



OMBUDSMAN
CAYMAN ISLANDS

Annual Report
2018



PETER MCLOUGHLIN
Senior Investigator



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Message from the Ombudsman

It is my pleasure to provide a report on the first full year of operations of the Office of the Ombudsman. This year has been full of challenges and accomplishments which are highlighted in this report.

As background, it is important to remind everyone how this office came to be. Essentially, we are the product of a merger and some acquisitions. The offices of the Complaints Commissioner and the Information Commissioner merged with the Office of the Ombudsman, effective 13 September 2017. In 2018 we acquired responsibility for two new areas of oversight: police complaints and whistleblower protection. We expect to acquire responsibility for data protection in 2019 when the **Data Protection Law** is scheduled to come into force.

To summarise, the following laws govern our business:

- **Ombudsman Law**
- **Complaints (Maladministration) Law**
- **Freedom of Information Law**
- **Police (Complaints by the Public) Law**
(effective 17 January 2018)
- **Whistleblower Protection Law**
(effective 1 February 2018)
- **Data Protection Law**
(not yet in force)

We spent much of 2018 harmonising the existing administrative policies and procedures from our predecessors. We also established processes to assist in managing our responsibility for our five areas of oversight.

As part of the creation of our office, we selected and implemented new case management software, created a new website, planned new office space and hired subject-matter experts. We have also developed strategic relationships to assist in ensuring our reports, investigations and decisions are implemented and make a system-wide difference, wherever possible and appropriate.

I would like to thank the members of the Select Committee to Oversee the Performance of the Office of the Ombudsman for their support throughout this year of transition.

I am proud of our achievements this year, but I also recognise we have much to do. We will continue to establish multi-faceted investigative teams and to advance the skills and competencies of our staff in order to meet the dynamic challenges of this office with its five areas of responsibility. We have built a strong foundation for a responsive and professional office and are excited to continue to build our capabilities as we move forward.

“I am proud of our achievements this year, but I also recognise we have much to do.”

Hermiston

Sandy Hermiston | JP
Ombudsman



Strategic Goals & Objectives

INDEPENDENT OVERSIGHT

The public is confident that their complaints are dealt with by an office that is independent, impartial and fair.

IMPROVE PUBLIC ADMINISTRATION

Public confidence in Government increases when the Government is held accountable by an independent office of the legislature.

EFFICIENT USE OF RESOURCES

We provide a 'one stop shop' for public complaints about Government administration, freedom of information and the police. We also investigate whistleblower disclosures relating to both Government and the private sector.



TED MILES
Deputy Ombudsman
Complaints



SANDY HERMISTON
Ombudsman

JAN LIEBAERS
Deputy Ombudsman
Information

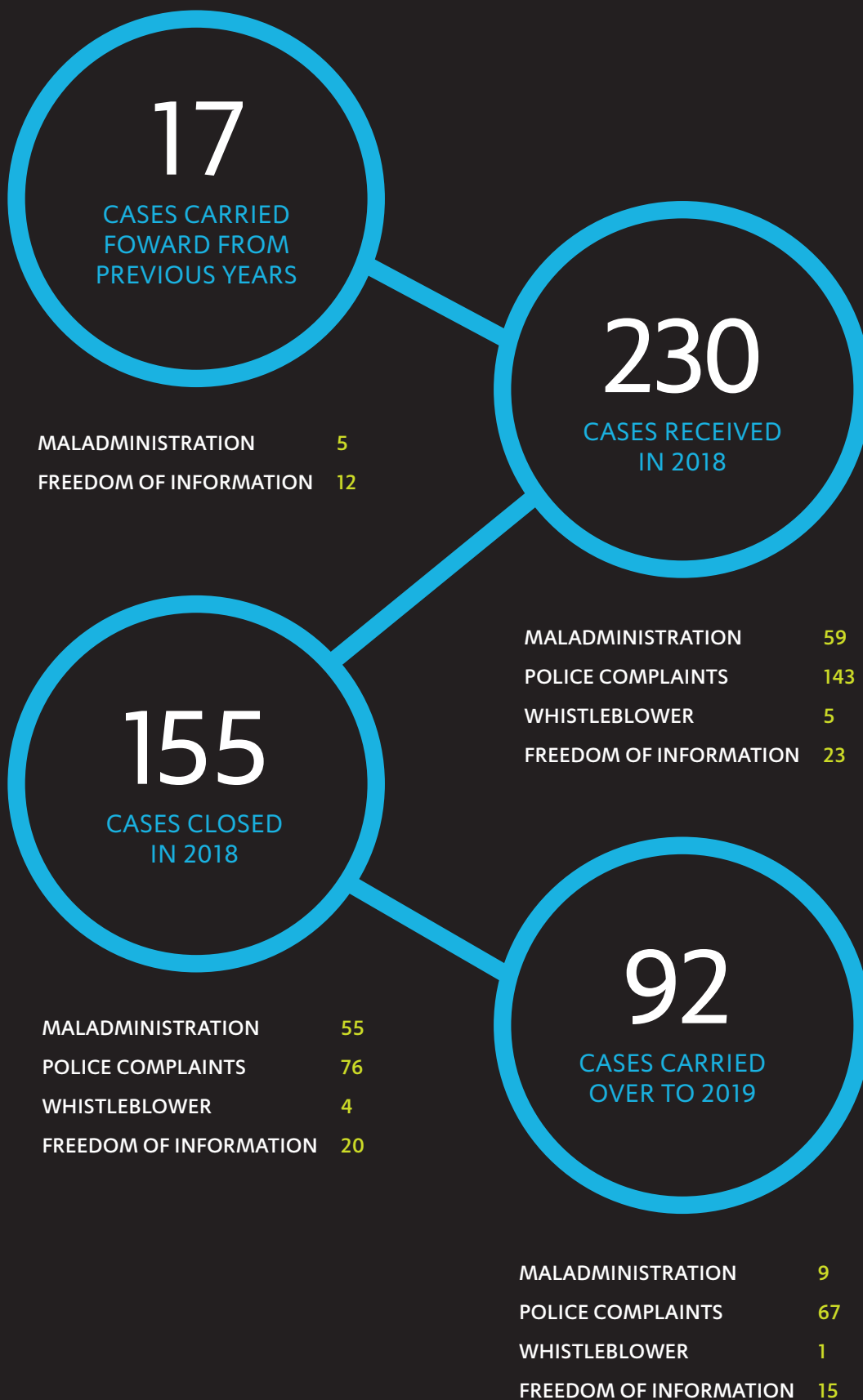
Overview

(1 January to 31 December 2018)

