

**TE MATO AKAMOEAO
OFFICE OF THE OMBUDSMAN
ANNUAL REPORT 2020-2021**



PARLIAMENT OF THE COOK ISLANDS

PARLIAMENT PAPER NO. 123

Rarotonga.

Mr Speaker,

I have the honour to present the Te Mato Akamoeau Office of the Ombudsman Annual Report 2020-2021

I have the honour to be,

Sir

Nooapii Tearea
Ombudsman

The **HON. VAINE MOKOROA**, Minister Responsible for Ombudsman





TE MATO AKAMOEAU - OFFICE OF THE OMBUDSMAN

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The Honourable Tai Tura,
Speaker of the House
Parliament of the Cook Islands
RAROTONGA


Kia Orana Mr Speaker,

Pursuant to Section 26 of the Ombudsman Act 1984, I have the honour to present the Annual Report for the Office of the Ombudsman (Te Mato Akamoeau) for the period of 1st July 2020 - 30th June 2021.

I have the honour to be,

Sir,

Your obedient servant


Nooapii Tearea
OMBUDSMAN

The **Hon Vaine Makiroa Mokoroa**, Minister Responsible for Ombudsman.
Mr Carl Hunter, Public Service Commissioner



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Foreword: Brief History of Te Mato Akamoeau

1. History in short

1809 The Office of the Parliamentary Ombudsman was first established in Sweden.

1984



The Ombudsman Act was passed by Parliament and assented to by His Excellency the Queen's Representative on 26 September 1984.

1985

The Office of the Ombudsman was established in February 1985.

Mr Tangata Simiona OBE was appointed first Ombudsman of the Cook Islands from 26 August 1985 to February 1992.

1992



Mr Henry Keta Brown was appointed second Ombudsman of the Cook Islands from 9 March 1992 to August 2000.

2000



Mr Andrew Mata Turua, OBE was appointed third Ombudsman of the Cook Islands as from 30 August 2000 to 14 November 2006.

2006



Ms Janet Grace Maki was appointed fourth Ombudsman of the Cook Islands from 15 November 2006 to November 2011.

2008

18th February 2008; the Official Information Act (the Act) was passed by Parliament and assented to by His Excellency the Queen's Representative. The Act came into force on 11th February 2009.



27th June 2008; The Disability Act 2008 (the Act) was passed by Parliament and assented by His Excellency the Queen's Representative. The Act came into force on the 3rd November 2008 and administered by the Ministry of Internal Affairs. Part 3 of the Act describes the functions of the Ombudsman in dealing with complaints of unlawful discrimination by or on behalf of a person or persons with a disability.

2012



Mr Tearoa John Tini, BEM was appointed fifth Ombudsman of the Cook Islands from 26 November 2012 to 26 February 2019.

The Police Act 2012 (the Act) was passed by Parliament, assented to by His Excellency the Queen's Representative on the 8th December 2012 and came into force on the day after the date on which it receives the Royal assent.

Part 9 of the Act describes the functions of the Ombudsman in relation to complaints against the Police alleging misconduct and neglect of duties or concerning any practices, policy, or procedure of the Police.

2019



Mr Nooapii Tearea was appointed sixth Ombudsman of the Cook Islands from 26 February 2019



1 Acronyms and Abbreviations

APOR	Australasia & Pacific Ombudsman Region
CI	Cook Islands
CINDC	Cook Islands National Disability Council
COVID-19	Corona Virus Disease 2019
DA	Disability Act 2008
FIU	Financial Intelligence Unit
HRC	Human Rights Commission
HRO	Human Rights Office
ICI	Infrastructure Cook Islands
IOI	International Ombudsman Institute
IPCA	Independent Police Conduct Authority
MFAI	Ministry of Foreign Affairs and Immigration
MFEM	Ministry of Finance & Economic Management
MOH	Ministry of Health (Te Marae Ora)
MOJ	Ministry of Justice
MOT	Ministry of Transport
NES	National Environment Services
NON	Non-Jurisdiction
NSDP	National Sustainable Development Plan
NZ	New Zealand
NZOOO	New Zealand Office Of the Ombudsman
NZOOO IDET	New Zealand Office of the Ombudsman International Development and Engagement Team
OA	Ombudsman Act 1984
OIA	Official Information Act 2008
OPM	Office of the Prime Minister
OPSC	Office of the Public Service Commissioner
PA	Police Act 2012
PM	Prime Minister
PNG	Papua New Guinea
PSC	Public Service Commissioner
REDD	Renewable Energy Development Division
RPM	Rethinking Performance Management
TMA	Te Mato Akamoeau (Office of the Ombudsman)
TMO	Te Marae Ora (Ministry of Health)
UN	United Nations
UNCAC	United Nations Convention Against Corruption
UNHRI	United Nations Human Rights Institute



2 Message from the Ombudsman



It is an honor and a privilege for me to serve as the Cook Island's sixth Ombudsman. I am particularly grateful for the opportunity to lead such a remarkable team; one I hold in high esteem. Collectively, we are dedicated to serving our people and we are passionate about our role in enhancing

governance, promoting administrative fairness.

As mandated by the Ombudsman Act, this report reviews the main trends and highlights of the cases my Office handled between 1 July 2020 to 30 June 2021. A majority of the resolutions and investigations described herein took place during this stage of the pandemic.

I want the people of the Cook Islands to know that my team is working diligently to ensure that we remain accessible and that we are able to help them as much as possible.

While we invest a great deal of our time in ensuring accessibility and support for our people in relation to government maladministration, we are also committed to engaging and educating the public and other stakeholders about who we are and how we work. To aid in this process, our office has been part of the Public Service Induction training course. We inform government employees in the roles and functions of the Office of the Ombudsman.

I am confident that my team in partnership with our stakeholders will continue to strive towards an open and collaborative relationship between the Government and the people of the Cook Islands.

Kia Orana e Kia Manuia

Nooapii Tearea
Ombudsman



3 Introduction

I am pleased to present my third Annual Report as the Ombudsman of the Cook Islands for the year ending 30 June 2021.

The report has been prepared for the purpose of Section 26 of the Ombudsman Act 1984, which requires that I prepare an annual report for presentation to Parliament. This Annual Performance Statement accurately reflects my Office's performance for the 2020-2021 financial year.

Under the Ombudsman Act 1984, my office is mandated to oversee and take complaints about government ministries and agencies and the services they provide. If we are to affect best practice within government, and given that our powers to modify practices or decisions are recommendations only, it is also important to my office that we build and maintain the confidence of the agencies we oversee.

