>CI\$000</b>
	<b>Revenue</b>				
2,279	Sales of goods & services	<b>9,16</b>	2,279	2,279	-
<b>2,279</b>	<b>Total Revenue</b>		<b>2,279</b>	<b>2,279</b>	<b>-</b>
	<b>Expenses</b>				
1,665	Personnel costs	<b>10,15</b>	1,683	1,630	(53)
211	Supplies and consumables	<b>11,15</b>	160	325	165
110	Leases	<b>12</b>	108	112	4
60	Litigation Cost		96	93	(3)
124	Depreciation and amortization	<b>4,5</b>	120	119	(1)
<b>2,170</b>	<b>Total Expenses</b>		<b>2,167</b>	<b>2,279</b>	<b>112</b>
<b>109</b>	<b>Surplus for the year</b>		<b>112</b>	<b>-</b>	<b>(112)</b>

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 2021  
(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
<b>Balance at 1 January 2020</b>	<b>833</b>	-	<b>833</b>	<b>825</b>	<b>(8)</b>
Equity Injection from Cabinet	12	-	12	25	13
Surplus for the year	-	109	109	-	(109)
Surplus repayable due for the year 2020	-	(109)	(109)	-	109
<b>Balance at 31 December 2020</b>	<b>845</b>	-	<b>845</b>	<b>850</b>	<b>5</b>
<b>Balance at 1 January 2021</b>	<b>845</b>	-	<b>845</b>	<b>850</b>	<b>5</b>
Equity Injection from Cabinet	15	-	15	25	10
Surplus for the year	-	112	112	-	(112)
Surplus repayable due for the year 2021	-	(112)	(112)	-	112
<b>Balance at 31 December 2021</b>	<b>860</b>	-	<b>860</b>	<b>875</b>	<b>15</b>

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 2021  
(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				
	<b>Operating Activities:</b>				
	Cash received				
2,078	Sales to Cabinet		2,291	2,279	(12)
2,078	Total Cash Received		2,291	2,279	(12)
	Cash used				
(1,648)	Personnel costs		(1,695)	(1,634)	61
(329)	Supplies and consumables		(237)	(522)	(285)
(110)	Lease Payments		(108)	-	108
(9)	<b>Net cash flows from (used by) operating activities</b>	<b>13</b>	251	123	(128)
	<b>Investing Activities:</b>				
	Cash Used				
(12)	Purchase of property and equipment	<b>4,5</b>	(15)	(25)	(10)
(12)	<b>Net cash flows used by investing activities</b>		(15)	(25)	(10)
	<b>Financing activities:</b>				
	Cash received/(used)				
12	Equity injections from Cabinet		15	25	10
(50)	Payment of surplus		-	-	-
(38)	<b>Net cash flows from (used by) financing activities</b>		15	25	10
(59)	Net increase/(decrease) in cash and cash equivalents held		251	123	(128)
451	Cash and cash equivalents at beginning of year		392	247	(145)
<b>392</b>	<b>Cash and cash equivalents at the end of the year</b>		<b>643</b>	<b>370</b>	<b>(273)</b>

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 2021  
(Expressed in Cayman Islands Dollars)**

**Description and principal activities**

The Office of the Ombudsman (the “Entity”) was established on 13 September 2017 by the Ombudsman Act, 2017 as an independent entity responsible for:

- monitoring compliance with the Freedom of Information Act (2021 Revision) by public authorities
- investigating complaints of government maladministration pursuant to the Complaints (Maladministration) Act (2018 Revision)
- public complaints against the police in accordance with the Police (Complaints by the Public) Act, 2017
- receiving and investigation disclosures of improper conduct and detrimental actions under the Whistleblower Protection Act, 2015
- regulating data protection pursuant to the Data Protection Act (2021 Revision)

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

As at 31 December 2021, the Entity had 14 employees (2020: 15). The Entity 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 2021.

New and revised accounting standards issued that are not yet effective for the financial year beginning 1 January 2021 have not been early adopted by the Entity.

Certain new accounting standards have been published that are not mandatory for the 31 December 2021 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 2021  
(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 2023. 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 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 2023. 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 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 2021 and ending 31 December 2021.

**(c) Budget amounts and budget period**

The 2021 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 2021 budget was presented in the 2020-2021 Budget Statement of the Government of the Cayman Islands and approved by the Parliament on 5 December 2019.

