



# OFFICE OF THE OMBUDSMAN

*Annual Report 2022*

Office of the Ombudsman

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## Message from the Ombudsman

**The year 2022 is best described as a “reset” year. It commenced with a number of staff vacancies created by the loss of several key posts during 2022 and from the previous year.**

The hardships created by this unprecedented knowledge-drain also created an opportunity to take stock of the Office and determine whether, as is, it could sustain future growth. There was a clear indication that the Office was gaining public trust by the increased number of enquiries received in 2022.

The vacancies in both Divisions had cast light on the stagnation-effect the organizational structure had on both staff development/ succession planning as well as on the ability of the Office to take on more work. The problem in the structure was that staff were “pigeon-holed” into each of the 5 respective areas of law governing the Office, gaining experience only in that specific area, and making the sharing of knowledge next to impossible. With the Office down to almost half its staff complement, there was limited or no ability for staff in different practice areas to help each other.

The solution appeared to be in doing away with the divided-up practice areas and

provide cross-training within the respective Divisions. This would create development opportunities for staff as well as prepare the Office for continuity of operations in the event there was another instance of widespread vacancies. Equally important was the ability to succession plan, something that had not been done to date in the life of the Office.

By the end of 2022, the vision for a new organizational structure was being formulated; new job posts were created, evaluated and graded with 3 staff members transitioning into the newly created posts. All other staff will transition early in 2023 with the expectation that a more comprehensive organizational restructure will be developed by mid-2023. No new headcounts are expected to result from this exercise.

The “reset” also provided an opportunity for the Office to review its policy and procedures, most of which were outdated or still in draft form. It also brought the introduction of the Government’s new HR system, “My-Vista” creating a new way for staff to manage everything from setting and reviewing performance targets to managing personal leave. New amendments to the Data Protection Act were submitted for the consideration of the Attorney General in

July of 2022 while other legislative changes were still only in “discussion” mode, mainly due to lack of staff resources.

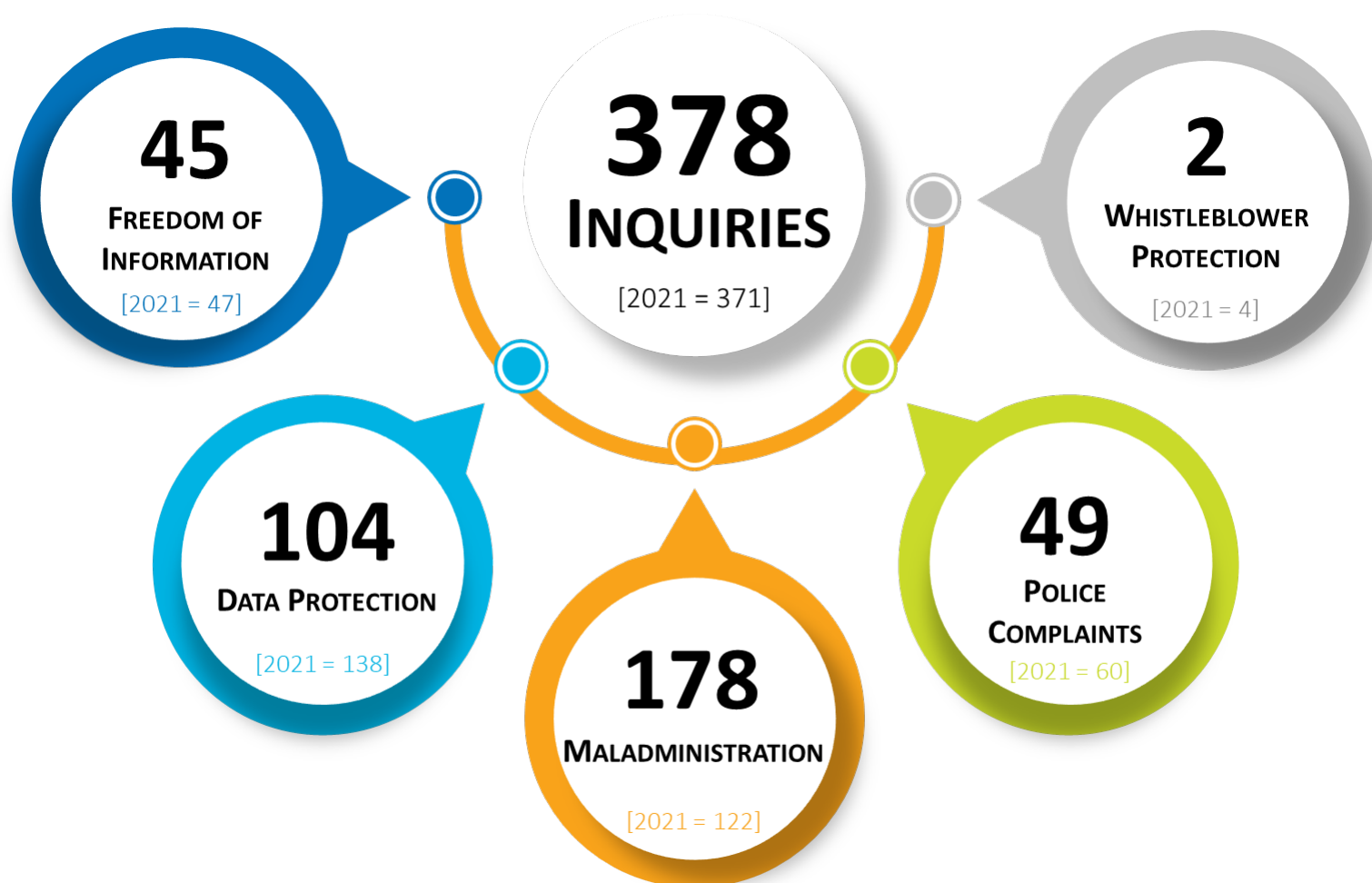
The year brought steep learning curves to most staff but it required all of us to adapt to new processes, new staff and what I hope is a new beginning to a better way of working at the Office. Change in any organization is a challenging prospect and is not always met with enthusiasm or support.

However, our staff is to be commended for rising to the challenge, being open to change and embracing the opportunities whilst still managing fuller workloads with less resources than the year prior and doing it all with minimal service gaps in our deliverables. It has truly been an achievement and each staff member should be justly proud. I am certainly proud of them!

## Overview

### INQUIRIES

(01 January – 31 December 2022)



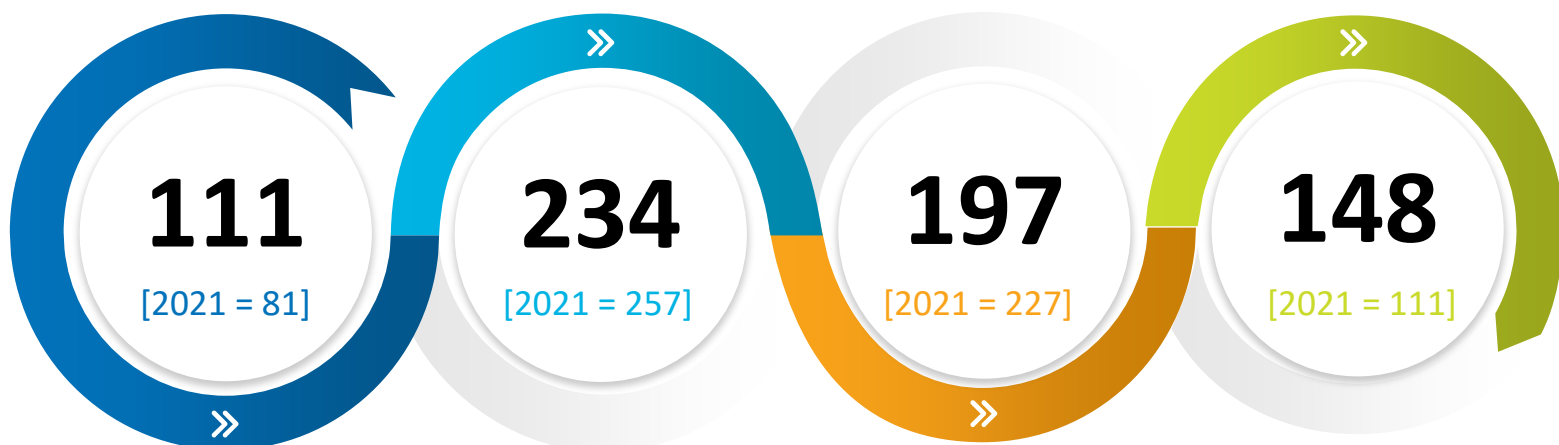
## CASES

### CASES RECEIVED IN 2022

FREEDOM OF INFORMATION	25
DATA PROTECTION	116
MALADMINISTRATION	49
POLICE COMPLAINTS	41
WHISTLEBLOWER PROTECTION	3

### OPEN CASES AS AT 31 DECEMBER 2022

FREEDOM OF INFORMATION	13
DATA PROTECTION	81
MALADMINISTRATION	27
POLICE COMPLAINTS	24
WHISTLEBLOWER PROTECTION	3



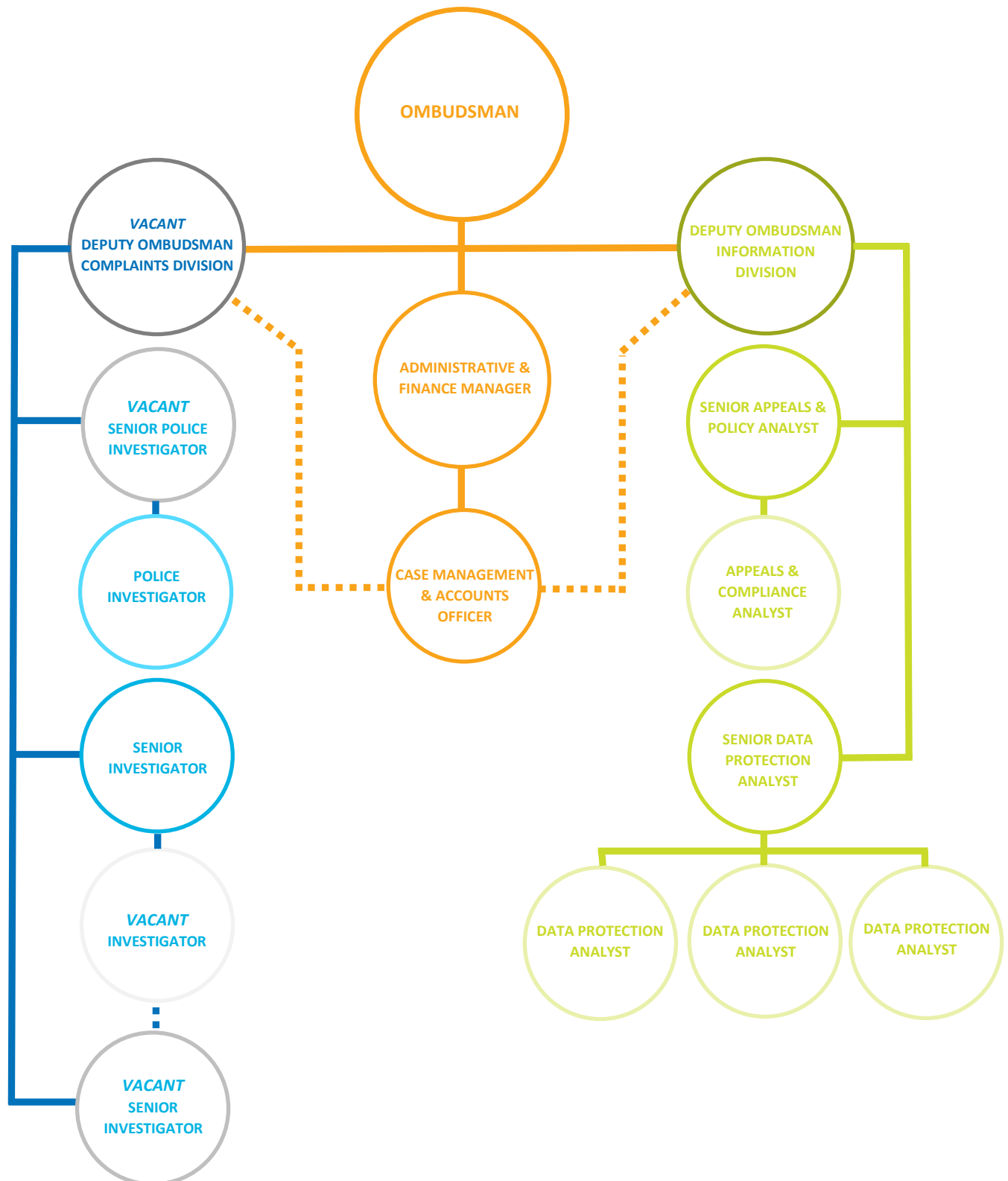
### CASES CARRIED FORWARD FROM 2021

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

### CASES CLOSED IN 2022

FREEDOM OF INFORMATION	27
DATA PROTECTION	89
MALADMINISTRATION	45
POLICE COMPLAINTS	33
WHISTLEBLOWER PROTECTION	3

## ORGANIZATIONAL CHART



## Human Resources

The challenges brought about by unprecedented staff vacancies were the hallmark of 2022. In the Complaints Division, 3 of the 4 senior investigators plus the Deputy Ombudsman post as well as the senior data protection analyst post in the Information Rights Division were all vacated by the beginning of the 2<sup>nd</sup> quarter of 2022. The post of Ombudsman had been held by two others by the time of my appointment in that same period. By the 3<sup>rd</sup> quarter, the Finance & Administrative Manager post had also been vacated, amounting to 7 senior post vacancies during the year.

This was an unprecedented drain of knowledge and experience which hampered the ability of the Office to achieve much else except to keep up with the public enquiries which had also increased. During the year, we launched several recruitment campaigns. By the end of the first quarter, an analyst post on the Information Rights team as well as an investigator post on the Complaints team were filled by Caymanians.