I anticipate that we have another busy year ahead. The COVID-19 pandemic continues, as will government and industry public service announcements. If responses are well executed it should take into consideration that all public announcements should be accessible to persons with disabilities. The use of accessible messaging will have the desired effect to help many people in our community. We will continue to deliver the functions of the Office to influence good administration, in an effective and safe manner. Given the very large number of Cook Islanders who are reliant on forms of government assistance as a result of the pandemic; good administration, effective oversight and an accessible and responsive complaints process are more important than ever, as are the values we seek to uphold – such as fairness, transparency and integrity.

Of course, none of our work, last year or in the year ahead, would be delivered without the commitment and dedication of my hard-working staff. I thank them sincerely for their efforts and I am grateful for their positive attitude throughout the year.



4 Vision, Mission & Values

Our **VISION** the Office of the Ombudsman aims to:

Promote Fairness for All

Our **MISSION** the Office of the Ombudsman aims to achieve its vision by:

- ❖ Conducting **independent** and **impartial investigations** initiated upon receipt of complaints or acting on its own initiative, with **fair and reasonable results**.
- ❖ Developing a **collaborative** public service culture which upholds **fairness**; fosters **dedication, continuous improvement** and **commitment**; and promotes **transparency** and **accountability**, taking into account our **Cook Islands cultural values**.

Our **VALUES** Te Mato Akamoeau – Office of the Ombudsman includes the values of the Public Service as well as those specific to its office:

- ❖ Quality
- ❖ Integrity
- ❖ Impartiality
- ❖ Honesty
- ❖ Innovation
- ❖ Collaboration
- ❖ Transparency
- ❖ Accountability
- ❖ Respect
- ❖ Independence

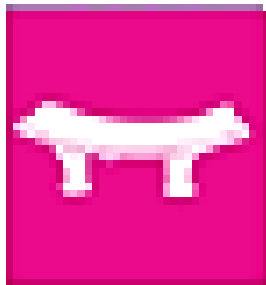


5 National Sustainable Development Plan 2016-2020

The Office of the Ombudsman's functions are aligned with the National Sustainable Development Plan (NSDP) Goal 16 - *Promote a peaceful and just society and practice good governance to promote transparency and accountability*:

We hope to achieve our goal with the following strategies:

- ❖ To conduct efficient and effective investigations of complaints and systemic reviews.
- ❖ To increase awareness amongst government agencies of their rights and responsibilities to minimise public complaints and investigations.
- ❖ To create greater public awareness of the Ombudsman's role and enhance the reputation of the Ombudsman.



16

Promote a peaceful and just society and practise good governance with transparency and accountability



6 Mandates

The four pieces of legislation that determine the jurisdiction of the Cook Islands Ombudsman are:

- ❖ The Ombudsman Act 1984 (Ombudsman Act),
- ❖ The Official Information Act 2008 (OIA),
- ❖ The Disability Act 2008 (Disability Act) and
- ❖ The Police Act 2012.

The Ombudsman Act mandates that the Ombudsman can investigate complaints about the administrative decisions or recommendations of Government Ministries and Crown Agencies.

Government Ministries and Crown Agencies that fall within the Ombudsman's jurisdiction are listed in Schedules 1 & 2 of the Ombudsman Act 1984 as substituted in 2007. They include:

- ❖ Government Ministries
- ❖ Crown Agencies
- ❖ Island Councils*
- ❖ Statutory Corporations
- ❖ State-Owned Enterprises

*Complaints regarding elected members, are reported to the *Chief of Staff - Office of the Prime Minister*



7 Organisational Structure

A new structure was approved on 8 May 2020 by the Public Service Commissioner to assist with the vision of building strong foundations in our transformative journey. Previously the structure included the role of an Assistant Ombudsman and a Corporate Services Manager who both reported directly to the Ombudsman. The next line of reporting was two Senior Investigations Officers and one Legal & Policy Officer with one Investigations Officer reporting to each of the Senior Investigations Officers. The decision to restructure was based on a knowledge gap which created an unnecessary bottle-neck which affected operations during the office's approval process. The below new flat line structure for the management team is to encourage cross-skilling and transparency between each function.

