

TE MATO AKAMOEAU OFFICE OF THE OMBUDSMAN BIENNIAL REPORT 2022-2024



PARLIAMENT OF THE COOK ISLANDS

PARLIAMENT PAPER NO. 158

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Mr Speaker,

I have the honour to present the Te Mato Akamoeau Office of the Ombudsman Annual Report 2022-2024.

I have the honour to be,

Sir

Niki Rattle Ombudsman

The HON. VAINE MOKOROA, Minister Responsible for Ombudsman



TE MATO AKAMOEAU - OFFICE OF THE OMBUDSMAN

Harley Street, Pokoinu, Nikao, Rarotonga, Cook Islands, P. O. Box 748, Tel: (682) 20605 <u>Email: niki.rattle@cookislands.gov.ck</u>

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 2022 - 30th June 2024.

I have the honour to be,

Sir.

Your obedient servant

Niki Rattle

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

History in Short

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

1984

1985



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

The Office of the Ombudsman was established in February 1985.

Mr Tangata Simiona OBE was appointment 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.

2012



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.

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 to 31 December 2021.

A new organizational structure was approved on 8 May 2020 by the Public Service Commissioner.

2022



Mrs Niki Rattle was appointed seventh Ombudsman of the Cook Islands from 27 January 2022 to present.

Elected as the Australasian Pacific Region President (APOR) Nov 203 and a Director of the International Ombudsman Institution (IOI) at The Hague in May 2024.

Relocated to current Ombudsman office on Harley Street in Pokoinu, Nikao. A location that encourages and enables inclusivity and accessibility for the people



From left: NZ High Commissioner - HE Catherine Graham, Ombudsman Alisi Taumoepeau (Tonga), Prime Minister-Honourable Mark Brown, Ombudsman Niki Rattle and Australian Ambassador Phoebe Smith attending the 40th Anniversary for Te Mato Akamoeau — Office of the Ombudsman.

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
NHRI National Human Rights Institution

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

UNCEDAW United Nations Convention of the elimination of all forms of discrimination

against women.

UNCRPD United Nations Convention of the rights of people with disabilities.

UNCRC United National Convention of the Rights of Children

UNCAT United Nations Convention against Torture

UNHRI United Nations Human Rights Institute

2. MESSAGE FROM THE OMBUDSMAN



Ombudsman Niki Rattle

It is indeed a great honour and pleasure to have served our people as the seventh Ombudsman since 27 January 2022, alongside a dedicated small team of staff. As mandated by the Ombudsman Act of 1984, I am pleased to present this report on the exercise of my functions under this Act for the period from 1 July 2022 to 30 June 2024.

On 26 September, we celebrated the 40th Anniversary of the Ombudsman Office with a fitting event held at our office on Pokoinu Road, attended by over 60 guests. The main purpose of this auspicious occasion was to recognize, with enormous gratitude, each former Ombudsman, their families, and the staff who have served our people over the past four decades.

Mr. Tangata Simiona, OBE, was the first Ombudsman following the passage of the Act by Parliament in 1984. The Office officially opened in 1985, and he served until his retirement in 1992.

Mr. Henry Keta Brown, the second Ombudsman, served from 1992 to 2000. He is the father of our current Honourable Prime Minister, Mark Brown.

Mr. Andrew Mata Turua, OBE, the third Ombudsman, was appointed in 2000 and served until 2006. During his tenure, he presented the first Annual Report to Parliament.

Ms. Janet Maki, appointed in 2006 as the fourth and first female Ombudsman, brought a wealth of experience after 11 years in the Crown Law Office. Significant achievements were made during her tenure, including the passing of the Official Information Act in 2008 and the Disability Act in 2008.

Mr. Tearoa John Tini, BEM, the fifth Ombudsman, served from 2012 to 2019. During his time, the Police Act of 2012 was passed by Parliament.

Mr. Nooapii Tearea, the sixth Ombudsman, held office from 2019 to 2021, during which he presented Annual Reports to Parliament.

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It was an honour to have Prime Minister Mark Brown deliver the Keynote Speech, which held special significance as his father, Mr. Henry Brown, was the second Ombudsman.