During the second quarter, the senior analyst post was filled by staff promotion which left another vacancy in the

Information Rights Division. Recruitment commenced to back-fill that vacancy but was unsuccessful due to private sector offers to our top candidates.

By the beginning of the 3<sup>rd</sup> quarter, the post of Deputy Ombudsman-Complaints was filled by an internal acting appointment which created another staff vacancy. Recruitment efforts continued with very little uptake by Caymanians, most likely due to lack of the required experience, given the newness of some legislation, as well as competition from the private sector.

Also during the 3<sup>rd</sup> quarter, the Finance & Administrative Manager post was vacated. This created an opportunity to re-examine that post, the primary function of which had previously been outsourced to the Chief Financial Officer and her team. The post was redeveloped to a human resources and office manager role to align with the growing needs of the Office.

By the end of the 4<sup>th</sup> quarter, 2 more Complaints Division investigator posts were filled by Caymanians leaving only one vacancy. Recruitment on the Information Rights team continued but was not completed by the end of the year. All other recruitments will commence in 2023. Additionally, office-wide certified investigator training will commence in early 2023 in order for staff across both Divisions to have internationally recognized accreditation.



## INFORMATION RIGHTS DIVISION

# Freedom of Information

*Since its inception in 2009 the FOI Act continues 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 post-pandemic increase, the number of FOI appeals lodged with the Ombudsman in 2022 settled on an average level of 25 new appeals, with 15 appeals being carried over from the previous year.

As in previous years, the FOI Team resolved most appeals (19) informally, and an additional 8 appeals resulted in a formal, binding decision by the Ombudsman.

Most informally resolved appeals were fully or partially disclosed, while 5 resulted in non-disclosure.

The informal resolutions dealt with a variety of topics, including legal privilege, recruitment of new staff and other HR matters, Environmental Health reports, quarrying operations, and sanctions against Russia.

Half of the 8 binding decisions of the Ombudsman upheld, or partially upheld the appeals. Many of the appeals formally decided in 2022 related to matters not directly involving the disclosure of information, such as questions around the reasonableness of searches for responsive records, whether public authorities' decisions had been sufficiently documented, and the limits of the application of the FOI Act. The Ombudsman's binding decisions related to such topics as the revocation and reinstatement of a health practice license, ground handling agreements of the Cayman Islands Airports Authority, and the application of the FOI Act to the Police Welfare Committee.

The FOI Team also responded to 45 inquiries from members of the general public and public officers, some of whom were Information Managers with questions about the workings of the FOI Act.

Our outreach efforts were focused on participation in the training offered to new

Information Managers by the Information Rights Unit of the Cabinet Office, and on promoting awareness of the FOI Act during International Right to Know Day on 28 September by means of media and social media postings.

<b>FREEDOM OF INFORMATION</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
Inquiries	87	60	45	47	<b>45</b>
Appeals carried forward	12	15	13	17	<b>15</b>
Appeals received	23	26	24	31	<b>25</b>
Appeals resolved	20	28	20	33	<b>27</b>
Open appeals	15	13	17	15	<b>13</b>

## FREEDOM OF INFORMATION

# Case Summaries | Informal Resolution

### LEGAL PRIVILEGE IN PLANNING ENFORCEMENT NOTICE

#### Department of Planning

An applicant requested records related to an Enforcement Notice issued by the Department of Planning (DoP). The DoP granted partial access to some records, and others were exempted under legal privilege.

**We requested and obtained the records responsive to the request from the DoP. Upon review of those records, we confirmed that the records were legally privileged. The applicant asked for additional clarifications which were provided.**

### DISCREPANCIES IN DISCLOSURE OF POLICIES AND PROCEDURES Workforce Opportunities & Residency Cayman (WORC)

This case was accepted as a late appeal covering four FOI requests submitted since 2020, concerning policies and procedures for a number of functions of WORC, because of unexplained discrepancies between what had been disclosed in

separate investigations under the FOI Act and the Maladministration (Complaints) Act (2018 Revision).

**We analyzed WORC's search efforts and made recommendations regarding the gaps that were found. WORC was asked to apologize and inform the applicant of mitigation measures. WORC cooperated and the matter was closed.**

### RECORDS ON THE RECRUITMENT OF A "CULTURAL ATTACHÉ" Cabinet Office - Cayman Information Centre

An applicant requested a number of recruitment records regarding the post of "Cultural Attaché" which had been advertised in media outlets.

**The Cabinet Office claimed that no responsive records were held, and submitted their search efforts to our office. We asked for further clarifications, and we were informed that the title "Cultural Attaché" had been inadvertently used. The applicant was informed, and accepted the explanations provided.**

## ENVIRONMENTAL HEALTH REPORTS AND MEDICAL BOARD REPORT

### Cayman Islands Customs and Border Control

An applicant requested 2012 and 2015 environmental health reports and a medical board report from Customs and Border Control (CBC). Two environmental health reports were disclosed, among other supporting documentation. However, CBC withheld the requested medical board report claiming that disclosure would result in a breach of confidence and the unreasonable disclosure of personal information.

Since the FOI Act requires that partial access is given where possible, we advised CBC that the records could be disclosed to the applicant, with the exception of the personal information contained in some parts of the records. However, the CBC reconfirmed their initial position and the applicant requested that the appeal progress to a formal hearing decision before the Ombudsman.

While preparing for the hearing, and following further consultation with our office, CBC's legal counsel recommended disclosure with redactions made to the personal information contained in the record, as we had suggested. This approach was accepted by the applicant, and the case was closed.

## RECORDS ON SANCTIONS AGAINST RUSSIA

### Portfolio of Legal Affairs – Financial Reporting Authority

An overseas media applicant requested records related to the implementation of sanctions against Russia resulting from the war in Ukraine. The Portfolio of Legal Affairs (POLA) explained that the FOI Act does not apply to the Financial Reporting Authority (FRA) in matters related to their strategic or operational intelligence-gathering activities in accordance with the FOI Act.

We completed an analysis of the type of records responsive to the request and informed the applicant that these appeared to fall within the scope of the FRA's operational intelligence-gathering activities, after which the case was closed.

## **REQUEST FOR RECRUITMENT RECORDS NOT RECEIVED Ministry of Investment, Innovation & Social Development (MIISD)**

An applicant requested records related to a recruitment process in the Ministry of Investment, Innovation & Social Development, and expressed concern with the response time. The request had been properly made more than 60 days prior.

**We made inquiries and the Ministry explained that the request had not been received. Given the delay incurred, we prompted the Ministry to respond as soon as practicable or at least earlier than 30 days. Upon our suggestion, the Ministry provided the applicant with an apology and an explanation concerning the delayed response. Several records were disclosed, but the applicant claimed that more records should exist. We reviewed the records and the Ministry's search efforts and confirmed that some records were indeed missing. Thereupon, the relevant records were located and disclosed, and the case was closed.**

## **AUDITOR'S REPORT ON QUARRYING OPERATIONS Office of Auditor General**

An applicant requested a special report completed by the Office of the Auditor General (OAG) in 1998, concerning quarrying operations on Crown Land. The applicant had detailed knowledge of the existence of the report, including correspondence that helped guide the OAG to locate a related affidavit and attachments to the report.

The OAG initially stated that the records would have been destroyed in line with the OAG's approved disposal schedule established in 2015, in compliance with the National Archive and Public Records Act (NAPRA). However, two appendices were located in the OAG's database and were disclosed.

**We requested a copy of the OAG's disposal schedule, and after additional searches and with the help of the Cayman Islands National Archive we received a copy of the schedule and the relevant destruction list. Our review confirmed that the responsive records were most likely destroyed in 2016, in accordance with the disposal schedule. The applicant requested, and received, a copy of the schedule and the destruction list), and the matter was closed.**

## LEGAL ADVICE ON DATE CHANGE FOR GENERAL ELECTION

### Portfolio of Legal Affairs (POLA)

An applicant requested access to legal advice from the Portfolio of Legal Affairs (POLA) concerning changes to the date of the general elections in 2021. POLA informed the applicant that it did not hold any responsive records. Our investigation evaluated POLA's search efforts and concluded that the search appeared to have been carried out rigorously, exhausting all reasonable search avenues. POLA demonstrated a good understanding of the request, and the quality of their analysis was satisfactory.

The applicant expressed concerns that more should be done to ensure that public authorities maintain full and accurate records, as required under the NAPRA, which specifies that every public authority must "make and maintain full and accurate ... records of its business and affairs...". Generally, a record is not produced if a communication is verbal in nature. However, we encourage public authorities to give consideration to produce a written record of verbal information where appropriate.

The applicant accepted our position and the case was closed.

FREEDOM OF INFORMATION	2018	2019	2020	2021	2022
<b>Assessment/disposition</b>	n/a	7	3	1	0
Non-jurisdictional	n/a	7	3	1	0
<b>Informal resolution</b>	16	9	9	26	19
Full disclosure	7	1	3	12	4
Partial disclosure	5	5	2	7	6
Late appeal request denied	1	0	0	0	0
Non-disclosure	1	3	4	2	5
No records found	1	0	0	0	0
Deferred	1	0	0	0	0
Other	0	0	0	5	4

## FREEDOM OF INFORMATION

# Case Summaries | Appeal Decisions

### **BUSINESS ASKS WHY ITS HEALTHCARE LICENSE WAS REVOKED AND THEN REINSTATED Ministry of Health and Wellness**

An applicant made a request for information on the withdrawal and reinstatement of a license for his health business by the Health Practice Commission (HPC). The Ministry of Health and Wellness coordinated the response to the request. The Ministry answered some of the questions and disclosed some records, but it provided only partial access to two email chains, and withheld educational certificates belonging to a medical practitioner who was a member of the HPC on the grounds that it was exempt as personal information.

After significant delays, and an initial failure to do so, the Ministry conducted adequate interviews with the applicant to ensure that appropriate records were located.

The redacted email addresses and information on the whereabouts of some of the Board members in the email chains were not exempt. The educational certificates of a Board member were exempt from disclosure since there was no requirement that members must be medical practitioners.

**The Ombudsman found that the decisions of the HPC in relation to the applicant's business were insufficiently documented and proper reasons had not been given, in contravention of the FOI Act. As well, the Ministry failed to transfer the requests and did not conduct internal reviews when asked to do so. The Ombudsman required the full disclosure of the email chains, including the email addresses and information on the whereabouts of Board members. Since some of the email chains contained sensitive information relating to the applicant and his business, the disclosure of the appendices was to the applicant only, not to the world at large.**

## **POLICE WELFARE COMMITTEE IS A “PUBLIC AUTHORITY” UNDER THE FOI ACT**

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

An applicant made a request to the Royal Cayman Islands Police Service (RCIPS) for information on the Police Welfare Fund (PWF) and the Police Welfare Committee (PWC). The initial response from the RCIPS was that the PWC should be considered a separate entity from the RCIPS, and that the applicant should address the request directly to the PWC. However, in the internal review the Police Commissioner asserted that the PWC was not a “public authority” as defined in the FOI Act. In the course of the appeal we asked the RCIPS to consider whether it held any responsive records in its own right, after which the matter was escalated to a hearing.

**The Ombudsman found that the PWC was a “public authority” by virtue of being a “statutory body... whether incorporated or not” as per the definition in the FOI Act. Consequently, the PWC had to make all relevant records available to the Information Manager (IM) of the RCIPS for a further response to the applicant. The Ombudsman also required the RCIPS to reconsider whether it held any responsive records, and, if so, to consider disclosing them under the FOI Act.**

## **MEDICAL RECORDS ON APPLICANT’S DECEASED MOTHER NOT HELD**

### **Health Services Authority (HSA)**

An applicant made an FOI request to the Health Services Authority (HSA) for medical records of his deceased mother, dating from 2011, who had spent some time abroad. After conducting an extensive search, the HSA explained that medical records are retained indefinitely, but it did not hold the requested records. When conducting the internal review, the CEO slightly expanded the scope of the search but confirmed that no responsive records were found.

**The applicant was not satisfied and questioned the reasonableness of the search that was undertaken. The Ombudsman investigated the matter and found that the HSA had conducted a reasonable search and had documented its search efforts, as required in the FOI Regulations. The HSA had conducted proper interviews with the applicant, and no further action was required on the part of the HSA.**



## AIRPORTS AUTHORITY MUST DISCLOSE GROUND HANDLING AUTHORISATIONS AND AGREEMENTS

### Cayman Islands Airports Authority (CIAA)

The Cayman Islands Airports Authority (CIAA) was asked to disclose records relating to airport ground handling services (GHSs), including authorisations and agreements. The applicant excluded “the commercial terms of licence fees or rent payable under leases”, focusing instead on authorised “licences, rights and services” since 2008. The applicant also questioned whether an additional agreement with a named provider should exist.

The CIAA disclosed records in three batches, including a final release after

commencement of the FOI hearing, claiming that the commercial interests of the businesses would be harmed if the authorising letters for ground handling service providers (GHSPs) were disclosed. The CIAA also deferred release of draft ground handling agreements until their finalisation in August 2022.

**The Ombudsman found that the exemption for commercial interests did not apply to the authorisation letters, and that it would, in any event, not be in the public interest to withhold the redacted information. The Ombudsman ordered the authorisation letters disclosed. She also found that access to the draft agreements was correctly deferred, and that the CIAA did not hold any additional agreement with the named provider.**

FREEDOM OF INFORMATION	2018	2019	2020	2021	2022
<b>Decisions</b>	4	12	8	6	8
Non jurisdictional	1	0	0	0	0
Appeal upheld	1	1	4	2	1
Appeal partially upheld	0	3	2	1	3
Appeal dismissed	2	6	2	3	0
Reasonable search	0	2	0	0	0
Other	0	0	0	0	4

## INFORMATION RIGHTS DIVISION

# Data Protection

*Although our data protection workload eased slightly in 2022, the challenge of responding to a very high number of complaints and data breaches under the Data Protection Act (2019 Revision) (DPA) amidst vacancies in the Data Protection Team, was at times overwhelming.*

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

During the year, in addition to the 20 complaints and 34 data breaches carried over from 2021, we received 26 complaints and 90 data breach notifications. Of these, we resolved 24 complaints and 65 breaches.

