



Annual Report
2020



TRUDYANN MARTINSON
Data Protection
Analyst

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Message from the Ombudsman

“You may not control all the events that happen to you, but you can decide not to be reduced by them.”

– Maya Angelou

Resilience is defined as “an ability to recover from or adjust easily to misfortune or change”. Cayman’s response to the devastating COVID-19 pandemic demonstrated a resilience seen in very few countries in 2020, achieved through a prolonged commitment to prioritize the health and safety of the people of Cayman over all other concerns.

THE PANDEMIC

Our team displayed such resilience throughout this very difficult year. When the government directed the residents of Cayman to work from home, we packed up our laptops and continued our work. We were able to do so without missing a beat because our technology infrastructure allowed us to work anywhere at any time. Our decision to operate primarily “in the cloud”, which was made as part of our prior disaster recovery planning, turned out to be prescient. This is not to say that we did not experience the challenges of prolonged periods of isolation, the looming threat of the virus itself and the lack of ability to move around freely, but we worked together and offered each other support as

needed. We arranged online counselling for anyone who felt it would help, we ensured that everyone had a proper workspace in their home and we connected virtually on a regular basis.

Given the challenges we faced in 2020, with the pandemic leading to significant changes in residents’ lives and working conditions, and for the many civil servants we work with on a daily basis, we are very proud to have been able to maintain a high level of service and responsiveness.

WORKLOAD

Our workload remained stable despite the two-month Islands-wide shutdown between the end of March and the end of May and the gradual re-opening of our economy thereafter. We experienced a minor decline in overall initial contacts, which are inquiries usually made by telephone or email. However, we opened 30 more cases (making a total of 231) than we did in 2019.

The area that saw the biggest increase in cases in 2020 was data protection, which was to be expected given that 2020 was our first full year of operation under the new data protection legislation. We saw a significant increase in the reporting of data breaches, with a total of 87 in 2020, and a doubling of complaints, from 12 in 2019 to 25 in 2020.

A portrait of Sandy Hermiston, a woman with short grey hair and blue-rimmed glasses, smiling. She is wearing a red jacket with black trim over a black top. Her hands are clasped in front of her. The background is a plain, light grey.

“ We are very proud
to have been able
to maintain a high
level of service and
responsiveness ”

Sandy Hermiston

Sandy Hermiston | JP Ombudsman

We continue to focus on resolving matters as early and as informally as possible and saw an increase in informal resolutions of complaints about government maladministration from seven in 2019 to 18 in 2020. When early resolution is not possible or appropriate, we open a full investigation.

COMPLAINTS DIVISION

Two recurring themes are found locally and worldwide when it comes to complaints about maladministration: delay and failure to respond. Those themes are evidenced in the cases we have summarised below.

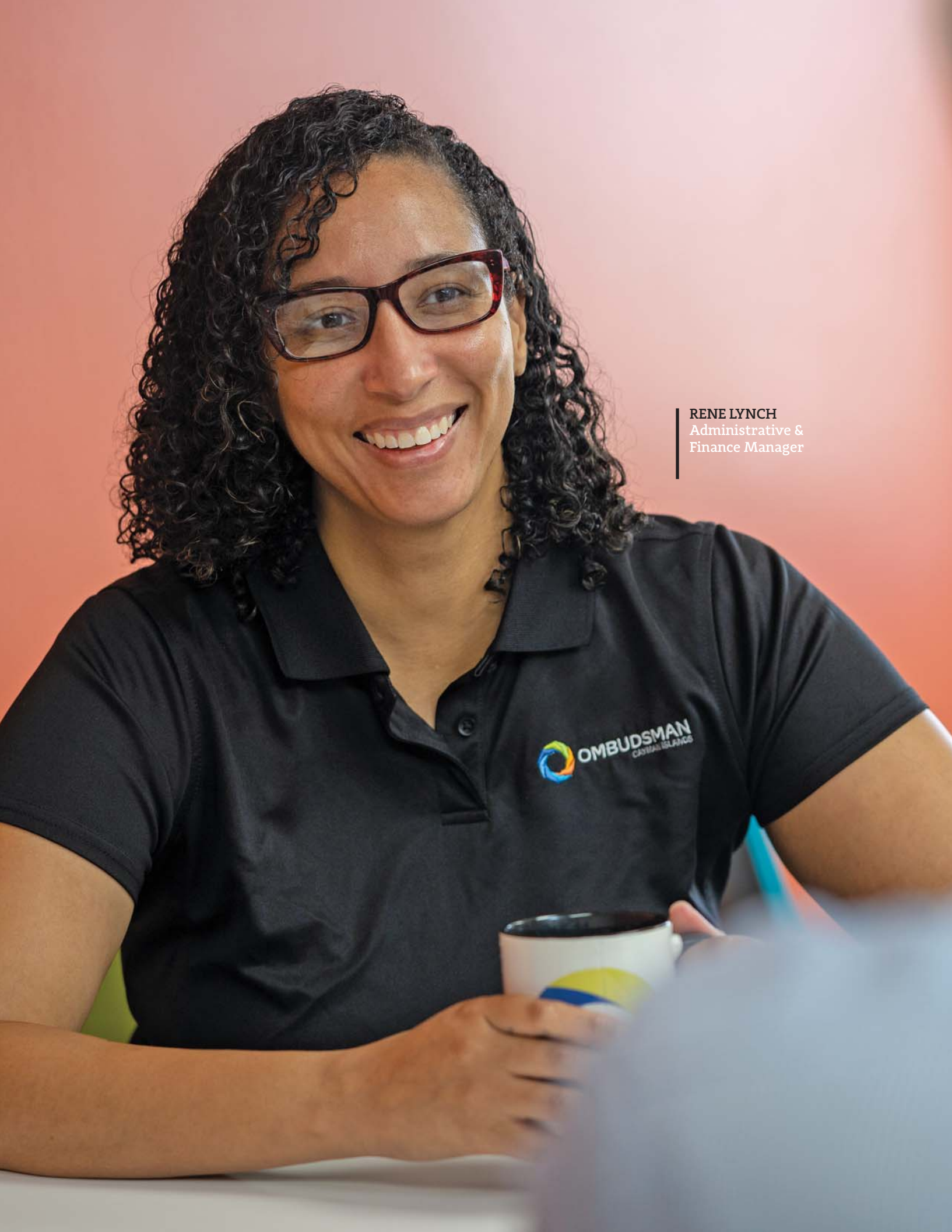
Time and time again, members of the public come to us for assistance in getting a response to their complaint. Their trust in government is undermined when we are able to make a phone call, or send an email, and suddenly their complaint is acknowledged and often resolved. If that situation continues, residents may eventually come to believe that they must contact the Ombudsman for every response or to obtain even basic services from their government.

I encourage the government to review its internal complaints mechanisms to ensure that they are agile and fit for purpose. Complaints should be welcomed as customer feedback – a valuable source of information on how to serve people better.

The cases summarised in this annual report also highlight another area of concern: the lack of written policies and guidelines. The benefit of written policies, procedures and guidelines cannot be underestimated. These ensure accountability, transparency, fairness and consistency. I will also continue to focus on the availability of written guidance and make recommendations to ensure that it is available.

In terms of complaints about police conduct, we have seen great strides made by the Royal Cayman Islands Police Service (RCIPS) in incorporating public complaints against officers' conduct into its important daily work. However, I cannot emphasize enough the need for police officers to treat people with respect. Too many of our complaints concern how an officer made a person feel. I firmly believe that police officers can enforce the law while acting professionally and cordially and I will continue to hold them to that standard.

Whistleblower protection continues to be a developing part of the work of this office. We had six reports during 2020, compared with just three last year. Those numbers remain relatively small and our investigators have reported that people who come to our office seem reluctant to make a protected disclosure when they learn that the **Whistleblower Protection Law** does not prevent them from being



RENE LYNCH
Administrative &
Finance Manager

fired. The legislation instead provides a remedy only after an employer takes detrimental action against the employee. Work permit holders may feel vulnerable to this risk because, if they are terminated, they lose their right to remain in Cayman.

Caymanians and permanent residents may feel that they would be blacklisted after being fired for making a whistleblower complaint, perhaps becoming unable to find employment elsewhere in the Islands. We are currently reviewing the law and intend to make recommendations for amendments in 2021.

INFORMATION DIVISION

In addition to the many appeals that were resolved informally, I issued eight written decisions under the ***Freedom of Information Law*** in 2020. Decision 81 required the Lands & Survey Department to disclose a cadastral claim file from the 1970s. We were later able to informally resolve a similar request on the basis of this written decision. A similar dynamic applied to records held by Workforce Opportunities & Residency Cayman in relation to the rights of same-sex couples. In Decision 82, I ordered disclosure of records relevant to same-sex couples, and as a result of that decision we were able to resolve a subsequent appeal informally.

In Decision 80, I ordered the Department of Labour & Pensions and the Ministry of Employment & Border Control to disclose certain decisions of the Labour Tribunal and Labour Appeals Tribunal. I would like to

acknowledge a positive move towards transparency, accountability and consistent decision-making by the Department of Labour & Pensions because they have decided to make decisions of the Labour Tribunal and Labour Appeals Tribunal available online in the near future. Sadly, this example of the proactive publication of decisions is still an exception rather than the rule.

In Decision 75, I ordered the Department of Labour & Pensions to disclose annual reports from 2006 to 2017 as required by the ***National Pensions Law***. The disclosure of these reports resulted in a review of the reports by the Public Accounts Committee. I also issued the first enforcement order under the ***Data Protection Law*** (DPL), which required the Registrar to immediately cease gathering and processing personal data of non-registrable persons because there was no legal basis for its blanket approach. I also ordered the Registrar to develop and implement a privacy notice, and recommended that written policies be developed.

I had to issue a number of information orders directing both public and private sector entities to provide us with documents as part of our investigations under the DPL, because the entities were not responding to our requests in a timely manner. I find this troubling and hope that this is not a sign that compliance with the DPL is not being taken seriously.

Our office also took part in a study on data protection in the Caribbean conducted by the United Nations Economic Commission for Latin America and the Caribbean (ECLAC) relating to the strengths and weaknesses of the DPL and similar legislation around the region.

CONCLUSION

The Government of the Cayman Islands' response to the onset of the COVID-19 pandemic was nothing short of world-class. There is no reason, therefore, to believe that it cannot also face and overcome the challenges posed by some of the issues noted above. The Office of the Ombudsman staff will continue to play a significant role in meeting those challenges.

I would like to thank each member of my staff for their resilience and their commitment to the work of this office, especially during a very difficult 2020. Together we will rise to meet the challenges of this unusual time and continue our work promoting fairness, accountability and transparency.

It continues to be an honour and a pleasure to serve as the Ombudsman for the Cayman Islands.

Roles & Goals

Ombudsman is a gender-neutral Swedish word that means “representative of the people”. Generally, an ombudsman acts as an independent and impartial officer who raises concerns with government bodies. Our office has a broader mandate than most ombudsmen because we have additional responsibilities relating to freedom of information, data protection, complaints about police conduct and whistleblower protection.

We act as a bridge between members of the public and the government, the RCIPS and, in some cases, the private sector (data protection and whistleblower protection). In most cases, our office will not get involved in a complaint or appeal until regular complaint or dispute mechanisms have been exhausted. Our work helps maintain public confidence in government or private sector entities by ensuring that people are treated fairly. Through our work as an impartial and objective oversight body, we reduce the imbalance of power that sometimes exists and we ease relationships when they become strained.

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

Created and endorsed in 2019 by the Council of Europe after consultation with international ombudsman organizations representing hundreds of countries, the Venice Principles are the first set of international standards for ombudsman institutions. They are intended to protect ombudsmen around the world who are facing threats and provide useful guidelines for improving existing ombudsman offices as well as for establishing new ones. The equivalent of the Paris Principles, by which human rights institutions are judged at the United Nations level, the Venice Principles set out 25 legal principles to guarantee and protect the proper functioning and independence of parliamentary and public services ombudsmen. They emphasize that the ombudsman is an important element in states based on democracy, the rule of law, good administration and respect for human rights and fundamental freedoms.

In our information rights role, we apply these same principles of fairness, accountability and transparency to resolve cases informally and issue binding orders to ensure compliance with the spirit and letter of the applicable legislation.

A portrait of Alan Slater, a middle-aged man with a beard and short dark hair, smiling at the camera. He is wearing a light blue button-down shirt and a metal watch on his left wrist. The background is a blurred office setting with white cubicle walls and a window.