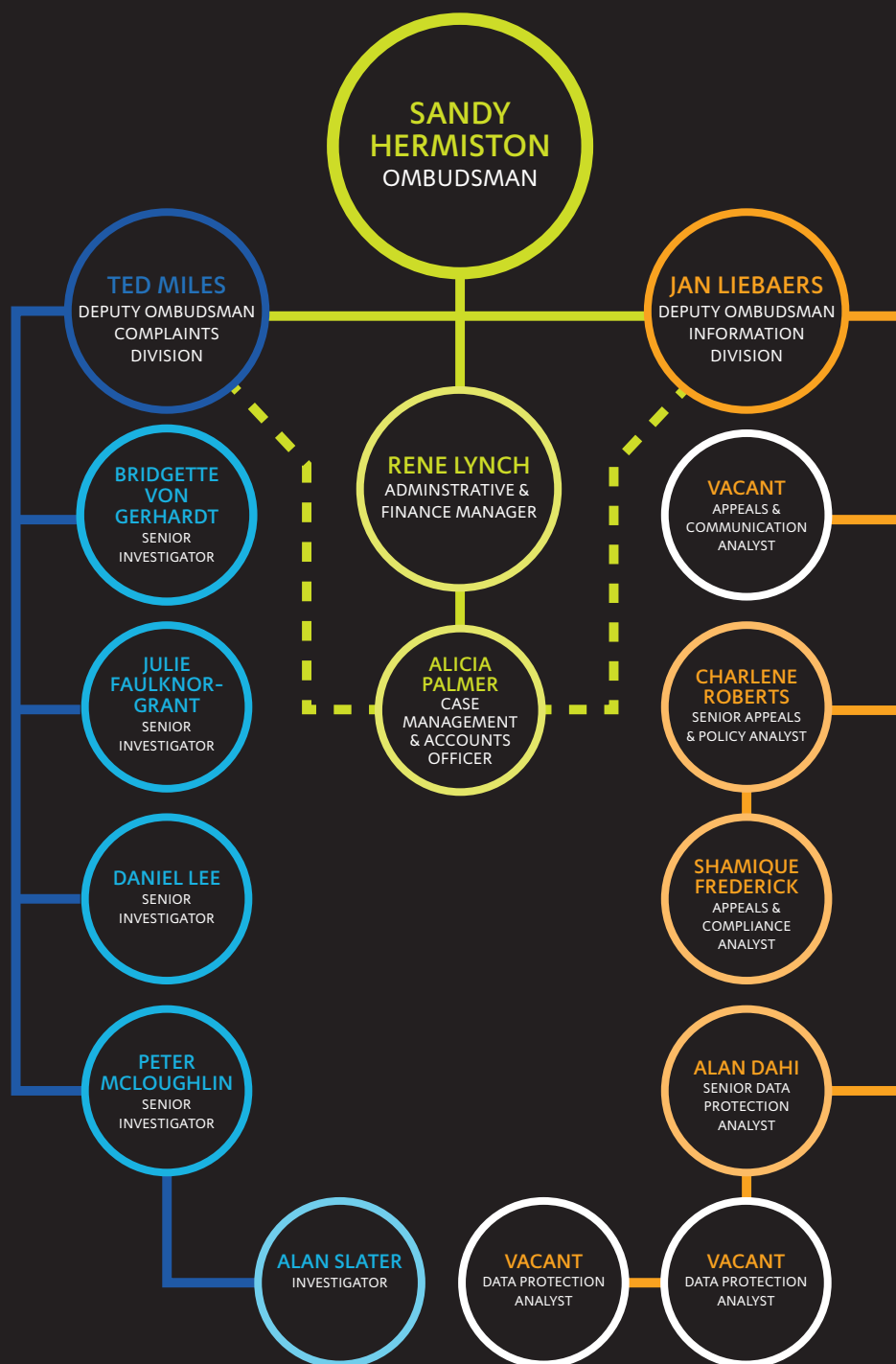
INQUIRIES



CASES



ORGANISATIONAL CHART



Human Resources

In order to manage our four areas of responsibility (and prepare for a fifth one), we expended significant time and effort in 2018 to attract, recruit and hire the appropriate personnel and increase our investigative and administrative capacity.

We focused on identifying candidates with suitable skills, abilities and expertise for each position, keeping the overall fit with our office in mind. This involved creating new job descriptions for some positions and submitting them for job evaluation to determine appropriate salary scales. We developed new behavioural interview questions and written tests for candidates who were short-listed. Having now enhanced our existing personnel with new members of staff, our service delivery, quality of work and overall efficiency have seen further advances.

We experienced a significant number of changes in personnel in 2018. In terms of senior personnel, Sharon Roulstone, a well-known Caymanian, joined our office as Deputy Ombudsman, Complaints

Division in January. Ms. Roulstone was subsequently seconded to the Ministry of Human Resources & Immigration for two years to lead the WORC project. In May, Ted Miles was hired as Deputy Ombudsman to fill the vacancy created by Ms. Roulstone's secondment. Ms. Derrylee Martin-Rankin (Appeals & Communication Analyst) left our office in April 2018 for career advancement.

We hired the following people:

- **Sharon Roulstone**, Deputy Ombudsman, Complaints (January 2018)
- **Rene Lynch**, Administrative & Finance Manager (February 2018)
- **Peter McLoughlin**, Senior Investigator (January 2018)
- **Ted Miles**, Deputy Ombudsman, Complaints (May 2018)
- **Alan Dahi**, Senior Data Protection Analyst (September 2018)
- **Alicia Palmer**, Case Management & Accounts Officer (October 2018)
- **Alan Slater**, Investigator (November 2018)

Information Rights Division

FREEDOM OF INFORMATION

In the 10th year of operation of the *Freedom of Information Law, (2018 Revision)* (FOI Law) the public continues to rely on the FOI Law to request valued information from public sector entities, and to appeal decisions they disagree with to the Office of the Ombudsman.

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

We received 23 new appeals in 2018, resolved 20 and prepared 7 for hearing. The Ombudsman issued 4 decisions this year.

We also received 87 FOI-related inquiries from the public and public officers – including many Information Managers.

In keeping with the tradition established over the last 10 years, we marked International Right to Know Day with various media appearances on radio and television as well as an advertisement in the newspaper.

We provided important assistance to the FOI Working Group (mandated by Cabinet to review and propose amendments to the FOI Law) to help them prepare for the imminent commencement of the *Data Protection Law, 2017*. The resulting Amendment Bill was passed in the Legislative Assembly in November 2018.

After the promotion of Charlene Roberts to the position of Senior Appeals & Policy Analyst in late 2017, we were pleased to also promote Shamique Frederick as our new Appeals & Compliance Analyst. Shamique is a Caymanian law student who previously worked as our Intake Officer.

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

CASES CARRIED FORWARD FROM PREVIOUS YEARS	12
APPEALS RECEIVED IN 2018	23
CASES RESOLVED IN 2018	20
OPEN CASES AS AT 31 DECEMBER 2018	15



In keeping with the tradition established over the last 10 years, we marked International Right to Know Day.

Case Summaries

(Informal Resolution)

REPORT ON TAXI FARES Ministry of District Administration, Tourism & Transport (DATT)

An applicant requested a copy of the Report on the Public Transport Unit (PTU)'s taxi fares completed by Deloitte. Access was withheld because the Report had not yet been submitted to the Ministry, and the applicant appealed the matter to the Ombudsman.

During our investigation we confirmed that the Report had not yet been received by the Chief Officer or the Chairman of the Public Transport Board, and therefore DATT was neither required, nor authorised to disclose it. Upon our suggestion, the engagement letter and the Department of Tourism's Departmental Tenders Committee Evaluation Report were disclosed to the applicant in the spirit of the FOI Law, and the applicant withdrew the appeal.

BEACH ACCESS REPORT Lands & Survey Department (L&S)

This request was for the Beach Access Report dealing with the public's right of way to beaches around the Islands. L&S deferred access for 30 days while the Report was awaiting presentation to Cabinet. The applicant disagreed and made an appeal to the Ombudsman.

Our investigation confirmed that the Report had been completed but had not yet been presented to Cabinet. We encouraged L&S to identify a reasonable period for review and presentation of the Report. Before further steps were taken, Cabinet reviewed the Report and it was disclosed on the L&S website, after which the applicant withdrew the appeal.

CCTV FOOTAGE Department of Public Safety Communications (DPSC)

An applicant requested a copy of specific CCTV footage, but DPSC denied access under the CCTV Code of Practice. DPSC also claimed that the FOI Law did not apply to the records in question because the records were strategic and operational intelligence gathering activities under section 3 of the FOI Law. The applicant disputed this and appealed the matter to the Ombudsman.

In our investigation we clarified DPSC policies and procedures on the correlation and destruction of CCTV footage as well as the circumstances for viewing CCTV footage. The DPSC agreed to facilitate a controlled viewing of the requested footage, rather than provide a copy of the footage as requested, which required specialised software which was not yet available. The applicant agreed, and the appeal was withdrawn.

DECISIONS OF THE LABOUR TRIBUNAL AND LABOUR APPEALS TRIBUNAL

Department of Labour & Pensions (DLP)

This request was for decisions of the Labour Tribunal and Labour Appeals Tribunal for a specific period, including full details of each case, written judgements, transcripts or summaries of evidence, and reasons for each decision. DLP granted partial access to the minutes of both Tribunals but redacted what they considered commercially sensitive and personal information. An internal review was not conducted within the statutory timeline, and the applicant appealed to the Ombudsman.

In our investigation we confirmed some of the redactions, but explained that information on public officers acting in their official capacity is excluded from the definition of personal information in the FOI Regulations. DLP agreed to remove some redactions and provided the applicant with 22 sets of minutes. The applicant was satisfied, and the appeal was closed.

REPORT ON THE PORT AUTHORITY

Office of the Auditor General (OAG)

A request for records concerning irregularities at the Port Authority was submitted to the OAG. The applicant was granted partial access to the Port Authority 2017 - Potential Abuses/Fraud Report but some alleged personal information was redacted. The applicant was not satisfied with the redactions and appealed to the Ombudsman.

We reviewed the redactions and discussed our findings with the OAG. Since the FOI Regulations do not recognise information relating to the position or functions of a public officer as personal information, some redactions were removed. The remaining redactions relied on prejudice to public affairs rather than personal information. The applicant was satisfied with the redactions and agreed to close the appeal.

INFORMAL RESOLUTION CASES

16

Records Disclosed in Full	7
Records Disclosed in Part	5
Late Appeal Request Denied	1
Non-Disclosure	1
No Records Found	1
Deferred	1

RECORDS RELATING TO A MISSING PERSON INVESTIGATION Royal Cayman Islands Police Service (RCIPS)

An applicant asked for records concerning the investigation of the disappearance of a close family member. The RCIPS withheld the records arguing disclosure would affect their investigation. An internal review was not conducted within the statutory timeline, and an appeal was made to the Ombudsman.

We facilitated several meetings between the parties, and as a result, the RCIPS promised to undertake regular communications with the family members. The RCIPS also disclosed some records while redacting specific personal and law enforcement information. Some records could not be disclosed until the court issued letters of administration concerning the estate of the missing person. Consequently, the appeal was closed.



ALAN SLATER
Investigator



RENE LYNCH
Administrative &
Finance Manager

SHAMIQUE FREDERICK
Appeals & Compliance
Analyst

Decision Summaries

COLD CASE REVIEW REPORT

Royal Cayman Islands Police Service (RCIPS)

HEARING 58-00717

An applicant requested a cold case review report from the RCIPS. The request was denied on the basis that its disclosure would constitute a contempt of court since the record in question was subject to a court order which prohibited dissemination.

The Ombudsman confirmed that the record was subject to a court order and concluded that it is exempted from disclosure under section 17(b)(ii) of the FOI Law.