The Ombudsman issued 4 enforcement orders and decisions in relation to a variety of topics including an individual's right to access (subject access request), the

adequacy of security measures under the seventh data protection principle, and the limits of "personal data" in legal analyses supporting administrative decisions.

We conducted an own-motion investigation of the Ministry of Tourism's Vaccine Challenge initiative, which did not result in a formal decision or enforcement order. Further details are provided below.

Our informally resolved complaints and data breaches covered numerous subjects, including an individual's right of access to their own personal data (as well as limitations to that right), information sharing practices between the Prisons, the Police and the Courts, inadvertent disclosures of personal data related to health, finances, road accidents, financial regulation, firearms, insurance, employee data, and more. The majority of data breach cases were relatively minor, and were closed once we were able to confirm that appropriate actions had been taken by the data controller.

The Data Protection Team responded to 104 inquiries during the year. However, due to our heavy workload and staff shortages outreach efforts remained subdued, apart from media and social media activities around International Data Protection Day on 28 January.

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

<b>DATA PROTECTION</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
Inquiries	65	192	120	138	<b>104</b>
Presentations	45	45	9	4	<b>0</b>

## DATA PROTECTION - COMPLAINTS

# Case Summaries | Informal Resolution

### NO PERSONAL DATA ON REISSUED SIM CARDS

A complainant alleged that a telecoms company sold a SIM card containing his personal data to a third party, allowing the latter to access the former's data. The third party then used the data for personal reasons, including contacting persons on WhatsApp groups and other social media platforms such as TikTok, to which the phone number was registered.

Our investigation concluded that the complaint did not have any merit as the company does not resell SIM cards. Instead, where a phone number is assigned and remains dormant for 90 days or greater, the number (not the SIM card) is returned to the pool of phone numbers and is available for reassignment. In any event, newly issued SIM cards do not contain any personal data related to the previous owner. Consequently, the third-party customer could not have accessed the complainant's personal data in the manner described.

To reduce the risk of a similar incident happening in the future, we recommended that the complainant implement controls to secure personal data on third-party app

profiles. For instance, enabling an extra layer of security to log into the account (i.e. two-factor authentication) or registering for the apps using a personal email address that cannot be reassigned.

### PUBLIC SECTOR ENTITY INCURS UNREASONABLE DELAYS IN RESPONDING TO A SUBJECT ACCESS REQUEST

A public sector data controller did not comply with a subject access request, ignoring it for over 200 days. We tried to resolve this issue informally, but had to issue an enforcement order requiring the data controller to give a complete and final response to the request for the complainant's own personal data, and to conduct an internal investigation into the lengthy delays.

After the enforcement order was issued, the data controller fully complied with the request, and we received an investigation report from the data controller addressing the reasons for the delays.

## JOB REFERENCES NOT HELD

A complainant was dissatisfied with the response provided by Customs and Border Control (CBC) to a subject access request pertaining to job references. The data controller processed the request by applying the FOI Act despite the request explicitly being filed as a subject access request, which should have been considered under the DPA.

The data controller claimed not to hold any records pertaining to the request. We confirmed that CBC did not hold the records requested and that there was no record of a verbal reference being provided. We also confirmed that personnel files are not being held by CBC but by the Ministry of Finance & Economic Development, which had already provided the complainant with a response. We also advised the complainant to file a subject access request with possible recipients of job references.

**Since the requested personal data were held, we closed the complaint as it did not raise any matter of substance.**

## LIMITATIONS TO THE RIGHT TO ACCESS ONE'S OWN DATA

A complainant was dissatisfied with the response to a subject access request, i.e. a request for the individual's own personal data. Under the DPA individuals have the right to access their own data, except

where an exemption applies. In its response the data controller, a therapeutic services provider, had refused to provide the complainant with the requested information on the basis that it would require the disclosure of the personal data of another person, and in reliance on the medical exemption in the DPA.

**Discussions with the complainant and data controller led us to confirm that the response to the request was appropriate in the circumstances of the case, and that the refusal to comply based on the exemption was valid.**

## COURTS AND EXPUNGING CRIMINAL RECORDS OUTSIDE OUR JURISDICTION

A complaint was filed against the RCIPS and the ODPP for allegedly inaccurately processing personal data relating to the complainant's criminal record. The complainant sought to have his criminal record expunged.

**We decided not to support the complaint, as the Ombudsman does not have jurisdiction to overturn court rulings or expunge criminal records.**

## INFORMATION SHARING BETWEEN HM PRISON, RCIPS AND THE COURTS

A complainant felt that certain information shared between the Prison Service and the RCIPS had been processed unlawfully. He also complained that some of this information, including personal data, had been inappropriately shared in court.

We investigated the complaint and found that an exemption applied to the data sharing, and there was no breach of the DPA. In addition, the Ombudsman has no jurisdiction over the courts, so we were unable to come to any conclusions on the disclosure in court. The complaint was not supported and the case was closed with no further action.

DATA PROTECTION – COMPLAINTS	2018	2019	2020	2021	2022
Complaints carried forward	n/a	0	1	7	20
Complaints received	n/a	12	22	30	26
Complaints resolved	n/a	11	16	17	24
Open complaints	n/a	1	7	20	22
<b>Assessment/disposition</b>	n/a	7	6	4	9
Non-jurisdictional		2	2	1	1
Complaint refused (s. 43(4))		5	1	3	6
Complaint withdrawn		0	2	0	0
Other		0	1	0	2
<b>Informal resolution</b>	n/a	4	9	10	13
Complaint supported		4	8	7	4
Complaint not supported		0	1	3	8
Complaint withdrawn		0	0	0	0
Complaint abandoned		0	0	0	0
Other		0	0	0	1

## DATA PROTECTION - COMPLAINTS

# Case Summaries | Decisions and Orders

### GENERAL ADMINISTRATIVE INFORMATION IS NOT PERSONAL DATA

A complainant applied to the Cabinet Office/PACT Caucus for access to personal data concerning his immigration status. The data controller had considered the application, and the complainant had received notification of the decision. The complainant sought to obtain additional personal data used in the consideration of his immigration application by the data controller. The complainant was not happy with the response and filed a complaint with the Office of the Ombudsman, based on alleged non-compliance with the DPA's (qualified) provisions granting access to one's own personal data.

**After reviewing the source records, we identified additional parts of an unredacted Cabinet Paper that the complainant was entitled to receive. The data controllers agreed and disclosed these. However, the complainant asserted**

**that the entire Cabinet Paper related to him and consisted of his personal data, which he was entitled to access. The Ombudsman disagreed, as the legal analysis used to support an administrative decision was not personal data.**

### PUBLIC AUTHORITY GIVES DELAYED RESPONSE TO SUBJECT ACCESS REQUEST

An individual made a subject access request to the Department of Children and Family Services (DCFS) for her own and her child's personal data and related information. DCFS did not reply within the statutory timescale of 30 days. It claimed no extensions to the deadline and requested clarification on certain details of the request only after the deadline had already expired. After several months, a response was finally issued, but it was considered incomplete by the complainant. A further 50 days have now passed and no further response was sent to the complainant.

Having investigated the matter, the Acting Ombudsman concluded that DCFS failed to comply with its statutory duty under the DPA. An enforcement order was issued, requiring DCFS to provide a comprehensive response within two weeks from the date of the Order. DCFS was also required to

investigate why its response to this request failed to comply with the requirements of the DPA, and it was recommended that DCFS draft a comprehensive policy detailing how it will handle subject access in the future.

DATA PROTECTION – COMPLAINTS	2018	2019	2020	2021	2022
<b>Order</b>	n/a	0	1	3	2
Enforcement order issued		0	1	3	1
Monetary order issued		0	0	0	0
Enforcement and monetary order issued		0	0	0	0
Other		0	0	0	1



## DATA PROTECTION - COMPLAINTS

### Case Summaries | Own Motion

#### **“VACCINE CHALLENGE” VIOLATES THE DPA**

The Ministry of Tourism & Transport held a "Vaccine Challenge" to incentivize the public to get vaccinated against COVID-19, which involved the publication of winners' names. The data was sensitive personal data under the DPA, as it revealed the vaccination status of the data subjects.

The Ombudsman conducted an own-motion investigation and found that the Ministry did not meet the requirements of the first data protection principle because it did not provide an adequate privacy notice explaining the purposes for processing the data. As well, the Ministry did not have valid consent or another legal

basis for the processing, as required by law. In addition, publication of the data was excessive in relation to the stated purposes, in breach of the third data protection principle.

Since the Ministry fully cooperated with us and ceased the publication of the sensitive personal data of the winners of the challenge, including its removal from all media and social media under its control, the case was closed. We made recommendation for any similar initiative in the future, including that individuals should be provided with a compliant privacy notice, that a legal basis for processing should exist, and that more privacy-friendly options be found.

## DATA PROTECTION - BREACHES

# Case Summaries | Informal Resolution

### **BANK INADVERTENTLY SENDS EXISTING CLIENTS' DATA TO NEW APPLICANTS**

A bank suffered a personal data breach when a completed personal loan application was inadvertently emailed to two external parties. The Private Banking Team meant to send a blank personal lending application to two external parties but did not realize that the fillable pdf form still contained details of another client. The breach was discovered and reported by one of the prospective clients.

The bank took appropriate action to contain the breach and mitigate possible adverse consequences by reaching out to the unintended recipients, receiving confirmation that the email and attachments were deleted without further disclosure. The bank also created a separate shared folder to house copies of their blank templates, and put links to all blank forms available on their websites, for use by prospective or existing clients. We considered these measures appropriate, and confirmed that all requirements relating to the breach notification had been met, with no further action required.

### **RCIPS INADVERTENTLY RELEASE THIRD PARTY PERSONAL DATA IN COLLISION REPORT**

The RCIPS inadvertently released sensitive personal data of a third party to an unintended recipient when a collision report was disclosed. The unintended recipient provided verbal confirmation that the email received in error was deleted without disclosure. However, due to the nature of the breach, we asked the data controller to obtain confirmation in writing from the individual to ensure containment.

The breach occurred when an employee did not correctly apply internal policies on reviewing and summarizing information in collision reports before disclosing them to the requester. The RCIPS agreed to provide further staff training on this issue, and amended their policy by adding an additional step to review and verify reports before they are released to the public.

The data controller took all appropriate steps and the case was closed without further action.

## UNAUTHORIZED USE OF THIRD-PARTY WEBSITE LEADS TO DATA BREACH

An employee of a financial institution uploaded a corrupted pdf document containing personal data of a small number of investors (including their names, dates of birth, ownership details, home addresses and social security numbers) to a third-party website in an attempt to repair the file. The data controller (the financial institution) had not approved the use of this website for this purpose, and started an investigation and reported the breach to us.

**The investigation showed no evidence that the data had been accessed or used by the third-party website. The affected individuals were encouraged to look out for unusual activity on their account, and were offered a free 24-month membership with an identity theft monitoring service. Staff received additional training, and steps were taken to ensure that the third-party website did not retain the data.**

**We received the breach notification outside the statutory notification period of 5 days, although under the particular circumstances of this case this was not unreasonable since it took some time for the controller to investigate the matter and establish jurisdiction. The appropriate actions taken by the controller mitigated the risk of harm, and the case was closed without further action.**

## FINANCIAL SERVICE PROVIDER NEGLECTS TO UPDATE THEIR PAPER FILES

Two individuals opened a joint investment account with a local financial planner. One of the account holders sold his interest in the investment account to the other and notified the data controller. In response, the data controller updated its electronic system, but not its paper-based filing system. A new staff member assigned to the investment account erroneously used the outdated information in the paper file to review the account and contact third parties. In doing so, the staff member shared personal data belonging to the account holder with the previous account owner, causing a personal data breach.

**We investigated the matter and recommended that the data controller: (1) implement better controls to ensure that data held on all filing systems are kept up to date; (2) ensure that all employees routinely receive data protection training relevant to their job functions; and, (3) publish an internal written policy or procedure on how staff process personal data in the course of an investment portfolio review.**

## FINANCIAL REGULATOR INADVERTENTLY DISCLOSES PERSONAL DATA

An employee of a financial regulator inadvertently sent an email with a spreadsheet containing a tab with personal data of numerous individuals, intended for internal use only, to an external party. The data included applications for director, officer and shareholder positions, and included names, approval status, queries raised by the supervisor and payment of fees. We determined that this breach could likely cause damage to reputation, psychological distress and embarrassment on the part of the individuals concerned.

**Attempts were immediately made to recall the email and attachment. However, the message had already been delivered to external servers. The unintended recipients were contacted by email and phone, requesting that all emails containing the attachment be deleted, and removed from inboxes and servers. We received confirmation of the deletion, as intended, and the overseas IT team was asked to trace the email and permanently remove it from the servers.**

**The regulator intends to introduce a data classification scheme, encrypt outgoing emails to external parties, replace use of email for sharing confidential information with a shared folder or a secure file-sharing site, expand review/approval levels to**

**additional workflow, and facilitate staff training and advisories. We concluded that no further action was required since the regulator took swift action. However, we noted that the affected individuals were not notified within the period allowed by law (in some cases more than two months late), which can be partially explained by the high number of individuals concerned and the fact that contact information was not held on all of them.**

## RCIPS SENDS MISDIRECTED DATA ON FIREARM OWNER

An email containing personal information relating to a firearm license holder was inadvertently sent to an unintended recipient. The RCIPS became aware of the breach three days later when an employee noticed the mistake, and the recipient informed the RCIPS the following day. The RCIPS requested the deletion of the email and the attachment, which the recipient confirmed.