The event was graced by the presence of the three pillars of our Nation: Orometua Nanai of Nikao CICC, Kaumaiti Iti Tinomana Ariki, Karika Ariki Vaine, Vakatini Ariki, Prime Minister Mark Brown, Cabinet Minister Tingika Elikana, Leader of the Opposition MP Tina Browne, HE Catherine Graham, NZ High Commissioner, Australian Ambassador Phoebe Smith, heads of ministries, families of former Ombudsmen and staff who had passed, representatives of civil society organizations, as well as friends and families.

Te Mato Akamoeau has enjoyed a very special partnership with New Zealand Ombudsman Mr. Peter Boshier and his Investigation staff, who travelled to join us in celebrating the 40th Anniversary, along with a one-week training session for my staff.

We were also honoured by the presence of Ombudsman Alisi Taumoepeau from the Tonga Ombudsman Office, who expressed her delight in visiting, marking her first official visit to a Pacific Ombudsman Office since assuming her role. We are proud to have welcomed her, especially as we frequently collaborate in a regional study group facilitated by the New Zealand Ombudsman Office via Zoom.

My team and I are fortunate to have valuable partnerships for investigation training with organizations such as the New Zealand Office of the Ombudsman (NZOO), the Asia Pacific Forum, and the South Pacific Community, which provide us with essential knowledge and best practices in human rights. We also collaborate with the Australian Pacific Ombudsman Region for regional growth and with the International Ombudsman Institute for global development.

Te Mato Akamoeau will continue to work closely with ministries and across the public sector, ensuring that both Rarotonga and the Pa Enua are included in our efforts to improve services for everyone.

Kia Manuia e te katoatoa.

Niki Rattle

Ombudsman

3. INTRODUCTION



Ombudsman Niki Rattle presenting the Prime Minister - Honourable Mark Brown his father's Ombudsman plaque during the 40th year anniversary celebration for the Cook Islands Ombudsman Office.

This report has been prepared in accordance with Section 26 of the Ombudsman Act 1984, which requires me to present an annual report to Parliament. This Annual Performance Statement accurately reflects my Office's performance for the financial years 2022-2023 and 2023-2024.

My Office is mandated under the Ombudsman Act 1984 to oversee and receive complaints about government ministries and crown agencies regarding the services they provide. While we can only make recommendations, our role is to advocate for improvements in government practices and decisions. It is also essential for my Office to collaborate

effectively to maintain the confidence of the ministries and crown agencies we oversee.

This confidence is crucial, and we must share information among the ministries within our mandate according to the four pieces of legislation governing our roles and responsibilities. Only by doing so can we ensure a mutual understanding of our individual and combined duties to the public we serve.

Additionally, our Office has the responsibility to reach out to the public and share information about their rights and responsibilities under the legislations we are mandated to operate within, including those in the Pa Enua.

In my view, the public is well informed about their rights. As a result, they are increasingly asking questions, raising issues, and challenging services when they feel they are not treated fairly.

Te Mato Akamoeau will continue to strive in delivering our mandates across the public sector and the people of the Cook Islands, ensuring the inclusion of both Rarotonga and the Pa Enua in our outreach efforts for the betterment of all.

Kia Manuia e te katoatoa.

Niki Rattle Ombudsman

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 <u>VALUES</u> 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 AGENDA

The Office of the Ombudsman's functions are aligned with the National Sustainable Development Agenda (NSDA). **Goal 15: Our security a peaceful and just society**. Refer to Appendix 1 for the goals of the NSDA.

We hope to achieve our goals 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.

The establishment of the National Human Rights Institute, when endorsed by the Cabinet will increase the number of NSDA Goals the Ombudsman Office mandate will align with.

The Constitution of the Cook Islands Part IV Art 64 holds the Fundamental Human Rights and Freedoms of the people of the Cook Islands.



Ombudsman Niki Rattle presenting gifts to former Ombudsman's family of Mr Tangata Simiona, Mr John Tini, former staff Nooke Thomas receiving gift on behalf of former Ombudsman Ms Janet Maki. Ombudsman expressed gratitude to all the families for their willingness to support their families during their time of service ensuring fairness for all.

