



# OFFICE OF THE OMBUDSMAN

Annual Report  
13 September - 31 December 2017

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## 2017 Annual Report

### Ombudsman's Message

It is a great honour to be appointed as Cayman Islands' first-ever Ombudsman. My vision for this newly created role is to ensure fair treatment, reasonable decision-making and transparency in the Cayman Islands Public Service. I see complaints, requests for information and whistleblower disclosures as opportunities for meaningful dialogue and improvement. I believe that where things go wrong, it is my job to recommend appropriate action to put them right, wherever possible.

The Ombudsman Law came into force on 13 September 2017 creating the Office of the Ombudsman and transferring the authority of the Information Commissioner's Office (ICO) and the Office of the Complaints Commission (OCC) to the Office of the Ombudsman. This report covers the activities of the Office of the Ombudsman from 13 September 2017 to 31 December 2017.

My initial focus was to ensure a smooth transition for the existing staff in the ICO and OCC. While the two offices were physically close, sharing a reception area and emergency exit, they operated completely independently of one another. As a result, there were a large number of administrative tasks involved in merging the existing offices.

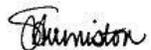
We established a single point of contact by merging telephone systems, obtaining a new web domain (ombudsman.ky), migrating to new email addresses (@ombudsman.ky). We worked with a local firm to create a new visual identity, including the new logo above, as well as an awareness campaign which will be launched in 2018.

The existing office space cannot accommodate the additional staff who are part of the new areas of responsibility; therefore Cabinet approved funding for creating a new space. We expect to move to the new space, located in the same building as our current premises, in 2018.

I interviewed candidates for five vacant positions and made offers of employment to four Caymanians and one non-Caymanian.

The Office of the Ombudsman will have authority to receive complaints by the public about police conduct under the Police (Complaints by the Public) Law, 2017 starting in 2018. We will also have authority to receive disclosures relating to the Whistleblowing (The Whistleblower Protection Law, 2015) starting 1 February 2018. Preliminary work on operational policies and an awareness campaign was commenced in 2017.

I look forward to working on behalf of the people of Cayman.



**Ombudsman**

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## Governance

The Office of the Ombudsman is governed by the Ombudsman Law, 2017 and has responsibilities under the following legislation:

- Freedom of Information Law (2015 Revision, as amended), and Freedom of Information Law (General) Regulations, 2008
- Complaints (Maladministration) Law (2014 Revision, as amended)
- Police (Complaints by the Public) Law, 2017 (effective January 2018)
- Whistleblower Protection Law, 2017 (effective February 2018)
- Data Protection Law, 2017 (effective January 2019)

The Ombudsman is an independent watchdog over government in the Cayman Islands and protector of the public. We investigate and act on complaints about government and requests for records. We will have responsibility for public complaints about the police and whistleblowing disclosures in 2018. Data protection will be added to our jurisdiction in 2019.

The Ombudsman reports to the Legislative Assembly's *Select Committee to Oversee Performance of the Office of the Ombudsman*, for the purposes of budget and expenditure.

## Our Team

The Government transferred nine existing staff from the ICO and the OCC to the Ombudsman. This involved creating new job descriptions, classifying the positions for the purposes of salary and creating new employment contracts for each person. Of the nine permanent positions seven staff members were Caymanian, one Canadian and one Belgian. The Governor appointed the Ombudsman for a term of seven years (in accordance with the Ombudsman Law) starting on 13 September 2017.

In addition to this, seven new positions were created to accommodate the increased workload of the Office: Deputy Ombudsman, Complaints Division; Senior Police Investigator, Police Investigator, Intake Officer, Senior Data Protection Analyst, (2) Data Protection Analysts.

Offers of employment for the newly created positions of Deputy Ombudsman, Senior Police Investigator and Intake Officer were made, and accepted, before the end of 2017. A new Administrative & Finance Manager was hired with a start date of 1 February 2018.

We had two staff members resign during this period. In both cases we were able to fill the vacancies with internal candidates.

- Ombudsman – Ms. Sandy Hermiston
- Deputy Ombudsman, Information Rights – Mr. Jan Liebaers
- Senior Appeals & Policy Analyst – Mr. Cory Martinson (resigned 30 November 2017)
- Appeals & Compliance Officer – Mrs. Charlene Roberts (appointed Acting Senior Appeals & Policy Analyst on 1 December 2017)
- Appeals & Compliance Officer – vacant from 1 December 2017

- Appeals & Communication Analyst – Mrs. Derrylee Martin-Rankin
- Acting Deputy Ombudsman, Complaints – Mrs. Bridgette Lazzari-von Gerhardt
- Senior Investigator – Ms. Julie Faulknor-Grant
- Senior Investigator – Mr. Daniel Lee
- Administrative & Finance Manager – Ms. Abbey Glasgow (resigned 22 September 2017)
- Customer Service/Intake Officer – Ms. Shamique Davis
- Temporary Office Support – Ms. Alicia Palmer

### **Financial Performance and Analysis**

The Office of the Ombudsman received a transfer of the remaining budget amounts from the ICO and the OCC in the amount of \$1,058,000. We spent \$384,000 and received \$500,000 as an equity injection (with approval of Cabinet) for fit-out of our new office in 2018. We ended the year with a surplus of \$417,000 which will be repaid to Cabinet as required by law.