**Upon review, we concluded that RCIPS had taken appropriate action to close the breach. Going forward, the RCIPS also committed to implement encryption for this type of correspondence. We advised the RCIPS to ensure that all elements of the data breach notification required by law were addressed, including notifications to data subjects.**

## HSA DISCLOSES PCR RESULTS TO WRONG PERSON

The HSA experienced a personal data breach when a nurse on the Maternity Ward handed a copy of a PCR test result to the wrong patient. The error involved sensitive personal data, including medical information. The recipient reported the error to the HSA.

The HSA confirmed that the erroneously sent document was destroyed, and apologized to the data subject. As a result of this breach, the HSA stated that it would review its Internal processes and an additional layer of checks would be added to ensure that documents are cross-checked against the visitor or patient's ID prior to issuing printed results of PCR tests.

**During our review, we requested a copy of the revised procedures and queried whether patients were being made aware of the option to sign up for the MyHSA portal to access their test results online, thus reducing the likelihood of this type of error. After numerous follow-ups and significant delays, the revised procedure was eventually provided to us for review, and we found it to be compliant with the applicable seventh data protection principle. As all other requirements had been complied with, the case was closed with no further action.**

## EMPLOYEE OF AN INSURANCE COMPANY REVEALS SENSITIVE PERSONAL DATA

An insurance company employee disclosed personal data to a third party without authorization.

The affected data subject needed to obtain health insurance to complete her work permit application and avoid having to leave Cayman with her child. She applied for health insurance at the company, but the application took longer than expected, and she called her ex-husband (the son of a former employee) for help. He contacted a current employee recommended by his father, who did not routinely process this type of application. In the course of the conversation, the employee inadvertently revealed that the applicant was pregnant. The affected data subject and her ex-husband had long since divorced, and she was – understandably - distressed about the disclosure.

**The insurer suspended the employee following the incident, and the matter was selected for possible further criminal investigation for an apparent reckless disclosure of personal data.**

## **CREDIT UNION SENDS INVITATION WITHOUT USING BCC**

The Credit Union sent a Microsoft Teams meeting invitation to 211 individuals regarding an orientation session on the organization and the products it offers, disclosing all email addresses to all recipients, causing a personal data breach. In addition, one data subject replied to all and disclosed health-related information without realizing that the information could be seen by all the other recipients. The data subjects were notified of the personal data breach one day outside the statutory 5-day notification period, asking them to delete the invitation. The Credit Union initially proposed no longer sending such invitations via Teams but rather: (1) sending a link to the Teams meeting via a separate email using BCC and informing the recipients that the meeting will include other participants and that their details will be visible to the other participants, or (2) using a webinar feature on another online meeting platform which allows all participants to remain anonymous.

**The notifications were late, but otherwise compliant.**

**The sender had not been aware that Teams invitations were not sent using the BCC function, and we provided the data controller with additional guidance on how to send meeting invitations via Teams using this feature. We found that the Credit Union was not responsible for the**

**subsequent reply to all containing health data. We were satisfied that the Credit Union had taken appropriate action in response to the personal data breach and the case was closed with no further action.**

## **WORC SENDS BULK EMAILS WITHOUT USING BCC**

WORC sent a JobsCayman notice to 4000 registrants on the portal without use of the BCC function. Many of the personal email addresses allowed for the identification of the addressees. An initial recall was issued, and approximately 2300 emails were successfully recalled, and 300 were undeliverable. A follow up email was sent to the recipients whose emails could not be recalled, requesting that the email be deleted without further disclosure. The registrants were notified in compliance with the requirements of the DPA.

**Subsequently, we received numerous complaints/inquiries from some of the registrants regarding the breach, which were rolled into our investigation. We found that sending such bulk notices involves a manual process, which carries a high risk of error. To prevent reoccurrence, WORC proposed to liaise with the developer of the JobsCayman portal to add a procedure to send emails to recipients directly from the system, which eliminates the risk of such breaches. We agreed with this measure, and also provided additional recommendations regarding bulk emails.**

In addition, further staff training on the use of the specific email client and email etiquette should be undertaken in an effort to ensure that WORC continues to comply with the seventh data protection principle when sending e-mails. The case was closed with no further action.

## RCIPS LOSES BAIL BOOK AND FINDS IT AGAIN

The RCIPS reported that its 2020 bail book went missing from the detention centre. It contained the names of an unknown number of prisoners along with the names of their arresting officers and their associated JMS numbers. The RCIPS took the position that the risks to the data subjects were low. A search was undertaken of the detention centre but the missing record was not located.

**Our investigation found that the cabinet in which the book had been kept remained unlocked, and arrangements were made to immediately install a lock. There were no formal policies and procedures in place to manage access to the items. We concluded that the RCIPS had not adhered to the seventh data protection principle, which requires that "appropriate technical and organisational measures against accidental loss or destruction of, or damage to, personal data" be taken. As well, there were no arrangements in place to manage the retention and secure disposal of bail books. A new procedure involving the shift**

**handover book will henceforth hold an officer accountable for the bail book, and we advised that a disposal schedule should be developed, approved and implemented without delay with help from the National Archive.**

**The case was reopened several months later when the lost bail book was found, but no adequate explanation was offered. We closed the case given the low risk to individuals' rights and freedoms, and the likelihood that the book remained in the hands of the RCIPS throughout this period.**

## ERROR IN HR SYSTEM CAUSES BREACH AT POCS

An error in a workflow process for a specific employee report within PoCS's newly deployed Human Resource Management System (HRMS) provided managers with unauthorized access to the personal data of employees who did not report to them. In response to the breach, PoCS cancelled all open workflows for this report and conducted an investigation into the full scope of the breach. 11 reports were impacted by the error, of which only two involved extensive personal data.

PoCS asserted that the risk posed by a second group of reports was minimal and the breach was unlikely to cause harm, also because the accidental disclosure was made to government managers who are expected to maintain a duty of confidentiality. We

agreed, and the second group was not formally notified.

We concluded that PoCS took appropriate action in response to the breach, including the reconfiguration of the faulty workflow process using a unique identifier, and ensuring that the correct reporting manager receives it. The two data subjects

with an increased risk of harm due to the breach were notified in accordance with the DPA. We had no further concerns and the case was closed.

DATA PROTECTION – BREACH NOTIFICATIONS	2018	2019	2020	2021	2022
Breach notifications carried forward	n/a	0	16	29	34
Breach notifications received	n/a	25	65	101	90
Breach notifications resolved	n/a	9	52	96	65
Open breach notifications	n/a	16	29	34	59
<b>Assessment/disposition</b>	n/a	3	42	85	54
Non-jurisdictional		1	4	6	2
Appropriate actions taken		2	34	78	50
Other		0	4	1	2
<b>Informal resolution</b>	n/a	6	9	9	9
Resolved informally		6	9	9	9



## DATA PROTECTION - BREACHES

# Case Summaries | Enforcement Order

### FINANCIAL SERVICES BUSINESS SUFFERS CYBERATTACK DUE TO DEFICIENT SECURITY MEASURES

A financial services company suffered a cybersecurity incident when its systems were hacked. Personal data of some 26,290 individuals with differing risk profiles was accessed or exfiltrated. The data breach was notified to the Ombudsman and the data subjects, as required under the DPA. Two IT firms conducted a forensic investigation.

The breach resulted from an existing vulnerability due to an apparent lack of adequate security standards to safeguard systems and data which were not maintained; up-to-date security patches were not installed; regular vulnerability assessments or penetration testing were not undertaken; and staff awareness was lacking, contrary to industry best practice.

The potential exfiltration of personal data continues to represent a risk for the affected individuals.

**On the balance of probabilities, the Ombudsman concluded that the data controller had violated the seventh data protection principle which requires appropriate organizational and security measures. However, there was no substantial harm or substantial distress, as no sensitive data were involved. As such, a monetary penalty was not considered appropriate. The Ombudsman also took into consideration the swift action taken by the data controller in implementing immediate and long-term technical and organizational measures to improve its infrastructure security. The data controller is required to continue carrying out regular security audits, and ensure that it stays up to date.**

DATA PROTECTION – BREACH NOTIFICATIONS	2018	2019	2020	2021	2022
<b>Order</b>	n/a	0	1	2	<b>2</b>
Enforcement order issued		0	1	1	<b>1</b>
Monetary order issued		0	0	0	<b>0</b>
Enforcement and monetary orders issued		0	0	0	<b>0</b>
Other		0	0	1	<b>1</b>

## COMPLAINTS DIVISION

# Maladministration

*The Office of the Ombudsman recorded more inquiries concerning maladministration in 2022 than in any other year since its creation, with a 45% increase since 2021. The good news is that many of these inquiries could be addressed or resolved at the government staff level with assistance from the Ombudsman staff members before they became formal complaints. Further, our team was able to resolve 11 formal complaints via our early resolution process, which means a mediated agreement was reached between the parties without requiring a formal investigation. The reader will see the outcomes of several of those cases below.*

Our staff also completed eight formal investigations, including the Ombudsman's first own-motion maladministration investigation in nearly a decade, in collaboration with the office's data protection team. The full report of this investigation was submitted to the

Oversight Committee of Parliament. The number of investigations conducted is much higher than those the Ombudsman conducted during 2021, and the work was primarily completed in the absence of three senior investigators and the Deputy Ombudsman for Complaints, all of whom vacated their posts in late 2021/early 2022.

Our office aims to informally resolve complaints rather than proceed to full investigations. Generally, experience shows that the best complaint outcomes for both parties are achieved via the early resolution and mediation process. The larger number of complaints carried forward from 2022 is partly because of additional work left from the departed staff and partly due to several investigations completed in late 2021 but not yet closed.

Given the significant increase in informal inquiries, we are encouraged that the

Ombudsman's office has become a useful resource for the public to receive information and resolve questions or concerns about the government. At the same time, we continue to work with complaints managers in numerous government departments to ensure that individuals know they can also take

complaints or concerns to the entities themselves via the internal complaints process (ICP) and then on to the Ombudsman if deemed necessary. To better serve our clients' needs, specialised investigator training for the office's complaints team will begin in Q1 of 2023.

<b>MALADMINISTRATION</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
Inquiries	58	106	109	122	<b>178</b>
Complaints carried forward	5	9	6	11	<b>23</b>
Complaints received	59	72	59	65	<b>49</b>
Complaints resolved	55	75	54	53	<b>45</b>
Open complaints	9	6	11	23	<b>27</b>

## MALADMINISTRATION

# Case Summaries | Early Resolution

### HSA PATIENT REFERRALS POLICY Health Services Authority (HSA)

This complaint sought to determine the Cayman Islands Health Services Authority's (HSA's) policies with regard to patient referrals made by HSA doctors via CINICO health insurance for patients needing outside specialist care from private sector providers. The complainant in the case noted that the HSA changed its policy on patient referrals, but that it had not published this policy or notified local doctors regarding what is required to comply with it. It was stated that this uncertainty affected several patients and their families who were worried about being unable to continue to receive care.

We sought to resolve this issue informally before proceeding with a formal investigation and sent some questions to the HSA. Initially, our questions were not responded to. However, a series of queries sent earlier by the complainant were responded to in writing following our request.

There also appeared to have been some miscommunication between the parties, as an HSA representative noted that private sector medical providers had already been contacted about the changes in the policy and that a written document would be ready sometime later.

Attempting to move the situation along, our office mediated a meeting between the complainant and several HSA representatives with an eye toward seeking to resolve the matter. There were some contentious issues discussed, but none of those had any relevance to the complaint in the end. It was agreed by the HSA that they would seek to produce a draft policy for patient referrals within the next 30 days of the meeting, having taken input from service providers. The HSA produced the written policy several weeks later and sent it to the medical care providers (including the complainant). The complainant agreed to close the complaint.

Given that no investigation into this matter took place, the Ombudsman made no recommendations.

## **PENSION MIX-UP RESOLVED**

### **Dept of Vehicle and Equipment Services (DVES)/Public Service Pensions Board (PSPB)**

A complainant who had worked for the Cayman Islands Government for a number of years discovered, upon his retirement at age 65, that a period of approximately two years of his working time had not been recorded as being pensionable. The Ombudsman's office looked into the matter and discovered the issue had to do with a somewhat complicated set of circumstances surrounding changes to the Public Service Pensions Law in 2016, which raised the government's normal pensionable age from 60 to 65.

The individual in this case reached age 60 just prior to the legislation change and, due to the requirements at the time, was removed from making contributions to the government pension plan, although he continued to work on contract with the government. However, when the legislation changed, allowing him to make pension payments again up until age 65, he was not placed back on the public service pension plan until about two years after the fact. This led to a gap in his pension payments which had not been made up at the time of his retirement. It also had the unintended effect of making his monthly pension payments much less than they ordinarily would have been, had the additional two years been counted.

Our office contacted the complainant's former employer and the PSPB and found that both sides believed the situation could be rectified but were unsure of how to proceed in doing so. We suggested a mediation between the parties to discuss solutions to the matter and that meeting did come up with a work-around with which both entities agreed. After the appropriate administrative arrangements were made, an additional payment was made to the PSPB and the retired worker was able to receive the full pension amounts he was due.

As there was no formal investigation into this matter, the Ombudsman did not make any recommendations.

## **FOUR-YEAR DELAY IN UNFAIR DISMISSAL HEARING**

### **Labour Tribunals/Labour Appeals Tribunal**

The complainant in this matter raised concerns about delays in setting a hearing date for her unfair dismissal claim with both the Labour Tribunals and the Labour Appeals Tribunals at various times over the past several years. It represents one of the longest hearing delays our office has seen in a labour complaint.

The history of the complaint is significant. The complainant had a previous complaint relating to a delay in setting a hearing by

the Department of Labour and Pensions (DLP) in December 2017 and first contacted us in January 2019 after her case had not been heard by the Labour Tribunal (LT). We investigated that matter and found that her case had been unreasonably delayed. A tribunal hearing was held in October 2019 and the tribunal ruled in favour of her employer.