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

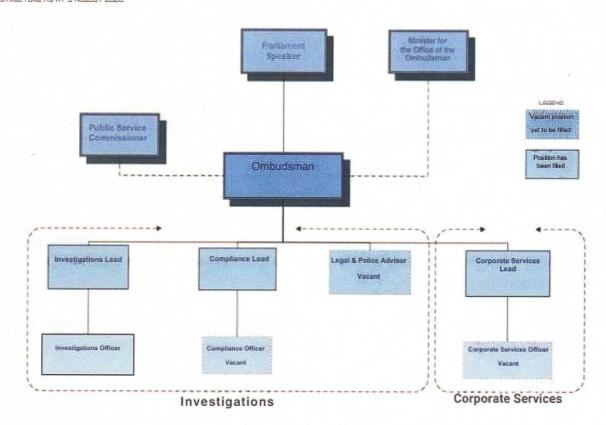
The Crown Law Office in consultation with the Ombudsman Office is updating the schedules of the Ombudsman Act to insert the former listed Ministries, Agencies, who have undergone name change and fell out of the jurisdiction of the Ombudsman Act are being reinserted onto the list. This will then be presented to the Executive Council for endorsement.

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

7. ORGANIZATIONAL 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.

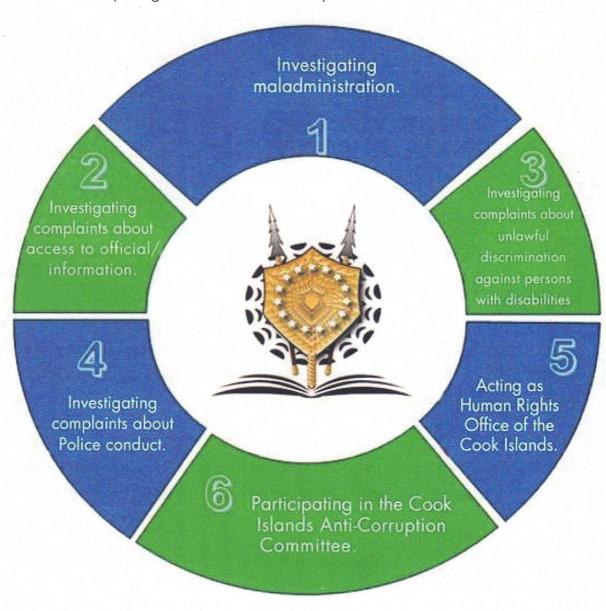
Te Mato Akamoeau - Office of the Ombudsman



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.



8.1 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.

8.2 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 King's Representative.

8.3 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.

Tragically, there have been two fatal cases under the Police Act, which are particularly devastating for the parents of young teenagers. Such occurrences must be handled with the utmost care, empathy, and compassion. It is essential to remember that every victim involved in an accident has a family and community behind them, so be mindful of the broader impact. Ensure that all proper procedures are followed and be responsible.

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.

The Former Commissioner and the Ombudsman signed a Letter of Agreement in an effort to improve the collaboration of the two offices, a new arrangement is being anticipated.

8.4 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.

In 2020, during the COVID-19 pandemic, the deaf community filed a complaint with the Ombudsman's Office. The complaint was citing discrimination based on disability. The deaf community felt excluded from important information disseminated on television and radio, which was delivered solely through spoken language. Although captions were sometimes used, they moved too quickly for many to follow, and the community stressed the critical need for a sign language interpreter, as they were being left out of essential, life-saving information.

The Ministry of Health, Ministry of Internal Affairs, and the Office of the Prime Minister were identified by the Crown Law Office as the most appropriate agencies to implement sign language services. However, this proved challenging, and the Ombudsman approached the Public Service Commissioner to adopt a whole-of-government approach, as the issue spans across different ministries, particularly in areas like disaster management.

The deaf community envisions training people in sign language, raising awareness of their needs, and being included in community affairs. They also want to feel safer during disasters and emergencies, with full inclusion in these critical communications. After all, the Cook Islands has ratified the Convention on the Rights of Persons with Disabilities, and the deaf community expects the government to honour this commitment.

8.5 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. and this still stands. The Minister responsible for the Ombudsman Office Hon. Mac Mokoroa presented the Submission to Cabinet proposing to Cabinet to:

- Approve the Ombudsman be conferred with additional functions, powers, and protections to become the NHRI of the Cook Islands;
- → Approve the drafting of a Bill to amend the Ombudsman Act 1984 ('the Act') to establish the Ombudsman as the NHRI;
- → Approve additional appropriations necessary to ensure the Ombudsman is effectively resourced to fulfil the functions as the NHRI.