ALAN SLATER
Police Investigator

OVERVIEW

Inquiries

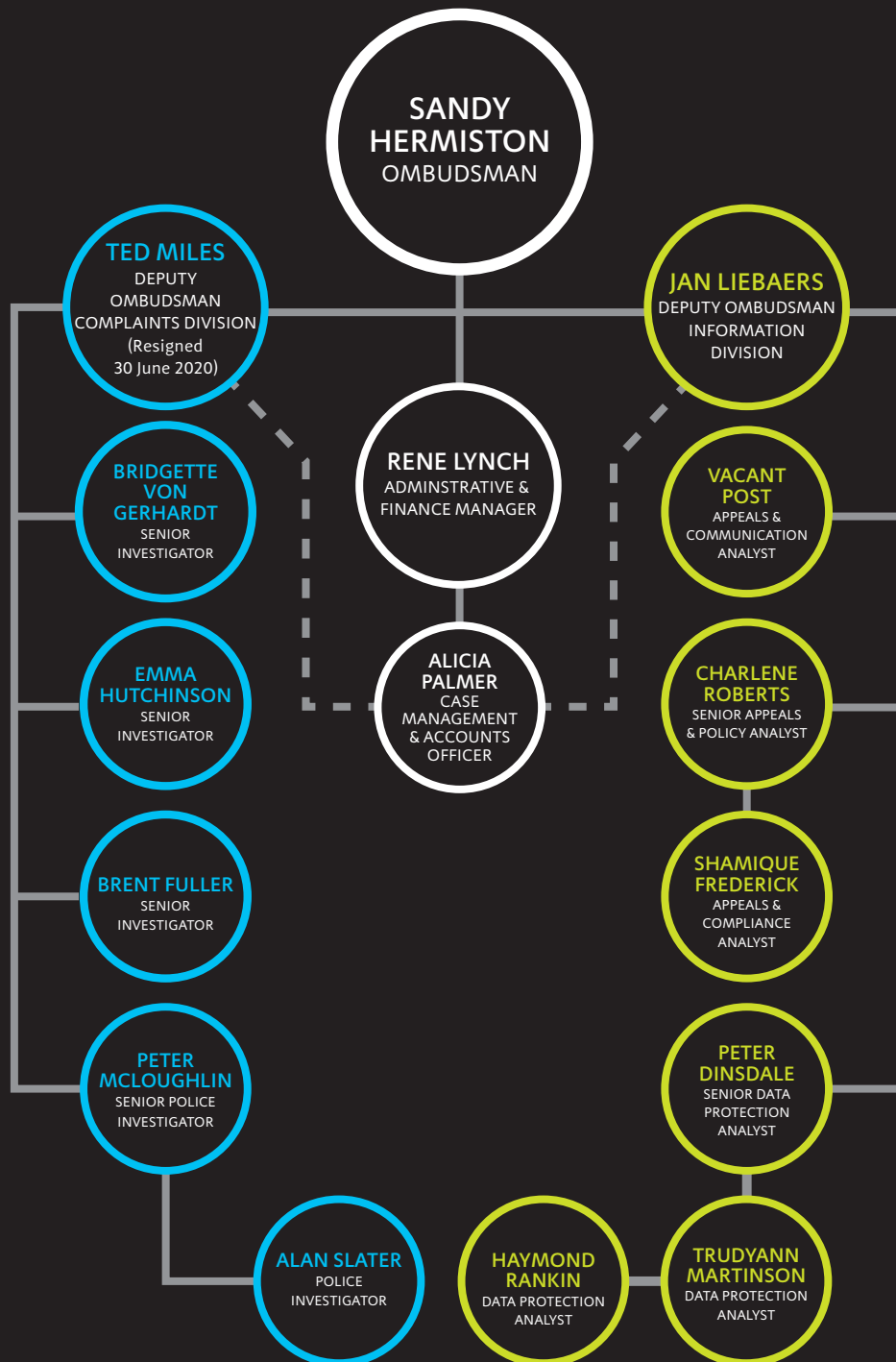
1 January to 31 December 2020



Cases



Organisation



Human Resources

We welcomed two new investigators in our Complaints Division in early 2020, both of whom brought a wealth of knowledge and experience that adds to the overall expertise in our office. They took no time in getting up to speed on our work and have been operating at full speed since they joined us.

Deputy Ombudsman Ted Miles left us at the end of June. His departure was not unexpected, as he was appointed for a limited term, but it did not make it any easier to lose his experience, knowledge and dedication to this office. He built our police complaints and whistleblower protection programs from scratch, relying on his tremendous expertise as a former senior member of the Royal Canadian Mounted Police, and his experience as the first ever Director of Alberta's Public Interest Commissioner's office. He was a much-loved member of our team and will be sorely missed.

TRAINING AND DEVELOPMENT

The pandemic upended our training and development plans for 2020, as workshops and conferences were cancelled. Thankfully, we were able to pivot quickly and all our investigators and analysts obtained their certification as mediators.

Our police investigators completed an online course on effective report writing for investigators.

Our Appeals and Compliance Analyst obtained her Practitioner Certificate in Freedom of Information.

One of our Data Protection Analysts obtained the Certified Information Privacy Technologist (CIPT) designation from the International Association of Privacy Professionals.

Deputy Ombudsman Jan Liebaers and Ombudsman Sandy Hermiston attended the Global Privacy Assembly's annual conference, which was held virtually.

INFORMATION RIGHTS DIVISION

Freedom of Information

*Amendments were published to the **Freedom of Information Law (FOI Law)** and the **Freedom of Information (General) Regulations**, now in their 12th year of operation. The FOI Law continues to be used by members of the public to request access to government information, and to appeal access decisions made by public entities to the Ombudsman.*

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

The pandemic caused an initial dip in the number of freedom of information appeals made to our office, but by the end of the year the number of appeals had risen back to average levels. Thirteen appeals were carried over from 2019, and we received a total of 24 new appeals and closed 20.

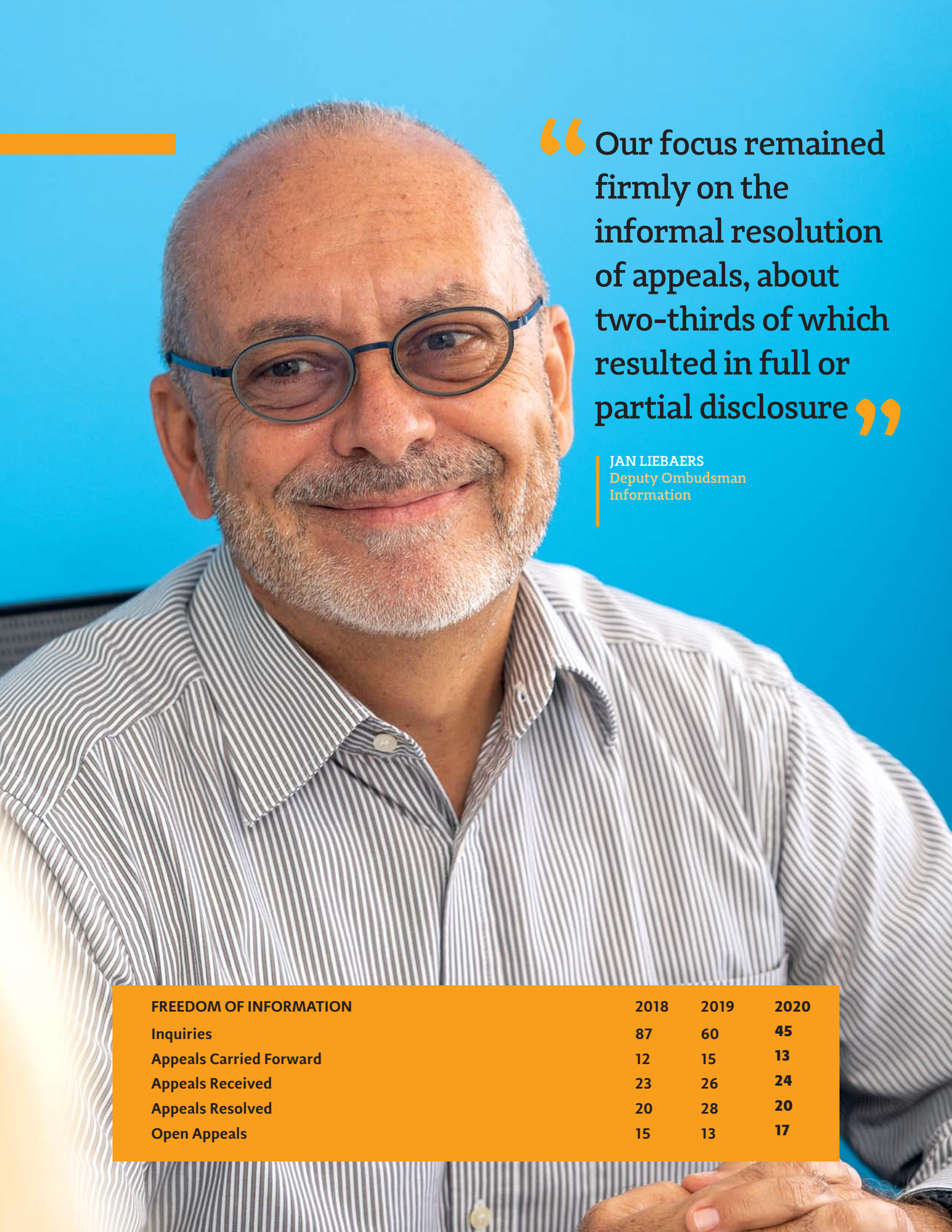
The Ombudsman issued eight written decisions, four of which upheld the appeals in full and two in part, with two appeals being dismissed. The binding decisions made by the Ombudsman covered a wide range of interests, from government compliance with the **National Pensions Law** to concessions granted to developers, decisions of the Labour Tribunal (LT) and Labour Appeals Tribunal (LAT), and cadastral claim files.

Our focus in 2020 remained firmly on the informal resolution of appeals, about a third of which resulted in full disclosure, a third in partial disclosure and a third in non-disclosure of information. Informally resolved appeals covered many important topics, such as the cost of school construction, land records, and food premises complaints and inspections.

We also responded to 45 inquiries from members of the general public and public officers, many of whom were information managers with questions about the workings of the **Freedom of Information Law** (FOI Law).

Our celebrations for International Right to Know Day on 28 September were somewhat subdued because of the ongoing pandemic. We issued a press release that focused on the impact of the FOI Act over the past 11 years, together with a statistical report.

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

A portrait of Jan Liebaers, Deputy Ombudsman Information, against a blue background. He is a middle-aged man with a grey beard and glasses, wearing a striped shirt. An orange horizontal bar is visible in the top left corner.

“ Our focus remained firmly on the informal resolution of appeals, about two-thirds of which resulted in full or partial disclosure ”

JAN LIEBAERS
Deputy Ombudsman
Information

FREEDOM OF INFORMATION

	2018	2019	2020
Inquiries	87	60	45
Appeals Carried Forward	12	15	13
Appeals Received	23	26	24
Appeals Resolved	20	28	20
Open Appeals	15	13	17

FREEDOM OF INFORMATION

Case Summaries | Informal Resolution

EXAM RESULTS

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

An applicant requested records from 2019 regarding exam results for year 11 and 12 students and performance exam results for Key Stage 2 students. The EYSAL did not provide an initial response and did not complete the internal review that was requested; therefore, the applicant made an appeal to the Ombudsman.

In the course of our investigation, EYSAL located the responsive record, retrieved it from the Department of Education and released it to the applicant, who agreed to close the appeal.

INFORMATION ON CRIMINAL PROCEDURE, MISUSE OF DRUGS AND WARRANTS

Royal Cayman Islands Police Service (RCIPS)

This appeal concerned records relating to section 78 of the *Cayman Islands Criminal Procedure Code (2017 Revision)* and section 36 of the *Cayman Islands Misuse of Drugs Law (2017 Revision)*. The RCIPS provided some information in the form of statistics, but other records were either excluded or were claimed not to be held under the FOI Law.

During our investigation, the RCIPS was asked to provide details of their search efforts concerning warrants issued against the applicant. A detailed response was provided, in which the RCIPS also clarified the warrant process. In addition, the RCIPS assisted in facilitating a conference call with the applicant in which further clarification was provided and other outstanding matters were discussed, resulting in the applicant withdrawing the appeal.

FOOD PREMISES CONSUMER COMPLAINTS AND INSPECTION REPORTS

Department of Environmental Health (DEH)

The DEH received a request for records of consumer complaints and inspection reports relating to food premises in 2018 and 2019. Access was denied under the FOI Law, based on the purported commercial value of the information, which it was claimed would be, or would reasonably be expected to be, destroyed or diminished if the information were disclosed. The applicant appealed to the Ombudsman.

We reviewed the records and met with the DEH and Ministry of Health, who agreed to revisit the decision and seek a legal opinion. The applicant then asked for a formal hearing before the Ombudsman.

However, the DEH subsequently agreed to fully disclose the food premises consumer complaints and partially disclose the food inspection reports. The applicant was satisfied with the records received and the appeal was closed.

ACCESS TO LAND RECORDS

Lands & Survey Department (L&S)

An applicant submitted a request for land records related to a specific block and parcel. The applicant was informed that the request did not fall under the FOI Law, and that the requested information could be obtained at the public counter of the L&S for a fee. The applicant was not satisfied and requested an internal review, but none was conducted. The applicant then appealed (late) to the Ombudsman. After giving the L&S a chance to provide its views in writing, the Ombudsman decided to accept the late appeal, as allowed in the FOI Law.

During our investigation, we asked the L&S to clarify their initial decision. The L&S explained that some of the requested records were available for a fee at the public counter in the Government Administrative Building. Other records were claimed not to be held, and access to claim files relating to the specific parcel was categorically denied in a letter from the Registrar. Some additional records were located and disclosed to the applicant. We conducted a meeting with the parties on Zoom, resulting in additional clarifications for the applicant.

As a result of the Ombudsman's decision in a parallel appeal (in Hearing 81), in which another claim file was ordered to be released, the L&S disclosed the requested claim files to the applicant.

RESIDENCY AND EMPLOYMENT RIGHTS CERTIFICATES (RERCs) AND SAME-SEX MARRIAGES

Workforce Opportunities & Residency Cayman (WORC)

An applicant made a request for records related to RERCs and same-sex marriages.

Because we were already processing a parallel appeal related to similar records, we decided to delay the current appeal in anticipation of the hearing outcome in that case. The Ombudsman ordered a partial disclosure in that decision. We discussed the record that was of particular interest to the applicant with both parties, resulting in the applicant receiving the requested information, and the appeal was closed.