After finally receiving a decision from the Labour Tribunal, the complainant appealed the decision to the Labour Appeals Tribunal (LAT). Eventually her hearing was scheduled for May 2021. This delay occurred partly because the recorded transcripts for the 2019 LT hearing had been lost. The parties in the matter attempted to set a new hearing date, but were unable to do so before July 2021, which is when the terms of the then-LAT members expired. The incoming government appointed new LT members in early 2022 and the matter was finally set for a new hearing in May 2022.

Regardless of the ultimate outcome of this case, it has taken more than four years to ensure this matter has come before the proper tribunal(s) for a hearing. The complainant had to complaint to us before receiving a hearing date before both the LT and the LAT. These delays are not in keeping with the requirements of the Labour Act (2011 Revision). The situation was one of several delay matters flagged up to the chief officer of the Ministry of Labour over the past three years.

**With the fresh hearing of the matter conducted in May 2022, the Ombudsman now considers the complaint to have been resolved. However, given the inexplicable delays involved in this and other labour matters, our office decided to initiate an overarching review of the labour board system as part of an own-motion investigation. Once that is complete, recommendations will be made to the government concerning process improvements in the labour complaints system.**

## **DISPUTE OVER LAW SCHOOL FEES**

### **Truman Bodden Law School**

The complainant stated he was being unfairly charged additional tuition fees by the Truman Bodden Law School (TBLS) in his last year at the school. The complainant completed additional university credits outside of TBLS which reduced course work to what he considered to be a part-time status. However, TBLS stated that he is still considered under the student regulations to be a full-time student, defined as a person who is completing their degree within three years. The complaint filed with the Ombudsman sought either that the school reduce his annual fee for the course work already undertaken or make recommendations for TBLS to create a policy that can address a situation like this in the future.

This complaint was considered to be jurisdictional under the Complaints (Maladministration) Act, so our office sought to informally resolve the matter with TBLS.

We spoke with the director of the law school, who noted that he was unaware of this issue ever having arisen before at the TBLS. He agreed, following discussions, to put a proposal to change the law school's regulations before the Legal Advisory Council and, if that body approved, to propose regulatory changes to Cabinet. The complainant agreed this was a suitable outcome and the complaint was closed as having been resolved informally.

As the Ombudsman did not need to initiate a formal investigation into this matter, no recommendations were issued.

## **LACK OF INFORMATION CONCERNING CRIMINAL COMPLAINT**

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

The complainant stated his belief that the RCIPS had not investigated a criminal blackmail complaint he made about one year from the date of his contact with the Ombudsman's office. He stated he attempted to address the matter internally with the RCIPS and stated he has received no response. He asked the Ombudsman to

investigate the cause of the delay/non-response with the police service.

The matter presented some difficulty for the Ombudsman, in that the complainant was seeking our office to investigate a complaint regarding the investigation and detection of crime. We discussed the matter further with the complainant and determined that most of his complaint issues were not jurisdictional to our office. However, the issue of non-response by the RCIPS to a person making an allegation of crime is one that we believed could be addressed by our office.

We sought to informally resolve the issue with the RCIPS and senior officers responded quickly noting that the matter had indeed been investigated and was presented to the Office of the Director of Public Prosecutions (ODPP) for a ruling. When the RCIPS provided this information to the complainant, we considered the matter to be closed, although we advised the complainant to contact the Ombudsman again if he did not receive further updates regarding his criminal complaint.

As this matter was resolved without the need for a formal investigation, the Ombudsman made no recommendations to the RCIPS.

## **DELAYED RESPONSE TO HRC Premier's Office/Cabinet Office**

This complaint involved a longstanding issue with the Ministry of Education and the Cayman Islands government involving an injury sustained by a child which requires long-term care and special education needs. The complainant had been to the Ombudsman as well as the Human Rights Commission (HRC) regarding this matter in years prior and received a letter from the HRC seeking a response on the matter from the Premier/Cabinet. A deadline was set for response to this communication and no response was received.

**After receiving a formal complaint on the delayed response, our office wrote to the premier's office seeking to obtain a response to the HRC on behalf of the complainant.**

**Following several more weeks of delay, the Cabinet office responded seeking more information from the complainant. As our office was only trying to obtain a response on behalf of the complainant, and had done so, we felt our role in the matter had ended. We received no further communication from the complainant regarding the matter and, therefore, closed the case.**

**As the matter was informally resolved, no recommendations were made by the Ombudsman.**

## **DELAY IN PROCESSING RETIREMENT PAPERS Public Service Pensions Board (PSPB)**

The complainant retired from the police service after 21 years. She stated that her application to receive her pension funds was deferred for several months due to delays in processing. She states PSPB staff informed her that they had up to six months under the current Public Service Pensions Act to process these retirement claims.

The allegations of unreasonable delay in processing the retirement records do fall under the Ombudsman's remit, however, it was not immediately clear whether this delay could be considered unreasonable if the current Act gives the PSPB up to six months to process these claims. We accepted the complaint and sought to resolve the matter informally with the PSPB.

**Our office received a prompt email after raising the matter with the PSPB which indicated the matter had been brought to a resolution and that the applicant would receive their first pension payment at the end of the month.**

**Given that no investigation was undertaken, the Ombudsman made no recommendations regarding this matter.**



## NON-RESPONSE TO COMPLAINTS AGAINST PLANNING

### Department of Planning

The complainant alleged non-response by the Department of Planning (“planning”) concerning enforcement orders related to what he stated was the illegal construction of a sewerage facility on his property. He stated there were separate complaints made, in one of which, he was informed about a charging decision of the Office of the Director of Public Prosecutions a year after a decision had been made. In the second complaint, he stated he received no response at all.

**We contacted the complainant to assist us with creating a timeline of events and to try to narrow down the complaint matters he sought to bring against planning. After meeting with the complainant, we established there were four separate complaint matters arising over the course of approximately 18 months which had not been responded to.**

**We wrote to planning to seek a response to each of these matters and in less than two weeks, planning responded in a detailed and thorough manner to the issues raised. These responses were accepted and the complaint file was closed.**

**The Ombudsman made to recommendations in this matter as no formal investigation was commenced.**

## NAU BENEFITS PAID FOR DISABLED CLIENT

### Needs Assessment Unit (NAU)

The complainant, who has power of attorney for her disabled adult child, stated that the NAU had denied her child rental assistance for period of about nine months after taking about a year to respond to the application for rental aid after it was abruptly ended. The applicants stated they were told verbally by the NAU that his application had been denied and that the NAU was under no obligation to pay for his rent. However, no one involved had received anything in writing regarding the reasons for this decision.

After it was determined the complainants needed to make an internal complaint to the NAU regarding this matter, the entity continued to delay in responding to this complaint. So, the Ombudsman sought to informally resolve the matter through discussions with both parties.

**Following these talks, it was determined that three different parties were involved and that they had two separate complaint matters pending with the NAU. We spoke to the NAU and officials there believed these outstanding matters could be resolved. A few weeks after these communications between the Ombudsman and the NAU, NAU officials wrote to both complaining parties explaining the reasons for the delays and informing them that the outstanding rental payments would be**

made. The NAU also invited the complainants to make further applications for assistance if they believe they were still in need.

As this matter was resolved informally, the Ombudsman made no recommendations.

## NRA LAND DISPUTE

### National Roads Authority (NRA)

The complainant stated that both the NRA and the Lands and Survey Dept. had not followed laws and/or regulations in paving a section of road on his property. It was stated that a section of road paved over a portion of his land was not gazetted and that NRA and Lands & Survey employees did not follow legislation and/or policy directives in properly notifying the complainant of the paving project. The complaint amounted to an allegation that the relevant authorities did not follow due process and that the property owner was left out of the proceedings regarding what was happening on his land.

After assessing the complaint and determining it did fall within our jurisdiction, we undertook to resolve the matter involving the NRA informally. The matters complained of regarding the Lands & Survey Department were still subject to an internal review by that agency and were not considered by our office at that stage.

We conducted without prejudice discussions with both the complainant and the NRA and, following this, suggested that the NRA write to the complainant stating how they intended to handle the matter of the property gazettal and reimbursement for the land going forward. They did so and, upon receipt of this communication from the NRA, the landowner stated he was satisfied with the outcome. We agreed to close the case pending any further developments. No recommendations were made by the Ombudsman as the matter was informally resolved.

## DELAYED PLANNING ENFORCEMENT

### Department of Planning

The complainant raised a number of issues regarding a property located next to his home, including that the land, in a residential subdivision, was being used to keep farm animals and to store junked vehicles. He attempted to have the issue addressed through the planning department, but the landowner failed to comply with a nuisance abatement process and a case later filed with the director of public prosecutions (DPP) was ruled out of time in November 2021. The complainant was then advised by planning to complain to the Ombudsman.

Although the Ombudsman has no authority to review charging decisions of the DPP, our

office looked into the matter of how planning handled its response. We determined there were two issues for investigation regarding the planning department: delay and improper administration. We told the complainant we would seek to resolve the matter informally, prior to moving to a full investigation.

During the informal review, planning officials stated they disagreed with the DPP decision that the case was time barred, but decided not to appeal it. Following some

discussion of the matter, our office received an email from planning indicating that a new abatement notice would be issued to the property owner regarding the improper land use. If the abatement notice was not followed, a new report would be sent to the DPP and prosecution would ensue. We wrote back to the complainant stating that the matter appeared to have been resolved to the extent that it could be for the moment, but that if any other issues should occur, he should write back to our office and we would reopen the case.

<b>MALADMINISTRATION</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>Assessment/disposition</b>	26	47	28	28	<b>26</b>
Non-jurisdictional	26	47	26	28	<b>25</b>
Complaint refused	0	0	1	0	<b>0</b>
Complaint withdrawn	0	0	1	0	<b>1</b>
<b>Early resolution</b>	9	7	18	21	<b>11</b>
Successfully resolved	9	7	17	21	<b>11</b>
Complaint withdrawn	0	0	1	0	<b>0</b>

## MALADMINISTRATION

# Case Summaries | Investigation

### CONFUSION OVER APPEALS HEARING

#### Planning Appeals Tribunal

The Office of the Ombudsman received a complaint stating that an appeal application before the Planning Appeals Tribunal (PAT) remained undecided for more than 11 months and that that appellant received no information or updates as to when the appeal hearing would take place. He complained to our office concerning unreasonable delay in the PAT hearing the matter.

Our office opened an investigation following unsuccessful efforts to resolve the complaint and found that resulting delays in this case occurred due to confusion within the PAT and the Ministry of Planning (“the Ministry”) as to what appellate body should hear the appeal. While these delays went on, the complainant – who was awaiting a professional operating licence – saw two employment opportunities fall away. Meanwhile, the appeals case had still never been heard.

In addition to the delay, the investigation found that the Ministry has a current policy on how to appeal decisions of the Central Planning Authority (CPA) to the PAT, but no guidance in respect to professional licences governed by other appointed bodies that might be appealed to the PAT.

The Ombudsman found maladministration in both the delay in hearing the appeal and in the lack of process and/or policies in addressing such a situation.

Several recommendations were made to the Ministry as a result of this investigation, including:

- The pending appeal before the PAT should be heard within 30 calendar days
- That the PAT and/or the Ministry update policies regarding appeals
- That support is given to amending the Electricity Act to clarify the appeals process
- That the PAT or Ministry provide a written apology to the complainant for the delays

## **DELAYED RESPONSE AND CONFUSION WITH NAU APPLICATION Needs Assessment Unit (NAU)**

The complainant had been back-and-forth with the NAU for approximately a year or so seeking benefits under the Poor Persons (Relief) Act. This involved making an internal complaint to the NAU which was delayed for a period of approximately nine months, as well as a number of miscommunications between the complainant and the NAU which led to incorrect information being entered on the complainant's application form.

The process had taken approximately 12 months before a formal complaint of maladministration was made to the Ombudsman.

**Our office unsuccessfully sought to informally resolve the complaint and opened a formal investigation in February 2022. The investigation found maladministration on the part of the NAU in the form of unreasonable delay in responding to the complainant's internal complaint about the delays in their application. The Ombudsman also noted several concerns regarding errors made in considering the applicant's income when deciding whether or not they should receive financial assistance.**

Following the completion of the investigation, a number of recommendations were made and our office will continue to monitor these recommendations for implementation:

- That the NAU issue an apology for its unreasonable delay
- That the NAU invite the applicant to make a fresh application for financial assistance, if they remain in need
- That the NAU provide the Ombudsman copies of its completed internal complaints and appeals policies
- That the NAU and Ministry of Social Development, as they have suggested, review with staff the rights of complainants to fair administrative decision-making processes, including requirements to provide adequate written reasons for decisions.

The Ministry and NAU moved quickly on our office's recommendations and by August 2022, all had been implemented.

## PLANNING ENCROACHMENT CASE DELAYS

### Department of Planning

The complainant in this matter alleged unreasonable delay and unfairness by the failure of the Planning Department to act concerning a complaint of encroachment in respect of a property over which he held power of attorney.

There were two issues of maladministration that were investigated. One was in relation to the inordinate delay the Planning Department took to address the complaint regarding the encroachment. The second was the refusal by the Planning Department to give the reasons for the ruling by the Office of the Director of Public Prosecutions (ODPP) in relation to the encroachment complaint. In both respects, the Ombudsman found there was maladministration by the Planning Department.

**In summary, a process that realistically should have taken no more than six months lasted more than two years. We acknowledge there were setbacks which the department could not control; the Covid-19 lockdown in the spring of 2020 and the departure of both of its compliance officers during 2021. However, this does not compensate for the inordinate delay of over two years for a relatively straightforward encroachment matter.**

Recommendations made in this matter included:

- Planning's records management system (OPS) be augmented or another solution be found to provide more robust reminders and enhanced reporting systems that would avoid similar delays
- increased vigilance of managers in overseeing cases and tracking their progress to avoid mismanagement of complaints
- compliance officers receive additional training in the conduct of investigations/complaints and in the use of the OPS
- staffing levels of compliance officers be reviewed to determine if they are adequate for the number of complaints received
- complainants be provided with adequate reasons in any adverse decisions in accordance with section 19 of the Cayman Islands Constitution Order.