The submission to Cabinet was deferred due to a lack of fiscal space. 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.

8.6 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). There has been a change of Chairman from the Secretary of MFEM to the Office of the Public Services Commissioner.

The Committee does not operate under any specific statute and does not hold any additional powers beyond those already granted to its members through their individual

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mandates and roles. In practice, this means I will consider the United Nations Convention Against Corruption (UNCAC) when relevant in carrying out my duties under the Ombudsman Act (OA), Official Information Act (OIA), Public Administration Act (PA), and Disclosure Act (DA). The Anti-Corruption Commission (ACC) hired a consultant with support from UNCAC, and after extensive consultations, the National Anti-Corruption Strategy was developed, which is currently awaiting Cabinet approval. This strategy was widely consulted on and translated into Māori to make it easier to share with the public.

9. OVERALL PERFORMANCE

Outlined in the following are our:

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

9.1 Key Achievements

9.1.1 Public Outreach & Engagement

In our ongoing effort to increase transparency, accountability, and public awareness, the Ombudsman's office has made significant strides in engaging with diverse sectors of the community. These outreach initiatives have strengthened relationships with key stakeholders, enhanced public understanding of our role, and ensured accessibility to our services.

Public Service Orientation:

As part of our outreach, the office participated in the Public Service Orientation program, which introduced new public servants to the core values and functions of the Ombudsman. This initiative ensured that government employees understood the importance of accountability and their rights and responsibilities when it comes to public complaints and information access.



Presentation to Island Administration – 15 September 2023:

In September 2023, we engaged directly with employees from Island Administration and Island Government to present the office's functions. This presentation aimed to deepen the understanding of the Ombudsman's mandate and its role in promoting good governance at the local government level.

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Outreach to Community Groups – 22 November 2023:

A key aspect of our outreach focused on engaging with grassroots organizations. By presenting the office's functions to community groups like Nui, we educated community members about how our services can address their concerns, promoting greater inclusivity in addressing public grievances.

Meeting with Parliament of Western Australia – 20 February 2024

I had the privilege of meeting with members of the Western Australia Parliament to discuss ongoing initiatives aimed at enhancing good governance and transparency in the Cook Islands. The dialogue also addressed the unique challenges faced by Pacific nations, paving the way for greater international collaboration and support. This meeting underscored the importance of partnership in advancing shared goals and promoting sustainable development across the Pacific.





Ombudsman Rattle with members of the Western Australia Parliament

9.1.2 New Office Location

On October 2023, the Ombudsman's office marked a significant milestone with the relocation to a new, more accessible location in Nikao, Pokoinu Rd (Harley Street). This move represents our commitment to enhancing public service delivery and creating a welcoming environment for both staff and the community.



Figure 1 New Office building - Pokoinu, Nikao

Blessing and Official Opening:

The new office was officially opened on 12 October 2023 with a traditional blessing ceremony attended by government officials, community leaders, and stakeholders. This event symbolized a fresh chapter for the office as we continue our work in promoting transparency, accountability, and good governance in the Cook Islands. The purpose of the relocation was to improve accessibility for the public. The relocation not only reflects the office's growth but also aligns with our long-term strategy to be more visible and responsive to the needs of the community.

9.1.3 Capacity Building & Regional Cooperation

HRCLD Workshop Lautoka, Fiji – November 2022:

My office engaged in a Human Rights
Community-Led Development (HRCLD)
workshop in collaboration with the Samoa
Ombudsman and Fiji Human Rights Office.
Funded by The Pacific Community (SPC) and
the Asia Pacific Forum (APF), this workshop
aimed at strengthening human rights
advocacy in the Pacific region.
The workshop focused on building capacity
among staff to facilitate community-led
initiatives in the Cook Islands.



Figure 2 HRCLD Group with Fiji PM Bainimarama

HRCLD Workshop Apia, Samoa - March 2023:

Continuing the HRCLD program, staff from my office attended a second workshop in Apia, Samoa. This workshop emphasized the practical aspects of facilitating community-led initiatives, focusing on what to expect during the process. Participants gained insights into effective strategies for guiding communities in identifying their issues and developing solutions. The training also highlighted the importance of collaboration among Pacific Island nations, enhancing our ability to support and empower local communities in their advocacy efforts.