STAMP DUTY ABATEMENTS

Ministry of Finance and Economic Development (FED)

HEARING 60-01617

An applicant requested information on stamp duty abatements from FED by date range and by block and parcel numbers. The Ministry located responsive records within the given date range, which were redacted and disclosed, but said they were unable to locate any records in relation to the block and parcel numbers.

The applicant believed more records existed and filed a second request for the records by block and parcel numbers. This led to the identification and disclosure of further responsive records by block and parcel numbers. The applicant appealed to the Ombudsman because she was not satisfied with the Ministry's response to her original request.

The Ombudsman found that the Ministry misinterpreted the original request, had searched for only part of the request and failed to interview the applicant. The Ministry missed several chances to resolve the matter in a positive and customer-friendly manner.

The Ombudsman dismissed the appeal since the applicant, on her own initiative, was able to secure the records she was seeking.

CIIPA RECORDS

Cayman Islands Institute of Public Accountants (CIIPA)

HEARING 62-00618

An individual made a request to the Cayman Islands Institute of Public Accountants (CIIPA) for access to information including policies and procedures and his own personal information. In its response CIIPA stated that it was not a public authority and was therefore not subject to the FOI Law. The individual contacted the Ombudsman to appeal CIIPA's response. He argued that CIIPA was a statutory body and fell within the definition of public authority in section 2 of the FOI Law.

The Ombudsman considered the preliminary question of whether she had jurisdiction in this matter, and whether the application fell within the ambit of the FOI Law.

The Ombudsman concluded that CIIPA was not a public authority under the FOI Law. Consequently, the FOI Law did not apply to it, and there was no legal right to request and access records held by the organisation, or to appeal a denial of access to the Ombudsman.

TAXI OPERATOR STATISTICS

Ministry of District Administration, Tourism and Transport (DATT)

HEARING 65-201800212

An applicant requested information about taxi operators such as the number of operators, how many were also employed by the Cayman Islands Government (in particular how many were employed by the Royal Cayman Islands Police Service and Her Majesty's Prison Service) and how many were Caymanian/status holders.

The Ministry argued that while the Public Transport Unit held potentially responsive records, the PTU did not keep statistics on the occupation or the place of birth of the operators. DATT also argued that retrieving the responsive records would constitute an unreasonable diversion of resources under section 9(c) of the FOI Law.

The Ombudsman concluded that the FOI Law does not require the creation of new records such as the requested statistics. She also concluded that providing redacted copies of the application forms and supporting documentation would be excessively costly, particularly in terms of the time required to adequately redact the records. This would therefore unreasonably divert the resources of the Ministry and PTU, as claimed.

The Ombudsman flagged the Ministry for an audit of its information handling practices.

APPEAL DECISIONS

4

Appeal Dismissed

2

Appeal Upheld

1

Non-Jurisdictional

1



ALICIA PALMER
Case Management &
Accounts Officer

Information Rights Division

DATA PROTECTION

With the expected commencement of the *Data Protection Law, 2017 (DPL)* in January 2019, our office's preparations increased in intensity throughout the year. Late in 2018, the Government announced the postponement of the DPL to 30 September 2019.

The DPL regulates how personal data is used, and grants a number of rights to individuals in regard to their own personal data.

We conducted 45 two-hour awareness presentations to various groups and organisations in the public and private sectors, reaching an estimated one thousand individuals.

We also answered 66 inquiries on the application of the DPL, many of which came from the financial services and legal sectors.

We prepared detailed guidance for data controllers, e.g. businesses, organisations and public authorities that use personal data, with input from a small group of industry specialists. Additional guidance is also being prepared on the rights of individuals and the compliance obligations of small businesses under the DPL.

The first module of a Data Protection Course was developed as part of our outreach efforts.

It will be offered by the Civil Service College, which is open to the public in early 2019.

As part of the Data Protection Working Group we provided expert advice and input regarding the drafting of the *Data Protection Regulations*.

We are also preparing for our own enforcement role under the new law, in the form of policies and procedures relating to internal processes, investigations, enforcement orders, monetary penalty orders, and other topics relevant to ensuring that our approach to enforcement will be fair and in accordance with the principles of natural justice.

In September we hired a Senior Data Protection Analyst who was instrumental in providing specialist advice on our guidance and delivering a number of awareness raising presentations. Recruitment for two Data Protection Analyst positions was put on hold when the postponement of the DPL was announced.

Complaints Division

MALADMINISTRATION

In the 14th year of operation of a complaints law, the public continues to rely on our office to investigate and resolve complaints of Government maladministration.

Maladministration is defined as inefficient, bad or improper administration and it includes unreasonable conduct (such as delay), abuse of power and unreasonable, unjust, oppressive or improperly discriminatory actions or procedures. It also includes any action which was based on a mistake of law or fact.

Ensuring administrative fairness remains the primary focus of our support and investigative work in this area. We provide oversight to ensure fair treatment of people through independent investigations, recommendations and education. We have seen several advances by Government ministries, departments and sections as well as authorities, boards and commissions in promoting and implementing fair practices; however, significant work remains to be done.

We continue to work with Government organisations to confirm they have established

an effective and robust internal complaints process which is easily accessible to the public. Our focus remains on making sure that laws and internal policies are adhered to and people are treated fairly.

During 2018 an early resolution approach to complaints of maladministration was implemented by the office to reduce the formality involved in an investigation under the **Complaints (Maladministration) Law**. By taking this approach, we are seeking to expedite timelines for resolution of complaints and reduce red tape. Our investigators work directly with the complainants and the Government organisations to resolve issues at the lowest level. In cases where an early resolution is not achievable, a formal investigation will be initiated.

A total of 55 complaints were resolved in 2018 of which 47 were resolved in our early resolution process and 8 required formal investigation. We have highlighted some of these cases in our case summaries. We hope that this collaborative approach can offer both complainants and Government a path to the more efficient resolution of complaints.

CASES CARRIED FORWARD FROM PREVIOUS YEARS	5
COMPLAINTS RECEIVED IN 2018	59
CASES RESOLVED IN 2018	55
OPEN CASES AS AT 31 DECEMBER 2018	9



We provide oversight
to ensure fair treatment
of people through
independent investigations,
recommendations and
education.

Case Summaries

(Early Resolution)

OVERTIME COMPENSATION Ministry of Human Resources and Immigration

A police officer complained that officers were not paid appropriately for working on Elections Day in May 2017. The RCIPS set a rate of pay for officers who were required to work on that day which was different from the provisions in the *Public Service Management Regulations*. The officer insisted the law was quite clear regarding the overtime rates of pay for civil servants. The Ministry referred the matter to the Office of the Attorney General for a legal opinion. The complainant approached our office frustrated that the Ministry had not responded to his complaint eight months later.

We wrote to the Ministry indicating that the delay was unreasonable and requested a response on behalf of the complainant. The Ministry prompted the Office of the Attorney General for the legal opinion which found in favour of the complainant.

BUSINESS LICENSE REQUIREMENT Ministry of Education, Youth, Sports, Agriculture and Lands (EYSAL)

A business owner contacted our office complaining that the Ministry refused to pay her for services she had provided in the amount of CI\$7,790.00. The Ministry explained to the complainant that she had to obtain a Trade and Business License before payment could be

approved. The complainant objected to this new requirement because they had been providing these services to the Ministry (and others in the Cayman Islands Government) for five years without being required to produce a business license.

We explained that the Ministry was correct – a Trade and Business License was in fact required to be eligible for payment. The complainant obtained the required license and she received payment in full the next day.

TAXI PERMITS Public Transport Appeal Tribunal (PTAT)

Two complainants were disqualified from holding a taxi permit by the Public Transport Unit of the Public Transport Board for allegedly operating a taxi without a meter; they appealed the decision to the PTAT. The PTAT did not provide a written judgement within 21 days of the hearing, as required by law. The complainants sought our assistance to obtain a response.

We contacted the Chairman of the PTAT who acknowledged the transgression and apologised to the complainants. The Chairman delivered a judgement in favour of the complainants including the reimbursement of the complainants' legal fees.

PARKING COMPLAINT

Royal Cayman Islands Police Service (RCIPS)

The complainant, while working as a courier, received a warning from a police officer for parking on a yellow line during a routine mail delivery. He asked the RCIPS whether courier services were allowed to park on yellow lines when making short deliveries, as was the current practice. The complainant was referred to several officers, but no one could answer his question.

We reached out to the Head of the Traffic and Road Policing Unit, who confirmed that there are no exemptions that allow for courier vehicles to park on yellow lines when making deliveries. We advised the complainant of the answer and closed our file.

UNREASONABLE TIME LIMIT

Department of Immigration (DOI)

An elderly woman visited our office at the end of June 2018 because she was told her immigration status did not permit her to stay. Her husband had permanent resident status but when he died in 2006, she was no longer entitled to live in the Cayman Islands because she did not have

permanent resident status herself. She was unaware of this issue and continued to reside in Cayman for the following 18 years. The DOI notified her she was required to leave by 1 August 2018 and the Chief Immigration Officer told her that he had no authority to extend her stay. She sought our assistance, citing a lack of fairness. She said that she needed more time to organise her personal affairs prior to departure. This included leasing her home, selling her vehicle and cancelling upcoming scheduled surgery. Additionally, she advised us that she was awaiting the outcome of an appeal in relation to her application for permanent residence which had been submitted earlier in the year.