FREEDOM OF INFORMATION	2018	2019	2020
Assessment/Disposition	n/a	7	3
Non-Jurisdictional	n/a	7	3
Informal Resolution	16	9	9
Full Disclosure	7	1	3
Partial Disclosure	5	5	2
Late Appeal Request Denied	1	0	0
Non-disclosure	1	3	4
No Records Found	1	0	0
Deferred	1	0	0



ALICIA PALMER
Case Management
& Accounts Officer

FREEDOM OF INFORMATION

Case Summaries | Appeal Decisions

GOVERNMENT'S COMPLIANCE WITH THE PENSIONS LAW

Department of Labour & Pensions (DLP)

An applicant made a request for records relating to compliance with the **National Pensions Law**, including annual reports from 2006 to 2017 and minutes of the National Pensions Board. The DLP claimed that disclosure would be an unreasonable diversion of resources, and deferred access to most of the requested board minutes and annual reports. The DLP said that it was in the process of eliminating a backlog of published reports and minutes that had been building up for a number of years.

The Ombudsman found that the DLP should comply with the legal requirement for tabling the annual reports in the Legislative Assembly, as a reasonable period of time had expired, and therefore ordered the annual reports to be disclosed. The DLP was given 90 days to complete its review and publish the requested minutes. The Ombudsman also found that complying with the remainder of the request would constitute an unreasonable diversion of resources, as claimed.

The records were disclosed after the Ombudsman extended the period allowed for review and publication of the board minutes because of the coronavirus pandemic.

DELIBERATIONS OF THE CIVIL SERVICE APPEALS COMMISSION (CSAC)

Commissions Secretariat

A request was made to the Commissions Secretariat for a variety of records related to their appeal with the CSAC. Most records were disclosed, but two emails were exempted from disclosure by the Secretariat.

The Ombudsman found that the emails contained free and frank exchanges of views, and considered that disclosure would be likely to harm future deliberations. The public interest did not override the exemption, and no further action was required on the part of the Commissions Secretariat.

RECORDS OF CONCESSIONS GRANTED TO A REAL ESTATE DEVELOPER

Ministry of Finance & Economic Development (FED)

An applicant made a request for information on revenue concessions granted to Davenport, a real estate developer, from 2000 to 2019. The FED granted access to a table containing information on concessions granted from 2014 to 2019 to all developers, with names and any identifiers redacted, arguing that the disclosure of the redacted information would inhibit the free and frank exchange of views for the deliberations of the Cabinet on future revenue concessions, and would prejudice the conduct of public affairs.

The Ombudsman found that the likelihood of prejudice to future deliberations of the Cabinet and of harm to the conduct of public affairs was very low. Therefore, the claimed exemptions did not apply and the requested information was ordered to be disclosed, as was done.

THE IDENTITY OF A MEDICAL CONSULTANT WHO WROTE A REPORT ABOUT THE APPLICANT

Office of the Director of Public Prosecutions (ODPP)

An applicant made a request to the ODPP for the name of a medical expert who wrote an independent consultancy report concerning the applicant. The report itself had been disclosed but the name and other identifying information of the expert were withheld on the basis that the applicant was vexatious and the disclosure would be unreasonable.

The Ombudsman found that the request was not vexatious and that the redacted information was not exempt from disclosure, as it was excluded from the definition of “personal information” in the *Freedom of Information (General) Regulations*, since it related to an individual who provided a service for a public authority under a consultancy contract. Therefore, the ODPP was required to disclose the entire report to the applicant without redactions, as was done.

SWIPE ACCESS TO THE GOVERNMENT ADMINISTRATION BUILDING (GAB) BY MINISTERS AND COUNCILLORS

Ministry of Commerce, Planning & Infrastructure (CPI)

A request was made for swipe access records relating to ministers and ministerial councillors entering and leaving the GAB and the adjoining parking garage, held by the CPI. The CPI claimed that the requested records were exempt and, during the appeal, the minister responsible issued a ministerial certificate under section 25(1) of the FOI Law, certifying that the records were exempt because their disclosure would, or would be likely to, prejudice the effective conduct of public affairs. The minister's certificate could not be nullified by the Ombudsman, but the exemption it relied on was subject to a public interest test, which was the basis of this hearing.

After weighing up the factors for and against disclosure, the Ombudsman found that the public interest in disclosing the records did not override the public interest in maintaining the exemption, since the access record was (unavoidably) partial and incomplete and would not contribute to holding the government to account. No further action was required.

DECISIONS OF THE LABOUR TRIBUNAL (LT) AND LABOUR APPEALS TRIBUNAL (LAT)

Department of Labour & Pensions (DLP) and Ministry of Employment & Border Control (ECB)

An applicant requested access to decisions of the LT and LAT held by the DLP and ECB dealing with wrongful dismissal. Two years of LT and LAT decisions were disclosed immediately, as they were readily at hand, but the responding public authorities claimed that fully complying with the request would require an unreasonable diversion of resources.

The applicant appealed to the Ombudsman, who investigated and found that, contrary to the positions of the DLP and the ECB, compliance with the requests would not require an unreasonable diversion of resources. Both entities were required to disclose the requested records, and after some delays this was accomplished.

CADASTRAL CLAIM FILE FROM THE EARLY DAYS OF THE CAYMAN ISLANDS LAND REGISTRY

Lands & Survey Department (L&S)

An applicant wanted access to a cadastral claim file from the L&S dating from the 1970s, around the time when the Cayman Islands Land Registry was first created. The L&S asserted that the requested records were exempt from disclosure because disclosure would prejudice the conduct of public affairs by undermining the system of land registration, and because the requested records contained personal information, the disclosure of which was claimed to be unreasonable.

The Ombudsman reviewed the case and reached the conclusion that neither of the claimed exemptions applied, and the L&S disclosed the file.

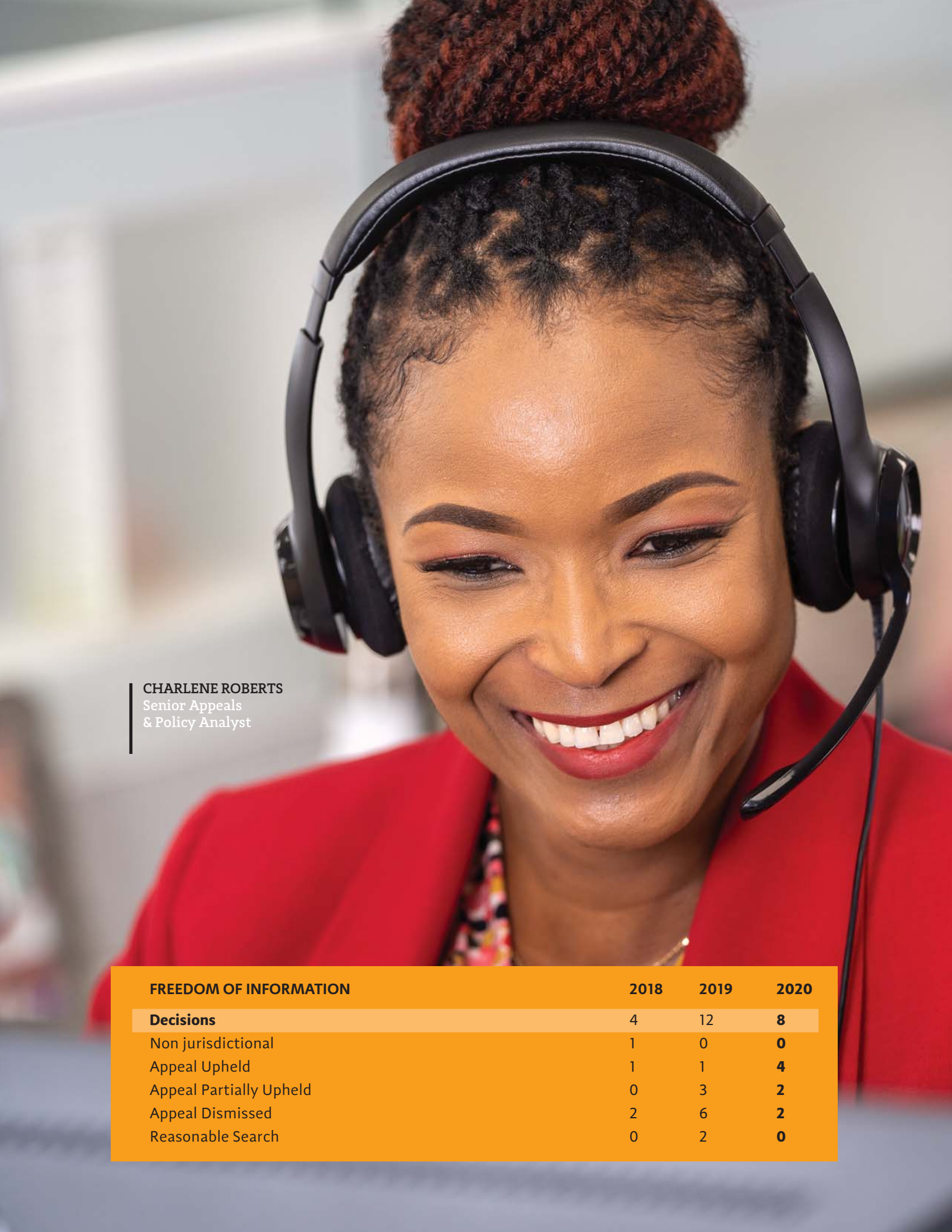
RESIDENCY AND EMPLOYMENT RIGHTS CERTIFICATES (RERCs) AND SAME-SEX COUPLES

Workforce Opportunities & Residency Cayman (WORC)

An applicant requested access to a wide variety of records concerning RERCs and same-sex couples from WORC. Access to some records was granted, but the applicant appealed to the Ombudsman for access to any requests for policy direction on RERCs relating to same-sex couples, and for any responses to these requests made to the Cabinet and the Chief Immigration Officer or Director of WORC.

WORC withheld access to two emails on the basis that they consisted of legal advice given on behalf of the Attorney General. WORC also claimed that the emails were exempt from disclosure because they were prepared for the Governor or a minister and related to the formulation or development of government policy, and because disclosure would, or would be likely to, inhibit the free and frank exchange of views and prejudice the conduct of public affairs.

The Ombudsman investigated the matter and found that the exemption relating to legal advice applied to part of the first email only, and that the other exemptions did not apply. Consequently, the Ombudsman ordered the disclosure of the remainder of the first email and full disclosure of the second.

A close-up portrait of Charlene Roberts, a Black woman with her hair in a bun, wearing a headset and smiling. She is wearing a red blazer over a patterned top.

CHARLENE ROBERTS
Senior Appeals
& Policy Analyst

FREEDOM OF INFORMATION	2018	2019	2020
Decisions	4	12	8
Non jurisdictional	1	0	0
Appeal Upheld	1	1	4
Appeal Partially Upheld	0	3	2
Appeal Dismissed	2	6	2
Reasonable Search	0	2	0

INFORMATION RIGHTS DIVISION

Data Protection

The year 2020 was the first full year of operations under the Data Protection Law, 2017 (DPL).

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

In response to the pandemic, our office published a guidance note and press release on data protection and COVID-19, laying out various issues relating to the collection and use of health data, issues around working from home and compliance with the eight data protection principles.

We carried over 17 cases from 2019, and received 87 new cases consisting of 22 complaints and 65 personal data breaches. Sixteen complaints and 52 breaches were resolved, two of which resulted in formal enforcement orders. We also responded to 120 inquiries.

Because of the COVID-19 restrictions, all but nine of the outreach presentations we had planned for the year were cancelled. However, International Data Protection Day was marked with media appearances, participation in a roundtable discussion and online advertisements.

Following is a selection of case summaries relating to data protection complaints and personal data breaches.

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

DATA PROTECTION - COMPLAINTS

Case Summaries | Informal Resolution

UNPROTECTED FOOD DELIVERY WEBSITE

A complainant informed us that a senior staff member of a utility company had been using her customer profile to harass, stalk, intimidate and manipulate her. As all of the alleged breaches took place before the DPL was in force, we were unable to take any action.

The company was informed of these concerns and immediately made changes to its site to address these vulnerabilities. The complainant was satisfied that he could no longer view any of the personal data he had previously been able to access through the site. The case was closed with no further action being required.

ABUSE OF UTILITY CUSTOMER PROFILE

A complainant informed us that a senior staff member of a utility company had been using her customer profile to harass, stalk, intimidate and manipulate her. As all of the alleged breaches took place before the DPL was in force, we were unable to take any action.

Despite the fact that the incident occurred prior to the DPL coming into force, the company mitigated the situation by introducing an audit module into their account management system that allowed them to monitor staff access to customer account details. We advised the company to issue regular reminders to all staff with access to this system that misuse of personal data could be an offence under the DPL. The case was closed with no further action being required.

HEALTH INSURANCE FORM ASKING ABOUT APPLICANTS' SEX LIVES

A complainant made a complaint against a data controller for collecting sensitive personal data concerning the sexual activities of persons seeking to enter into a contract for health insurance.

The application form for medical insurance asked male applicants if they were ever involved in homosexual activities. In the course of our investigation, the data controller admitted that it had no legal basis to process such data and promptly volunteered to remove the question from the form and delete all data previously collected concerning the question, and launched a full review of all other client-facing documents to ensure compliance with the DPL.

REQUEST FOR RECTIFICATION OF FINANCIAL DATA

An individual requested the rectification of her financial data held by a bank, which she alleged was inaccurate. The data showed that a significant credit card debt was owed to the data controller (a bank). The individual claimed to have reported the debt as fraudulently incurred by an unknown third party, after which the account was closed. Some years later, the individual applied for a loan from another financial institution, but that application was rejected because of the outstanding unpaid credit card balance.

Because the complainant was unable to provide us with any evidence to support her claim that the bank had waived the credit card balance following her fraud report, we did not support the request for rectification and the case was closed.

ACCESS TO ONE'S OWN PERSONAL DATA

Two individuals made a subject access request (a request for access to their own personal data), asking for copies of all a data controller's instructions concerning them and their mortgage and loan facilities. Initially, the data controller, a financial institution, communicated that it would not comply with the request because its internal communications with supporting and processing partners were for internal consumption only and not to be shared externally with clients.