OIA Training with Ministry of Transport – 9 August 2023:

The office conducted a training session for the Ministry of Transport, focusing on the implementation of the Official Information Act (OIA). This training aimed to improve the Ministry's understanding of its obligations under the OIA, promoting greater transparency and enhancing public access to government-held information.

Our First HRCLD Meeting with NGOs and Youths - 8 February 2024:



Figure 3 Office of the Ombudsman with Disability and Youth representatives

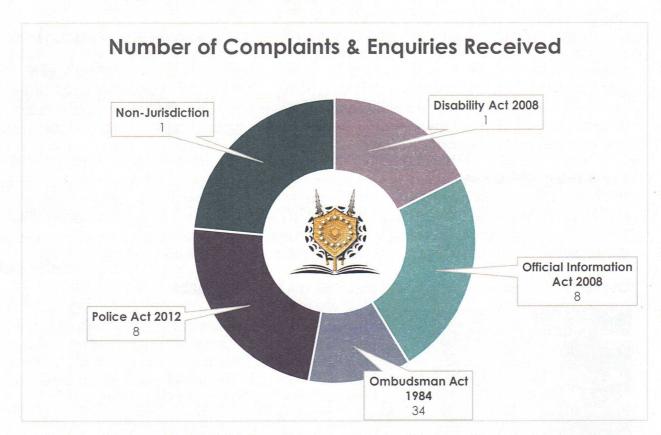
My office facilitated its first Human Rights Community-Led Development (HRCLD) meeting with local NGOs and youth groups, specifically those focused on disability and youth sectors. This meeting centered on Disaster Risk Reduction for persons with disabilities, addressing the unique challenges they face in emergency situations. Participants engaged in meaningful dialogue about the importance of inclusive planning and preparedness, sharing insights on how to effectively support vulnerable communities during disasters.

9.2 Complaints

9.2.1 Te au tare (the numbers)

My Office received a total of – Fifty-Two (52) complaints and enquiries from 1st July 2022 - 30th June 2024 as follows:

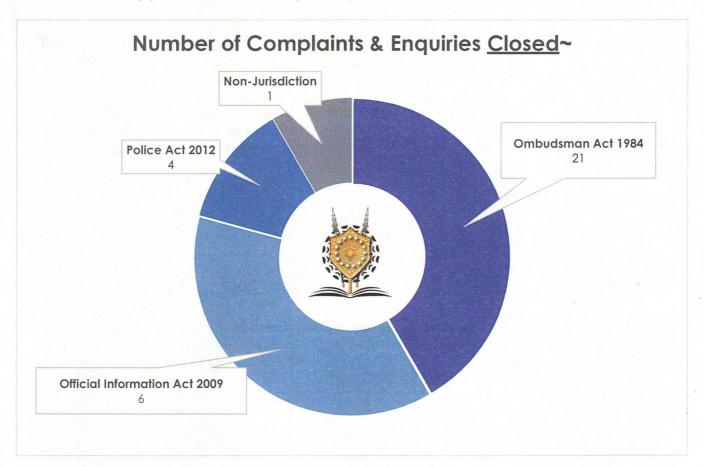
- Thirty-Four (34) Ombudsman Act 1984 (OA) matters;
- Eight (8) Official Information Act 2009 (OIA) matters;
- One (1) Disability Act 2008 (DA) matters;
- Eight (8) Police Act 2012 (PA) matters; and
- One (1) matters outside my jurisdiction



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My Office <u>closed</u> a total of – Thirty-Two (32) complaints and enquiries this year as follows:

- Twenty-One (21) Ombudsman Act 1984 (OA) matters;
- Six (6) Official Information Act 2008 (OIA) matters;
- Four (4) Police Act 2012 (PA) matters; and
- One (1) matters outside my jurisdiction



9.3 Case Notes

9.3.1 Case Note 1

Complaint received: 2018 Complaint closed: 2022 Legislation: Police Act 2012

Agency: Cook Islands Police Service

Ombudsman: Mrs Niki Rattle

In 2022, I issued my final opinion to the Commissioner of Police, on a complaint received from the parents of a deceased victim involved in a fatal motor vehicle crash (MVC).

What Happened

In November 2017, Police attended the MVC. Their case file was prepared with witness statements of frontline police officers, the doctor's medical report and photos taken by frontline. This case was handed over to the Criminal Investigation Branch for primary handling of the investigation.