Te Mato Akamoeau – Office of the Ombudsman

Structure as at 3 August 2020

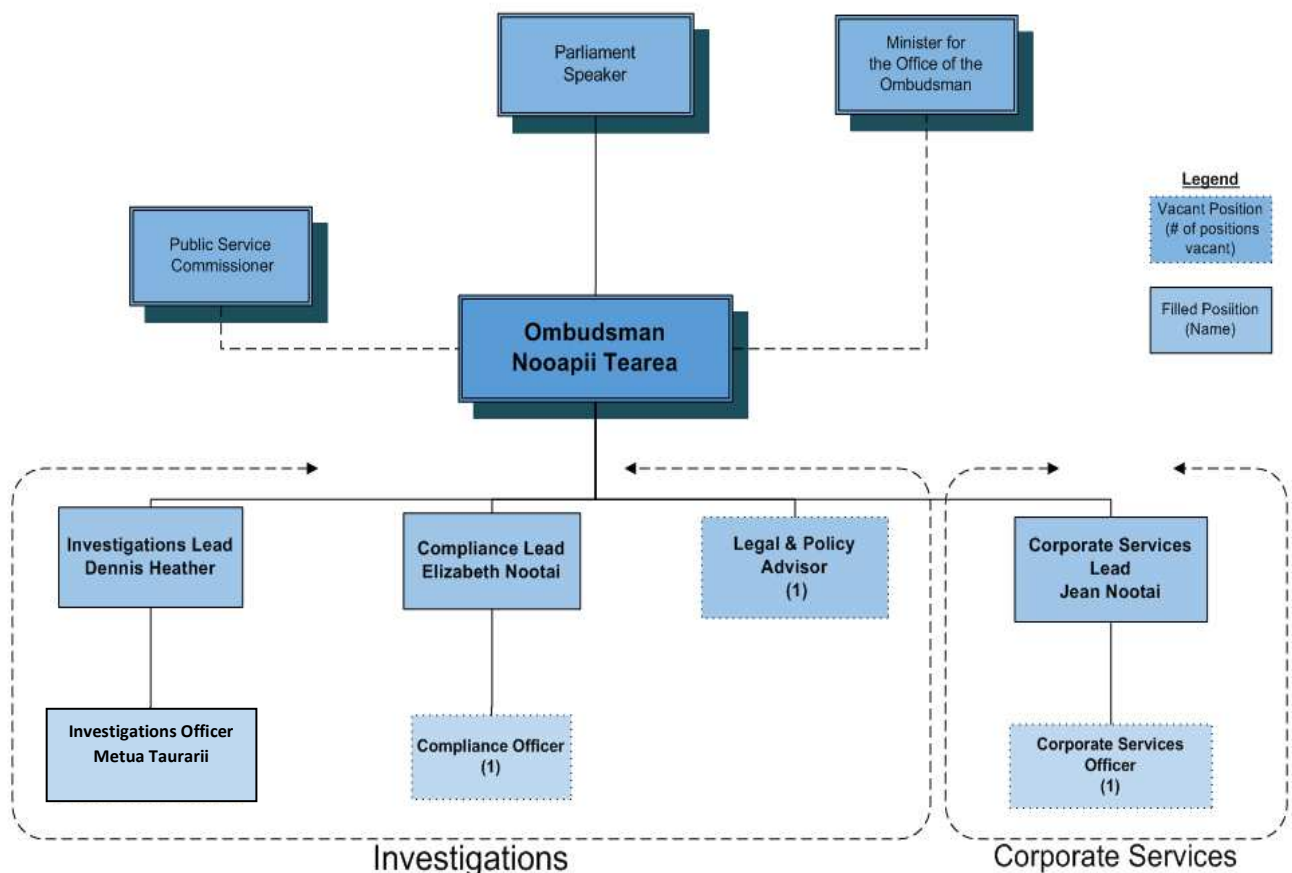


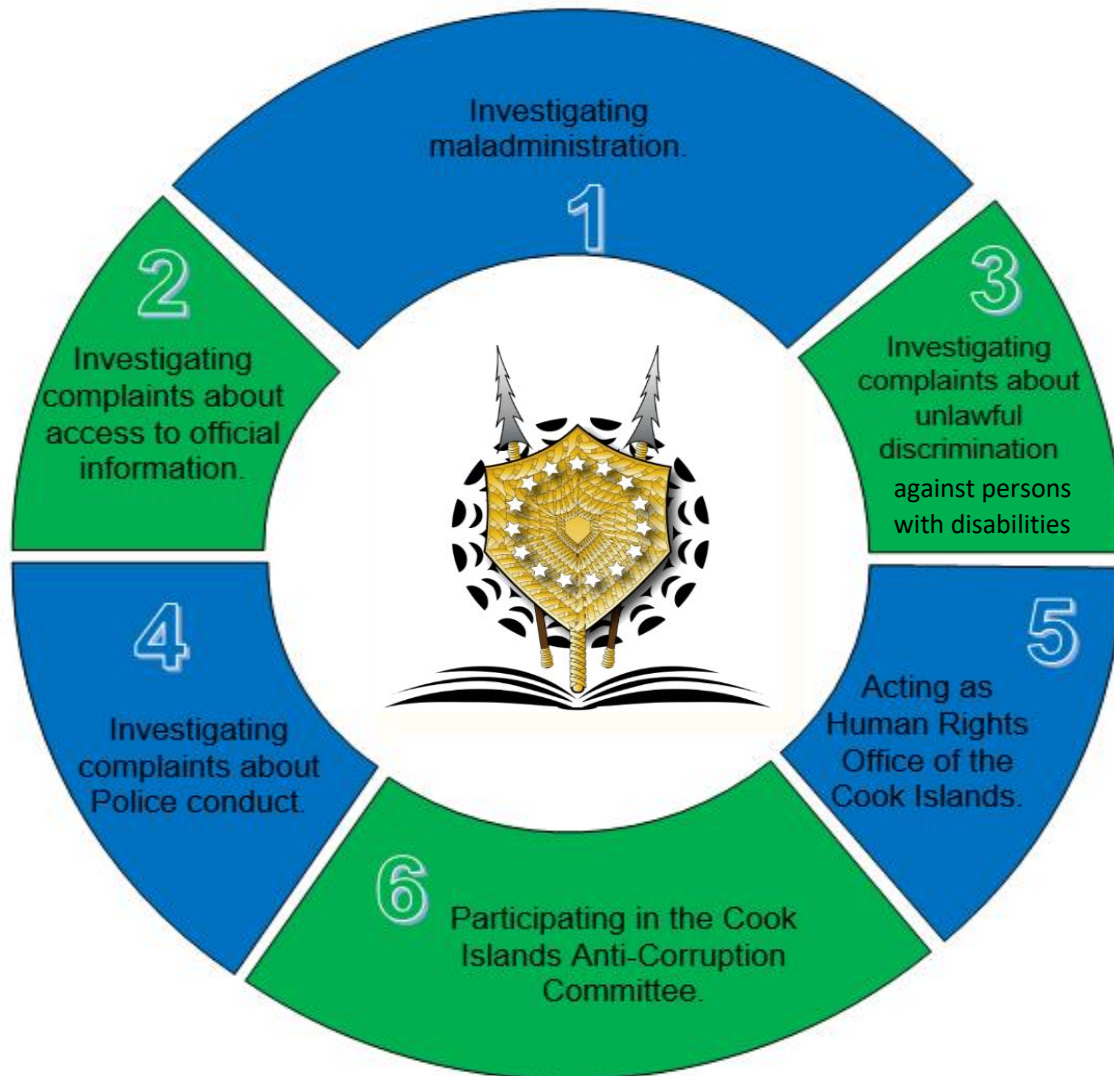
Figure 1: Office of the Ombudsman organisational structure 2020.



8 Our Functions

The Ombudsman has six main functions:

1. Investigating maladministration;
2. Investigating complaints about access to official information;
3. Investigating complaints about unlawful discrimination against persons with disabilities;
4. Investigating complaints about Police conduct;
5. Acting as Human Rights Office of the Cook Islands; and
6. Participating in the Cook Anti-Corruption Committee.



I. Investigating Maladministration

Under the Ombudsman Act 1984 (OA), I investigate 'maladministration' a broad term that encompasses biased, neglectful, incompetent and unfair administration by Government Ministries and Crown Agencies. This can be on receipt of a complaint, or on my own initiative.

Where complaints cannot be resolved, I form an independent opinion on whether the conduct at issue was wrong, unreasonable or contrary to law. I can make whatever recommendations I think fit in order to remedy maladministration. I can report to Parliament if appropriate action is not taken on my recommendations.

II. Investigating Complaints about Access to Official Information

The Official Information Act 2008 (OIA) allows people to request information held by Ministers, Ministries and Crown Agencies, including their own personal information. Providing timely access to government-held information helps the public to:

- ❖ participate in government decision making;
- ❖ understand why decisions were made; and
- ❖ hold the government to account.

The principle of availability underpins the OIA, which means that information must be made available on request, unless there is a 'good reason' for withholding it. The Act specifies what these 'good reasons' are.