The appropriations presented in a Budget Statement covers a budget period of two financial years. The 2020-2021 Budget Statement covers the two financial years commencing 1 January 2020 to 31 December 2021. The 2020-2021 appropriations lapse at the end of the budget period ending 31 December 2021.

**(d) Judgments and estimates**

The preparation of financial statements in accordance with IPSAS 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 2021  
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**Note 1: Significant accounting policies (continued)**

**(d) Judgments and estimates (continued)**

As at 31 December 2021, 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 2021 were nil (2020: nil). Revenue is recognised at the agreed value of services provided as set out in the published budget statements.

**(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 – 5 years                      |
| • Office equipment and furniture | 3 – 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 2021  
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**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 on disposal. 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, 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, trade receivables, 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)  
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**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 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 2021  
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**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. Where an impairment exists, it will be recognized in the Statement of Financial Performance.

**(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 may 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 2021  
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**Note 2: Cash and cash equivalents**

As at 31 December 2021 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.

<b>Prior Year Actual CI\$'000</b>	<b>Description</b>	<b>Current Year Actual CI\$'000</b>	<b>Approved Budget CI\$'000</b>	<b>Variance (Budget vs. Actual) CI\$'000</b>
343	Operational Current Account - KYD	635	370	(265)
49	Payroll Current Account - KYD	8	-	(8)
<b>392</b>	<b>Cash and cash equivalents</b>	<b>643</b>	<b>370</b>	<b>(273)</b>

**Note 3: Receivables from exchange transactions**

<b>Prior Year Actual CI \$'000</b>	<b>Trade Receivables</b>	<b>Current Year Actual CI \$'000</b>	<b>Approved Budget CI\$'000</b>	<b>Variance (Budget vs. Actual) CI\$'000</b>
202	Outputs to Cabinet	190	190	-
-	Less: provision for doubtful debts	-	-	-
<b>202</b>	<b>Net Trade receivables</b>	<b>190</b>	<b>190</b>	<b>-</b>

<b>Prior Year Actual CI \$'000</b>	<b>Maturity Profile</b>	<b>Current Year (Gross) CI \$'000</b>	<b>Approved Budget CI\$'000</b>	<b>Variance (Budget vs. Actual) CI\$'000</b>
202	1-30 days	190	190	-
-	Past due 31-60 days	-	-	-
-	Past due 61-90 days	-	-	-
-	Past due 90 and above	-	-	-
<b>202</b>	<b>Total Trade Receivables</b>	<b>190</b>	<b>190</b>	<b>-</b>



OFFICE OF THE OMBUDSMAN  
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)  
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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	Total Property and Equipment CI\$000
<b>Balance as at 1 January 2020</b>	132	25	47	326	530
Additions	-	5	7	-	12
Disposal/ Derecognition	-	-	-	-	-
<b>Balance as at 31 December 2020</b>	<b>132</b>	<b>30</b>	<b>54</b>	<b>326</b>	<b>542</b>

<b>Balance as at 1 January 2021</b>	<b>132</b>	<b>30</b>	<b>54</b>	<b>326</b>	<b>542</b>
Additions	1	14	-	-	15
Disposal/ Derecognition	-	(1)	-	-	(1)
<b>Balance as at 31 December 2021</b>	<b>133</b>	<b>43</b>	<b>54</b>	<b>326</b>	<b>556</b>

Accumulated Depreciation

	Furniture & Fittings CI\$000	Computer Hardware CI\$000	Office Equipment CI\$000	Leasehold Improvements CI\$000	Total Property and Equipment CI\$000
<b>Balance as at 1 January 2020</b>	9	13	19	34	75
Depreciation Expense	14	10	7	82	113
Disposal/ Derecognition	-	-	-	-	-
<b>Balance as at 31 December 2020</b>	<b>23</b>	<b>23</b>	<b>26</b>	<b>116</b>	<b>188</b>

<b>Balance as at 1 January 2021</b>	<b>23</b>	<b>23</b>	<b>26</b>	<b>116</b>	<b>188</b>
Depreciation Expense	13	7	8	81	109
Disposal/ Derecognition	-	(1)	-	-	(1)
<b>Balance as at 31 December 2021</b>	<b>36</b>	<b>29</b>	<b>34</b>	<b>197</b>	<b>296</b>

<b>Net Book value 31 December 2020</b>	<b>109</b>	<b>7</b>	<b>28</b>	<b>210</b>	<b>354</b>
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<b>Net Book value 31 December 2021</b>	<b>97</b>	<b>14</b>	<b>20</b>	<b>129</b>	<b>260</b>
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OFFICE OF THE OMBUDSMAN  
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)  
FOR THE YEAR ENDED 31 DECEMBER 2021  
(Expressed in Cayman Islands Dollars)