In the course of our investigation, the data controller became fully aware of its obligations under the DPL and complied with the subject access request within the appropriate timeframe, providing appropriately redacted versions of the requested documentation.

A BANK USES SOCIAL MEDIA TO FIND OUT HOW TO CONTACT AN INDIVIDUAL

An individual complained that a bank employee contacted her via third parties who knew her. The third parties were colleagues of the complainant who were identified through her friends list on social media.

Our investigation found that the personal data on the complainant's social media profile was publicly available, and there was no evidence that the staff member discussed any of the complainant's personal data with a third party. As there were no violations of the DPL, the case was closed and the complainant was advised that a complaint against the bank could potentially be made to the Cayman Islands Monetary Authority.

HEALTH CLINIC GATHERS CREDIT CARD DATA IN CONTRAVENTION OF DATA SECURITY STANDARDS

A complainant expressed concerns about the personal data handling practices of a health clinic. The registration form required patients to provide their personal data, including full cardholder details and signature, which was then sent as a PDF over unsecured email.

The clinic explained that their registration form was implemented temporarily during the COVID-19 lockdown to provide emergency care to patients following advice from the Health Practice Commission that a contactless method of collecting information and payment should be used.

The data handling practices of the clinic contravened the Payment Card Industry Data Security Standard (PCI DSS), which requires that card numbers are masked anywhere they are stored and sensitive cardholder data, such as CVVs, PINs and magnetic stripe data, is not retained after payment authorization. Processing such data in this manner would place individuals at risk of financial fraud or identity theft in the event of a personal data breach or some other misuse of the data, and contravenes the seventh data protection principle. In addition, the clinic's privacy notice (included in the registration form) did not meet the requirements of the first data protection principle.

We provided the clinic with guidance on choosing an appropriate legal basis for processing personal data and ensuring that its privacy notice complies with the DPL. We also advised it to securely destroy the cardholder data already collected. The clinic stopped using the registration form. The complainant was satisfied and the case was closed.

USE OF A SIGN-IN BOOK AND CCTV CAMERAS

A complainant queried how the Public Library processed his personal data gathered in a sign-in book and the use of CCTV cameras by the data controller during its operations.

The sign-in book contained the names of all individuals that entered the library building, along with their sign-in and sign-out data and their reasons for entering the building. The complainant indicated that persons who use the book could see all of the personal data recorded in it, including third-party data. The complainant also pointed out that the data controller used CCTV cameras that were not accompanied by a proper privacy notice.

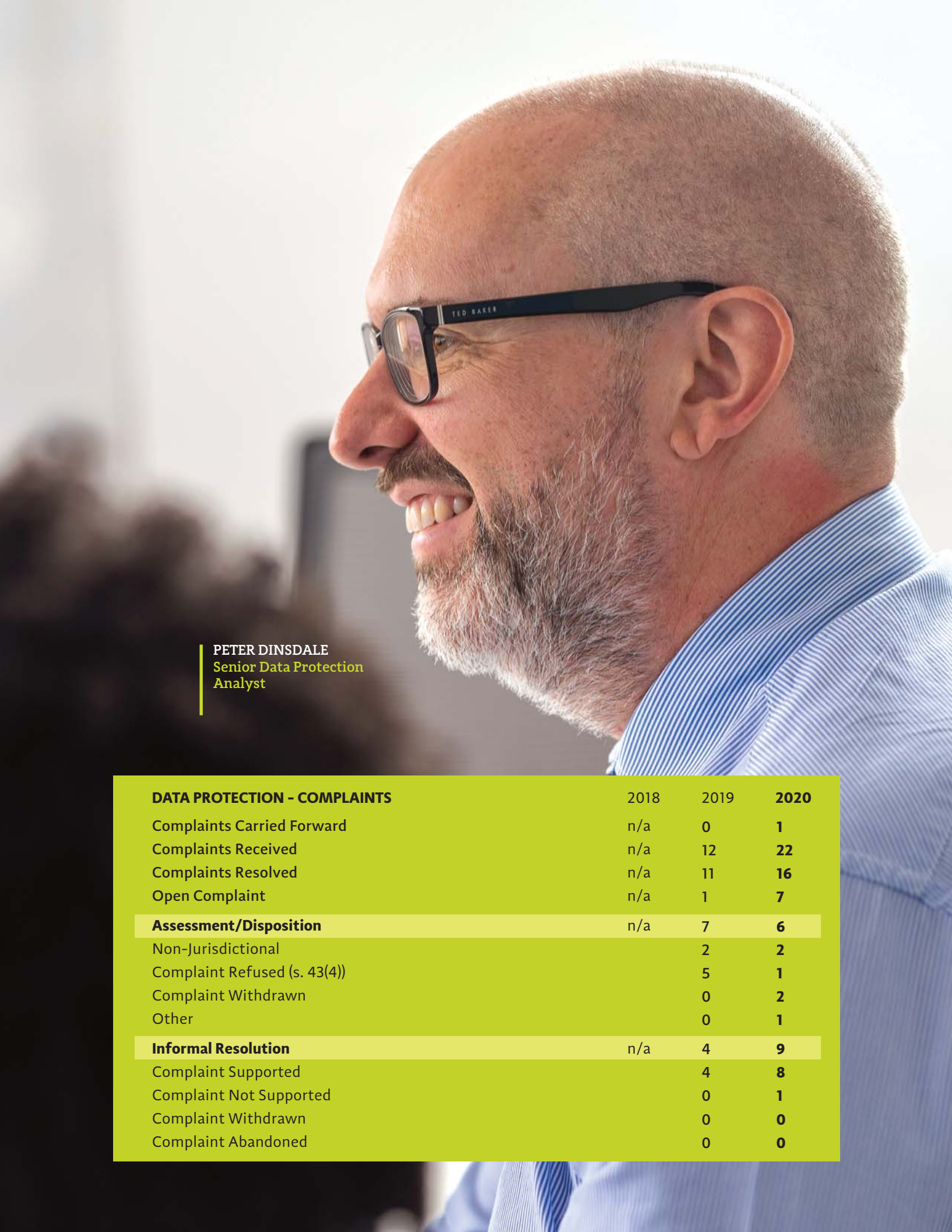
In relation to the sign-in book, the data controller relied on the “legitimate interests” legal basis, arguing that its data processing was necessary for health and safety reasons. In the event of an emergency, such as a fire, the data controller would need to be able to account for all visitors and the sign-in book fulfilled this purpose. The data controller indicated that the same legal basis applied to the CCTV cameras, reasoning that this data processing was necessary for crime prevention in the building.

Our investigation noted issues relating to the first (fair processing) and seventh (security) data protection principles, and the data controller agreed to take a number of steps to ensure compliance with the DPL, including the erection of signs to warn individuals that they were being filmed, the initiation of a specialized sign-in book, the development of policies relating to data processed by the data controller and the creation of a publicly available privacy notice.

RETAIL STORE ASKING CUSTOMERS FOR THEIR PHONE NUMBERS

A complainant raised issues about a retail store requesting their phone number at the cashier station. They were concerned that the purposes for collecting the personal data were not explained to them and that there were potential security issues in having to read out their phone number in front of other customers.

Our investigation found that there were appropriate measures in place to mitigate the low security risks related to the recording of this data. However, as there was no information given to data subjects to explain the purposes for which phone numbers were requested, the store was advised to either install signs at the cashier stations or instruct cashiers to verbally explain the purposes for collecting phone numbers. We also recommended that a privacy notice that explains all of the purposes for which personal data is being processed should be placed on the store’s website.



PETER DINSDALE
Senior Data Protection
Analyst

DATA PROTECTION - COMPLAINTS	2018	2019	2020
Complaints Carried Forward	n/a	0	1
Complaints Received	n/a	12	22
Complaints Resolved	n/a	11	16
Open Complaint	n/a	1	7
Assessment/Disposition	n/a	7	6
Non-Jurisdictional		2	2
Complaint Refused (s. 43(4))		5	1
Complaint Withdrawn		0	2
Other		0	1
Informal Resolution	n/a	4	9
Complaint Supported		4	8
Complaint Not Supported		0	1
Complaint Withdrawn		0	0
Complaint Abandoned		0	0

DATA PROTECTION - COMPLAINTS

Case Summaries | Enforcement Order

UNNECESSARILY PROCESSING PERSONAL DATA

A complainant claimed that the Registrar of Companies did not have a legal basis to process personal data of persons with less than 25% of shares in a company being registered on its online registration platform. The Registrar argued that the data is necessary for performing enhanced compliance checks to satisfy its obligations under an enactment.

The Ombudsman found that the Registrar did not have a legal basis for processing the personal data of non-registrable individuals in a blanket fashion, and required the Registry to cease gathering and further processing such data immediately.

Pursuant to the first data protection principle, the Ombudsman also required the Registrar to provide a privacy notice to inform individuals using the online platform who submit personal data of the purpose of the data processing.

DATA PROTECTION - COMPLAINTS	2018	2019	2020
Order	n/a	0	1
Enforcement Order Issued		0	1
Monetary Order Issued		0	0
Enforcement and Monetary Order Issued		0	0

DATA PROTECTION - COMPLAINTS

Case Summaries | **Own Motion**

USE OF CREDIT CARD AUTHORIZATION FORM IN CONTRAVENTION OF INDUSTRY SECURITY STANDARDS

A furniture store was using a credit card authorization form to collect payment card details and images of the front and back of the cards to process customer payments. Our investigation found that this practice was not in compliance with the PCI DSS for the protection of such data and, therefore, was not in compliance with the seventh data protection principle of the DPL. The PCI DSS applies to merchants and other entities, and requires, among other things, that sensitive authentication data, such as CVV numbers, is not stored after payment authorization and that card numbers are masked when displayed, which was not being done.

We were advised that it was the store's bank who required it to use these forms. However, the bank stated that this was incorrect and reviewed a copy of the credit card authorization form used by the store, confirming that it was not approved for use. The bank also found that the store had not completed its PCI self-certification for 2020-2021, which has since been done. We asked the store to delete all data obtained through use of the form. The store confirmed that the card authorization form is no longer in use.

DEVICES READING STORE CUSTOMERS' TEMPERATURE

We launched an investigation after it was brought to our attention that a hardware store had deployed two contactless infrared thermometers at the store entrance. The devices were capable of capturing and storing temperature readings and facial recognition (biometric) data on patrons and staff as they entered the store. If the temperature reading was high, the device notified the individual (and others in the vicinity) with a loud alarm. Contrary to the first data protection principle, no privacy notice was posted.

We were concerned about this processing of sensitive personal data in the context of the COVID-19 pandemic and in a public space. We asked the business to explain its rationale for processing the health data in this manner, as well as the legal basis for doing so, the expected retention period for the data, and the technical and organizational measures being taken to ensure a high level of security, as required.

The store confirmed the devices' capability to capture and store biometric and temperature data, but explained that those features were not implemented, as it was not its intention to obtain and store personal data. Instead, the devices were intended to reassure staff, customers and the wider community that the store provided a safe environment during the COVID-19 pandemic. It was explained to us that use of the devices was voluntary and not a requirement to enter the store, and that, in any event, the devices were being used less and less as the situation in the country improved. The devices were immediately removed.

In a final communication, we explained that the DPL does not necessarily require the store to stop using the devices, but that the manner in which they were being used needed to be clarified, explained and possibly avoided. The case was closed with no further action being required.

DATA PROTECTION - BREACHES

Case Summaries | Informal Resolution

INCORRECT ACCESS CONTROLS IN UTILITY COMPANY'S RECRUITMENT SOFTWARE

A utility provider notified us that it had experienced a data breach involving its new recruitment software. One of its employees noticed that they were able to view job applications for positions within the company that they should not have been able to access. They informed the HR department, which reviewed the access control settings for the software to ensure that permissions were restricted as required. No other unauthorized access was discovered.

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

PHISHING ATTACK AT FINANCIAL SERVICES COMPANY

A fund services company in Canada – a sister company of a Cayman Islands-based company – suffered a phishing attack that caused a data breach involving data on employees and over 2,000 external data subjects, including many who were based in the Cayman Islands. The company notified us and the data subjects in accordance with the requirements of the DPL.

We investigated the matter, but found no evidence that the threat actor downloaded the contents of any email messages from the compromised account, or that other systems (other than email) were affected. We were satisfied with the technical and organizational measures taken by the company to contain and mitigate the breach.

MISDIRECTED EMAIL WITH ACCOUNT INFORMATION

A bank notified us of a personal data breach that involved a misdirected email sent to a client that contained the email address, partial account number and account balance information of another individual.

After several attempts, the breach was contained when the recipient confirmed the deletion of the email. The bank informed us and the data subject, as required by law. The bank reiterated to its staff the importance of reviewing the contents and recipients of emails prior to sending them, and of avoiding unapproved templates that can retain personal data. Staff training is regularly provided to reduce the likelihood of these types of errors. The case was closed, as we were satisfied that the breach did not result in harm to the data subject, and that the measures taken to contain and mitigate the breach were reasonable.

PERFORMANCE ASSESSMENT SENT TO WRONG PERSON

A wealth management firm notified us of a personal data breach that involved a senior manager who inadvertently sent a performance appraisal to the wrong employee. The incident was due to a network scanner that retained the wrong recipient's email address from a previous scan job.

As soon as the error was discovered, the senior manager contacted the recipient to request the deletion of the email and the attachment. The IT team confirmed that the email had not been forwarded to another destination. The company's compliance manager and the senior manager informed the data subject of the breach, and explained the measures that the company planned to take to avoid the issue from reoccurring. A number of technical and organizational measures were also taken. We were satisfied with the response and the case was closed.