Under the OIA, I investigate complaints about decisions on OIA requests, including delays and refusals. Where complaints cannot be resolved, I form an independent opinion on the agency's decision. I can make whatever recommendations I think fit. My recommendations are binding, unless vetoed by Order in Council, made by the Queen's Representative.



III. Investigating Complaints about Police Conduct

Under the Police Act 2012 (PA), I investigate complaints about:

- ❖ alleged misconduct or neglect of duty by the Police, and
- ❖ Police practices, policies or procedures that have personally affected the complainant.

Complaints must be made to the Police Commissioner first. Complainants can then come to me if their complaint is not investigated or they are dissatisfied with the outcome.

I can also investigate incidents involving death or serious bodily harm caused by or appears to have been caused by a member of Police, which must be notified to me by the Police Commissioner.

I can oversee a Police investigation, or defer action on a complaint until the Police have investigated. Complaints may also be resolved by conciliation.

After investigating (or receiving a report of the Police investigation), I form an independent opinion on the conduct or policy complained about, and make whatever recommendations I think fit. I can report to the Solicitor-General and the Minister of Police if appropriate action is not taken on my recommendations.

IV. Investigating Complaints about Unlawful Discrimination against Persons with Disability

The Disability Act 2008 (DA) recognises that persons with disability are entitled to the same rights and privileges as any other person. It also makes it unlawful to discriminate against someone because of their disability.

People can complain to me if they believe they have been discriminated against because of their disability. People can also complain to me on behalf of those who believe they have been discriminated against because of their disability. I can deal with these complaints under the DA or the OA.



Under the DA, I can help the parties to reach a settlement or make recommendations after investigating a complaint. In contrast to the OA and OIA, it is possible to complain about private entities under the DA.

V. Acting as the Cook Islands Human Rights Office

In 2007, Cabinet appointed the Ombudsman to be in charge of the Cook Islands Human Rights Office. However, the Ombudsman has been given no additional legal powers or resources to meet that task. In practice, this means that I will have regard to international human rights standards, and the fundamental human rights and freedoms guaranteed by Article 64 of the Cook Islands Constitution, where relevant when exercising my powers and functions under the OA, the PA and the DA.

I have been tasked to seek Cabinet's approval to include a human rights mechanism in the Ombudsman Bill which is currently under review. This mechanism would enable the Ombudsman to report proactively on Human Rights issues experienced in the Cook Islands.

VI. Participating in the Cook Islands Anti-Corruption Committee

In 2011, the Government ratified the United Nations Convention Against Corruption (UNCAC) and established an Anti-Corruption Committee. The Committee is tasked with the coordination of anti-corruption initiatives, including reporting on progress in implementing UNCAC.

I am part of the Committee, along with the Solicitor-General, Commissioner of Police, Head of the Financial Intelligence Unit (FIU), Director of the Cook Islands Audit Office, Financial Secretary of the Ministry of Finance and Economic Management (MFEM), Public Service Commissioner, and Chief of Staff of the Office of the Prime Minister (OPM).

The Committee does not operate under statute. It does not exercise any additional powers other than those already provided to its members, through their particular mandates and functions. In practice, this means that I will have regard to UNCAC where relevant in the exercise of my functions under the OA, OIA, PA and DA.



9 Overall Performance

Although the pandemic extended its time to a second year, there were new challenges that came with it; my office was able to perform well above its capability. Outlined in the following are our:

- ❖ key achievements
- ❖ the overview of complaints
- ❖ key challenges &
- ❖ Mitigation strategies.

I. Key achievements

a. Video Conferencing Grant NZOOO

In May of 2021, this Office was provided a \$10,000.00 grant to purchase our own Remote Video Conference Equipment.

The grant agreement that was between the Chief Ombudsman of New Zealand and the Ombudsman of the Cook Islands (CIO). The purpose of the grant was to secure video conferencing technology in order to enhance the capability of the CIO to engage remotely both domestically and internationally.

In addition, this Office currently has multiple ongoing online training with multiple stakeholders throughout the region and internationally.

b. Rebranding

In order to approach a new phase of public awareness, the office launched the new branding of the office logo. Our logo consists of five key elements that together represents and encapsulates our office and what we do.

The first element is the Fan, which is used to cool things down – in the context of our office, we are the function that 'cools down' issues between our people and the government.





The second element is the fifteen stars located in the middle of the fan which demonstrates that our people are the centre of everything we do.

The third element is the spears located at the back of the fan which symbolize protection.

The fourth element is the tikitiki-tangata (people holding hands) that signifies unity.

The fifth and final element and the most important of all, serving as the foundation of all that we do is the Bible. As Psalms 37:5 states; Commit your way to the Lord; trust in him, and he will act. With our trust in the Lord we act with no fear and no favour to achieve Fairness for All!

c. Building investigations capacity

Te Mato Akamoeau's strategic focus was to build capacity within our Investigation team in the handling of complaints. The office recruited an investigations officer, increasing the staff numbers to a total of five. We also contracted the service of a technical specialist to assist the investigations team with interviews for cases with a higher complexity.

d. Relationship with Asia Pacific Forum

While there is steady progress with the development of the Ombudsman Bill 2019 to include a human rights mandate; the team has been proactive by engaging with the regional human rights body, the Asia Pacific Forum (APF) in establishing the National Human Rights Institute for the Cook Islands. The assistance by APF has been greatly appreciated and I would like to acknowledge their generous support. The office sees this has a huge achievement in expanding and growing strong relations with our wider regional family.



e. Public outreach and planning

The team carefully explored innovative and efficient ways to effectively achieve the outcomes required to promote the office.

Part of this strategy for raising public awareness was a Public Outreach program to be delivered for groups in the Pa Enua (Outer Islands). Access to central public administration departments or ministries are all based on Rarotonga which proves to be a challenge for residents in the Pa Enua. A traditional face to face engagement was identified as the preferred approach for those residents living in the Pa Enua. However, attached to this approach is the high cost of travel, accommodation, transport and other associated expenses. The first phase of the 'Public Outreach Plan' is to be implemented during the month of July 2021, however, this will be reported on the next annual report for 2021-2022.

Furthermore, a three year schedule was developed in accordance with the office's strategic plan so that all the target groups in our community are captured.

The assistance from the New Zealand Office of the Ombudsman (NZOOO) international Development & Engagement (IDE) team has contributed to the success of the public outreach planning.

f. Public service induction

As part of the Public Outreach Planning, one of our goals was to assist government ministry's or crown agencies in official information requests, complaints handling etc. Our office is working together with the OPSC (Office of the Public Service Commissioner) as part of the Public Service Induction program. The success of the PSC Induction program has set the foundations for our public service and we appreciate the support of OPSC, the Public Service Commissioner and his team. Being part of the PSC Induction has given an opportunity for public service employees to build their capacity in the workplace and grow their network amongst the wider public service organisation.