**Note 5: Intangible Asset**

**Cost of Intangible Asset**

	<b>Computer Software CI\$000</b>
<b>Balance transferred as at 1 January 2020</b>	52
Additions	-
Disposal/ Derecognition	-
<b>Balance as at 31 December 2020</b>	<b>52</b>

	<b>Computer Software CI\$000</b>
<b>Balance transferred as at 1 January 2021</b>	52
Additions	-
Disposal/ Derecognition	-
<b>Balance as at 31 December 2021</b>	<b>52</b>

**Accumulated Amortization and impairment losses**

	<b>Computer Software CI\$000</b>
<b>Balance as at 1 January 2020</b>	21
Eliminate on Disposal/Derecognition	-
Amortization Expense	11
Disposal/ Derecognition	-
<b>Balance as at 31 December 2020</b>	<b>32</b>

	<b>Computer Software CI\$000</b>
<b>Balance as at 1 January 2021</b>	32
Eliminate on Disposal/Derecognition	-
Amortization Expense	11
Disposal/ Derecognition	-
<b>Balance as at 31 December 2021</b>	<b>43</b>

<b>Net Book value 31 December 2020</b>	<b>20</b>
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<b>Net Book value 31 December 2021</b>	<b>9</b>
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**OFFICE OF THE OMBUDSMAN  
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)  
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**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
20	Accruals	32	44	12
10	Core government trade with other public entities	7	6	(1)
<b>30</b>	<b>Total Accruals and Other Liabilities</b>	<b>39</b>	<b>50</b>	<b>11</b>

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	Description	Current Year Actual CI\$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
	<i>Current employee entitlements are represented by:</i>			
33	Annual leave	21	6	(15)
-	Salaries and wages	-	-	-
<b>33</b>	<b>Total employee entitlements</b>	<b>21</b>	<b>6</b>	<b>(15)</b>

**Note 8: Surplus payable**

Surplus payable represents accumulated surplus of \$221 thousand as at 31 December 2021 (2020: \$109 thousand). Under the Public Management & Finance Act (2020 Revision) section 39 (3) (f), states the Entity may “retain such part of its net operating surplus as is determined by the Minister of Finance”. The Entity has recorded an accumulated surplus payable to Government of the Cayman Islands in the amount of \$221 thousand for the year ended 31 December 2021 which it plans to repay in 2022. Surplus repaid during the year ended 31 December 2021, was nil (2020: \$50 thousand).

**OFFICE OF THE OMBUDSMAN  
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)  
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**Note 9: Revenue**

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI\$'000		CI\$'000	CI\$'000	CI\$'000
2,279	Outputs to Cabinet	2,279	2,279	-
<b>2,279</b>	<b>Total Sale of Goods &amp; Services</b>	<b>2,279</b>	<b>2,279</b>	<b>-</b>

**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
1,370	Salaries, wages and allowances	1,396	1,366	(30)
197	Health care	218	181	(37)
76	Pension	77	75	(2)
19	Leave	(12)	3	15
3	Other Personnel related costs	4	5	1
<b>1,665</b>	<b>Total Personnel Cost</b>	<b>1,683</b>	<b>1,630</b>	<b>(53)</b>

**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
15	Supplies and Materials	6	32	26
140	Purchase of services	114	179	65
29	Utilities	29	40	11
5	Travel and Subsistence	-	28	28
15	Recruitment & Training	5	40	35
5	Interdepartmental expenses	6	5	(1)
2	Other	-	1	1
<b>211</b>	<b>Total Supplies &amp; Consumables</b>	<b>160</b>	<b>325</b>	<b>165</b>

OFFICE OF THE OMBUDSMAN  
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)  
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**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
110	Lease and Rent of Property and Sites	108	112	4
<b>110</b>	<b>Total Lease</b>	<b>108</b>	<b>112</b>	<b>4</b>

**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
109	<b>Surplus from ordinary activities</b>	112	-	(112)
	<b>Non-cash movements</b>			
124	Depreciation and amortization	120	119	(1)
	<b>Changes in current assets and liabilities:</b>			
(201)	Decrease/(Increase) in trade receivable	12	5	(7)
(16)	Decrease/(Increase) in prepayments	10	-	(10)
(42)	(Decrease)/Increase in accruals and other liabilities	9	(1)	(10)
17	(Decrease)/Increase in employee entitlements	(12)	-	12
<b>(9)</b>	<b>Net cash flows from (used by) operating activities</b>	<b>251</b>	<b>123</b>	<b>(128)</b>