On 5 September 2022, our office received confirmation that all the above recommendations had been actioned by the Department of Planning.

## REFUND OF PR FEES SOUGHT Ministry of Border Control and Labour

This complaint involved a married couple, one of whom had received Caymanian status just after their spouse's annual permanent residency fees became due. The fees, totaling over \$27,000, had already been paid and the complainants sought a refund of the "unused" portion of that payment. An application to Cabinet was made to have the fees refunded, but the Ministry of Labour stated that there was no provision in legislation to allow the refund of immigration fees already paid, except those paid for work permits. The complainants made a formal complaint to the Ombudsman of unreasonable delay in getting a response from the Ministry and of lack of proper administrative process in submitting their appeal for a refund to the Cabinet.

**Our investigation revealed that there is a provision in the Immigration Regulations allowing for individuals to apply to Cabinet to have immigration fees waived or reduced. However, the government has interpreted this to mean that a waiver or reduction of fees is different than a refund and, therefore, a refund could not be granted in any case - save for work permit fees which the Immigration (Transition) Act does allow in prescribed circumstances.**

The investigation also noted that there is no current written policy or procedure to guide applicants who are seeking to waive or reduce immigration related fees and, indeed, there was some confusion at the outset as to whether such an application should be made to the Ministry or to the Cabinet Office. Further, while the Ministry did respond in writing to the applicants in this case, that response did not come until after the Ombudsman opened a formal investigation into the matter.

The Ombudsman found maladministration in the delayed response. She also found maladministration in the lack of written policies for the waiver/fee reduction application process. The issue of whether the fees sought in this case should be refunded was determined to be a matter of law and not one for the Ombudsman's office to decide, as it would more appropriately be dealt with either before the courts or by government policymakers.

The Ombudsman recommended that the Ministry, together with the Cabinet and Legal Department, continue to review the current legislation relating to immigration fees, refunds and waivers with a view to providing clear processes for any applications requiring Cabinet's involvement. Written guidance on the application process and on the types of fees that are non-refundable would be helpful.

## LABOUR TRIBUNAL DECISIONS DELAYED FOR YEARS

### Labour Tribunal/Labour Appeals Tribunal

A complainant stated there had been a combined delay of some three (3) years in hearing his wrongful dismissal claim and made a formal complaint to the Ombudsman after his matter had been heard by both the Labour Tribunal (LT) and the Labour Appeals Tribunal (LAT). He additionally alleged that no response was provided to a query made to the Department of Labour and Pensions (DLP) and the tribunals in mid-2020.

The Ombudsman agreed to open an investigation regarding whether the delays seen in this case were unreasonable and whether the response requested by the complainant was also delayed unreasonably. Our review found the delays between the labour case hearing and the tribunals' decision being issued following those hearings lasted 13 months for the LT and 14 months for the LAT. The Ombudsman found these delays were beyond any reasonable standard and well outside the 28 days set within the Labour Act for the issuance of such decisions.

**The complainant's query in July 2020 to the DLP and tribunals also remained unanswered at the time of our investigation. These facts led the Ombudsman to conclude maladministration (unreasonable delay)**

had occurred in these cases and recommendations were made in response to these findings. Government's compliance with these recommendations is still being monitored at this time.

The recommendations made included:

- The appropriate government representative should issue a formal apology to the complainant for the delays in the handling of his labour complaint
- The government should take steps to address serious failures to follow timelines set in the Labour Act
- The government should review staffing and resources needs of the Department of Labour and Pensions and the labour tribunals

## WORKPLACE INJURY REVIEW DELAYED

### National Roads Authority/Risk Management Unit

We received two separate but related complaints from the same complainant about 18 months apart from one another. In the first complaint, it was alleged the NRA had failed to complete an "accident/injury at work form" for a work-related injury that occurred in 2019. It was further alleged that the National Roads Authority (NRA) subsequently failed to



report this injury to the Risk Management Unit (RMU). In the second complaint, it was further alleged that the RMU repeatedly failed to respond to queries regarding the workers compensation claim.

**Our investigation of both complaints found that maladministration had occurred both in the delay in responding to the complainant and in the failure of government agencies to follow their own policies in relation to an at work injury.**

**Findings included:**

- The NRA did not follow its own procedures in that it did not complete an employee injury form with the employee, that the form was not signed by both employee and supervisor and that some responses on the form were factually incorrect
- There was no written policy setting out what should happen when an employee suffers an injury in the workplace and who is responsible for reporting such incidents
- There is a substantial future risk that other employee injuries may not be properly reported or systematically addressed, leaving other workers vulnerable
- Delays in responding to the complainant were accepted by the government and its insurer/loss adjuster
- Delays occurred partly because the RMU did not follow its own policy,

**which states it is supposed to provide regular updates to the injured employee.**

- **That the conduct of the two government departments in this matter led to two separate complaints to the Ombudsman involving the same situation.**

The Ombudsman made a number of recommendations relative to this investigation. These included:

- The NRA restart the injury claims process with the complainant
- The NRA should establish reporting procedures for work-related injuries and should train HR employees on their roles in relation to such claims
- The NRA should publish information about reporting workplace injuries to ensure a consistent approach
- That both the NRA and RMU should consider issuing an apology to the complainant for the handling of this situation thus far
- The RMU should publish both its internal complaints process and its policies on workplace injury procedures on its website
- The RMU should continue to work with government's Strategic Research Implementation Unit (SRIU) to find a solution to the current lack of local workers' compensation legislation

- Additional recommendations were made to the Ministry of Finance in this case:
- The Ministry should review the actions of RMU employees in this matter with the objective of providing guidance and training on the need for urgency in reporting or responding to such issues in the future.
- The Ministry's internal complaints process and form should be made

available to all members of the public.

- The Ministry should inform its staff of the role, duties and powers of the Office of the Ombudsman, in order to avoid future delays with our requests for assistance or the production of documents

The Ombudsman's office will continue to monitor the implementation of these recommendations in the coming months.

MALADMINISTRATION	2018	2019	2020	2021	2022
<b>Investigation</b>	20	21	8	4	<b>8</b>
Supported	5	7	6	2	<b>8</b>
Not supported	14	14	2	0	<b>0</b>
Resolved informally	1	0	0	0	<b>0</b>
Complaint withdrawn	0	0	0	2	<b>0</b>

## MALADMINISTRATION

# Case Summaries | Own Motion

### ELECTION REGISTRATION AND PROCESSING OF VOTER DATA Elections Office

During 2020, information on the Cayman Islands Government's Elections Office website relating to the voter registration process was drawn to the attention of the Office of the Ombudsman. Additional concerns were raised about the processing of voter data by the Elections Office. As a matter of public interest, the Ombudsman decided to investigate these issues. The voter data processing issues were reviewed by our data protection team and the voter registration concerns were reviewed by our maladministration team. Compiling the findings of these separate investigations in one report was considered the best approach, since both broadly related to elections.

Before concluding our investigations, the Domestic Observers Report was published following the 2021 general election. This report recommended that the Elections Office conduct "a thorough review of the Elections Act and all related procedures with the Ombudsman to achieve consistency and compliance with the Data Protection Act". We hope this report will

help the Elections Office meet that recommendation.

The data protection team focused on three areas: (a) the collection of personal data to populate the Register of Electors; (b) the publication and sale of the revised list and the Register of Electors; and (c) the retention and disposal of data held by the Elections Office. The maladministration team had to determine what advice was provided to the public about voter registration, particularly regarding eligibility to register to vote. It had to then determine what measures were taken by the Elections Office to ensure the integrity of the voter registration process.

**Overall, we found that the Elections Office has a robust, transparent system in place to both register electors and weed out ineligible voters. In addition, the data processing practices of the Elections Office are in line with requirements of the Elections Act and therefore do not lead to breaches of the Data Protection Act (DPA). Nonetheless, this report makes recommendations to ensure that voter data processing is carried out in a way that is necessary and proportionate to meeting its goals of holding free and fair elections, given that the right to privacy is contained**

within the Bill of Rights, Freedoms and Responsibilities (the Bill of Rights) in the Cayman Islands Constitution, schedule 2 to the Cayman Islands Constitution Order, 2009) (the Constitution).

We also discovered a broader issue, which, while not the responsibility of the Elections Office, nevertheless impacts on the important work that it undertakes in connection with the registration of voters. There appears to be no current list of all individuals possessing the right to be Caymanian. This makes the job of registering Caymanian electors more difficult and could potentially increase the chance of errors.

Finally, certain areas were identified where greater clarity about the rules for registering electors could improve the effectiveness of the work of the Elections Office.

The recommendations from our combined investigation were made as follows:

- The Elections Office should consider removing all requirements to produce non-essential personal documents for those registering as electors from its website and removing any references to those documents from form 4.
- The Elections Office should produce a privacy notice that explains to individuals how their personal data will be used. This may help to allay the fears of some individuals about the collection and publication of their data.
- In line with the recommendations of the Domestic Observers' Report, the Elections Act should be reviewed to ensure that all personal data that it requires is necessary for the relevant purpose. Any forms used to collect personal data as part of this process should also be reviewed to ensure that only necessary data is collected.
- We encourage the Elections Office to consider including a right for individuals to opt out of appearing on the online version of the register, as part of any amendment to the Elections Act.
- The requirement to publish the date of birth of individuals about to turn 18 should be reviewed to ensure that this is necessary and proportionate for the relevant purposes.

- The Elections Office should work with the National Archive to draw up and implement an appropriate file plan and disposal schedule for the records for which it is responsible.
- The Cayman Islands Government should consider creating a

comprehensive list of all individuals holding the right to be Caymanian. The form this list takes, whether an internally managed database, a national ID card or some other form, is a matter for the Government.

## COMPLAINTS DIVISION

# Public Complaints About Police Conduct

*This was our fourth year with oversight of public complaints concerning allegations of unsatisfactory conduct of a police officers in the performance of their duty. Our goal remains to improve public confidence in the RCIPS through our robust and impartial process.*

The RCIPS Code of Ethics lists ten Standards of Professional Behaviour applicable to the regulation of their conduct:

1. Honesty and Integrity
2. Authority, Respect and Courtesy
3. Equality and Diversity
4. Use of Force
5. Orders and Instructions
6. Duties and Responsibilities
7. Confidentiality
8. Fitness for Work
9. Conduct
10. Challenging and Reporting Improper Conduct

If it is found during our investigation that a police officer's conduct fell below the expected standards, recommendations can be made to the Commissioner of Police to consider discipline, restorative learning or advice and guidance. If I believe the officer may have committed a criminal offence, our final investigation report is submitted to the Office of the Director of Public Prosecutions

(ODPP) following section 7(1)(d) of the **Police (Complaints by the Public) Act, 2017** (Police Act).

In 2022 we received 49 new inquiries, a slight decrease from the 60 from the previous year. The number of complaints received increased to 41 over the previous year's 28, and we closed 33 complaints compared to 27 in 2021. A total of 6 cases were resolved through formal investigation, while 3 were informally resolved. Of the remainder, 20 were refused as non-jurisdictional or were time-barred, and 4 were abandoned or withdrawn by the complainant. We have 24 open cases to carry forward into 2023.

This year we conducted our first parallel investigation with the Department of Agriculture (DOA) into the death of police dog Baron. The RCIPS notified us immediately, and we opened an own-motion investigation (OMI) under section 3(2)(C) of the Act. We requested the assistance of the DOA Animal Welfare and Control Unit to carry out an independent investigation into the circumstances with our oversight. Following an early site inspection with DOA, we identified the need for: a permanent roof outside the kennels, the creation of a welfare log for each RCIPS dog handler, the implementation of debris

cleaning from unused kennels for use as a quarantine area in the event another animal became unwell, the removal of chemical and cleaning supplies from the kennel area, a place for the dogs to exercise, and regular air-conditioning maintenance at the kennels.

I can confirm that the RCIPS promptly adopted the recommendations. After the joint investigation concluded, a file was

submitted to the ODPP, who recommended a charge of Animal Cruelty against the on-duty police officer. This matter is before the courts.

During most of 2022, the police complaints team had one investigator and no Deputy Ombudsman. I am pleased to welcome Investigators Deri Hill and Andrea Christian, who joined us in December 2022.

<b>POLICE COMPLAINTS</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
Inquiries	18	33	52	60	<b>49</b>
Complaints carried forward	0	67	24	15	<b>16</b>
Complaints received	143	62	57	28	<b>41</b>
Complaints resolved	76	105	66	27	<b>33</b>
Open complaints	67	24	15	16	<b>24</b>

## POLICE CONDUCT

# Case Summaries | Investigation

### COMPLAINT OF UNFAIR TARGETING BY POLICE OFFICER

A complainant alleged that a police officer was unfairly targeting her for enforcement of the window tint on her vehicle. The complainant further alleged that the officer had a “vendetta” against her and that he had stopped her numerous times due to the window tint on her vehicle which the officer stated was not in compliance with the Traffic Act regulations.

As part of our investigation, we reviewed body camera footage provided by the police officer and found no evidence that the officers’ conduct was unsatisfactory regarding the interactions with this complainant. We invited the complainant to review the body camera footage provided and she declined to do so.

The complaint was not supported and the Ombudsman made no recommendations in this matter.

### POLICE STANDARD OF PROFESSIONAL BEHAVIOUR

The Office of the Ombudsman (“the Ombudsman”) received a written complaint from a private citizen who stated they had been stopped while driving and ticketed several times by the same (RCIPS) officer

over the last few years. The complainant stated their belief that the officer was intentionally targeting the complainant because the complainant had made similar allegations against this officer in the past. The complainant stated that during the most recent traffic stop, they refused to stop for this officer because they were uncomfortable in dealing with the officer.