GOVERNMENT DEPARTMENT E-SERVICES WEBSITE BREACH

A government department notified us of a data breach involving an e-services website. A member of staff at a local law firm discovered that they were able to view the email addresses of other users of the site. There were 127 email addresses visible in total, although many of these were based on company roles. The law firm notified the department immediately and changes were made to the website so that future incidents of this nature are prevented.

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

A portrait of Shamique Frederick, a Black woman with long dark hair, wearing a black top and a gold necklace. She is looking slightly to the left with a gentle smile. The background is a solid orange color. In the foreground, a white mug with a blue and yellow logo is partially visible.

SHAMIQUE FREDERICK
Appeals & Compliance
Analyst

‘WHITE HAT HACKER’ INFORMS BANK OF SECURITY BREACH

A disk drive belonging to a bank’s data processor was hacked by a so-called ‘white hat hacker’ who sent the bank a few files to show certain weaknesses in their security setup. The hacker demonstrated that the breach was contained and shared information on how the drive had been accessed. Most of the data on the drive was of a technical nature, but some files contained personal data belonging to approximately 1,800 bank customers, including email addresses, active login names, ID codes and account numbers and balances, but no passwords. The hacker claimed, and this was later confirmed, not to have copied any files containing personal data.

The data controller notified the customers who were potential victims of the breach using the online banking platform’s internal messaging system, and followed up with a second notice informing the data subjects of the various forms of online fraud they may encounter, also suggesting additional mitigation actions, in accordance with the statutory requirements of the DPL.

All remote access granted to the data processor was revoked and a secure erase was performed on the hard disk drive once the investigation into the breach had been completed. The bank took measures to strengthen its compliance with the seventh data protection principle, e.g. by arranging ongoing online monitoring by an IT security company and the replacement of login

details for the internet banking platform, portfolio ID numbers and account numbers. We concluded that there was no evidence that personal data had been breached, and the incident was therefore considered a security breach rather than a personal data breach and the case was closed.

RANSOMWARE ATTACK AT OVERSEAS FINANCIAL SERVICES PROVIDER

An overseas financial services company with a presence in Cayman suffered a ransomware attack on all of its core systems, which resulted in the encryption, blocking and extraction of data. The company could not operate any of its business systems for two days, and its clients were unable to use their accounts for withdrawals or deposits. The ransom note indicated that the perpetrators had extracted at least some of the data contained in the bank’s systems.

The breach notifier initially notified us, as it thought that it was a data controller, but, on closer scrutiny of the beach notifier’s corporate structure and processing activities, we determined that it did not satisfy the definition of data controller. Consequently, we did not have jurisdiction over this data breach, as it related only to the overseas company.

PERSONAL DATA TRANSFERRED FROM COMPANY LAPTOP

A local utility company became aware of a breach concerning data downloaded from an ex-employee's work laptop, following the employee's resignation. The data controller discovered the breach when the computer was returned to the company and analysis showed that data had been exported to an external drive.

The company's IT manager and CEO visited the home of the ex-employee to convey the seriousness of the matter. They ensured that the flash drive used to transfer the data was erased and verified that no data was left on any device owned by the ex-employee. The ex-employee signed a document to acknowledge and confirm that all the data had been returned or destroyed, and that no data had been transmitted to any third parties. The ex-employee explained that the data had been collected to support his anticipated consultancy for the company, and stated that his intention was not malicious.

As a result of the breach, the IT department changed its policy for the return of laptops on the termination of employment to ensure that this happens early in the termination process. The data controller also placed a ban on the use of flash drives for transferring data, and provided further employee training to ensure that all policies and laws are understood and applied. The monitoring service for data loss protection was reviewed to ensure early warning of the movement of personal data, in particular in relation to departing members of staff.

CODING ERROR CAUSES DATA BREACH

A coding error occurred in an insurance company's accounting system, causing remittance payments to be unintentionally sent to an incorrect bank. On receiving notification from its clients that they had not received the expected funds, the company investigated internally, identified the source of the issue, remediated it immediately and sought its third-party service provider's assistance to correct the error in its IT system and ensure that all future payments would go to the right bank.

An agreement between the data controller and the unintended recipient was signed to ensure privacy and data protection. Given the commercial context in which the breach occurred, and the data controller's actions to address the breach, it was unlikely that the data subject's rights and freedoms were prejudiced, and the case was closed.

DATA PROTECTION - BREACH NOTIFICATIONS	2018	2019	2020
Breach Notifications Carried Forward	n/a	0	16
Breach Notifications Received	n/a	25	65
Breach Notifications Resolved	n/a	9	52
Open Breach Notifications	n/a	16	29
Assessment/Disposition	n/a	3	42
Non-Jurisdictional		1	4
Appropriate Actions Taken		2	34
Other		0	4
Informal Resolution	n/a	6	9
Resolved Informally		6	9
Order	n/a	0	1
Enforcement Order Issued		0	1
Monetary Order Issued		0	0
Enforcement and Monetary Order Issued		0	0

COMPLAINTS DIVISION

Maladministration

Complaints about maladministration, that is, the inefficient management or mismanagement of government, remained steady in 2020, with 59 complaints received. We were able to informally resolve a greater number of these complaints than in previous years, which is a testament to the cooperation demonstrated by the civil service.

Since our inception in 2017, we have sought to build relationships and encourage civil service and government entities to work collaboratively with their clients to address complaints directly and in a timely fashion. We continue to encourage departments to implement and build robust and responsive internal complaints processes, such that issues can be effectively tackled without our intervention. Although this remains a work in progress, we noted continued improvement in some areas during 2020.

Investigations revealed a need for the development and implementation of written policies and procedures for many government departments. The lack of policies and procedures in some areas led to the inconsistent application of laws and exposed gaps in the delivery of adequate services for some people. Our office has identified a lack of policies as a significant shortcoming for many government departments and continues to encourage development of these written documents.

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

MALADMINISTRATION	2018	2019	2020
Inquiries	58	106	109
Complaints Carried Forward	5	9	6
Complaints Received	59	72	59
Complaints Resolved	55	75	54
Open Complaints	9	6	11



“ We encourage
departments to
implement and build
robust and responsive
internal complaints
processes ”

BRIDGETTE VON GERHARDT
Senior Investigator

MALADMINISTRATION

Case Summaries | Early Resolution

CURFEW TIME EXEMPTION

Ministry of International Trade, Investment, Aviation & Maritime Affairs

A man contacted the Ombudsman's office on 20 April 2020, during the height of the COVID-19 lockdown, to allege that he was being treated unfairly in relation to a request he sent to the email address *curfewtime@gov.ky*. He was attempting to set up a business to operate during the lockdown period that he considered would provide an essential service to the travelling public. His request was initially approved but the approval notification sent too late for him to use it. A subsequent request was denied after it was determined that he could not open his business because of curfew restrictions.

During the initial review of this matter, ministry officials informed the Ombudsman that the request had been denied because none of the individuals whom the complainant was seeking to assist with his business was designated as an "exempted employee", i.e. an employee who could move around freely during the curfew hours to get to and from work.

The Ombudsman's office received further documentation of the curfew operating procedures. Following a review of the documentation for these procedures, we were satisfied that the policies had been set out as clearly as possible in this very unusual and difficult situation.

DELAYED RESPONSE TO POLICE ASSOCIATION

Portfolio of the Civil Service (PoCS)

The Royal Cayman Islands Police Association sought clarification of the government's acting pay policy for police officers and contacted the PoCS about the matter in January 2020. The association received no response from the PoCS for a period of six months. The complainant alleged that the police officer involved in this issue had been working as an acting police inspector for about seven months without receiving additional pay.

On 9 June 2020, the PoCS responded, stating that the matter had simply been overlooked and provided a full response to the association regarding the ongoing review of the acting pay situation in government. The association accepted the response and the case was closed.

IMMIGRATION STATUS UNCERTAINTY

Workforce Opportunities & Residency Cayman (WORC) and Customs & Border Control (CBC)

The complainant alleged numerous problems with obtaining information from WORC regarding his residency status on the Islands. When he contacted us, his temporary visitor permit was due to expire and he was uncertain how to proceed. We discovered that he had at least two outstanding matters before the immigration-related boards that required adjudication, including a 2014 application for permanent residence that had not been resolved.

We contacted officials at WORC, who referred the matter to the CBC. The complainant was permitted to remain on the Islands until his immigration-related appeals had been resolved.

DELAY IN PROVIDING DECISION

Labour Appeals Tribunal (LAT)

The complainant filed a complaint against the Labour Tribunal (LT) after its decision on his hearing was 56 days past the due date.

The complainant received a letter from his boss in July 2019 informing him that his work permit was due to expire that month and that it would not be renewed. He disputed this because his work permit was not due to expire until October 2020, as per the stamp in his passport. He argued that his job had been terminated and that he was therefore entitled to severance pay.

We sent an email to the Department's internal complaint procedures (ICP) manager seeking an early resolution and requested a response within 14 days. The ICP manager responded within this timeframe notifying us that the complainant had been provided with the LAT's decision. The decision supported the complainant, who received \$9,600 in severance pay.

UNABLE TO RECEIVE SALARY CHEQUES DURING LOCKDOWN

Cayman Islands Postal Service

The complainant paid her employees via cheque. Their paycheques were sent in the mail just prior to the lockdown and her employees did not receive them. She was concerned about making sure her employees received their pay, as they were in dire need of their salaries.

We advised the inquirer to email the Postal Service's ICP manager and provided her with the email address to do so. She did not receive a response so we reached out to the Postmaster General, who indicated that she would arrange for the complainant to collect her cheques later that day.

FAILURE TO REFUND A DEPOSIT

Health Services Authority (HSA)

A complainant filed a complaint because the HSA's internal complaints manager did not respond to him. He went to the HSA for treatment for an injury and they took a deposit of \$500. He left hospital because he felt that the treatment was incompetent and went directly to the airport, where he flew home to be treated. He wanted a refund of his deposit.

The complainant tried to file complaints by email after receiving no response from the hospital. He emailed us and we advised him to file a complaint with the HSA's internal complaints manager. He told us that he filed a complaint but had heard nothing since initial contact had been made.

We contacted the complaints manager and, after a number of reminders from us, the complainant received his refund.

EXCESSIVE DELAY IN PROVIDING DECISION

Labour Tribunal (LT)

The complainant filed a complaint against the LT citing that there was an excessive delay in the LT providing its decision because almost a year had elapsed since the hearing of his case.

We contacted the complaints manager stressing the urgency of the matter and we requested that the complaint be resolved swiftly. The LT chairman, who had overseen the hearing, was no longer involved; therefore, the deputy chairman was tasked with drafting the final decision, which would then be reviewed and signed off by the LT members. Further delays were caused by the availability of the members and the LT secretary being away on vacation, with no designate to fill in for her. Eventually, the final decision was provided to both parties involved.

FAILURE TO PROVIDE A DECISION ON AN APPLICATION SEEKING PERMISSION TO OBTAIN A BUSINESS LICENCE

Department of Children & Family Services (DCFS)

A complaint was filed by an employee of the DCFS because it failed to respond to her application for permission to open her own business – permission is required for civil servants to engage in outside employment.

We contacted the internal complaints manager and, after a few emails had been exchanged, were advised that the employee had received a response granting her permission to obtain the business licence.

MALADMINISTRATION	2018	2019	2020
Assessment/Disposition	26	47	28
Non-Jurisdictional	26	47	26
Complaint Refused	0	0	1
Complaint Withdrawn	0	0	1
Early Resolution	9	7	18
Successfully Resolved	9	7	17
Complaint Withdrawn	0	0	1

MALADMINISTRATION

Case Summaries | Investigation

UNDERSTANDING LEGISLATIVE AUTHORITY

Ministry of District Administration, Tourism & Transport

The complainant alleged maladministration on the part of the Public Transport Board (PTB) and its administrative arm, the Public Transport Unit (PTU), on the basis that there was an unreasonable delay in the agencies' dealing with four complaints.

We found that the delays experienced by the complainant concerning the investigation of her complaints were unreasonable. We found that the process to lodge a complaint with the PTU was not properly documented, not readily available and far too onerous. The lack of written policies, processes or guidelines and internal systems for the decision-makers amounted to inefficient administration and constituted maladministration. We also found that the response received by the complainant from the PTB concerning her four complaints did not comply with the *Cayman Islands Constitution Order, 2009*, and was not administratively fair, constituting maladministration.

We recommended that the PTB and the PTU establish and document internal processes to ensure that the process of making a complaint is clear, well documented and simple to complete. We recommended that they update their website, to ensure that accurate information is available to the public concerning the complaints process, and educate all staff on the newly established processes for lodging and investigating complaints, to ensure consistency in their approach. We also recommended that the PTB and PTU provide the complainant with a written decision in relation to each of her complaints, including adequate reasons to support the decisions. We encouraged them to apologise to the complainant for the way in which her complaints were handled. We are monitoring this file to ensure that all of the recommendations are implemented.

INADEQUATE COMMUNICATION Department of Labour & Pensions (DLP)

The complainant filed a complaint of unfair dismissal against his former employer. Over the course of the next year, there were a series of hearings before a tribunal. The complainant received an informal communication from the LT chairman that his case was successful and that he would be awarded payment. However, it took another three months for the tribunal to issue its full written decision to both parties involved.

Our efforts to informally resolve the matter were not successful and we opened a formal investigation. Shortly thereafter, the complainant received a written decision from the LT.

The Ombudsman found unreasonable delay on the part of the LT, which has, under the *Labour Law (2011 Revision)*, 28 days to issue a decision following the closure of a hearing. There were no recommendations made in this matter because of the ongoing own-motion investigation being conducted into the LT system.