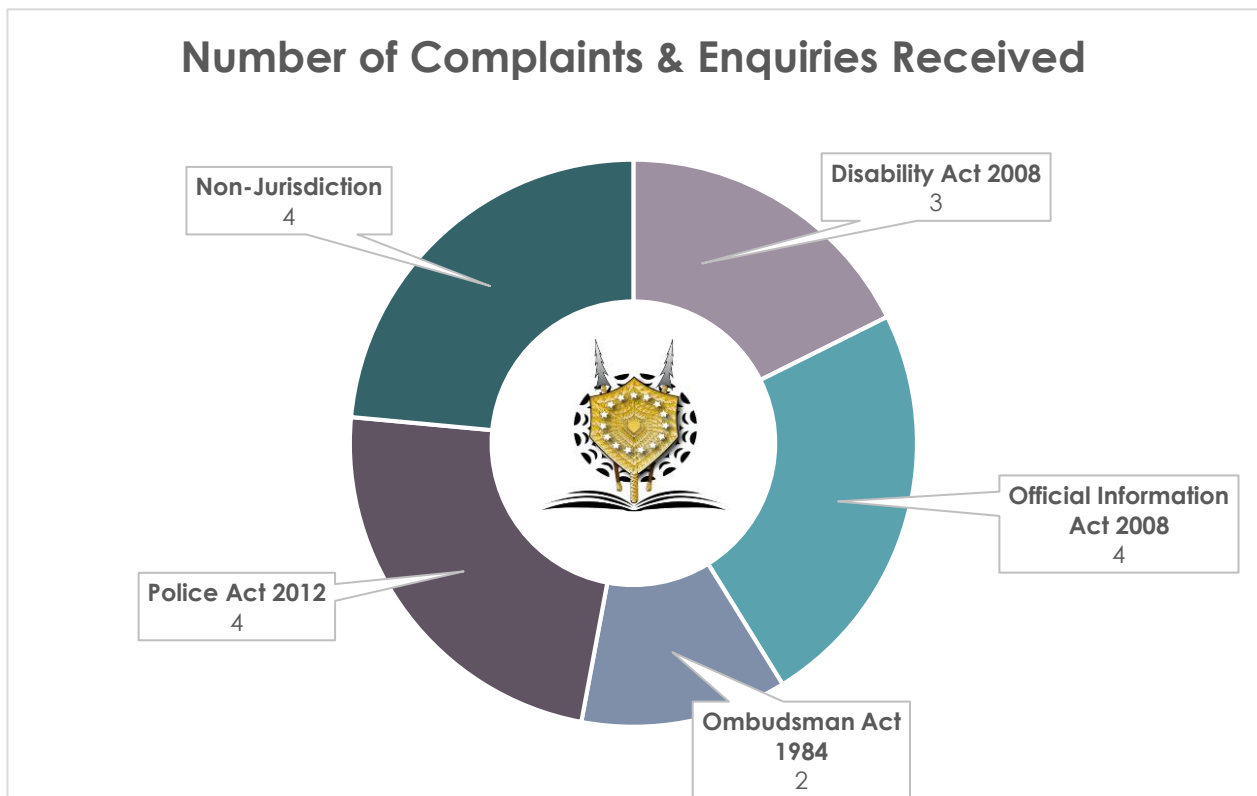
II. Complaints

a. Te au tare (the numbers)

In the Office of the Ombudsman Strategic Plan 2019 – 2024; *Goal 1 is to 'conduct efficient and effective investigations of complaints and systemic reviews'*. My team focuses on always improving and further developing its main service delivery; investigating complaints.

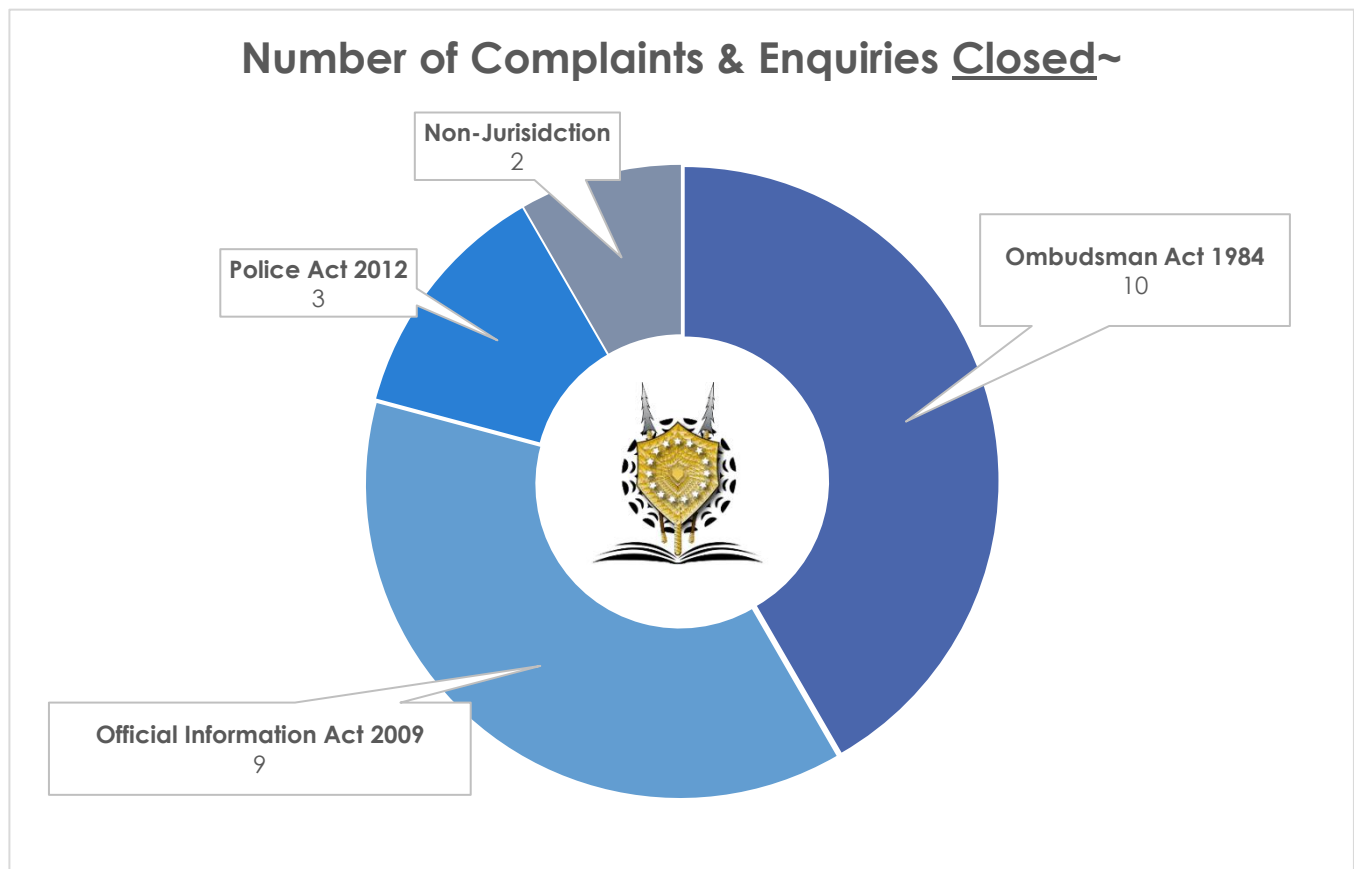
My Office received a total of seventeen (17) complaints and enquiries this year as follows:

- ❖ Two (2) Ombudsman Act 1984 (OA) matters;
- ❖ Four (4) Official Information Act x2009 (OIA) matters;
- ❖ Three (3) Disability Act 2008 (DA) matters;
- ❖ Four (4) Police Act 2012 (PA) matters; and
- ❖ Four (4) matters outside my jurisdiction



My Office **closed** a total of twenty-four (24) complaints and enquiries this year as follows:

- ❖ Ten (10) Ombudsman Act 1984 (OA) matters;
- ❖ Nine (9) Official Information Act 2008 (OIA) matters;
- ❖ Three (3) Police Act 2012 (PA) matters; and
- ❖ Two (2) matters outside my jurisdiction



~Of the twenty-four (24) complaints and enquiries closed, three (3) of the enquiries were received this year and the remaining number of closed complaints and enquiries were from previous reporting periods.

Providing a timely service to complainants is something that is important to us. Straightforward matters are usually able to be resolved in a timely manner. While we continue to make progress in reducing the number of complaints carried forward each year, a key focus for me and my team in 2021/22 will be the increase in support of Government Ministries and Crown Agencies to resolve complaints more effectively and efficiently.



Case Notes

i. Case Note 1: Non-Response (MOJ & Police)

- a) A concerned member of the public awaited a response from the Ministry of Justice to her query and began getting frustrated with the lack of response. The person concerned was directed towards our office to assist. When complaints or enquiries arrive at our office; our first action is to allow the ministry to resolve the issue first. Through some informal enquiries a resolution was able to be met between the ministry and the complainant. An apology and a full response from the Secretary of MOJ was provided to the complainant. The issue the complainant had with the Ministry, was a decision made by the court. The complainant was able to receive clarity from MOJ that the ministry is responsible for the administrative functions of the court and not its decisions. The complainant was happy with this response.
- b) Our office received an enquiry regarding the Cook Islands Police. A traffic court case prosecuted by Police ruled in favour of the complainant to receive financial compensation. The incident occurred in 2018 and the complainant had not received a response from Police. Once again our office advised the complainant to lodge a formal complaint with Police and send us a copy of the correspondence. Police responded to the complainant and received compensation. The complainants issue was the lack of response provided during his informal inquiries with the Police and there was no clear options or assistance available to resolve his concern at the time.

My team will look at the best options for complainants even if the matters they raise are outside of my jurisdiction

ii. Case Note 2: Misplaced passport

Legislation: Ombudsman Act 1984

Related Legislation: Ombudsman Act 1984 section 11

Ministry: Foreign Affairs and Immigration

Ombudsman: Nooapii Tearea

Case number: 491

Issue date: 27 November 2020

What happened

KM (the complainant) had given her employer her foreign passport to hand into the Ministry of Foreign Affairs and Immigration (MFAI) for immigration purposes. When KM approached MFAI for the return of the passport to update her motor license details, she was advised that her passport had been given back to her employer. The employer advised KM that the passport was not returned and that her passport was still with MFAI. Once again KM approached MFAI and was told again that they did not have her passport. The employer conducted a search in their office and could not find the



passport. KM took leave without pay and travelled overseas to obtain a replacement passport. With her new passport in hand KM returned back to Rarotonga. When she returned to work, a work colleague advised KM that she had seen her passport at the office of MFAI. KM visited MFAI and her original passport was returned to her. KM sent a complaint to MFAI regarding the inconvenience she experienced by having to travel overseas to obtain a new passport. KM asked to be compensated for the travel expenses and the new passport. KM did not receive a response to her complaint so she lodged a complaint with my office.

The Complaint

The unreasonable act by MFAI that:

- KM was told that her passport was not being held at their office.
- Caused unnecessary travel and expenses which would not have normally occurred had MFAI had proper procedures in place to determine the location of the complainant's passport
- They did not respond to KM's complaint

The proposed remedy

1. Monetary compensation for travel expenses incurred due to the supposed loss of KM's original passport.
2. An explanation as to why KM's complaint was not acknowledged or responded to.

What we found

MFAI by way of their Immigration department has a policy and directive in place to not keep passports in their possession for processing purposes. It would appear that KM's employer delivered her passport and stated that they would return later that day to pick up the passport. It would appear that if the process was followed by MFAI they should have declined to hold onto the passport and should have advised KM's employer to return with the passport and wait for the processing of the passport. The MFAI staff member that held on to KM's passport unexpectedly had to take long term medical leave. When KM returned to pick up the passport, staff members were not able to locate it, so MFAI assumed that the passport had been returned to KM's employer.

The delayed engagement coupled with non-response by MFAI was prevalent during this investigation.

Redress

MFAI issued an apology letter to KM and addressed their deficiencies in the misplacement of her passport and their complaints handling process. MFAI also organised an in person meeting with KM and issued a cheque for the expenses KM incurred because of the misplaced passport.



The way forward

This complaint has led to changes in the way MFAI process permit endorsements and the management of passports and complaints.

MFAI states.... “[KM’s] case highlighted for me the need to institute a policy/process so MFAI do not repeat this unacceptable level of prolonged management and response to future complaints. As I stated in the apology letter to [KM], MFAI recognise we are accountable to the public and we must maintain the public’s confidence in our systems and the services we provide.”