## Complaints Division

The Ombudsman continued to deal with all existing areas of responsibility as set out in The Complaints (Maladministration) Law (2014 Revision, as amended).

The Ombudsman instituted a policy requiring investigators to seek informal resolution of all complaints before opening a formal investigation. The policy has been exceptionally successful as investigators were able to resolve all new complaints informally. Examples of the successfully resolved complaints include:

- reinstatement of two bus drivers after 2 weeks of suspension by the Port Authority, instead of 2 months as originally decided

Complaints Division	31 December 2017
<b>Complaints</b>	
<b>Referred to Internal Complaints Process</b>	4
<b>Non-jurisdictional</b>	4
<b>Maladministration</b>	6
<b>Police</b>	5
<b>Declined to investigate</b>	0
<b>Total</b>	<b>19</b>
<b>Informal resolution</b>	5
<b>Opened investigations</b>	5
<b>Ongoing investigations</b>	10
<b>Recommendations monitored</b>	9

## **Information Division**

The Ombudsman continued to deal with all existing areas of responsibility as set out in The Freedom of Information Law (2015 Revision, as amended). Two decisions were issued under the Law:

### **Decision 55-00916** (Royal Cayman Islands Police Service)

An Applicant made a request to the Royal Cayman Islands Police Service (RCIPS) under the Freedom of Information Law for information relating to a death which was the subject of an investigation by the RCIPS.

An appeal was made in relation to its refusal to disclose a letter written to the Police Commissioner. The RCIPS claimed three exemptions, respectively relating to personal information, breach of confidence and endangerment of physical or mental health. The author of the letter was invited as a party to the hearing.

The Ombudsman found that the exemption in section 23(1) of the Law relating to personal information was engaged in regard to some of the personal information of the Third Party (contact information). The other exemptions did not apply, and the letter in dispute was ordered disclosed in redacted form.

### **Decision 59-00517** (Department of Lands and Survey)

An applicant made a request to the Lands and Survey Department for records relating to a parcel of land under the Freedom of Information Law. The Department located approximately 50 pages of documents, which were partially withheld to the extent they contained personal information under section 23 of the Law.

The Ombudsman found that the records contained personal information, but that it would not be unreasonable to disclose most of them, except for three short passages, which contained sensitive personal information and it was not in the public interest to disclose them. The records were ordered disclosed in redacted form.

Information Division	31 December 2017
Appeals received	4
Informal resolution	2
Hearings commenced	2
Hearings abandoned	0
Decisions issued	2
Inquiries answered	19

Section 40 of the Freedom of Information Law requires the Office of the Ombudsman to report on the operation of the Law. The following statistics are provided by all of the public authorities subject to the Law. The Ombudsman takes no responsibility for the accuracy of the following numbers:

- (a) the number of applications for access received, granted, deferred refused or granted subject to deletions: **102**
- (b) the categories of exemptions claimed and the numbers of each category

Section	Description	# of applications
s. 9(a)	Request is vexatious	1
s. 16(b)(i)	Records relating to law enforcement (affect the conduct of an investigation or prosecution)	1
s. 16(b)(ii)	Records relating to law enforcement (affect the trial of any person or the adjudication of a particular case)	1
s. 17(b)(i)	Actionable breach of confidence.	3
s. 20(1)(c)	Legal advice (Attorney General or the Director of Public Prosecutions)	1
s. 20(1)(d)	Prejudice, the effective conduct of public affairs.	2
s. 21(1)(a)(ii)	Destroy or diminish commercial value	1
s. 21(1)(b)	Prejudice commercial interests	5
s. 23(1)	Personal information	18
s. 28(1)	Applications for amendment or annotation of personal information about the applicant	0
<b>Total</b>		<b>33</b>

(c) the number of applications received for

- i. amendment of personal records **(0)**
- ii. annotation of personal records **(0)**

(d) the number of

- i. applications for internal review or relevant decisions

**We are unable to report on this requirement. The Government has not provided us with reliable data.**

- ii. appeals against relevant decisions, and the rate of success or failure thereof

**The Ombudsman issued two decisions between 13 September 2017 and 31 December 2017. Both appeals were partially successful in that partial disclosure was ordered.**