BENEFITS POLICY FOR ELDERLY RESIDENTS Needs Assessment Unit (NAU)

The complainant alleged several policy violations by the NAU regarding the level of public housing and other welfare support she was receiving at the time. She stated that the NAU was denying her the additional financial assistance for rental support that she was due as an elderly and disabled person and had improperly cancelled her financial support for temporary hotel accommodation. Owing to her age and state of health, she was deemed to be at high risk should she contract COVID-19, and she was left homeless sleeping in her car.

We acted quickly, given the health risks to the complainant. The complainant was able to locate suitable public housing within about five to six weeks of making her complaint.

The Ombudsman found that the complainant was eligible for additional public housing support, partly because the NAU's written policies did not provide any specific criteria allowing it to deny the additional support. We also found that the NAU could have explained its decision better.

We recommended that the NAU review and update its public housing policies regarding elderly and indigent clients. We also reminded the NAU of the requirement to provide written reasons for its decisions under section 19 of the Constitution Order 2009, Bill of Rights. We are monitoring the NAU's progress with the implementation of our recommendations.

UNLAWFUL LABOUR CASE DELAYS

Labour Appeals Tribunal (LAT)

A complainant experienced a six-month delay in his appeal before the LAT. He had been awarded payment for wrongful termination by the LT but his former employer appealed that decision. The LAT was unable to hear the appeal within the three months required by the *Labour Law (2011 Revision)*. The hearing of the matter was well outside statutory timeframes.

During the course of our investigation, we discovered almost a dozen other LAT cases that had exceeded the legal timeline set for hearings, some by as long as two years.

The Ombudsman found in favour of the complainant and recommended that his appeal be heard within 30 days. The Ombudsman also recommended that the DLP ensure that the LAT had adequate staffing to ensure that the backlog of appeals would be properly addressed. We also recommended that both the LT and the LAT consider implementing virtual meeting technology where appropriate. We are monitoring this file to ensure that our recommendations are implemented.

MALADMINISTRATION	2018	2019	2020
Investigation	20	21	8
Supported	5	7	6
Not Supported	14	14	2
Resolved Informally	1	0	0
Complaint Withdrawn	0	0	0

A portrait of Peter McLoughlin, a middle-aged man with short, graying hair, smiling at the camera. He is wearing a light blue dress shirt and a blue tie with diagonal stripes. He is holding a black pen in his right hand. The background is a blurred office setting with a window and a whiteboard.

PETER MCLOUGHLIN
Senior Police
Investigator

COMPLAINTS DIVISION

Public Complaints About Police Conduct

This is the third year in which the Ombudsman has had oversight over public complaints involving the conduct of officers of the Royal Cayman Islands Police Service (RCIPS). Our investigative processes and approach to complaints has become more formalized and consistent, providing officers and the public with a better understanding of what we do.

Besides managing and addressing the large caseload, we have been working with legal advisors and the senior management of the RCIPS to resolve issues relating to the discipline of officers when recommended by this office. Owing to the implementation of ***The Police (Complaints by the Public) Law, 2017***, the RCIPS had to make significant changes to the way its disciplinary process is managed when recommendations for discipline are issued by the Ombudsman. This necessitated a review of several laws to ensure compliance and the

development of new policies and procedures by the RCIPS. This work is ongoing and should be completed in the near future, allowing for the advancement of all outstanding matters.

We received 57 new complaints in 2020, in addition to the 24 carried forward from the previous year, which is down slightly from the 62 received in 2019. A total of 66 cases were closed by way of informal resolution or investigation. Of the 28 investigations undertaken in 2019, 18 complaints were supported and recommendations issued, while 10 complaints were not supported.

POLICE COMPLAINTS	2018	2019	2020
Inquiries	18	33	52
Complaints Carried Forward	0	67	24
Complaints Received	143	62	57
Complaints Resolved	76	105	66
Open Complaints	67	24	15

POLICE CONDUCT

Case Summaries | Informal Resolution

LOSS OF EMPLOYMENT

The complainant was arrested by police at his place of employment. This ultimately resulted in loss of employment for the complainant. The complainant felt that the police did not display sufficient professionalism or sensitivity in dealing with this matter, the results of which were significant. He also believed that the police acted unlawfully in effecting an arrest at a place of employment.

Our investigators worked with the complainant and the officer involved. We met with the complainant several times and explained that the police have the discretion to arrest a person anywhere at any time. The officer assured the complainant that he never intended for the complainant to lose his job but that this was beyond the officer's control. Both parties agreed to resolve this matter informally.

EXECUTION OF SEARCH WARRANT

The complainant's home was searched by police under the authority of a warrant. During the search, the complainant was unhappy about the way officers conducted themselves. A young family member sustained a minor injury during the search. The complainant felt that the police did not show any empathy or concern and that the aftercare could have been better.

The officers involved expressed their regret that injury was caused to the young person. They accepted the feedback provided by the complainant and how it made them feel.

Having had the opportunity to enter the informal resolution process, each party agreed to resolve the complaint informally.

INDEPENDENT WITNESS LEADS TO COMPLAINT BEING WITHDRAWN

The complainant initially stated that they were verbally abused by a uniformed police officer at the Owen Roberts International Airport. The officer allegedly used offensive words and displayed conduct that the complainant said was rude and unprofessional. An independent eyewitness contradicted the complainant and suggested that the officer conducted themselves appropriately, unlike the complainant, who was rude to the officer.

When presented with these facts from the witness, the complainant withdrew their complaint.

POOR INVESTIGATION

The complainant was involved in a motor vehicle accident in which they suffered an injury. The offending vehicle did not stop to assist the complainant. During the investigation of the incident, the complainant came to the Office of the Ombudsman frustrated at what they believed was a lack of police action, coupled with poor communication from the officer leading the investigation.

Following interviews and meetings with all parties concerned, we discovered that the police officer had been diligent in their handling of the case. It was agreed that better dialogue between the accident victim and the police was needed. The issue was ultimately resolved to the satisfaction of the complainant.

EXECUTION OF A SEARCH WARRANT

The complainant contacted our office following the arrest of a family member when the police had executed a search warrant at his home. The complainant was unhappy about the way the armed police officers conducted themselves during entry into his home, as well as how they dealt with his family. The experience left the complainant feeling humiliated and embarrassed.

Our investigators reached out to the RCIPS Chief Firearms Officer, who was instrumental in providing explanations and a rationale as to why police officers need to enter any premises speedily. We arranged a meeting with the Chief Firearms Officer and the complainant was able to express his concerns. Based on the assurances that the complainant was given on behalf of the RCIPS about the treatment of persons and the feedback that was accepted on behalf of the complainant, an agreement to resolve this matter informally was reached.

COMPLAINANT PLAYS DETECTIVE

The complainant reported the theft of high-value construction material to the RCIPS. After a brief investigation, no leads were identified and the police closed the case. Several months later, the complainant found his stolen property in a local second-hand store and reported this to the police. Months later, the complainant found that the item was still in the store and the police had not progressed the new line of enquiry and were not keeping him updated. He filed a complaint with our office.

We consulted with the Chief Inspector of the RCIPS Professional Standards Unit (PSU) and it was established that the original investigating police officer had retired from the service. The Chief Inspector agreed that there were still avenues to investigate and reassigned the investigation. The stolen property was returned to its rightful owner and the complainant agreed to close his complaint by engaging in an informal resolution process with the RCIPS.

POLICE COMPLAINTS	2018	2019	2020
Assessment/Disposition	41	48	33
Non-Jurisdictional	8	10	12
Investigation Time Barred	2	0	1
Investigation Refused (s. 3(2)g))	8	8	4
Complaint Withdrawn	18	14	6
Complain Abandoned	5	16	10
Informal Resolution	18	22	16

POLICE CONDUCT

Case Summaries | Investigation

DRIVING UNDER THE INFLUENCE (DUI) RIDE-A-LONG ASSISTS OFFICER DURING ARREST

The RCIPS PSU forwarded a complaint made by a man who was arrested on suspicion of DUI. He alleged that, following his arrest, he was put in danger by a police officer who engaged in a vehicle pursuit with the DUI suspect in his patrol vehicle.

Following the initial DUI arrest, the man was processed at the police detention centre. He was driven home by an RCIPS officer to obtain his passport, which he was required to surrender to meet bail conditions. On the way to his residence, the RCIPS officer spotted a speeding vehicle and followed it. The DUI suspect believed that the officer's actions in following the speeding vehicle unnecessarily put his safety at risk.

When the speeding driver stopped, the police officer stopped and ordered the DUI suspect to remain in the patrol car while the officer spoke with the driver of the speeding vehicle. The officer then arrested the driver of the speeding vehicle, who was also suspected of DUI, and a struggle ensued. During the struggle, the original DUI suspect in the patrol car exited the vehicle and went to assist the police officer in the struggle with the driver of the speeding car. Eventually, another police officer took custody of the driver of the speeding vehicle and the first officer continued with the task of securing the first DUI suspect's passport.

Following an investigation, which included a review of the RCIPS pursuit policy, the Ombudsman determined that the officer involved in this situation was never actually involved in a pursuit. The driver of the speeding vehicle seemed to be unaware of the requirement to stop, since the officer's patrol car never caught up to him. If the driver of the speeding vehicle was intentionally avoiding the police, it is unlikely that he would have voluntarily stopped in a parking lot, as he did. Furthermore, the officer followed the speeding vehicle at a safe distance and a safe speed.

The Ombudsman noted that, according to the RCIPS pursuit policy, an officer must consider “whether there is a passenger or ride-a-long in the vehicle”. The policy requires the officer to consider the totality of the circumstances and weigh the risks. Everything in this incident pointed toward the officer having due regard to the DUI suspect’s safety in his patrol vehicle. It was stated that the DUI suspect told the officer to “do what you have to do” in following the speeding vehicle and that the suspect chose to place himself at greater risk by assisting in the struggle between the officer and the driver of the speeding vehicle. Finally, the complaint was made about three months after the incident, apparently at the direction of the DUI suspect’s lawyer, leaving the Ombudsman with the impression that this complaint was seen by the attorney to be of benefit to his client in the DUI case.

The complaint was not supported.

DUI SUSPECT ALLEGES MISTREATMENT IN CUSTODY

A complaint was forwarded to the Ombudsman in May 2018 concerning the treatment of a DUI suspect following his arrest. The arrest occurred in January 2015, and the initial complaint taken by the RCIPS PSU was never resolved.

The complainant alleged that officers took him to the police station following his refusal to take a breathalyzer test at the scene of a traffic stop. The man stated that police gave him water that made him sick and that one of the officers slapped him in the face.

The Ombudsman was provided with no evidence that the water given to the DUI suspect was contaminated in any way. The police officer who was alleged to have struck the suspect was no longer with the RCIPS at the time of the Ombudsman’s investigation. Therefore, that matter fell outside the jurisdiction of this office. The complaint was dismissed in February 2020.

POLICE SEIZURE OF ICT DEVICES

A man who was arrested for ICT offences complained that his electronic devices had been seized by the police. He said that he had asked for a receipt but was told he was not entitled to one. Multiple requests to have the devices returned were denied, he said. He alleged that the investigation into his case was not dealt with in an expeditious manner.

The RCIPS had the right to arrest, seize and retain the electronic devices. Part of the delay in having the devices returned was caused by a delay in accessing data on the phones due to the decision of the complainant to refuse investigating officers’ access to his cell phone access code. This was within the complainant’s right to do, but it did cause a delay in the processing of any evidence contained on the device. The Ombudsman was satisfied that the RCIPS was actively investigating this matter in a diligent manner and did not support the complaint.

DOMESTIC DISPUTE LEADS

A police officer and another individual were involved in a physical altercation. The individual alleged that the officer had assaulted him. He made a complaint to the Ombudsman, claiming excessive use of force by the RCIPS officer.

The Ombudsman determined that, while there had been a fight at the residence, there was no evidence that the officer – who was on duty and in uniform at the time – assaulted the other man as was described. Having ruled out the allegation of assault, the Ombudsman had to determine whether the officer’s use of force was appropriate in the circumstances.

The Ombudsman found that the officer involved applied necessary force to arrest the other individual, who had physically confronted the officer. The force used by the officer, initially in self-defence and then to arrest the attacker, was reasonable given that the other man’s resistance to the arrest left the officer with no other choice.

COMPLAINT OF UNPROFESSIONAL CONDUCT

The complainant was stopped and spoken to by police while he was riding his motorcycle in the grounds surrounding his strata. The way the officer spoke to the complainant together with what the complainant felt was an ultimatum to put on a helmet or face a ticket also formed part of this complaint. The lawfulness of the officer’s actions was also called into question. Initial attempts by our office to resolve this matter informally stalled when the police officer rejected this course of action.

The Ombudsman noted that police officers are expected to offer advice on safety issues as part of their duties. The actions of the police officer were deemed to be both lawful and reasonable regardless of whether the advice was given on public or private property. The Ombudsman strongly advised the officer to pay attention to their tone and demeanor when interacting with any member of the public going forward.

The complaint was not supported.

UNNECESSARY DELAY IN LANDLORD AND TENANT DISPUTE

The police response to an ongoing landlord–tenant dispute in this case led to allegations by the landlord of unprofessional conduct by a RCIPS officer.

The original dispute came to a head in September 2018, when the landlord attempted to evict his tenant, an incident that ended in threats of violence and property damage. The police were called, but the matter was settled when the landlord agreed to compensate his tenant for damages to certain property that occurred during the dispute. No arrests were made, or charges filed, in connection with the incident.

Several days after the incident, the landlord learned that a police officer, whom he believed to be a friend of his tenant, was looking for him. After some unsuccessful attempts to meet and discuss the situation, the landlord stated that during a conversation in December 2018 the police officer informed him that he should have been arrested on the night of the incident and that the landlord was

being formally warned about his conduct. In March 2019, the same police officer, acting on instructions from a supervisor, contacted the landlord to obtain his signature on a document confirming the conversation with police of December 2018, as required by police procedure, to close the case file.