**Note 14: Commitments**

Prior Year Actual	Type	One Year or Less	One to Five Years	31 December 2021
CI\$000		CI\$000	CI\$000	CI\$000
	<b>Operating Commitments</b>			
288	<i>Non-cancellable office space leases</i>	108	72	180
<b>288</b>	<b>Total Operating Commitment</b>	<b>108</b>	<b>72</b>	<b>180</b>

The Office of the Ombudsman has a medium to long-term office space 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)  
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**Note 15: Explanation of major variances against budget**

Explanations for major variances for the Entity's performance against the original budget are as follows:

**Statement of financial position**

*Cash and cash equivalents*

Cash and cash equivalents are \$273 thousand dollars higher than budget mainly due to surplus of \$112 thousand in the current year and \$109 thousand from the prior year not yet repaid. The 2021 surplus was mainly due to lower than anticipated personnel costs and supplies and consumables.

*Prepayments*

Prepayments are \$16 thousand dollars over budget primarily due to prepayments relating to legal services, training and license and support maintenance fees.

*Property and equipment*

Property and equipment is lower than budget by \$83 thousand as the budgeted amount factored in purchases of \$50 thousand occurring in 2019, which did not materialize. In addition, the need for capital purchases in 2020 and 2021 were lower than anticipated.

*Employee entitlements*

Employee entitlements are over budget by \$15 thousand as a result of staff not being able to take as much leave as planned due to COVID 19 pandemic.

*Surplus payable*

Surplus payable is over budget by \$221 thousand, which is due to the \$112 thousand surplus achieved for the current year and \$109 thousand from the prior year not yet paid. This surplus was due to the entity having a reduction in operating cost but still billing Cabinet and recognizing the total amount appropriated for 2021.

*Contributed capital*

Contributed capital is under budget by \$75 thousand mainly due to 2019 capital funding of \$50 thousand not fully utilized used during the 2019 financial year but factored in as used during the preparation of the 2020 and 2021 budget.

*Accumulated surplus/deficit*

The budgeted amount of \$60 thousand represented an accumulated deficit brought forward from a previous year. Subsequent to the 2020-2021 budget being prepared, approval was granted in 2019 to retain surplus in the amount of \$60 thousand thus clearing the accumulated deficit.

**Statement of financial position**

*Personnel Costs*

Actual personnel costs are higher than budget by \$53 thousand primarily due to 5% cost of living adjustment awarded in 2021 not included in budget.

**OFFICE OF THE OMBUDSMAN  
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)  
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(Expressed in Cayman Islands Dollars)**

**Note 15: Explanation of major variances against budget (continued)**

**Statement of financial position (continued)**

*Supplies and Consumables*

Total supplies and consumables were \$165 thousand under budget primarily due to reduced spending as a result of the COVID 19 pandemic in the areas of purchase of services of \$65 thousand, recruitment and training of \$35 thousand, travel of \$28 thousand, supplies and materials of \$26 and utilities of \$11 thousand.

**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 all 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 2021 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:

<b>Prior Year Actual CI\$000</b>	<b>Statement of financial position</b>	<b>Current Year Actual CI\$000</b>	<b>Approved Budget CI\$000</b>	<b>Variance (Budget vs. Actual) CI\$000</b>
202	Trade receivables	190	190	-
10	Accrual and other liabilities	7	7	-
109	Surplus payable	221	-	(221)
50	Surplus repaid	-	-	-
	<b>Statement of financial performance</b>			
<b>2,279</b>	Sale of goods and services	2,279	2,279	-

**Key management personnel**

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

**Compensation of Key Management Personnel**

For the year ended 31 December 2021 there are three full-time equivalent (2020: 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:

<b>Prior Year Actual CI\$'000</b>	<b>Description</b>	<b>Current Year (Gross) CI\$'000</b>
481	Salaries & other short-term employee benefits	500
<b>481</b>	<b>Total Remuneration</b>	<b>500</b>

**OFFICE OF THE OMBUDSMAN  
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)  
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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 (2021 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 2021, 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**

Subsequent to the year ended 31 December 2021, Ms. Sharon Roulstone was appointed as Ombudsman effective 4 April 2022.

In preparing these financial statements management has evaluated and disclosed all material subsequent events up to 27 April 2022 which is the date that the financial statements were available to be issued.