We contacted the Department's Internal Complaints Process Manager to gain a greater understanding of the situation and determine potential options for informal resolution of the complaint. The Department met with the complainant and she was granted an extension permitting her to remain on Island until December 2018, pending her appeal.

ASSESSMENT & DISPOSITION CASES

26

Appeal not Exhausted

16

Non-Jurisdictional

10

EARLY RESOLUTION CASES

21

Complaint Supported

9

Complaint Not Supported

12

Case Summaries

(Investigation)

REFUSAL TO WAIVE STAMP DUTY

Ministry of Finance and Economic Development

The complainant and her husband bought a piece of property together. They applied for a stamp duty exemption even though only one of them was a first time Caymanian buyer. They argued that only ½ of the value of the property should be considered when determining whether to grant a stamp duty exemption.

The Ombudsman concluded that to be considered for a waiver of stamp duty as defined by the *Stamp Duty Law (2013 Revision)*, the applicant must fall within the criteria set out in the law. The Ombudsman agreed with the Ministry's decision to consider the total value of the property. The Ombudsman did not support the complaint.

RENAMING OF ROAD

Ministry of Education, Youth, Sports, Agriculture & Lands (EYSAL) and Lands & Survey Department (L&S)

A resident discovered the road adjacent to his property was being renamed. He emailed a complaint to EYSAL seeking an explanation as to why his neighbours were eligible to apply for a renaming of the street when they did not own any property adjacent to the street. He also asked why

he had not received notification of the renaming as required by *The Roads (Naming and Numbering) Law, 1997*. He also sought an explanation for the approval of the use of a name of a living person in contravention of the *Street Addressing Rules* published on the entity's website and the required forms. When he did not receive a response, he filed a complaint with our office.

We investigated the matter to determine if he had been treated fairly and to ascertain if the policies and relevant legislation were followed during the approval process.

The Director of L&S admitted that they had failed to follow the requirements set out in the applicable laws. The Ombudsman concluded the complainant was treated unfairly. He had a legitimate expectation that his correspondence would be responded to in a timely manner and that a reasonable rationale would be provided for the decision taken to approve the application. She also found that EYSAL failed to comply with the process outlined in the law. L&S acknowledged that the rules published on their website were out of date and required updating.

The applicant was informed that the approval of the name change was withdrawn to allow the process to be followed as laid out in the law. In addition L&S agreed to remove the outdated information from their website. The Ombudsman's recommendations were accepted and are in the process of being implemented.

SPECIAL EDUCATION GRANT PROCESS

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

In June 2017 the Education Council sent a letter to the parents of a student advising them of a decision to deny their application for special education funding. The parents disagreed with the Council's decision and hand-delivered an appeal letter to the Ministry. The Ministry failed to respond to the appeal and the parents filed a complaint with our office.

The Ministry explained that the processing of Special Education Needs (SEN) Grants had changed in September 2017 as the newly appointed Minister decided to retain the authority for decisions on matters pertaining to education - rather than delegate it as was previously done. As a result, the Education Council did not have authority to deal with applications and appeals regarding SEN funding. The Ministry indicated that the complainants could have submitted an appeal to the Education Council or Chief Education Officer in June of 2017. The parents could have also made an application for an alternative program for their child. The Ministry acknowledged that the parents should have been

notified of their appeal rights in the correspondence they received denying their application for SEN funding.

The complainants also submitted a new application for SEN funding for the 2018/19 school year on 1 March 2018, but it was not acknowledged until the Ombudsman contacted the Ministry.

The Ombudsman determined that the Ministry's handling of the complainants' request for appeal and subsequent re-application for grant funding was administratively unfair. The parents had a legitimate expectation that their correspondence would be responded to in a timely fashion.

No reasonable rationale was provided to explain the inaction and delay by the Ministry.

The Ombudsman recommended that all applicants be advised of their right to appeal in all future SEN funding decisions. The Ombudsman also recommended that systems be put in place to ensure correspondence is responded to in a timely manner. The Ministry accepted and implemented both recommendations.

INVESTIGATIONS

8

Complaint Supported

5

Complaint Not Supported

2

Resolved Informally

1

REQUEST FOR PENSION PAYOUT Department of Labour & Pensions (DLP)

The complainant wrote to the DLP over several months requesting her pension funds as she was interested in leaving the Cayman Islands because she was unable to find employment locally. She complained that the Director and Deputy Director failed to respond to her email and alleged that this non-response and a lack of interest were administratively unfair.

The Ombudsman's investigator discovered that the complainant had used an incorrect email address in her request. Once this error was corrected and the application was properly received, a decision was made and the complainant was advised that future queries should be directed to the Deputy.

The Ombudsman found that the decision was made fairly and in accordance with the *National Pension Law*. The Ombudsman did not support the complaint of unfair treatment as the Department staff had responded appropriately to the complainant's requests and their responses were in accordance with law and policy.





DANIEL LEE
Senior
Investigator

Complaints Division

POLICE COMPLAINTS

The Police (Complaints by the Public) Law, 2017 came into effect on 17 January 2018. The Law confers responsibility on the Ombudsman to investigate and resolve public complaints concerning the conduct of officers the Royal Cayman Islands Police Service (RCIPS). The purpose of the Law, and the independent oversight by the Ombudsman, is to promote public confidence in the RCIPS.

A significant amount of work in this office has been directed towards the establishment of this program over the last year. This has included hiring two experienced investigators, developing processes and procedures as well as setting up the administrative and technical requirements to manage a significant caseload.

Another complicating factor is that we received a backlog of complaints reaching back to 2010 because of a delay in creating a police complaints authority. This significant backlog had to be catalogued, assessed and prioritised. We have worked diligently to review every complaint and focus resources to ensure that all complaints, whether historical or recent, are addressed in a timely fashion. In order to advance our work, the team has developed relationships with the RCIPS, the office of the Director of Public Prosecutions and other stakeholders.

The support of the police service in implementing this program has been vital to the successes seen so far. The Police Commissioner and his senior management team have been transparent and open to this new level of oversight and their support has assisted in a smooth roll out of the program.

Informal resolution is a valuable tool in the new Law. Our short-term experience in examining

CASES CARRIED FORWARD FROM PREVIOUS YEARS	0
COMPLAINTS RECEIVED IN 2018	143
CASES RESOLVED IN 2018	76
OPEN CASES AS AT 31 DECEMBER 2018	67

public complaints has shown us that people often do not feel heard and their complaints relate to a lack of communication or misunderstanding. These types of cases are best resolved quickly through an informal resolution process. An officer of at least one rank higher than the officer who is the subject of the complaint can work with both the officer and the complainant to arrive at a mutually acceptable resolution. This process has proven to be very successful and we will continue to encourage the RCIPS to promote this process internally.

We received 143 public complaints in 2018, the majority of which were historic in nature. We resolved 18 complaints informally and 17 complaints through investigation. Forty-one complaints were assessed and closed for a variety of reasons including a request to withdraw the complaint, a lack of jurisdiction over the complaint or abandonment of the complaint.

Case Summaries

(Informal Resolution Approved by the Ombudsman)

POLICE CONDUCT DURING TRAFFIC STOP

A complaint was made by a member of the public following a traffic stop alleging the officer involved was rude, abrupt, aggressive and unprofessional in the handling of the situation. The complainant was also concerned as their young son was in the vehicle and felt the manner in which they were dealt with had a negative effect on the youth.

The Professional Standards Unit of the Royal Cayman Islands Police Service, with the agreement of the complainant and the officer involved, initiated an informal resolution.

The officer heard the perspective of the complainant and offered an apology for the feelings he caused. The officer's supervisor was involved and spoke to the officer regarding the incident, providing guidance and recommending customer service training.

Both the officer and complainant signed off on an agreement that they were satisfied with the informal resolution which was reviewed and approved by the Ombudsman.

FACE TO FACE DISCUSSIONS RESOLVE COMPLAINT

A complaint which originated in 2012 (prior to the new law) was reviewed by our office. The complainant alleged that the police came to his business because they received a complaint about loud music playing after midnight. The police initially issued a warning to turn off the music, but as they left the area the music was turned on again. The police departed but were later called to respond to a report of a fight nearby. While in the area they again attempted to address the loud music however found that the access gate to the premises had been locked.

They arrested the owner of the premises and seized some sound equipment. The owner complained that the police unlawfully entered the premises and were heavy handed and used excessive force in making the arrest.

Following discussions with our investigators the complainant agreed to an informal resolution. Both parties met with our investigators to discuss the matter. During the discussion both the complainant and the officer admitted that they could have conducted themselves differently on the night of the occurrence and likely avoided the complaint and years of negative feelings. They took turns describing their perspectives about the incident, which brought about an understanding of the story to both sides.

The complainant said that the opportunity to sit down with the officer to discuss the matter was one of the most positive police experiences in their lifetime.

Both the officer and the complainant signed off on an informal resolution agreement, which was accepted by the Ombudsman.

ASSESSMENT & DISPOSITION CASES

41

Complaint Withdrawn

18

Investigation Refused

8

Investigation Time Barred

2

Non-Jurisdictional

8

Abandoned

5

INFORMAL RESOLUTION CASES

18

Successfully Resolved

18

Case Summaries

(Investigation)

COMPLAINT ABOUT LACK OF POLICE RESPONSE

The complainant made four complaints of police corruption to the RCIPS alleging that he reported a number of domestic violence incidents against him and the police failed to investigate them. The complainant also alleged that a police officer disposed of a urine certificate for a person which tested positive for illegal drugs.