III. Key challenges

a. Non-Response

Non response from government ministries and crown agencies is still an ongoing issue. When members of the public do not receive responses to queries this further aggravates the situation and a conclusion is drawn, that government does not care. My office is also subjected to this conduct and it poses a challenge when carrying out complaint investigations as this adds to further delays and responses to our complainants

b. Capacity & budgetary constraints

The office has multiple functions and obligations but due to limited personnel and resources it has proved challenging. Responsibilities are being met by prioritising and ensuring resources are utilised effectively where required.

c. Public awareness campaigns

Going out into the public to raise awareness has had to take a temporary back seat while the country continued to deal with the fallout of COVID-19 (vaccinations, temporary opening of the border etc.). We are blessed that we continue to be COVID-19 free. With the planning of the outreach underway and our modified approach (the use of social media and rethinking how we can get our message out to the Pa Enua that is more meaningful and helpful to them) to address this issue. There was made mention, the importance of my office during budget appropriations held in the Parliament sitting in June 2021.



d. Independent and impartial

The main function of this office is to be fully independent and impartial, however, in the case of our budget processes and legal advice, this office is yet to be fully independent from government. The lack of legal support this office has within its current operations has become a new challenge. Under the current public service structure, the Office of the Ombudsman seeks legal support from the Crown Law Office (CLO) who is also the legal advisor to all public service administrations (government ministries & crown agencies).

With the CLO advising both this office and government ministries in legal matters, the conflict of interest from CLO has had an adverse effect relating to matters with the Ombudsman.

IV. *Mitigation strategies*

a. Public awareness

The purpose for this strategy is to continually engage with the public and collaborate with government to ensure that everyone is aware that there is a mechanism in place to question the practices of government ministries and agencies. It also means that Government ministries and agencies will be more aware of their duty to the public which will support better and best practice techniques which will lead to public trust. Outlined in this annual report, the public awareness strategy has been finalised. It is the implementation that had been partially affected due to COVID19 and budget. The way in which we conduct public awareness campaigns is an expensive exercise and is planned months in advance and then costed. Public awareness not only happens here in Rarotonga; we need to take into consideration getting our message out to the Pa Enua.

b. Advice and training

Capacity building in our office will address the key challenge of capacity constraints and mitigate some costly tasks with staff training. This will enhance our team to become more






efficient and further improve our current performances. With the success from engaging with our international partners regionally and globally such as the NZ Ombudsman International Development Engagement team; it has contributed in the benefit of us achieving our organisational obligations. We will further strengthen our relationship with NZ Ombudsman team to proactively address the challenges affecting this office by seeking advice and exploring training opportunities for upskilling.

c. International and regional relations

Building our international and regional relationships is important for our office to adapt to industry best practices and learn from our international partners. Over the last financial year, we have continued to nurture our relationship with NZ Office of the Ombudsman, the APOR members, APF and other international partners that have and continue to provide their valuable support; such as training, resources and guidance in carrying out our organisational functions. The close relationship with the NZOOO who have shown great support in providing assistance through their legal team.

d. Legal advice for Ombudsman

An independent legal advisor for the Ombudsman will contribute to the integrity of this office and create a more transparent and impartial public service administrations. The independence of the Ombudsman's position from government is also important to conduct impartial investigations, The Crown Law Office (CLO) assists the office in providing legal advice; as well as assisting with government ministries and crown agencies. The office engages with our international partners that have the capacity to provide legal advice as well so an impartial and fair proceeding is ensured. This will also relieve tasks from the CLO and enhance the effectiveness of complaints handling and ensuring quality advice to develop the Ombudsman's final opinion.

 <p>COOK ISLANDS GOVERNMENT</p>	<h1>Cook Islands Audit Office</h1>	 <p><i>Excellence in</i> AO <i>Public Sector Auditing</i></p>
<hr/>		
<h2>Office of the Ombudsman</h2>		
<h3>Report to those charged with governance</h3>		
<p>Financial statements for the year ended 30 June 2021</p>		
<p>Date of report: 3 December 2021</p>		
<p>To:</p>		
<p>Hon. Vaine (Mac) Mokoroa, Minister of the Office of the Ombudsman Nooapii Tearea, Ombudsman</p>		
<p>Distribution List:</p>		
<p>Garth Henderson, Financial Secretary Carl Hunter, Public Service Commissioner Geoff Stoddart, Public Expenditure Review Committee Chairperson Joe Caffery, Public Expenditure Review Committee Member</p>		
		

Key Message

To the Minister of the Office of the Ombudsman,

We have completed our review of the financial statements of the Office of the Ombudsman ("Office") for the year ended 30 June 2021. This report sets out our findings from the review and draws attention to areas where the Office is doing well or where we have made recommendations for improvement.

Our review was completed on 30 November 2021.

Unmodified conclusion

We issued an unmodified conclusion on the Office's financial statements for the year ended 30 June 2021.

Key review findings

We did not find any significant issues for the attention of those charged with governance or management.

Purpose of this report

This report has been prepared in connection with our review of the Office's financial statements, prepared in accordance with International Public Sector Accounting Standards (IPSAS), as at and for the year ended 30 June 2021.

This report has been prepared for those charged with governance, whom we consider to be the Minister, in order to communicate matters of interest as required by *ISSAI 2260 Communication with Those Charged with Governance*, and other matters coming to our attention during our review work that we consider might be of interest, and for no other purpose.

This report summarises the key issues identified during our review.

Thank you

We would like to take this opportunity to thank the Office and staff for all the assistance provided during the course of the review. We would also like to acknowledge the Office's finance team for the high level of preparedness observed during the review. It is very much appreciated.

Yours sincerely,



Allen Parker
Director of Audit



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COOK ISLANDS AUDIT OFFICE

1 Required communications

Type		Response
Reviewer's responsibility under Review Auditing Standards	OK	<p>We are responsible for the completion of our review in accordance with International Standard on Review Engagements (ISRE) 2400 – Engagements to Review Historical Financial Statements, and for forming and expressing a conclusion on the financial statements that have been prepared by management with the oversight of those charged with governance. The ISRE do not require us, as reviewer, to design procedures for the purpose of identifying supplementary matters to communicate with those charged with governance.</p> <p>The review of the financial statements does not relieve management or those charged with governance of their responsibilities for:</p> <ul style="list-style-type: none"> the preparation of the financial statements in accordance with International Public Sector Accounting Standards (IPSAS); or for such internal control as it determines is necessary to enable the preparation of financial statements of the Office that are free from material misstatement, whether due to fraud or error. <p>The detailed terms are included in our review arrangement letters dated 14 October 2021.</p>
Management representation letter	OK	We have not requested any specific representations in addition to those normally covered by our standard representation letter for the year ended 30 June 2021.
Significant difficulties	OK	No significant difficulties were encountered during the review.
Disagreements with management or scope limitations	OK	The engagement team had no disagreements with management and no scope limitations were imposed by management during the review.
Actual or suspected fraud, non-compliance with laws or regulations or illegal acts	OK	No actual or suspected fraud involving management, employees with significant roles in internal control, or where fraud results in a material misstatement in the financial statements was identified during the review.
Other matters warranting attention by those charged with governance	OK	There were no matters to report arising from the review that, in our professional judgement, are significant to the oversight of the financial reporting process.
Modifications to auditor's report	OK	Unmodified conclusion issued.
Other information	OK	No material inconsistencies were identified related to other information in the annual report.
Accounting practices	OK	Over the course of our review, we have evaluated the appropriateness of the Office's accounting policies, accounting estimates and financial statement disclosures. In general, we believe these are appropriate.
Related parties	OK	There were no significant matters that arose during the review in connection with the Office's related parties.
Going concern	OK	No material uncertainties over going concern noted. The use of going concern assumption is appropriate in the preparation and presentation of the financial statements.
Significant risk – management override of control	OK	There were no significant matters that arose during the review in connection with management override of controls.
Control deficiencies	OK	None.
Review differences	Note	<p>Adjusted differences: Management have adjusted 3 review differences. Refer to the schedule on page 5.</p> <p>Unadjusted differences: Management have 1 unadjusted review difference. Refer to the schedule on page 6.</p>
Breaches of independence	OK	No matters to report. The engagement team, our Office have complied with relevant ethical requirements regarding independence.