The Ombudsman’s investigation in this matter was to decide on balance of probabilities:

- Whether the officer’s conduct fell below the standards of professional behaviour

The investigation included interviews with both the officer and the complainant; a review of

recorded footage taken of the incident; consideration of other evidence including that the Office of the Director of Public Prosecutions (ODPP) recommended charges under the Traffic Act against the complainant involved in this incident.

The investigation found no evidence to support the officer was targeting either this vehicle or the operator involved in this incident. The complaint was not supported and no further recommendations were made in relation to this matter.



## **POLICE OFFICIAL SOUNDS VEHICLE HORN OUTSIDE PRIVATE RESIDENCE**

The complainant in the matter raised two issues: First, that the Commissioner of Police sounded the horn of a police vehicle outside the complainant's property for approximately three to four minutes after arriving at the location. Second, that a decision was made, on the instructions of the Commissioner, to tow a vehicle away from the residence without having what the complainant considered to be "lawful authority."

The Ombudsman was aware that there had been a long-standing dispute between neighbors at this location and that the Commissioner was called to respond by one of the individuals involved in that dispute. The initial report to 911 on the evening the incident occurred alleged that one of the residents had blocked access to and from the other residents' property with vehicles parked in the front yard of the home. The Commissioner stated he received a personal phone call from the resident who had been blockaded and decided to respond to the location directly, as no police officers had arrived at that time.

The evidence reviewed in the complaint did show the horn of the Commissioner's unmarked police vehicle was sounded outside the residence for three to four minutes, prior to the Commissioner making contact with the resident at the door of his home. The resident stated he did not respond to the horn-sounding because the vehicle was unmarked and that he was scared.

Based on the facts of the investigation, the Ombudsman found the Commissioner's action when sounding his horn was not consistent with the RCIPS Code of Ethics, particularly with respect to the second standard: authority, respect and courtesy. The Ombudsman did find that the Commissioner had lawful authority under the Traffic Act to tow the vehicle blocking access to the property and that he did so in a courteous and professional manner.

A recommendation was made to the Governor to review the incident with the Commissioner with a view to identifying alternative courses of action for such incidents in the future.

## **FATALITY ACCIDENT FOLLOWING POLICE PURSUIT**

The Ombudsman was notified by the RCIPS in January 2021 that a vehicle being pursued by police crashed in West Bay, killing a passenger inside the vehicle. Our office later received a formal complaint about the incident from the surviving passenger.

According to the investigation, the vehicle drove away from a police checkpoint in George Town and travelled up West Bay Road with an RCIPS officer in pursuit for about two kilometers before the officer lost sight of the vehicle. The vehicle involved in the pursuit lost control, left the road and crashed into a house, killing the front seat passenger and causing serious injuries to both the driver and rear seat passenger. The Ombudsman's office commenced an investigation into the incident as required

under section 8 of the Police (Complaints by the Public) Act.

Our investigation reviewed the RCIPS vehicle pursuit policy used to govern officers' actions in such incidents. We found it was apparent the driver of the vehicle being pursued had no intention to stop for police and that the officer involved in the pursuit was not an authorised police pursuit driver under this policy. Therefore, the policy prohibits the officer involved from engaging in "pursuit driving" meaning driving in excess of the speed limit. The investigation found the officer also failed to consider additional risks in his decision to pursue, including the weather, wet road conditions and the time of night the pursuit occurred.

The Ombudsman was persuaded by the conclusions in the police crash analyst and reconstruction expert's report – that the vehicle was being pursued at high speed by the police officer, the officer did not properly assess the risk and did not consider the pursuit policy or identify safer options to address the incident. The officer's conduct in the performance of his duties was, therefore, found to be unsatisfactory.

The Ombudsman recommended that the Commissioner of Police consider discipline for the police officer involved in this incident.

POLICE COMPLAINTS	2018	2019	2020	2021	2022
<b>Assessment/disposition</b>	41	48	33	12	24
Non-jurisdictional	8	10	12	2	9
Investigation time barred	2	0	1	1	6
Investigation refused (s. 3(2)g))	8	8	4	0	5
Complaint withdrawn	18	14	6	4	0
Complaint abandoned	5	16	10	4	3
Other	0	0	0	1	1
<b>Informal resolution</b>	18	22	16	11	3

## POLICE CONDUCT

# Case Summaries | Own Motion

### STRAND PLAZA CHRISTMAS EVE FATAL STABBING

Centre (CIPSCC 911) received several calls about a man being stabbed in the vicinity of Strand Plaza, West Bay Road. Police and ambulance units were dispatched immediately to the scene. The man was later taken to the Cayman Islands Hospital where he died about 90 minutes after the stabbing incident.

The Office of the Ombudsman (“the Ombudsman”) received an initial referral from the RCIPS of the

matter concerning allegations of delayed response and perceived lack of police action at the scene of the fatal stabbing. In March 2021, an individual made a written complaint to the Ombudsman, who notified the Office of the Director of Public Prosecutions (ODPP) of the complaint, pursuant to section 4(3)c of the Police (Complaints by the Public) Act.

The Ombudsman identified the following issues to be decided in the subsequent own-motion investigation (OMI):

- Whether the RCIPS response time was reasonable
- Whether the conduct of the four police officers in question, in the performance of their duties was unsatisfactory

The investigation included a review of 911 audio tapes, available video and audio from the scene of the incident; analysis of UK police response time rules; interviews with police, emergency medical technicians and independent civilian witnesses at the scene; a review of applicable RCIPS policies. The review revealed the RCIPS officers responded within six minutes of the initial dispatch, which the Ombudsman found was a reasonable response in the circumstances.

**With regard to the RCIPS officers’ actions at the scene, the Ombudsman found they were not in contravention of any existing policy, procedure or legislation. However, the investigation noted several organisational concerns, including the delay of provision of first aid supplies by police to bystanders who were giving first aid at the scene, that will be addressed separately by the Ombudsman.**

The Ombudsman also made an early learning recommendation to the RCIPS in this matter. Our investigation determined that nearly all the Firearms Response Unit

(FRU) officers' first aid qualification had expired prior to the time of this incident. The RCIPS addressed this immediately and all FRU officers are now first aid trained.

POLICE COMPLAINTS	2018	2019	2020	2021	2022
<b>Investigation</b>	17	35	17	4	6
Supported	7	10	3	1	2
Not supported	10	18	11	1	3
Complaint withdrawn	0	7	1	0	0
Complaint abandoned	0	0	1	1	1
Other	0	0	1	1	0

## COMPLAINTS DIVISION

## Whistleblower Protection

*The number of complaints under The Whistleblower Protection Act, 2015 remained low during 2022. As noted in earlier reports, individuals continue to be concerned about the potential for retaliation in making these complaints. Nonetheless, the final investigation for one whistleblower investigation was*

*completed in late 2022 and should be completed in the first quarter of 2023.*

We have not included any summaries of the whistleblower complaints we have received as the Act requires us to keep confidential all such disclosures made to the Ombudsman.

WHISTLEBLOWER PROTECTION	2018	2019	2020	2021	2022
Inquiries	1	2	6	4	2
Disclosures carried forward	0	1	0	2	3
Disclosures received	5	4	4	2	3
Disclosures resolved	4	5	2	1	3
Open disclosures	1	0	2	3	3
<b>Assessment/disposition</b>	4	3	2	1	3
Referred to another agency	1	1	0	0	3
Non-jurisdictional	3	2	2	1	0
<b>Early resolution</b>	0	0	0	0	0
Supported	0	0	0	0	0
Not supported	0	0	0	0	0
<b>Investigation</b>	0	2	0	0	0
Supported	0	1	0	0	0
Not supported	0	1	0	0	0

## FINANCIAL INFORMATION

### Budget

Each quarter of 2022 ended under budget which was mostly attributable to decreased salary and benefit payouts due to the number of staff vacancies. This had knock

on effects including on office consumables and the training budget so that by the end of the year, we had a positive variance of just under CI\$600,000.00.

**GOVERNMENT OF THE CAYMAN ISLANDS**

**OFFICE OF THE OMBUDSMAN**

**FINANCIAL STATEMENTS**

**31 DECEMBER 2022**

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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.

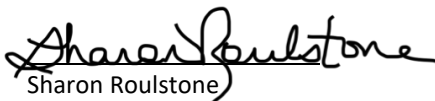
As Ombudsman and Chief Financial Officer, we are responsible for the preparation of the Office of the Ombudsman financial statements, representation and judgments made in these statements.

The financial statements fairly present the financial position, financial performance and cash flows for the financial year ended 31 December 2022.

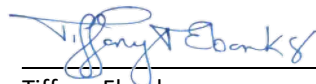
To the best of our knowledge we represent that these financial statements:

- (a) Completely and reliably reflect the financial transactions of Office of Ombudsman for the year ended 31 December 2022;
- (b) fairly reflect the financial position as at 31 December 2022 and performance for the year ended 31 December 2022;
- (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: 30 April 2023

  
Tiffany Ebanks  
Chief Financial Officer

Date: 30 April 2023

## 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 2022 and the statement of financial performance, statement of changes in net assets/equity and statement of cash flows for the year ended 31 December 2022, and notes to the financial statements, including a summary of significant accounting policies and other explanatory information as set out on pages 9 to 24.

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 2022 and its financial performance and its cash flows for the year ended 31 December 2022 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

30 April 2023  
Cayman Islands

OFFICE OF THE OMBUDSMAN  
STATEMENT OF FINANCIAL POSITION  
AS AT 31 DECEMBER 2022  
(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>					
643	Cash and cash equivalents	2,15	715	547	(168)
190	Trade receivables	3,15,16	35	207	172
-	Other receivables	3	5	-	(5)
39	Prepayments	15	16	28	12
<b>872</b>	<b>Total Current Assets</b>		<b>771</b>	<b>782</b>	<b>11</b>
<b>Non-Current Assets</b>					
260	Property and equipment	4,15	152	158	6
9	Intangible assets	5	1	2	1
<b>269</b>	<b>Total Non-Current Assets</b>		<b>153</b>	<b>160</b>	<b>7</b>
<b>1,141</b>	<b>Total Assets</b>		<b>924</b>	<b>942</b>	<b>18</b>
<b>Current Liabilities</b>					
39	Accruals and other liabilities	6,15,16	42	35	(7)
21	Employee entitlements	7,15	21	27	6
221	Surplus payable	8,16	-	-	-
<b>281</b>	<b>Total Current Liabilities</b>		<b>63</b>	<b>62</b>	<b>(1)</b>
<b>281</b>	<b>Total Liabilities</b>		<b>63</b>	<b>62</b>	<b>(1)</b>
<b>860</b>	<b>Net Assets</b>		<b>861</b>	<b>880</b>	<b>19</b>
<b>Equity</b>					
860	Contributed capital	15	861	880	19
<b>860</b>	<b>Total Equity</b>		<b>861</b>	<b>880</b>	<b>19</b>

The accounting policies and notes on pages 9 -24 form part of these financial statements.

**OFFICE OF THE OMBUDSMAN**  
**STATEMENT OF FINANCIAL PERFORMANCE**  
**FOR THE YEAR ENDED 31 DECEMBER 2022**  
(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
<b>Revenue</b>					
2,279	Sales of goods & services	9,15,16	1,898	2,484	586
<b>2,279</b>	<b>Total Revenue</b>		<b>1,898</b>	<b>2,484</b>	<b>586</b>
<b>Expenses</b>					
1,683	Personnel costs	10,15	1,407	1,835	428
160	Supplies and consumables	11,15	195	321	126
108	Leases	12	108	108	-
96	Litigation Cost	15	71	93	22
120	Depreciation and amortization	4,5,15	117	127	10
<b>2,167</b>	<b>Total Expenses</b>		<b>1,898</b>	<b>2,484</b>	<b>586</b>
<b>112</b>	<b>Surplus for the year</b>		<b>-</b>	<b>-</b>	<b>-</b>

The accounting policies and notes on pages 9 -24 form part of these financial statements.

**OFFICE OF THE OMBUDSMAN  
STATEMENT OF CHANGES IN NET ASSETS/EQUITY  
FOR THE YEAR 31 DECEMBER 2022  
(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 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>
<b>Balance at 1 January 2022</b>	<b>860</b>	-	<b>860</b>	<b>*855</b>	<b>(5)</b>
Equity Injection from Cabinet	1	-	1	25	24
Surplus for the year	-	-	-	-	-
Surplus repayable due for the year 2022	-	-	-	-	-
<b>Balance at 31 December 2022</b>	<b>861</b>	-	<b>861</b>	<b>880</b>	<b>19</b>

\*There is a difference in the budget roll forward, as the 2022 budget document was updated to be more in line with actuals.

The accounting policies and notes on pages 9-24 form an integral part of the financial statements.

OFFICE OF THE OMBUDSMAN  
STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED 31 DECEMBER 2022  
(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				
2,291	Sales to Cabinet		2,048	2,467	419
2,291	Total Cash Received		2,048	2,467	419
	Cash used				
(1,695)	Personnel costs		(1,409)	(1,850)	(441)
(237)	Supplies and consumables		(238)	(507)	(269)
(108)	Lease Payments		(108)	-	108
251	<b>Net cash flows from (used by) operating activities</b>	13	293	110	(183)
	<b>Investing Activities:</b>				
	Cash Used				
(15)	Purchase of property and equipment	4,5	(1)	(25)	(24)
(15)	<b>Net cash flows used by investing activities</b>		(1)	(25)	(24)
	<b>Financing activities:</b>				
	Cash received/(used)				
15	Equity injections from Cabinet		1	25	24
-	Payment of surplus		(221)	-	221
15	<b>Net cash flows from (used by) financing activities</b>		(220)	25	245
251	Net increase/(decrease) in cash and cash equivalents held		72	110	38
392	Cash and cash equivalents at beginning of year		643	437	(206)
643	<b>Cash and cash equivalents at the end of the year</b>		715	547	(168)

The accounting policies and notes on pages 9-24 form an integral part of the financial statements.

**OFFICE OF THE OMBUDSMAN  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 DECEMBER 2022  
(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 2022, the Entity had 13 employees (2021: 14). 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 2022.