The Complaint

The Police provided the family with a list of their findings, but the family were not happy with the details that were provided and believed Police did not execute their duties in the context of their investigations into the cause and the circumstances of the MVC. The family believed that the conclusions drawn by the Police and the coroner appeared to be subjective and non-evidenced based.

The parents of the deceased stated "...that the Cook Islands Police service are insensitive and indifferent in dealing with the members of our family there was no empathy to the trauma our family was experiencing at the sudden and unexpected death of a cherished son, brother, uncle, grandson, nephew, cousin and friend to many."

What We Found

Upon investigation of this matter, it was discovered that the inexperience and negligence in the application of Police to their General Instructions played a major part in their failure to carry out a proper and thorough investigation of this MVC.

It was concluded that Police had acted unreasonably in this matter and it would appear that Police may have acted unlawfully by failing to adhere to their own Cook Islands Police Act 2012 by the non-compliance to their Police General Instructions.

There was a list of twenty-two (22) recommendations provided to Police. They ranged from prescriptive measures to update the Police General Instructions manual; Improve staff writing capabilities for report writing; further tertiary study and staff refresher training from approved providers for staff development; quality management system for quality assurance; templated guidelines to ensure accuracy of case files; accuracy in photographic evidence; independent expert opinions; taking into consideration the grieving families point of view and to promote humanitarian principles within police operations and the importance of timely responses.

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The Way Forward

This case was received in 2018, and saw the case being handled by three different Ombudsmen with diverse investigation styles as well as a change of Police Commissioner. Other factors that contributed to the length of time this case remained unresolved was; the loss of institutional knowledge due to staff departure, insufficient human resources and government's priority being COVID-19 relief which was in place for a two-year period.

During the investigation of this complaint, it was identified that there was a need for a more proactive follow up by my office to expedite responses to my letters and actions to the recommendations given to Police.

This case (as with others we have received) is a clear indication that Police need more resources and consistent, on-going training to perform effectively and efficiently in their roles. It would also be of benefit that proper human resource management processes are strengthened in this organization to support Police staff in health and wellbeing and to ensure succession planning is properly implemented to ensure retention of young upcoming police leaders.

It is of interest to note that Police are to receive on-going training assistance from their counterparts in New Zealand. Furthermore, my office will continue to build its working relationship with the Police and find ways to effectively engage and provide constructive guidance which will lead to improved Police standards.

9.3.2 Case Note 2

Complaint received: 2024 Complaint closed: 2024

Legislation: Ombudsman Act 1984

Agency: Ministry of Transport (Liquor Licensing Authority)

Ombudsman: Mrs Niki Rattle

Background

A resident submitted a complaint regarding excessive noise levels from a local establishment, particularly during the evening hours. The resident raised concerns about loud music and strong bass affecting nearby homes and approached my Office after previous complaints to the police were not satisfactorily resolved.

Key Issue

The primary concern was the disturbance caused by excessive noise, especially after 9:30 PM. The complainant sought intervention to ensure compliance with noise control regulations, aiming to minimize disruptions to the local community.

Actions Taken

The complainant had reported the issue multiple times to the Cook Islands Police Service, who subsequently requested the establishment reduce its volume. However, the noise disturbances persisted. Following the complaint lodged with my office, I

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engaged with the Chair of the Liquor Licensing Authority (LLA) to address the matter. A meeting was convened between the LLA and the management of the establishment, resulting in a resolution.

Resolution Agreement:

- 1. **Music Levels:** The establishment agreed to lower the volume to an acceptable level by 9:30 PM each evening.
- 2. Bass Control: The bass component of the music would be completely turned off by 9:30 PM.
- 3. Community Engagement: The establishment committed to notifying local residents in advance of any upcoming concerts or major events that may result in increased noise levels.

Outcome

The complainant expressed satisfaction with the resolution, noting that the agreedupon conditions had been implemented. The case was officially closed upon the complainant's acknowledgment of the resolution.

9.4 Key Challenges

9.4.1 Non-Response

This continues to be a real challenge and while it is understandable that Ministries are busy and have multiple responsibilities, there is also the tendency not to give the complaints any importance as my Office has to follow-up constantly. There is a need for the Ministries to understand that while they don't respond, the delay goes on and it is not fair to the complainant and the problem is exacerbated with frustrations.