It was this March 2019 request that led the landlord to contact the Ombudsman with a complaint of police misconduct, alleging that the officer involved was biased against him and was acting unprofessionally.

The Ombudsman found that it was unreasonable for the officer involved, and his RCIPS supervisor, to wait six months from the date of the original incident to issue the warning and to obtain a formal signature on the document. It seemed unlikely that this complaint would have been made if this issue had been handled in a timely manner. The Ombudsman found that the officer was unprofessional in his interactions with the landlord and had failed to keep a timely and accurate record of his actions.

POLICE USE REASONABLE FORCE DURING ARREST AND SEARCH

A man who had been searched while handcuffed and seated in a police patrol car complained to the Ombudsman that he was placed in a choke hold by an RCIPS officer during that search. He alleged that this was an unreasonable use of force by that officer.

The August 2019 incident began when the man's vehicle broke down across from a local police station. The investigation found that he had fled the scene on foot after multiple officers arrived. The fleeing man was caught and arrested and a struggle with the officers ensued, resulting in injuries to the man and two police officers. No complaints were made against either of those officers.

Following the foot chase, the man was placed in a patrol car and was searched by a third police officer.

The Ombudsman found that this was unusual, since normal police procedure would require the suspect to be searched before he was placed in the patrol vehicle. The man gave an account of the search and alleged choking that differed substantially from the one he gave to police immediately after the incident.

The police officer involved in the search inside the vehicle noted that he was forced to hold the man down using a forearm to the sternum because the suspect was struggling and kicking. The Ombudsman found that the officer's account of the incident was credible and that he had provided a reasonable explanation for why he used force. The complaint against the officer was not supported.

POLICE COMPLAINTS	2018	2019	2020
Investigation	17	35	17
Supported	7	10	3
Not Supported	10	18	11
Complaint Withdrawn	0	7	1
Complaint Abandoned	0	0	1
Other	0	0	1

POLICE CONDUCT

Case Summaries | Own Motion

UNREASONABLE USE OF FORCE DURING ARREST

Following a pursuit involving the RCIPS that occurred in early April 2020, videos surfaced on social media that gave rise to questions about the conduct of certain police officers. The Ombudsman decided that it would be in the public interest to investigate the matter.

The RCIPS had received complaints about several motorcyclists riding recklessly, performing stunts and being a nuisance. The police helicopter responded and located seven motorcycles and riders near Lookout Gardens in Bodden Town. As the police approached, the riders fled in different directions. The RCIPS officers decided to pursue one motorcyclist who appeared to pose the greatest risk to the public. The pursuit continued for approximately 72 minutes. It ended when an officer was able to grab the motorcyclist's arm and pull him to the ground. The incident was witnessed by several bystanders, some

of whom recorded it and circulated their recordings on social media. A struggle ensued and additional officers arrived to assist. Videos of the incident show one officer arriving on the scene and immediately drawing his baton and striking the motorcyclist on his leg while he was on the ground struggling with the arresting officer, who had him pinned. The officer then moved to confront a woman standing nearby, yelled at her and told her to return to her car. This same officer returned to interact with the woman on two further occasions, yelling at her and threatening arrest for recording the incident.

The Ombudsman found that the force used by the arresting officer when he grabbed the motorcyclist's arm and pinned him to handcuff him was necessary and reasonable to end the pursuit and effect the arrest. However, the Ombudsman was concerned about the second officer's use of his baton to strike the motorcyclist. She found that this use of force was unnecessary and unreasonable given that the suspect was on the ground and, although struggling to get up, was not strenuously resisting arrest. She cited several tactical and situational factors that were not considered by the officer.

The Ombudsman also found that the conduct demonstrated by the same officer when interacting with the woman at the scene did not comply with the RCIPS Code of Ethics and Standards of Professional Behaviour. This code sets out expectations for officers concerning self-control and tolerance and treating members of the public with respect and courtesy. The Ombudsman found the conduct to be unprofessional.

The Ombudsman has made several recommendations to the Commissioner of Police including considering disciplining the officer in relation to the use of his baton and his unprofessional conduct in his interactions with the woman at the scene. She also recommended that the pursuit policy be updated and implemented as soon as possible and that all officers involved be debriefed to review this incident and learn from it.

COMPLAINTS DIVISION

Whistleblower Protection

Whistleblowing relates to protected disclosures of improper conduct or detrimental action as set out in The Whistleblower Protection Law, 2015.

Complaints concerning these forms of wrongdoing remained relatively low in 2020, consistent with previous years. We believe that amendments to the law are required and that these will benefit the program and improve protection for persons who do not feel safe disclosing concerns at their organization internally. This work is ongoing and, coupled with a more proactive education campaign, we anticipate more cases of potential wrongdoing could be brought to light.

Although we do not have dedicated personnel for this program, our maladministration investigators manage these complaints and conduct investigations as required. As this program evolves further, it may be advantageous to assign a specific investigator to develop the necessary expertise and promote the program.

In 2020, we received four disclosures of improper conduct, which is consistent with 2019. Two of these complaints were resolved informally, while two remain under investigation.

WHISTLEBLOWER PROTECTION	2018	2019	2020
Inquiries	1	2	6
Disclosures Carried Forward	0	1	0
Disclosures Received	5	4	4
Disclosures Resolved	4	5	2
Open Disclosures	1	0	2
Assessment/Disposition	4	3	2
Referred to Another Agency	1	1	0
Non-Jurisdictional	3	2	2
Early Resolution	0	0	0
Supported	0	0	0
Non-Supported	0	0	0
Investigation	0	2	0
Supported	0	1	0
Non-Supported	0	1	0



SANDY HERMISTON
Ombudsman

Financial Information

BUDGET

I am pleased to report that we ended the year only slightly under budget, unlike previous years, in which we returned fairly large surpluses to the government. This was because we were almost fully-staffed this year.

GOVERNMENT OF THE CAYMAN ISLANDS

OFFICE OF THE OMBUDSMAN

FINANCIAL STATEMENTS

31 DECEMBER 2020

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STATEMENT OF RESPONSIBILITY FOR THE FINANCIAL STATEMENTS

These financial statements have been prepared by the Office of the Ombudsman in accordance with the provisions of the *Public Management and Finance Act (2020 Revision)*.

We accept responsibility for the accuracy and integrity of the financial information in these financial statements and their compliance with the *Public Management and Finance Act (2020 Revision)*.

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

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

The financial statements fairly present the financial position, financial performance and cash flows for the financial year ended 31 December 2020.

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 2020;
- (b) fairly reflect the financial position as at 31 December 2020 and performance for the year ended 31 December 2020;
- (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.

A handwritten signature in black ink, appearing to read "Sandy Hermiston".

Sandy Hermiston
Ombudsman

Date: 30 April 2021

A handwritten signature in black ink, appearing to read "Tiffany Ebanks".

Tiffany Ebanks
Chief Financial Officer

Date: 30 April 2021



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AUDITOR GENERAL'S REPORT

To the Ombudsman and the Members of Parliament

Opinion

I have audited the financial statements of the Office of the Ombudsman, which comprise the statement of financial position as at 31 December 2020 and the statement of financial performance, statement of changes in net assets/equity and statement of cash flows for the year ended 31 December 2020, and notes to the financial statements, including a summary of significant accounting policies and other explanatory information as set out on pages 9 to 24

In my opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Office of the Ombudsman as at 31 December 2020 and its financial performance and its cash flows for the year ended 31 December 2020 in accordance with International Public Sector Accounting Standards.

Basis for Opinion

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

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

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

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

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

AUDITOR GENERAL'S REPORT (continued)

Auditor's Responsibilities for the Audit of the Financial Statements

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

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

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

I have undertaken the audit in accordance with the provisions of Section 60(1)(a) of the *Public Management and Finance Act (2020 Revision)*. I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.



Sue Winspear
Auditor General

30 April 2021
Cayman Islands

OFFICE OF THE OMBUDSMAN
STATEMENT OF FINANCIAL POSITION
AS AT 31 DECEMBER 2020
(Expressed in Cayman Islands Dollars)

	Prior Year Actual CI\$000	Notes	Current Year Actual CI\$000	Approved Budget CI\$000	Variance (Budget vs Actual) CI\$000
Current Assets					
451		2,15	392	247	(145)
1		3,15,16	202	190	(12)
33			49	28	(21)
485			643	465	(178)
Non-Current Assets					
455		4,15	354	425	71
31		5,15	20	16	(4)
486			374	441	(67)
971			1,017	906	(111)
Current Liabilities					
72		6,16	30	40	10
16		7,15	33	10	(23)
-			-	6	6
50		8,15	109	-	(109)
138			172	56	(116)
138			172	56	(116)
833			845	850	5
Equity					
833			845	910	65
-			-	(60)	(60)
833			845	850	5

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

OFFICE OF THE OMBUDSMAN
STATEMENT OF FINANCIAL PERFORMANCE
FOR THE YEAR ENDED 31 DECEMBER 2020
 (Expressed in Cayman Islands Dollars)

Prior Year Actual		Notes	Current Year Actual	Approved Budget	Variance (Budget vs Actual)
CI\$000			CI\$000	CI\$000	CI\$000
Revenue					
1,743	Sales of goods & services	9,15,16	2,279	2,279	-
1,743	Total Revenue		2,279	2,279	-
Expenses					
1,320	Personnel costs	10,15	1,665	1,631	(34)
212	Supplies and consumables	11,15	211	324	113
89	Leases	12	110	112	2
37	Litigation Cost	15	60	93	33
65	Depreciation	4,5	124	119	(5)
3	Loss on disposal of assets		-	-	-
1,726	Total Expenses		2,170	2,279	109
17	Surplus or (Deficit) for the year		109	-	(109)

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

OFFICE OF THE OMBUDSMAN
STATEMENT OF CHANGES IN NET ASSETS/EQUITY
FOR THE YEAR 31 DECEMBER 2020
(Expressed in Cayman Islands Dollars)

	Contributed Capital	Accumulated Surplus/(deficit)	Total Net Assets/Equity	Original Budget	Variance (Budget vs. Actual)
	CI\$000	CI\$000	CI\$000	CI\$000	CI\$000
Balance at 1 January 2019	861	(61)	800	330	(470)
Equity Injection from Cabinet	-	-	-	50	50
Unused Equity Injection returned to Cabinet	(28)	-	(28)	-	28
Surplus for the year	-	17	17	-	(17)
Surplus repayable due for the year 2019	-	(17)	(17)	-	17
Retention of surplus	-	61	61	-	(61)
Balance at 31 December 2019*	833	-	833	380	(453)
Balance at 1 January 2020*	833	-	833	825	(8)
Equity Injection from Cabinet	12	-	12	25	13
Surplus for the year	-	109	109	-	(109)
Surplus repayable due for the year 2020	-	(109)	(109)	-	109
Retention of surplus	-	-	-	-	-
Balance at 31 December 2020	845	-	845	850	5

*There is a difference in the budget roll forward, as the 2020 budget document was updated to be more in line with actuals.

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

OFFICE OF THE OMBUDSMAN
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 31 DECEMBER 2020
(Expressed in Cayman Islands Dollars)

Prior Year Actual	Notes	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI \$'000		CI \$'000	CI \$'000	CI \$'000
	Cash flows managed on behalf of Cabinet			
	Operating Activities			
	Cash received			
1,841	Sales to Cabinet	2,078	2,279	201
-	Sales of goods and services to other Govt agencies	-	-	-
1,841	Total Cash Received	2,078	2,279	201
	Cash used			
(1,314)	Personnel costs	(1,648)	(1,644)	4
(203)	Supplies and consumables	(329)	(722)	(393)
(89)	Lease Payments	(110)	-	110
235	Net cash flows from (used by) operating activities	13	(87)	(78)
	Investing Activities			
	Cash Used			
(316)	Purchase of property and equipment	4,5	(25)	(13)
(316)	Net cash flows used by investing activities	(12)	(25)	(13)
	Financing activities			
	Cash received/(used)			
-	Equity injections from Cabinet	12	25	13
-	Payment of surplus	(50)	-	50
-	Net cash flows from (used by) financing activities	(38)	25	63
(81)	Net increase/(decrease) in cash and cash equivalents held	(59)	(87)	(28)
532	Cash and cash equivalents at beginning of year	451	334	(117)
451	Cash and cash equivalents at the end of the year	392	247	(145)

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

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 DECEMBER 2020
(Expressed in Cayman Islands Dollars)**

Description and principal activities

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

- monitoring compliance with the Freedom of Information Act (2020 Revision) by public authorities
- investigating complaints of government maladministration pursuant to the Complaints (Maladministration) Act (2018 Revision)
- public complaints against the police in accordance with the Police (Complaints by the Public) Act, 2017
- receiving and investigation disclosures of improper conduct and detrimental actions under the Whistleblower Protection Act, 2015
- regulating data protection pursuant to the Data Protection Act, 2017

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

As at 31 December 2020, the Ombudsman had 15 employees (2019: 13). The Ombudsman is located on the 5th Floor of the Anderson Square Building, George Town Grand Cayman, Cayman Islands.

Note 1: Significant accounting policies

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

The accounting policies set out below have been applied consistently to all periods presented in these financial statements. There have been no significant changes to the accounting policies during the year ended 31 December 2020.

New and revised accounting standards issued that are not yet effective for the financial year beginning 1 January 2020 and have not been early adopted by the Entity

Certain new accounting standards have been published that are not mandatory for the 31 December 2020 reporting period and have not been early adopted by the Entity. The Entity's assessment of the impact of these new standards are set out below.

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2020
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

IPSAS 41, Financial Instruments was issued in August 2018 and shall be applied for financial statements covering periods beginning on or after 1 January 2023. IPSAS 41 establishes new requirements for classifying, recognizing and measuring financial instruments to replace those in IPSAS 29, Financial Instruments: Recognition and Measurement. It is anticipated that IPSAS 41 will not have a significant impact on the Entity's financial statements. This will be assessed closer to the effective date of adoption.