Certain new accounting standards have been published that are not mandatory for the 31 December 2022 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 2022  
(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 a significant impact on the Entity's financial statements, but this will be assessed closer to the effective date of adoption.

IPSAS 43, Leases was issued in January 2022 and shall be applied for financial statements covering periods beginning on or after 1 January 2025. IPSAS 43 sets out the principles for the recognition, measurement, presentation and disclosure of leases. The impact on the Entity's financial statements 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 2022 and ending 31 December 2022.

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

The 2022 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 2022 budget was presented in the 2022-2023 Budget Statement of the Government of the Cayman Islands and approved by the Parliament on 8 December 2021.

The appropriations presented in a Budget Statement covers a budget period of two financial years. The 2022-2023 Budget Statement covers the two financial years commencing 1 January 2022 to 31 December 2023. The 2022-2023 appropriations lapse at the end of the budget period ending 31 December 2023.

**(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 2022  
(Expressed in Cayman Islands Dollars)**

**Note 1: Significant accounting policies (continued)**

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

As at 31 December 2022, 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 2022 were nil (2021: nil). Cabinet revenue is recognised at fair value of services provided.

**(f) Expenses**

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

**(g) Operating leases**

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

**(h) Cash and cash equivalents**

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

**(i) Prepayments**

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

**(j) Property and equipment**

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

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

**Asset Type**

**Estimated Useful life**

- |                                  |                                  |
|----------------------------------|----------------------------------|
| • Computer hardware and software | 3 – 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 2022  
(Expressed in Cayman Islands Dollars)**

**Note 1: Significant accounting policies (continued)**

**(j) Property and equipment (continued)**

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

**Disposals**

Gains and losses on disposal of property and equipment are determined by comparing the sale proceeds with the carrying amount of the asset 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, other 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)  
FOR THE YEAR ENDED 31 DECEMBER 2022  
(Expressed in Cayman Islands Dollars)**

**Note 1: Significant accounting policies (continued)**

**(l) Financial instruments (continued)**

**Classification**

A financial asset is classified as any asset that is cash, a contractual right to receive cash or another financial asset, exchange financial instruments under conditions that are potentially favourable. Financial assets comprise of cash and cash equivalents, trade receivables, and other 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 2022  
(Expressed in Cayman Islands Dollars)**

**Note 1: Significant accounting policies (continued)**

**(n) Foreign currency**

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

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

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

**(o) Impairment**

An asset is impaired when its carrying amount exceeds its recoverable amount. If there is any indication of impairment present, the entity is required to make a formal estimate of recoverable amount. 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 2022**  
**(Expressed in Cayman Islands Dollars)**

**Note 2: Cash and cash equivalents**

As at 31 December 2022 the Office of the Ombudsman held no restricted cash balances. No interest was earned during the year on the amounts held in these bank accounts.

Prior Year Actual CI\$'000	Description	Current Year Actual CI\$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
635	Operational Current Account - KYD	705	547	(158)
8	Payroll Current Account - KYD	10	-	(10)
<b>643</b>	<b>Cash and cash equivalents</b>	<b>715</b>	<b>547</b>	<b>(168)</b>

**Note 3: Trade and Other receivables**

Prior Year Actual CI \$'000	Trade Receivables	Current Year Actual CI \$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
190	Outputs to Cabinet	35	207	172
-	Less: provision for doubtful debts	-	-	-
<b>190</b>	<b>Net Trade receivables</b>	<b>35</b>	<b>207</b>	<b>172</b>

Prior Year Actual CI \$'000	Other Receivables	Current Year Actual CI \$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
-	Other	5	-	(5)
-	Less: provision for doubtful debts	-	-	-
-	<b>Net Other receivables</b>	<b>5</b>	<b>-</b>	<b>(5)</b>

Prior Year Actual CI \$'000	Maturity Profile	Trade & Other Receivables CI \$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
190	1-30 days	40	202	162
-	Past due 31-60 days	-	-	-
-	Past due 61-90 days	-	-	-
-	Past due 90 and above	-	5	5
<b>190</b>	<b>Total Trade Receivables</b>	<b>40</b>	<b>207</b>	<b>167</b>

OFFICE OF THE OMBUDSMAN  
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)  
FOR THE YEAR ENDED 31 DECEMBER 2022  
(Expressed in Cayman Islands Dollars)

**Note 4: Property and equipment**

**Cost of Property and equipment**

	Furniture & Fittings CI\$000	Computer Hardware CI\$000	Office Equipment CI\$000	Leasehold Improvements CI\$000	Total Property and Equipment CI\$000
<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>

<b>Balance as at 1 January 2022</b>	<b>133</b>	<b>43</b>	<b>54</b>	<b>326</b>	<b>556</b>
Additions	1	-	-	-	1
Disposal/ Derecognition	-	(4)	-	-	(4)
<b>Balance as at 31 December 2022</b>	<b>134</b>	<b>39</b>	<b>54</b>	<b>326</b>	<b>553</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 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>Balance as at 1 January 2022</b>	<b>36</b>	<b>29</b>	<b>34</b>	<b>197</b>	<b>296</b>
Depreciation Expense	14	6	8	81	109
Disposal/ Derecognition	-	(4)	-	-	(4)
<b>Balance as at 31 December 2022</b>	<b>50</b>	<b>31</b>	<b>42</b>	<b>278</b>	<b>401</b>

<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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<b>Net Book value 31 December 2022</b>	<b>84</b>	<b>8</b>	<b>12</b>	<b>48</b>	<b>152</b>
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OFFICE OF THE OMBUDSMAN  
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)  
FOR THE YEAR ENDED 31 DECEMBER 2022  
(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 2021</b>	52
Additions	-
Disposal/ Derecognition	-
<b>Balance as at 31 December 2021</b>	<b>52</b>

	<b>Computer Software CI\$000</b>
<b>Balance transferred as at 1 January 2022</b>	52
Additions	-
Disposal/ Derecognition	-
<b>Balance as at 31 December 2022</b>	<b>52</b>

**Accumulated Amortization and impairment losses**

	<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>Computer Software CI\$000</b>
<b>Balance as at 1 January 2022</b>	43
Eliminate on Disposal/Derecognition	-
Amortization Expense	8
Disposal/ Derecognition	-
<b>Balance as at 31 December 2022</b>	<b>51</b>

<b>Net Book value 31 December 2021</b>	<b>9</b>
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<b>Net Book value 31 December 2022</b>	<b>1</b>
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OFFICE OF THE OMBUDSMAN  
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)  
FOR THE YEAR ENDED 31 DECEMBER 2022  
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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
32	Accruals	35	35	-
7	Core government trade with other public entities	7	-	(7)
<b>39</b>	<b>Total Accruals and Other Liabilities</b>	<b>42</b>	<b>35</b>	<b>(7)</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>			
21	Annual leave	19	27	8
-	Salaries and wages	2	-	(2)
<b>21</b>	<b>Total employee entitlements</b>	<b>21</b>	<b>27</b>	<b>6</b>

**Note 8: Surplus payable**

Surplus payable represents accumulated surplus which was nil as at 31 December 2022 (2021: \$221 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”. Surplus repaid during the year ended 31 December 2022, was \$221 thousand (2021: nil).

**OFFICE OF THE OMBUDSMAN**  
**NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)**  
**FOR THE YEAR ENDED 31 DECEMBER 2022**  
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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	1,898	2,484	586
<b>2,279</b>	<b>Total Sale of Goods &amp; Services</b>	<b>1,898</b>	<b>2,484</b>	<b>586</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
1,396	Salaries, wages and allowances	1,135	1,469	334
218	Health care	166	269	103
77	Pension	63	82	19
(12)	Leave	(1)	10	11
4	Other Personnel related costs	44	5	(39)
<b>1,683</b>	<b>Total Personnel Cost</b>	<b>1,407</b>	<b>1,835</b>	<b>428</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
6	Supplies and Materials	8	23	15
114	Purchase of services	134	185	51
29	Utilities	28	35	7
-	Travel and Subsistence	-	28	28
5	Recruitment & Training	20	40	20
6	Interdepartmental expenses	5	5	-
-	Other	-	5	5
<b>160</b>	<b>Total Supplies &amp; Consumables</b>	<b>195</b>	<b>321</b>	<b>126</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
108	Lease and Rent of Property and Sites	108	108	-
<b>108</b>	<b>Total Lease</b>	<b>108</b>	<b>108</b>	<b>-</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
112	<b>Surplus from ordinary activities</b>			
	<b>Non-cash movements</b>			
120	Depreciation and amortization	117	127	10
	<b>Changes in current assets and liabilities:</b>			
12	Decrease/(Increase) in trade receivable	150	(17)	(167)
10	Decrease/(Increase) in prepayments	23	-	(23)
9	(Decrease)/Increase in accruals and other liabilities	3	-	(3)
(12)	(Decrease)/Increase in employee entitlements	-	-	-
<b>251</b>	<b>Net cash flows from (used by) operating activities</b>	<b>293</b>	<b>110</b>	<b>(183)</b>

**Note 14: Commitments**

Prior Year Actual		One Year or Less	One to Five Years	31 December 2022
CI\$000	Type	CI\$000	CI\$000	CI\$000
	<b>Operating Commitments</b>			
180	<i>Non-cancellable office space leases</i>	72	-	72
<b>180</b>	<b>Total Operating Commitment</b>	<b>72</b>	<b>-</b>	<b>72</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)  
FOR THE YEAR ENDED 31 DECEMBER 2022  
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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 \$168 thousand dollars higher than budget as the majority of Cabinet funding billed during the year was received. One month of Cabinet funding totaling \$207 thousand was budgeted as a receivable at the end of the year, however only \$35 thousand was due. As a result, the variance for cash and cash equivalents was under by \$168 thousand.

*Trade receivables*

Trade receivables are lower than budget by \$172 thousand as the budget factored in one month of Cabinet billing totaling \$207 thousand as being due to the Entity at the end of the year. However, Cabinet billing for December was only \$35 thousand, as revenue billed was matched to expenses incurred for the year.

*Prepayments*

Prepayments are \$12 thousand dollars under budget primarily due to a shift during the year from utilizing legal counsel monthly to engaging legal services on a as needed basis. As a result, there was no prepaid amounts for legal services at the end of the year.

*Property and equipment*

Property and equipment are lower than budget by \$6 thousand as the need for capital purchases in 2022 was lower than anticipated.

*Accruals and other liabilities*

Accruals and other liabilities are over budget by \$7 thousand as a result of an increased number of accruals for utilities and services at the end of the year.

*Employee entitlements*

Employee entitlements are under budget by \$6 thousand as a result of staff taking more leave during the year than projected, which may have been attributable to less COVID-19 restrictions.

*Contributed capital*

Contributed capital is under budget by \$19 thousand mainly due to 2022 capital funding of \$25 thousand not fully utilized during the financial year. Capital is purchased if needed and during the 2022 financial year there was no requirement for new IT and office equipment.

**Statement of financial performance**

*Sales of goods and services*

Office of the Ombudsman is fully funded by Cabinet. In 2022 revenue was billed more in line with actual costs incurred, in place of billing the total agreed budget, and thus sales of goods and services was under budget by \$586 thousand.

**OFFICE OF THE OMBUDSMAN  
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)  
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**Note 15: Explanation of major variances against budget (continued)**

**Statement of financial performance (continued)**

*Personnel Costs*

Actual personnel costs are lower than budget by \$428 thousand primarily due to staff vacancies throughout the year. This included posts such as Deputy Ombudsman, Investigator and Data Protection Analyst.

*Supplies and Consumables*

Total supplies and consumables were \$126 thousand under budget due to reduced spending in the areas of purchase of services of \$51 thousand, travel of \$28 thousand, recruitment and training of \$20 thousand, supplies and materials of \$15 and utilities of \$7 thousand. Purchase of services is under budget primarily in professional fees, which will vary year to year as expenses are incurred as needed. Purchase of services was under budget primarily in professional fees and maintenance of buildings and equipment as these expenses are incurred as needed. Spending in the other areas was primarily impacted by lower than planned staff numbers during the year as well as lower demand for services.

*Litigation*

Litigation costs are budgeted as contingencies and may vary from year to year depending on applications for Judicial review and the need for legal services. During the year there was a review of the organization's needs, and as a result there was a shift from utilizing legal counsel monthly to engaging legal services on a as needed basis. As a result, this expense was \$22 thousand under budget.

*Depreciation and amortization*

Depreciation and amortization are under budget by \$10 thousand as capital purchases in 2022 were lower than anticipated.

**Note 16: Related party and 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:

Prior Year Actual CI\$000		Current Year Actual CI\$000	Approved Budget CI\$000	Variance (Budget vs. Actual) CI\$000
	<b>Statement of financial position</b>			
190	Trade receivables	35	207	172
7	Accrual and other liabilities	7	-	(7)
221	Surplus payable	-	-	-
-	Surplus repaid	221	-	(221)
	<b>Statement of financial performance</b>			
2,279	Sale of goods and services	1,898	2,484	586

**OFFICE OF THE OMBUDSMAN  
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)  
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**Note 16: Related party and key management personnel disclosures (continued)**

***Compensation of Key Management Personnel***

**Key management personnel**

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

***Compensation of Key Management Personnel***

For the year ended 31 December 2022 there are three full-time equivalent (2021: 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</b>	<b>Description</b>	<b>Current Year</b>
<b>CI\$'000</b>		<b>CI\$'000</b>
500	Salaries & other short-term employee benefits	406
<b>500</b>	<b>Total Remuneration</b>	<b>406</b>

**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 2022, all of the financial liabilities with the exception of surplus payable were due within three months of the year end dates.

**OFFICE OF THE OMBUDSMAN  
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)  
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**Note 17: Financial instrument risks (continued)**

Currency risk

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

**Note 18: Subsequent events**

In preparing these financial statements management has evaluated and disclosed all material subsequent events up to 30 April 2023, which is the date that the financial statements were available to be issued.