The Commissioner of Police referred the complaint to the Ombudsman and requested she investigate the matter.

The Ombudsman reviewed 43 police reports, 9 police statements, correspondence between the Department of Public Prosecutions and the complainant's attorney as well as 5 drug certificates.

The Ombudsman found there was no evidence that the RCIPS wilfully or neglectfully failed to investigate the complaints of domestic violence made by the complainant. She also examined the management and processing of the urine specimen by the RCIPS and found it was handled appropriately and in accordance with law and policy.

PROGRESS REPORT REQUESTED

A complainant contacted our office because they were unable to obtain a progress report or a copy of their statement from the RCIPS. Our investigator contacted the district commander and he complied with the complainant's request two days later.

The complainant wrote to us saying **"Many thanks for your assistance with my recent requests, you are correct the response was extremely prompt once I directed my requests via your office. It is comforting to know your office can be relied on when elsewhere appears to be in limbo mode. Keep up the good work!"**

TASER POLICY UNDER REVIEW

In February 2018 two RCIPS officers participated in a 'career day' at a primary school. Two Tasers were displayed as part of a presentation highlighting police equipment. A Taser is a conducted energy device, that when fired, emits two barbed probes which conduct an electrical charge.

During a demonstration by police officers a Taser was accidentally discharged striking a young student. A doctor, who was also attending the career day, was available to render assistance to the child who sustained only minor injuries to their upper body. The child did not require hospital treatment.

We conducted a review of all documentation including statements from all police officers involved in the incident together with relevant RCIPS policies and protocols surrounding the use and deployment of Tasers.

The officer responsible for the handling and ultimate discharge of the Taser was authorised to do so having undergone specialist training.

The officer was unable to account for how a cartridge came to be attached to the Taser and ultimately deployed from the weapon injuring the child.

The investigation determined that one of the two Tasers supplied by the RCIPS armory for the event was capable of discharging the probes associated with it despite having been checked by the RCIPS armorer prior to being allocated for the demonstration.

A review of RCIPS policy documents revealed that despite the **Taser Policy** stating that there should be an 'unintentional discharge policy' displayed at every armory, this does not happen, nor was there any policy document pertaining to the care and handling of weapons.

The RCIPS has a dedicated Officer Safety Training Committee, whose remit extends to the use of Tasers. This committee was not made aware of the accidental discharge. The RCIPS **Taser Policy** does not incorporate standards for Tasers being used for demonstration purposes in a civilian setting.

The lack of confidence and the absence of policy or protocols for the use of Tasers in a situation such as this career day was of significant concern to the Ombudsman.

Recommendations to the Commissioner of Police included that the RCIPS carry out an assessment of their policies and training programs relating to the deployment of Tasers, specifically in situations where demonstrations involve the presence of children.

The Ombudsman also recommended that all future accidental discharges be brought to the attention of the Officer Safety Committee who should be required to carry out a post incident assessment of any such event. The Ombudsman afforded the RCIPS a six-month implementation period.

INVESTIGATION OF DOG FATALITY

In May of 2018 police officers executed a properly obtained search warrant in George Town.

The operation was authorised by officers at the Superintendent and Chief Inspector rank.

The warrant was aimed at the recovery of unlawful firearms and was part of a pre-planned police operation. All officers carrying firearms were duly trained and authorised to do so.

The planning of the operation included detailed intelligence pictures of the premises to be searched, together with intelligence regarding the occupants. The plan included measures to deal with dogs on the premises. A trained customs dog handler was on site to provide expertise. During the execution of this warrant a loose dog acted aggressively towards an officer who was able to avoid the dog. Later the same dog ran aggressively towards another officer. The officer tried to retreat from the animal, however, the dog continued to charge the officer. A single shot was discharged at the dog. An animal welfare officer on scene removed the dog and transported it to a veterinary hospital where it was determined that the injury to the dog was catastrophic and the best course of action was to euthanise the animal. A post mortem examination revealed the dog suffered a single shot to the neck area.

The Ombudsman determined that officers were acting lawfully in the execution of the search warrant and that the discharge of a single shot was a measured response to the level of threat posed to the police.

UNREASONABLE USE OF FORCE

Following a routine roadside check, officers formed the opinion that the complainant may have been impaired through alcohol. The driver also failed to provide proof of insurance and vehicle registration. The exchange between the officers and the driver became heated after the driver refused to be breathalysed. A struggle ensued. The driver was arrested and taken to a police station. A further altercation took place at the police station between the driver and one of the arresting officers. The incident happened in the custody area of the station where the driver was struck repeatedly with a police baton.

The Ombudsman rejected the officer's version of events when he claimed he was acting in self-defense. She concluded that other options were available to the officer, particularly because the driver was in police custody and unarmed. The Ombudsman found the amount of force used by the officer was unreasonable and she recommended the Commissioner of Police consider disciplinary action. The Police Commissioner accepted the Ombudsman's recommendations.

DUTY OF CARE

An individual was arrested by two police officers in relation to an allegation of assault. During the arrest, the accused was denied the use of

bathroom facilities prior to the journey to the Fairbanks Detention Center. The person defecated in the back of the police car en route to the Detention Center. On arrival at the Detention Center CCTV footage showed the accused naked and handcuffed in the custody area.

The Ombudsman investigation concluded that although the arrest of the individual was lawful, and the amount of force used by the arresting officers was reasonable, there was a lack of care demonstrated towards the prisoner. The actions of the officers were at odds with the RCIPS' vision, mission and values. She found the arresting officers failed to demonstrate respect, courtesy and professionalism towards the prisoner in their care.

The Ombudsman recommended the Commissioner of Police consider disciplinary action against the arresting officers. The Police Commissioner accepted the Ombudsman's conclusions and recommendations.

REASONABLE USE OF FORCE

Police were called to a report of a domestic disturbance. Attending officers were met with hostility and aggression, which resulted in a violent struggle with the complainant. The complainant grabbed one of the officer's handcuffs and the officer used his baton to retrieve them. As a result, the complainant sustained injuries, which included fractures to two fingers. He was transported to the hospital where he stayed overnight for treatment. The next morning, he was arrested and bailed.

We investigated the incident with a specific focus on whether the use of force during the arrest was reasonable and proportionate. Statements from the officers involved, eye witness accounts and medical evidence were all reviewed as part of the investigation which led the Ombudsman to conclude that the actions of the police were justified and proportionate in the circumstances. The complainant ought not to have taken the officer's handcuffs.

The complaint was not supported.

MOTHER OWED EXPLANATION

A mother approached two RCIPS uniformed officers who were questioning her son (who is a minor) on her property. The officers refused to provide her any reasons for their actions and walked away from her. The mother filed a complaint of unprofessional and disrespectful conduct against the police officers.

We recommended that the officers attempt to resolve the complaint informally with the mother; however, they were unable to do so. The complaint proceeded to a formal investigation where the Ombudsman reviewed the evidence including statements from all parties involved and a report from the RCIPS Professional Standards Unit.

The Ombudsman determined that the mother was entitled to an explanation from the officers regarding the interaction they had with her son and that they should not have walked away from her in the manner they did. The Ombudsman further

recommended that the Commissioner of Police offer guidance to the officers concerned. The Commissioner agreed with the Ombudsman and directed the officers to speak with the mother and provide her with a full explanation. He also agreed that it was a missed opportunity to build a relationship in that community.

POLICE PURSUIT UNDER REVIEW

In 2016, the RCIPS received a report of an armed robbery in progress and several police cars were assigned to the incident. Police officers observed a motorcyclist wearing a mask near the location. The motorcyclist ignored the police direction to stop and the police pursued using cars and the police helicopter. The motorcyclist drove at high speed, overtaking vehicles and often travelling on the wrong side of the road into oncoming traffic. The dangerous driving continued for miles eventually ending when a collision occurred between one of the pursuing police vehicles and the rear wheel of the motorcycle. The rider was knocked from the bike and incurred serious but non-life-threatening injuries.

The operator of the motorcycle was charged with several offences including dangerous driving and failing to comply with a police signal. There were no charges laid in relation to the armed robbery. The RCIPS Professional Standards Unit conducted an internal investigation/review, as this was prior to the establishment of our office.

The Ombudsman decided to review this incident on her own initiative considering the significance of the injuries sustained by the rider and the public interest in high speed pursuits.

The Ombudsman did not identify any breaches of law. She did however, identify deficiencies in RCIPS policies, procedures, training and equipment relating to police pursuits and made recommendations regarding corrective action. The Ombudsman's recommendations were accepted by the Police Commissioner and she looks forward to confirmation that the deficiencies have been addressed.

COMPLAINT ABOUT UNPROFESSIONAL CONDUCT

The police were called to a dispute involving two drivers in a private car park. One driver accused the other of entering the car park via the exit and complained that it almost resulted in a collision. The driver who was accused of almost causing a collision was distressed because the other driver was threatening her and using abusive language directed at her. The behaviour continued even after the officers arrived and the officers attempted to calm the driver down. Eventually a police supervisor arrived and the driver who was being abusive alleged that one of the officers was biased and disrespectful towards him. The driver said he wanted the officer to be fired and replaced with a Caymanian. He also indicated he would lodge a complaint with the Department of Immigration to ensure that the officer was thrown off the island.