IPSAS 42, Social Benefits was issued in December 2018 and shall be applied for financial statements covering periods beginning on or after 1 January 2023. IPSAS 42 defines social benefits and determines when expenses and liabilities for social benefits are recognized and how they are measured. It is anticipated that IPSAS 42 will not have an impact on the Entity's financial statements, but this will be assessed closer to the effective date of adoption.

(a) Basis of preparation

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

(b) Reporting period

The current reporting period is for the 12 months commencing 1 January 2020 and ending 31 December 2020.

(c) Budget amounts and budget period

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

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

(d) Judgments and estimates

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

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

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2020
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

(d) Judgments and estimates (continued)

As at 31 December 2020, no reliable fair value estimate of contributed goods and services provided to Office of the Ombudsman by government entities could be made and therefore no estimate of amounts are recorded in these financial statements.

(e) Revenue

Revenue is recognised in the accounting period in which it is earned. Revenue received but not yet earned at the end of the reporting period is deferred as a liability. The Office of the Ombudsman derives its revenue through the provision of services to Cabinet, to other agencies in government and to third parties. Revenue derived from third parties in 2020 were nil (2019: 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 – 5 years
• Office equipment and furniture	3 – 10 years
• Other equipment	5 – 10 years
• Leasehold improvements	5 years – over the term of lease

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2020
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

(j) Property and equipment (continued)

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

Disposals

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

(k) Employee benefits

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

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

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

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

(l) Financial instruments

The Office of the Ombudsman is party to financial instruments as part of its normal operations. These financial instruments include cash and cash equivalents, trade receivables and other 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 2020
(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 other 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 2020
(Expressed in Cayman Islands Dollars)**

Note 1: Significant accounting policies (continued)

(n) Foreign currency

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

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

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

(o) Impairment

An asset is impaired when its carrying amount exceeds its recoverable amount. If there is any indication of impairment present, the entity is required to make a formal estimate of recoverable amount. Where an impairment exist it will be recognized in the Statement of Financial Performance.

(p) Revenue from non-exchange transactions

The Office of the Ombudsman receives various services from other Government entities for which payment is made by the Government. These services 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 2020
(Expressed in Cayman Islands Dollars)

Note 2: Cash and cash equivalents

As at 31 December 2020 the Office of the Ombudsman held no restricted cash balances. No interest was earned during the year on the amounts held in these bank accounts.

Prior Year Actual CI\$'000	Description	Current Year Actual CI\$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
-	Cash on hand / Petty Cash			
451	Operational Current Account - KYD	343	247	(96)
-	Payroll Current Account - KYD	49	-	(49)
451	Cash and cash equivalents	392	247	(145)

Note 3: Receivables from exchange transactions

Prior Year Actual CI \$'000	Trade Receivables	Current Year Actual CI \$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
1	Outputs to Cabinet	202	190	(12)
1	Net Trade receivables	202	190	(12)

Prior Year Actual CI \$'000	Maturity Profile	Current Year (Gross) CI \$'000	Approved Budget CI\$'000	Variance (Budget vs. Actual) CI\$'000
1	1-30 days	202	190	(12)
-	Past due 31-60 days	-	-	-
-	Past due 61-90 days	-	-	-
-	Past due 90 and above	-	-	-
1	Total Trade Receivables	202	190	(12)

OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2020
(Expressed in Cayman Islands Dollars)

Note 4: Property and equipment

Cost of Property and equipment

	Furniture & Fittings CI\$000	Computer Hardware CI\$000	Office Equipment CI\$000	Leasehold Improvements CI\$000	Work in Progress CI\$000	Total Property and Equipment CI\$000
Balance as at 1 January						
2019	29	26	16	4	189	264
Additions	121	-	31	326	-	478
Transfers	(18)	-	-	(3)	(189)	(210)
Disposal/ Derecognition	-	(1)	-	(1)	-	(2)
Balance as at 31 December						
2019	132	25	47	326	-	530
Balance as at 1 January						
2020	132	25	47	326	-	530
Additions	-	5	7	-	-	12
Transfers	-	-	-	-	-	-
Disposal/ Derecognition	-	-	-	-	-	-
Balance as at 31 December						
2020	132	30	54	326	-	542
<u>Accumulated Depreciation</u>						
	Furniture & Fittings CI\$000	Computer Hardware CI\$000	Office Equipment CI\$000	Leasehold Improvements CI\$000	Work in Progress CI\$000	Total Property and Equipment CI\$000
Balance as at 1 January						
2019	17	6	16	3	-	42
Depreciation Expense	8	8	3	34	-	53
Transfers	(16)	-	-	(2)	-	(18)
Disposal/ Derecognition	-	(1)	-	(1)	-	(2)
Balance as at 31 December						
2019	9	13	19	34	-	75
Balance as at 1 January						
2020	9	13	19	34	-	75
Depreciation Expense	14	10	7	82	-	113
Transfers	-	-	-	-	-	-
Disposal/ Derecognition	-	-	-	-	-	-
Balance as at 31 December						
2020	23	23	26	116	-	188
Net Book value 31						
December 2019	123	12	28	292	-	455
Net Book value 31						
December 2020	109	7	28	210	-	354

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2020
(Expressed in Cayman Islands Dollars)**

Note 5: Intangible Asset

Cost of Intangible Asset

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

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

Accumulated Amortization and impairment losses

	Computer Software CI\$000
Balance as at 1 January 2019	9
Eliminate on Disposal/Derecognition	
Amortization Expense	12
Disposal/ Derecognition	
Balance as at 31 December 2019	<u>21</u>

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

Net Book value 31 December 2019	<u>31</u>
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Net Book value 31 December 2020	<u>20</u>
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OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2020
(Expressed in Cayman Islands Dollars)

Note 6: Accruals and other liabilities

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI\$'000		CI\$'000	CI\$'000	CI\$'000
37	Accruals	20	40	20
35	Core government trade with other public entities	10	6	(4)
72	Total Trade Payables, Accruals and Other Liabilities	30	46	16

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

Note 7: Employee entitlements

Prior Year Actual	Details	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI\$'000		CI\$'000	CI\$'000	CI\$'000
<i>Current employee entitlements are represented by:</i>				
15	Annual leave	33	10	(23)
1	Salaries and wages	-	-	-
16	Total employee entitlements	33	10	(23)

Note 8: Surplus payable

Surplus payable represents accumulated surplus of \$109 thousand as at 31 December 2020 (2019: \$50 thousand). Under the Public Management & Finance Act (2020 Revision) section 39 (3) (f), the Entity may “retain such part of its net operating surplus as is determined by the Minister of Finance”. The Entity has recorded a surplus payable to Government in the amount of \$109 thousand as at 31 December 2020, as the Minister of Finance has not confirmed whether the Entity can retain the surplus achieved during this year. Accumulated surplus of \$50 thousand recorded as at 31 December 2019 was repaid in 2020.

OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2020
(Expressed in Cayman Islands Dollars)

Note 9: Revenue

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI\$'000		CI\$'000	CI\$'000	CI\$'000
1,743	Outputs to Cabinet	2,279	2,279	-
1,743	Total Sale of Goods & Services	2,279	2,279	-

Note 10: Personnel costs

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI\$'000		CI\$'000	CI\$'000	CI\$'000
1,088	Salaries, wages and allowances	1,370	1,367	(3)
164	Health care	197	181	(16)
56	Pension	76	75	(1)
3	Leave	19	3	(16)
9	Other Personnel related costs	3	5	2
1,320	Total Personnel Cost	1,665	1,631	(34)

Note 11: Supplies and consumables

Prior Year Actual	Description	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI\$'000		CI\$'000	CI\$'000	CI\$'000
24	Supplies and Materials	15	32	17
123	Purchase of services	140	178	38
32	Utilities	29	40	11
-	General Insurance	-	-	-
17	Travel and Subsistence	5	28	23
9	Recruitment & Training	15	40	25
7	Interdepartmental expenses	5	5	-
-	Other	2	1	(1)
212	Total Supplies & Consumables	211	324	113

OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2020
(Expressed in Cayman Islands Dollars)

Note 12: Leases

Prior Year Actual	Type of Lease	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI\$'000		CI\$'000	CI\$'000	CI\$'000
89	Lease and Rent of Property and Sites	110	112	2
89		110	112	2

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

Prior Year Actual	Reconciliation of Surplus to Net Operating Cash	Current Year Actual	Approved Budget	Variance (Budget vs. Actual)
CI \$'000		CI \$'000	CI \$'000	CI \$'000
17	Surplus/(deficit) from ordinary activities	109	-	(109)
	Non-cash movements			
65	Depreciation	124	119	(5)
3	Loss on disposal of assets	-	-	-
	Changes in current assets and liabilities:			
98	(Increase)/decrease in receivable	(201)	(208)	(6)
37	(Increase)/decrease in prepayments	(16)	-	16
9	Increase/(decrease) in accruals and other liabilities	(42)	2	43
6	Increase in employee entitlements	17	-	(17)
235	Net cash flows from operating activities	(9)	(87)	(78)

Note 14: Commitments

Prior Year Actual		One Year or Less	One to Five Years	31 December 2020
CI\$000	Type	CI\$000	CI\$000	CI\$000
	Operating Commitments			
396	<i>Non-cancellable accommodation leases</i>	108	180	288
396	Total Operating Commitment			
396	Total Commitment	108	180	288

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

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2020
(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

Cash and cash equivalents are \$145 thousand dollars higher than budget due to timing of payments, whereby more paid and less items accrued at the end of the year.

Trade receivables

Trade receivables are \$12 thousand dollars higher than budget due to 2020 capital funding due from Cabinet received in 2021.

Prepayments

Prepayments are \$21 thousand dollars over budget primarily due to prepayments relating to retainer of legal services and license and support maintenance fees.

Property and equipment

Property and equipment is lower than budget by \$71 thousand as the budgeted amount factored in \$50 thousand in capital purchases in 2019 which did not materialize. In addition, only \$6 thousand was used in 2020 for health and safety purchases as a result of COVID out of \$25 thousand budget.

Intangible Assets

Intangible assets variance resulted due to underbudgeting of \$4 thousand dollars.

Accruals and other liabilities

Accruals and other liabilities are under budget by \$10 thousand dollars due to timing of payments being made prior to 31 December 2020.

Employee entitlements

Employee entitlements are over budget by \$23 thousand as a result of staff not being able to take as much leave as planned due to COVID 19 pandemic.

Surplus payable

Surplus payable is over budget by \$109 thousand, which is due to the \$109 thousand surplus achieved for the current year which was not budgeted. This surplus was due to the entity having a reduction in operating cost but still billing Cabinet and recognizing the total amount appropriated for 2020.

Contributed capital

Contributed capital is under budget by \$60 thousand mainly due to 2019 capital funding of \$50 thousand not used during the 2019 financial year but factored in as used during the preparation of 2020 budget.

Accumulated surplus/deficit

The budgeted amount of \$60 thousand represented an accumulated deficit brought forward from a previous year. Approval was granted to retain surplus in the amount of \$60 thousand thus clearing the accumulated deficit.

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2020
(Expressed in Cayman Islands Dollars)**

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

Statement of financial performance

Personnel Costs

Actual personnel costs are higher than budget by \$34 thousand primarily due to 5% cost of living adjustment not included in budget.

Supplies and Consumables

Total supplies and consumables were \$113 thousand under budget primarily due to reduced spending as a result of COVID in the areas of purchase of services of \$39 thousand, recruitment and training of \$25 thousand, travel of \$23 thousand, supplies and materials of \$17 and utilities of \$11 thousand.

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 \$33 thousand under budget.

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 2020 and were consistent with normal operating relationships between entities and were undertaken on terms and conditions that are normal for such transactions. These transactions are as follows:

Prior Year Actual CI\$000	Statement of financial position	Current Year Actual CI\$000	Approved Budget CI\$000	Variance (Budget vs. Actual) CI\$000
1	Trade receivables	202	190	(12)
35	Accrual and other liabilities	10	41	31
50	Surplus payable	109	-	(109)
-	Surplus repaid	50	-	(50)
Statement of financial performance				
1,743	Sale of goods and services	2,279	2,279	-

Key management personnel

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

**OFFICE OF THE OMBUDSMAN
NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)
FOR THE YEAR ENDED 31 DECEMBER 2020
(Expressed in Cayman Islands Dollars)**

Note 16: Related party and key management personnel disclosures (continued)

Compensation of Key Management Personnel

For the year ended 31 December 2020 there are three full-time equivalent (2019: three full-time) personnel considered at the senior management level. Total remuneration includes: regular salary, pension contribution, health insurance contribution, allowances, bonus and termination benefits. Total remuneration paid to key management personnel were as follows:

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

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 2020, all of the financial liabilities with the exception of surplus payable were due within three months of the year end dates.

Currency risk

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

Note 18: Subsequent events

In preparing these financial statements management has evaluated and disclosed all material subsequent events up to 30 April 2021 which is the date that the financial statements were available to be issued.

A portrait of Brent Fuller, a man with short, light-colored hair and glasses, wearing a light blue striped shirt and a dark blue tie with a pineapple pattern. He is smiling slightly and looking towards the camera. The background is a solid orange color. A vertical blue line is positioned to the left of the text.

BRENT FULLER
Senior Investigator

A portrait of Emma Hutchinson, a woman with shoulder-length brown hair, smiling warmly. She is wearing a blue top and has her hands clasped in front of her. The background is a blurred office environment with a computer monitor visible in the lower right corner. The monitor displays a website with the 'Ombudsman' logo and a partial view of another person's face.

EMMA HUTCHINSON
Senior Investigator

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