COOK ISLANDS AUDIT OFFICE

2 Corrected review misstatements

Wp Ref	Account No.	Account Type	Account Name	Income Statement Effect - Debit (Credit)	Balance Sheet Effect - Debit (Credit)				
					Equity	Current Assets	Non-current Assets	Current Liabilities	Non-current Liabilities
PAJE #1	2-5100	Current Liability	Annual Leave					7,780	
	2-5100	Current Liability	Annual Leave					(218)	
	2-5200	Current Liability	Salary Accrual					(2,832)	
	6-3102	Expense	ANNUAL LEAVE	(7,780)					
	6-3106	Expense	ANNUAL LEAVE ACCRUAL EXPENSE	218					
	6-3107	Expense	SALARY ACCRUAL EXPENSE	2,832					
	6-3102	Expense	ANNUAL LEAVE	5,662					
	1-2400	Current Asset	Crown Receivable (To correct personnel expense and employee entitlements accounts)			(5,892)			
PAJE #2	2-1420	Current Liability	Surplus Payable					(27,636)	
	3-4000	Equity	Surplus Repayable to Crown (To correct Surplus Repayable)		27,636				
PAJE #3	New	Expense	Aid Expense	9,547					
	6-2620	Expense	Expensed Assets	(8,066)					
	6-2233	Expense	Video Conferencing Grant NZ	(215)					
	6-1110	Expense	Other Expenses	(267)					
			(To recognise Aid expense and to correct posted entries)						
				1,162	27,636	(5,892)	-	(22,906)	-



3 Uncorrected review misstatements

We conclude that the above uncorrected review misstatement is not material to the Office's financial statements and concur with the Office's decision for this to remain unadjusted.



4 Definitions – Review Conclusion and Risk Rating

The definitions used to rate the risks of review issues has been adopted from the Cook Islands Audit Office's risk criteria.

Risk Rating	Definition
High	Potential for unfavourable or noticeable negative impact on the organisation's objectives, income, expenditure, human resources and/or reputation. Management attention is required to ensure that the risk is managed in line with the organisation's objectives.
Medium	Potential for unfavourable or negative impact on the organisation's objectives, income, expenditure, human resources and/or reputation. Management needs to establish controls to address risk identified.
Low	Potential minor impact on the organisation's objectives, income, expenditure, human resources and/or reputation. Management needs to identify if there is a cost benefit in establishing increased controls.

Review Conclusion	Definition
Unmodified	An unmodified conclusion is expressed when the auditor is satisfied in all material respects with the matters on which an overall conclusion is required to be drawn.
Modified	<p>A modified conclusion is expressed when either of the following circumstances exists:</p> <p>(a) there is a limitation on the scope of the auditor's examination; or</p> <p>(b) the auditor disagrees with the treatment or disclosure of a matter in the written assertion or set of assertions; and, in the auditor's judgement, the effect of the matter is or may be material.</p> <p>In order of severity (most to least), qualified review conclusions may take the following form:</p> <ul style="list-style-type: none"> Disclaimer – expressed when there is a limitation on the auditor's work as a result of the lack of review evidence Adverse – expressed when the results of a disagreement with management or a conflict between applicable financial reporting frameworks is significant and pervasive Qualified – expressed when an unmodified conclusion is inappropriate because of a disagreement with management or a conflict between applicable financial reporting frameworks is not so significant and pervasive



10 Future priorities

I. Establishing the Cook Islands National Human Rights Institute

The office will continue to enhance its jurisdiction with the development of the Ombudsman Bill 2019 to include a human rights mandate and proactively build its regional relationships with APF on training and advice on establishing a NHRI for the Cook Islands.

II. Staffing, training and succession

















Continued development in capacity building of personnel is important to the contribution of delivering this organisations obligations through its main functions. From the previous annual report, the focus was reviewing the organisational structure so that a foundation was set in order for the team to function more effectively and efficient. The change proved to be very promising which has created an opportunity to improve specific functions of the office which included one of our main function in assisting persons with disability.

III. Public awareness growth

The office will continue to focus on reaching out to the public and public administrations on the services and assistance our office can provide. With the public outreach planning complete and scheduled to be implemented, the results and findings of this programme will be reported in the next annual report.

Appendices

Appendix 1 – NSDP 2016-20

	1	Improve welfare, reduce inequity and economic hardship
	2	Expand economic opportunities, improve economic resilience and productive employment to ensure decent work for all
	3	Promote sustainable practices and effectively manage solid and hazardous waste
	4	Sustainable management of water and sanitation
	5	Build resilient infrastructure and Information Communication Technologies to improve our standard of living
	6	Improve access to affordable, reliable, sustainable, modern energy and transport
	7	Improve health and promote healthy lifestyles
	8	Ensure inclusive and equitable quality education and promote life-long learning opportunities
	9	Accelerate gender equality, empower all women and girls, and advance the rights of youth, the elderly and disabled
	10	Achieve food security and improved nutrition, and increase sustainable agriculture
	11	Promote sustainable land use, management of terrestrial ecosystems, and protect biodiversity
	12	Sustainable management of oceans, lagoons and marine resources
	13	Strengthen resilience to combat the impacts of climate change and natural disasters
	14	Preserve our heritage and history, protect our traditional knowledge, and develop our language, creative and cultural endeavours
	15	Ensure a sustainable population engaged in development by Cook Islanders for Cook Islanders
	16	Promote a peaceful and just society and practice good governance with transparency and accountability