The driver who was abusive was later arrested and charged with several offences, including insulting the modesty of a woman. The driver submitted a complaint against the police officer to our office, saying the officer was rude and unprofessional during the incident.

The Ombudsman did not support the complaint based on the statements of the other driver, officers involved and independent witnesses who all confirmed that the driver acted offensively and aggressively throughout the incident. The Ombudsman concluded that the officer acted reasonably.

POLICE INVOLVEMENT IN A NON-CRIMINAL DISPUTE

The complainant and his friend were working together on a renovation project when they had a disagreement, which resulted in the complainant firing his friend. The friend returned to the job site to collect his tools and discovered that the tools were gone and in the possession of the complainant. The complainant was holding the tools until he received repayment of money, which he believed the friend had stolen from his house. A police officer, together with the friend, visited the complainant at his home and the complainant returned some tools.

The friend was not satisfied that all the tools had been returned. The complainant offered to allow the police to search his premises, but the police said it would not be necessary. The complainant believed that the matter was finished.

Four months later, a police officer contacted the complainant and explained that he had been assigned to the case of the missing tools. He indicated that if the tools were not returned, the complainant could face arrest for theft. The complainant offered to pay for the missing tools to avoid arrest. The police officer contacted the former friend and relayed the offer. The friend indicated that the amount was not acceptable and made a counter offer. The complainant alleged that he was so afraid of being arrested that he agreed to pay the higher amount in order to avoid the expense of defending himself and the potential loss of earnings involved in doing so. The police officer drafted a written settlement agreement for the two men to sign. The complainant paid the money and signed the agreement. The complainant later complained to our office that he felt intimidated by the police officer and settled because he was afraid of being arrested.

The Ombudsman found that the police officer had overstepped his authority when he became involved in a matter that should have been resolved in the civil court system. She recommended that the officers involved receive guidance regarding their role and authority to avoid such an incident in the future. The Ombudsman recommended that the Police Commissioner consider whatever disciplinary action he deemed appropriate. She also recommended that the complainant receive reimbursement for the funds he provided as settlement.

The Police Commissioner accepted all the Ombudsman's recommendations. The officer involved in the settlement plead guilty to the disciplinary offence of conduct to the prejudice of good order and police discipline. He received a reprimand.

INVESTIGATIONS

17

Complaint Supported

7

Complaint Not Supported

10



BRIDGETTE VON GERHARDT
Senior
Investigator

Complaints Division

WHISTLEBLOWER PROTECTION

The notion of whistleblowing is often viewed as a negative disloyal action towards an employer, and responded to by ostracising, rejection or more serious detrimental action.

The international trend is to create whistleblowing legislation to help change the view of organisations and people, to help build an environment where people who bring concerns forward within an organisation are celebrated, not threatened.

The Ombudsman has been designated to be the entity responsible for the purposes of ***The Whistleblower Protection Law, 2015***, which came into effect on 1 February 2018. The Law is designed to encourage employees to make confidential disclosures of improper conduct in their workplace. It is also designed to afford protection to employees who disclose improper conduct, from being subjected to detrimental action.

The many benefits of an internal whistleblower policy, which is accessible and in which employees have confidence, have been documented. The benefits include early detection, reduced costs

associated with misconduct, a deterrent to misconduct as well as employee enfranchisement and maintaining public confidence. Studies have determined that most whistleblowers would rather report internally and have instances of improper conduct dealt with within the organisation, however a lack of trust and a fear of reprisal exist in many organisations. It is for these reasons an independent body such as our office is required, to allow that a safe, external, unbiased option is available.

The Law in the Cayman Islands applies to both the private and public sectors and details specific provisions for the receiving, investigating and resolution of protected disclosures. Over the 2018 reporting period the Office of the Ombudsman received a total of 5 complaints under

The Whistleblower Protection Law, 2015.

Four of those complaints were dealt with in our assessment or early resolution phase, while one complaint was accepted for investigation and remains ongoing.

We continue to build our policies and procedures related to whistleblowing disclosures and anticipate expanding the awareness of the program in the future.

CASES CARRIED FORWARD FROM PREVIOUS YEARS	0
COMPLAINTS RECEIVED IN 2018	5
CASES RESOLVED IN 2018	4
OPEN CASES AS AT 31 DECEMBER 2018	1



Case Summaries

BLOWING THE WHISTLE ON COLLEAGUE'S USE OF MOBILE PHONE

The whistleblower alleged that a Government employee was illegally and surreptitiously recording private, sensitive and Government business conversations using their mobile phone. She brought her concern to the attention of senior management at the department and an internal investigation was initiated. The whistleblower said that a final decision was not relayed to her and she was unsure if any disciplinary action was ever taken.

We determined that the matter did not fall under *The Whistleblower Protection Law, 2015* as the alleged inaction did not meet the definition of improper conduct nor was the matter of public interest.

SEEKING WHISTLEBLOWER PROTECTION

An employee was concerned about financial irregularities which they observed in their organisation. The employee disclosed those concerns to another investigative body and assisted them in their investigation of those concerns.

In 2018 the other investigative body referred the employee to our office for advice about whether any protections were available under the ***Whistleblower Protection Law*** (the WPL). The Ombudsman advised the employee that because the WPL was not in force at the time of the initial disclosure the protections under the WPL were not available.

We encouraged the employee to continue to work with the other investigative body.

ASSESSMENT & DISPOSITION CASES

Non-Jurisdictional	3
Referred to another agency	1



CHARLENE ROBERTS
Senior Appeals
& Policy Analyst





Financial Information

BUDGET

We ended 2018 with a surplus, as will be seen in the Financial Statements below.

This surplus was largely the result of underspending in personnel costs including salary, and related matters such as healthcare, training and outreach to the community, including the Sister Islands. As a result, costs for supplies and consumables also remained below the budgeted amounts.

While we had a significant increase in our level of staffing, we took a strategic approach to the timing of our recruitment efforts. We hired supervisors prior to hiring the staff who would be reporting to them.

We delayed hiring an additional investigator for complaints about the RCIPS to satisfy ourselves that our workload warranted the additional staff member.

Our budget anticipated hiring three employees for the Data Protection area around the second quarter of 2018. We hired the Senior Data Protection Analyst in May but, for personal reasons, he was unable to join our office until September. We began recruitment for the two remaining data protection positions in the fall but, when the Government announced a delay in the coming into force of the **Data Protection Law**, these job competitions were cancelled. We expect to hire those staff members in 2019.

GOVERNMENT OF THE CAYMAN ISLANDS

OFFICE OF THE OMBUDSMAN

FINANCIAL STATEMENTS

31 DECEMBER 2018

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STATEMENT OF RESPONSIBILITY FOR THE FINANCIAL STATEMENTS

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

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

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

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

The financial statements fairly present the financial position, financial performance and cash flows for the financial year ended 31 December 2018.

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

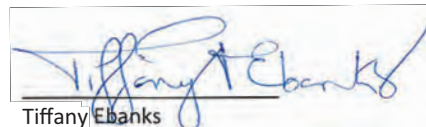
- (a) Completely and reliably reflect the financial transactions of Office of Ombudsman for the year ended 31 December 2018;
- (b) fairly reflect the financial position as at 31 December 2018 and performance for the year ended 31 December 2018;
- (c) comply with International Public Sector Accounting Standards as set out by International Public Sector Accounting Standards Board under the responsibility of the International Federation of Accountants.

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



Sandy Hermiston
Ombudsman

Date: 30 April 2019



Tiffany Ebanks
Chief Financial Officer

Date: 30 April 2019

AUDITOR GENERAL'S REPORT

To the Ombudsman and the Members of the Legislative Assembly

Opinion

I have audited the financial statements of the Office of the Ombudsman ("OMB"), which comprise the statement of financial position as at 31 December 2018, the statements of financial performance, changes in net assets/equity and cash flows for the year then ended, and notes, comprising significant accounting policies and other explanatory information.

In my opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Office of the Ombudsman as at 31 December 2018, and its financial performance and its cash flows for the then ended in accordance with International Public Sector Accounting Standards.

Basis for Opinion

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

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

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

In preparing the financial statements, management is responsible for assessing the OMB'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 OMB or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the OMB's financial reporting process.

AUDITOR GENERAL'S REPORT (continued)

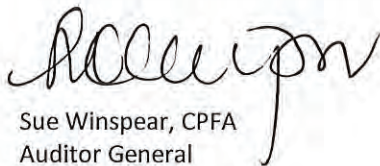
Auditors' Responsibilities for the Audit of the Financial Statements

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

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

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

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



Sue Winspear, CPFA
Auditor General

30 April 2019
Cayman Islands

OFFICE OF THE OMBUDSMAN
STATEMENT OF FINANCIAL POSITION
AS AT 31 DECEMBER 2018
(Expressed in Cayman Islands Dollars)

Prior Period Actual CI\$000		Note	Current Year Actual CI\$000	Approved Budget CI\$000	Variance (Budget vs Actual) CI\$000
1,150	Cash and cash equivalents	2,15	532	184	(348)
114	Trade Receivables	3,15,16	99	174	75
-	Other Receivables		-	1	1
1	Prepayments	15,16	70	6	(64)
1,265	Total Current Assets		701	365	(336)
	Non-Current Assets				
22	Property and equipment	4,15	222	27	(195)
2	Intangible Assets	5	43	50	7
24	Total Non-Current Assets		265	77	(188)
1,289	Total Assets		966	442	(524)
	Current Liabilities				
58	Trade Payables	6	-	-	-
19	Accruals and other liabilities	6,16	63	101	38
8	Employee entitlements	7	10	11	1
500	Other Payable		-	-	-
484	Surplus payable	8,15,16	93	-	(93)
1,069	Total Current Liabilities		166	112	(54)
1,069	Total Liabilities		166	112	(54)
220	Net Assets		800	330	(470)
	Equity				
281	Contributed Capital		861	330	(531)
(61)	Accumulated surplus/(deficit)		(61)	-	61
220	Total net assets/equity		800	330	(470)

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

OFFICE OF THE OMBUDSMAN
STATEMENT OF FINANCIAL PERFORMANCE
FOR THE YEAR ENDED 31 DECEMBER 2018
(Expressed in Cayman Islands Dollars)

Prior Period Actual		Note	Current Year Actual	Approved Budget	Variance (Budget vs Actual)
(3.5 months) CI\$000			(12 months) CI\$000	(12 months) CI\$000	(12 months) CI\$000
Revenue					
801	Sales of goods & services	9,15,16	1,569	2,092	523
801	Total Revenue		1,569	2,092	523
Expenses					
277	Personnel costs	10,15,16	1,160	1,468	308
81	Supplies and consumables	11,15	212	405	193
23	Leases	12	81	97	16
-	Litigation Cost		-	85	85
3	Depreciation	4,5	22	37	15
-	Loss on disposal of assets		1	-	(1)
384	Total Expenses		1,476	2,092	616
417	Surplus or (Deficit) for the period		93	-	(93)

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

OFFICE OF THE OMBUDSMAN
STATEMENT OF CHANGES IN NET ASSETS/EQUITY
FOR THE YEAR 31 DECEMBER 2018
(Expressed in Cayman Islands Dollars)

	Contributed Capital	Accumulated Surplus/(deficit)	Total Net Assets/Equity	Original Budget	Variance (Budget vs. Actual)
	CI\$000	CI\$000	CI\$000	CI\$000	CI\$000
Balance transferred in at 13 September 2017 from ICO	123	(61)	62	-	-
Balance transferred in at 13 September 2017 from OCC	158	-	158	-	-
Total Balance transferred in at 13 September 2017	281	(61)	220	-	-
Balance transferred at 13 September 2017	281	(61)	220	-	-
Surplus for the period	-	417	417	-	-
Surplus repayable due for the period 2017	-	(417)	(417)	-	-
Balance at 31 December 2017	281	(61)	220	-	-
Balance at 1 January 2018	281	(61)	220	280	60
Equity Injection from Cabinet	580	-	580	50	(530)
Surplus for the period	-	93	93	-	(93)
Surplus repayable due for the year 2018	-	(93)	(93)	-	93
Balance at 31 December 2018	861	(61)	800	330	(470)

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

OFFICE OF THE OMBUDSMAN
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 31 DECEMBER 2018
(Expressed in Cayman Islands Dollars)

Prior Period Actual		Note	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
(3.5 months) CI \$'000			(12 months) CI \$'000	(12 months) CI \$'000	(12 months) CI \$'000
	Cash flows managed on behalf of Cabinet				
	Operating Activities				
	Cash received				
844	Sales to Cabinet		1,584	2,053	469
844	Total Cash Received		1,584	2,053	469
	Cash used				
(281)	Personnel costs		(1,158)	(1,587)	(429)
(96)	Supplies and consumables		(296)	(370)	(74)
(23)	Lease Payments		(81)	(97)	(16)
444	Net cash flows from (used by) operating activities	13	49	(1)	(50)
	Investing Activities				
	Cash Used				
(2)	Purchase of property and equipment	4,5	(263)	(50)	213
(2)	Net cash flows used by investing activities		(263)	(50)	213
	Financing activities				
	Cash received/(used)				
500	Equity injections from Cabinet		80	50	(30)
-	Payment of surplus		(484)	-	484
500	Net cash flows from (used by) financing activities		(404)	50	454
942	Net increase/(decrease) in cash and cash equivalents held		(618)	(1)	617
208	Cash and cash equivalents at beginning of period		1,150	185	(965)
1,150	Cash and cash equivalents at the end of the period		532	184	(348)

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

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 DECEMBER 2018
(Expressed in Cayman Islands Dollars)**

Description and principal activities

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

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

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

As at 31 December 2018, the Ombudsman had 13 employees (2017: 8). The Ombudsman is located on the 3rd 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 2018.

New and revised accounting standards issued that is effective for the financial year beginning 1 January 2018 and was early adopted by the Entity

During the prior reporting period the Ombudsman Law 2017 was passed establishing the Office of the Ombudsman. This resulted in the amalgamation of the Information Commissioner's Office (ICO) and Office of the Complaints Commissioner (OCC) into the Office of the Ombudsman. Effective 13 September 2017 all assets, liabilities, and net assets/equity were transferred at the fair value from ICO and OCC into the Office of the Ombudsman. The Ombudsman elected to early adopt IPSAS 40, Public Sector Combinations and accordingly amalgamated the net assets and equities of the ICO and OCC with effect on 13 September 2017.

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2018
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

New and revised accounting standards issued that are not yet effective for the financial year beginning 1 January 2018 and have not been early adopted by the Entity

Certain new accounting standards have been published that are not mandatory for the 31 December 2018 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.

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

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

(a) Basis of preparation

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

(b) Reporting period

The current reporting period is for the 12 months commencing 1 January 2018 and ending 31 December 2018. IPSAS 1, on the reporting period requires presentation of financial statements on an annual basis and where there is departure from the standards and the annual financial statements presented are shorter or longer than a year, disclosure is provided. The prior period financial statements are for the period 13 September 2017 to 31 December 2017. The prior period amounts presented in the financial statements are therefore not entirely comparable to the current year actuals for the 12 month period.

(c) Budget amounts

The 2018 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 2018 budget was presented in the 2018 Annual Budget Statement of the Government of the Cayman Islands and approved by the Legislative Assembly on 15 November 2017.

(d) Judgments and estimates

The preparation of financial statements in accordance with International Public Sector Accounting Standards requires judgments, estimates, and assumptions affecting the application of policies and reported amounts of assets and liabilities, revenue and expenses. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances. The account balances that require judgement are receivables from exchange transactions, property and equipment and payables under exchange transactions. 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 2018
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

(d) Judgments and estimates (continued)

As at 31 December 2018, 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. Revenues derived from third parties in 2018 were nil (2017: nil). Revenue is recognised at the fair value of services provided.

(f) Expenses

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

(g) Operating leases

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

(h) Cash and cash equivalents

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

(i) Prepayments

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

(j) Property and equipment

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

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

Asset Type

Estimated Useful life

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

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2018
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

(j) Property and equipment (continued)

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

Disposals

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

(k) Employee benefits

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

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

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

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

(l) Financial instruments

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

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2018
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

(l) Financial instruments (continued)

Classification

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

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

Recognition

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

Measurement

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

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

De-recognition

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

(m) Provisions and contingencies

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

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

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2018
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

(n) Foreign currency

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

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

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

(o) Impairment

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

(p) Revenue from non-exchange transactions

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

OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2018
(Expressed in Cayman Islands Dollars)

Note 2: Cash and cash equivalents

As at 31 December 2018 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 Period Actual CI\$'000	Description	Current Year Actual CI\$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
-	Cash on hand / Petty Cash	-	1	1
1,233	Operational Current Account - KYD	532	170	(362)
(83)	Payroll Current Account - KYD	-	13	13
1,150	Cash and cash equivalents	532	184	(348)

Note 3: Receivables from exchange transactions

Prior Period Actual CI \$'000	Trade Receivables	Current Year Actual CI \$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
114	Outputs to Cabinet	99	174	75
114	Net Trade receivables	99	174	75

Prior Period Actual CI \$'000	Maturity Profile	Current Year (Gross) CI \$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
114	1-30 days	80	174	94
-	Past due 31-60 days	-	-	-
-	Past due 61-90 days	-	-	-
-	Past due 90 and above	19	-	(19)
114	Total Trade Receivables	99	174	75

OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2018
(Expressed in Cayman Islands Dollars)

Note 4: Property and equipment

Cost of Property and equipment

	Furniture & Fittings CI\$000	Computer Hardware CI\$000	Office Equipment CI\$000	Leasehold Improvements CI\$000	Work in Progress CI\$000	Total Property and Equipment CI\$000
Balance transferred in at 13 September 2017	32	9	17	4	-	62
Additions	2	-	-	-	-	2
Balance as at 31 December 2017	34	9	17	4	-	64
Balance as at 1 January 2018	34	9	17	4	-	64
Additions	4	18	-	-	189	211
Disposal/ Derecognition	(9)	(1)	(1)	-	-	(11)
Balance as at 31 December 2018	29	26	16	4	189	264

Accumulated Depreciation

	Furniture & Fittings CI\$000	Computer Hardware CI\$000	Office Equipment CI\$000	Leasehold Improvements CI\$000	Work in Progress CI\$000	Total Property and Equipment CI\$000
Balance as at 13 September 2017	22	2	13	2	-	39
Depreciation Expense	2	-	1	-	-	3
Disposal/ Derecognition	-	-	-	-	-	-
Balance as at 31 December 2017	24	2	14	2	-	42
Balance as at 1 January 2018	24	2	14	2	-	42
Depreciation Expense	3	5	3	1	-	12
Disposal/ Derecognition	(10)	(1)	(1)	-	-	(12)
Balance as at 31 December 2018	17	6	16	3	-	42
Net Book value 31 December 2017	10	7	3	2	-	22
Net Book value 31 December 2018	12	20	-	1	189	222

OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2018
(Expressed in Cayman Islands Dollars)

Note 5: Intangible Asset

Cost of Intangible Asset

	Computer Software CI\$000
Balance transferred in at 13 September 2017	35
Additions	-
Disposal/ Derecognition	-
Balance as at 31 December 2017	<u>35</u>

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

Accumulated Amortization and impairment losses

	Computer Software CI\$000
Balance as at 13 September 2017	-
Transfers	33
Amortization Expense	-
Balance as at 31 December 2017	<u>33</u>

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

Net Book value 31 December 2017	<u>2</u>
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Net Book value 31 December 2018	<u>43</u>
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OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2018
(Expressed in Cayman Islands Dollars)

Note 6: Trade Payables, other payables and accruals

Prior Period Actual CI\$'000	Description	Current Year Actual CI\$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
19	Accruals	42	101	59
58	Core government trade with other public entities	21	-	(21)
77	Total Trade Payables, Accruals and Other Liabilities	63	101	38

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

Note 7: Employee entitlements

Prior Period Actual CI\$'000	Details	Current Year Actual CI\$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
<i>Current employee entitlements are represented by:</i>				
8	Annual leave	10	11	1
8	Total employee entitlements	10	11	1

Note 8: Surplus payable

Surplus payable represents accumulated surplus of \$93 thousand as at 31 December 2018 (2017: \$484 thousand). Under the *Public Management & Finance Law (2018 Revision)* section 39 (3)(f), the Office of the Ombudsman may “retain such part of its net operating surplus as is determined by the Minister of Finance”. Therefore, the Office of the Ombudsman recorded at 31 December 2018 a surplus payable amount to the Government of the Cayman Islands in the amount of \$93 thousand. During the year the Entity paid to Cabinet surplus payable in the amount of \$484 thousand.

OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2018
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Note 9: Revenue

Prior Period Actual (3.5 months) CI\$'000	Description	Current Year Actual (12 months) CI\$'000	Approved Budget (12 months) CI\$'000	Variance (Budget vs. Actual) (12 months) CI\$'000
801	Outputs to Cabinet	1,569	2,092	523
801	Total Sale of Goods & Services	1,569	2,092	523

Note 10: Personnel costs

Prior Period Actual (3.5 months) CI\$'000	Description	Current Year Actual (12 months) CI\$'000	Approved Budget (12 months) CI\$'000	Variance (Budget vs. Actual) (12 months) CI\$'000
238	Salaries, wages and allowances	973	1,179	206
32	Health care	128	215	87
11	Pension	49	64	15
(4)	Leave	2	3	1
-	Other Personnel related costs	8	7	(1)
277	Total Personnel Cost	1,160	1,468	308

Note 11: Supplies and consumables

Prior Period Actual (3.5 months) CI\$'000	Description	Current Year Actual (12 months) CI\$'000	Approved Budget (12 months) CI\$'000	Variance (Budget vs. Actual) (12 months) CI\$'000
6	Supplies and Materials	24	33	9
51	Purchase of services	123	198	75
9	Utilities	32	41	9
1	General Insurance	-	-	-
6	Travel and Subsistence	17	28	11
7	Recruitment & Training	9	57	48
-	Interdepartmental expenses	7	43	36
1	Other	-	5	5
81	Total Supplies & Consumables	212	405	193

OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2018
(Expressed in Cayman Islands Dollars)

Note 12: Leases

Prior Period Actual	Type of Lease	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
(3.5 months) CI\$'000		(12 months) CI\$'000	(12 months) CI\$'000	(12 months) CI\$'000
23	Lease and Rent of Property and Sites	81	97	16
23		81	97	16

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

Prior Period 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
417	Surplus/(deficit) from ordinary activities	93	-	(93)
	Non-cash movements			
3	Depreciation	22	37	15
-	Loss on disposal of assets	1	-	(1)
	Changes in current assets and liabilities:			
43	Increase/(Decrease) in receivable	14	-	(14)
5	Increase/(Decrease) in prepayments	(69)	-	69
58	Increase/(Decrease) in payables	(58)	-	58
(78)	Increase/(Decrease) in accruals and other liabilities	44	(38)	(82)
(4)	Increase/(Decrease) in employee entitlements	2	-	(2)
444	Net cash flows from operating activities	49	(1)	(50)

Note 14: Commitments

Prior Period Actual		One Year or Less	One to Five Years	31 December 2018
CI\$000	Type Operating Commitments	CI\$000	CI\$000	CI\$000
142	<i>Non-Cancellable Accommodation Leases</i>	100	432	532
142	Total Operating Commitment	100	432	532
142	Total Commitment	100	432	532

The Office of the Ombudsman has medium to long-term accommodation leases for the premises it occupies in George Town. The lease is for 5 years and commences 1 January 2019.

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2018
(Expressed in Cayman Islands Dollars)**

Note 15: Explanation of major variances against budget

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

Statement of financial position

Cash and cash equivalents

The increase in cash and cash equivalents of \$348 thousand compared to budget is mainly due to excess cabinet revenue collected over expenses in the amount of \$93 thousand, and equity investment funding of \$281 thousand for the fit out of the office space. This was not included in the original budget.

Trade receivables

The decrease of \$75 thousand from budget is primarily due to Cabinet funding budgeted higher than actual. During the financial year amounts billed to the government were reduced to match the level of expenditure. This is also consistent with the sale of goods and services variance explanation below.

Prepayments

The increase of \$64 thousand from budget is primarily due to prepayments made for the fitout project including office furniture.

Property and equipment

The increase of CI\$195 thousand in property and equipment is due to the fit-out of office space seen within work in progress of \$189 thousand, which had not been included in the originally budget.

Surplus payable

The Office of the Ombudsman has recorded a surplus of \$93 thousand to be paid to Cabinet. The variance is because the budget did not include any provision for surplus.

Statement of financial performance

Revenue

The \$523 thousand decrease from budget is as a result of cabinet revenue billed more in line with actual expenditure.

Personnel Costs

Actual personnel costs are lower than budget by \$308 thousand primarily due to budgeted positions being filled at later dates than anticipated.

Supplies and Consumables

Total supplies and consumables was \$193 thousand under budget primarily due to reduced spending in the areas of purchase of services of \$75 thousand, training of \$48 thousand, interdepartmental expenses of \$36 thousand, and travel and subsistence of \$11 thousand. Refer to note 11. Purchases of services reduced as professional fees were impacted due to the delay of the Data Protection Law and training and travel was under budget due to the delays in recruitment and vacancy of posts.

Litigation costs

Litigation costs are budgeted as contingencies, and may vary from period to period depending on applications for Judicial review. As a result, this expense was \$85 thousand under budget.

OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2018
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Note 16: Related party and key management personnel disclosures

Related party disclosure

The Office of the Ombudsman is a wholly owned entity of the Government of the Cayman Islands from which it derives a major source of its revenue. The Office of the Ombudsman and its key management personnel transact with other government entities on a regular basis. These transactions were provided in-kind during the financial year ended 31 December 2018 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 Period	Statement of financial position	Current	Approved	Variance
Actual		Year Actual	Budget	(Budget vs.
CI\$'000		CI\$'000	CI\$'000	Actual)
114	Trade receivables	99	174	75
-	Prepayments	35	6	(29)
58	Accrual and other liabilities	21	101	80
500	Other payable	-	-	-
484	Surplus payable	93	-	(93)
Statement of financial performance				
801	Sale of goods and services	1,569	2,092	523
1	Insurance expense	-	-	-

Key management personnel

Compensation of Key Management Personnel

Total remuneration includes: regular salary, pension contribution, health insurance contribution, allowances, bonus and termination benefits. Total remuneration paid to key management personnel were as follows:

Prior Period	Description	Current Year
Actual		(Gross)
CI\$'000		CI\$'000
110	Salaries & other short term employee benefits	386
110	Total Remuneration	386
3	Number of Key Management Personnel	3

OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2018
(Expressed in Cayman Islands Dollars)

Note 17: Financial instrument risks

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

Credit risks

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

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

Liquidity risk

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

The ability of the Office of the Ombudsman to meet its debts and obligation is dependent upon its ability to collect the debts outstanding to the Office of the Ombudsman on a timely basis. In the event of being unable to collect its outstanding debts, it is expected that the Government of the Cayman Islands would temporarily fund any shortfalls for the Office of the Ombudsman with its own cash flows. As at 31 December 2018, all of the financial liabilities were due within three months of the year end dates.

Currency risk

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

Note 18: Subsequent events

In preparing these financial statements management has evaluated and disclosed all material subsequent events up to 30 April 2019 which is the date that the financial statements were available to be issued.



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