9.4.2 Capacity & budget constraints

With investigations being the main function of my Office with, one Investigation Lead and One Investigation Officer is not enough to handle the intensive work involved in consulting with various people, gathering information, and writing reports at different stages of the investigation process for both the Ministry under investigation and the complainant, as well as other relevant parties. It is a demanding role, and the capacity to deliver is extremely limited.

The Ombudsman's budget has not increased in many years, making it impossible to hire additional Investigation staff.

9.4.3 Public Awareness campaigns

This is an area where the Office needs to improve its delivery, but staff capacity is limited, as there are not enough people, and existing staff are spread too thin. The team supports the Public Service by providing awareness presentations for new recruits during staff orientation. However, there is also a need for staff to update the Facebook page and website, which has not been maintained due to time constraints. Although we use free media, additional funding is needed to support planned public awareness campaigns aimed at reaching both Rarotonga and the Pa Enua. We are grateful for the financial support from regional and international donors, which allows us to visit the Northern Group.

9.4.4 Independent and impartial

The independence of my office is being challenged, and it is unclear why, as an Officer of Parliament, I am answerable to a different Minister rather than the Minister of Parliament, who I believe should be responsible for supporting the Ombudsman's budget. It is also important that my office's budget be independent and separate from Ministries and Crown Agencies. The Ombudsman Act (OA) states that the Ombudsman's travel expenses should be covered under the Civil List, like a Minister's, but this has not been implemented.

9.5 Mitigation Strategies

9.5.1 Public awareness

Public awareness needs to be supported with adequate funding and staff to ensure the public understands the functions of the Office and how to access its services. Additionally, there should be internal government awareness to ensure that Ministries understand our role. We do not take sides but work to ensure fairness for both the public and the Ministries.

9.5.2 Advice and training

My Office has been fortunate to receive advice and high-quality investigation training from the New Zealand Ombudsman's staff over the years. More recently, we have also benefited from expert training throughout the Pacific. However, we are unable to attend regional or international Ombudsman staff training due to a lack of available funding. We also need a Policy and Legal Adviser in our Office, as this would support our investigations and reduce delays in obtaining expert assistance.

9.5.3 International and regional relations

My Office is a member of the Australasian Pacific Ombudsman Region (APOR) and the International Ombudsman Institution (IOI). As of October 2023, I serve as the President of APOR, which also makes me a Director on the IOI Board. However, my Office lacks the funding necessary to participate in these roles without external support.

9.5.4 Legal advice for Ombudsman

While all Ministries and Crown Agencies can seek legal assistance from the Crown Law Office (CLO), it is important to recognize the independence of my Office in obtaining legal advice and opinions. The CLO's first priority is the Government, and since my Office investigates Ministries and Crown Agencies, it is essential that we have our own Policy and Legal Adviser. This would provide immediate support to our investigators and ensure that my recommendations are well-informed and thoroughly advised.



Ombudsman Niki Rattle, former Ombudsman John Tini, Maru Pureau and former staff member Tutu Tini celebrating the 40th year Anniversary for the Office of the Ombudsman Cook Islands.

10. FINANCIAL AUDIT REPORT

Please refer to Appendix 2 for the Financial Audit Report located near the end of the booklet.

11. FUTURE PRIORITIES

11.1 Review and Reform of the Ombudsman Act 1984

The Ombudsman Act 1984 will be reviewed to include provisions for establishing the Cook Islands National Human Rights Institute (NHRI) in the next budget. The Ombudsman will collaborate with APOR and the Crown Law Office (CLO) to revisit the previous Cabinet submission on reforming the Ombudsman Act, incorporating the necessary powers to establish the NHRI. The review will also propose a budget for hiring a Policy and Legal Adviser, as well as an Outreach staff member.

11.2 Enhancing Professional Staff Training

To enhance professional staff training, it is essential to reinstate the role of the Assistant Ombudsman. This position is crucial for retaining institutional knowledge, ensuring sustainability, and facilitating succession planning, as well as providing ongoing staff training. Since Ombudsmen come and go, valuable knowledge can be lost; however, the Assistant Ombudsman has a longer tenure and can offer technical assistance to the rest of the staff. The former Ombudsman advised me to reinstate this position during our meeting when I started my work.

11.3 Enhancing Collaboration and Relationships with Stakeholders

To enhance collaboration and foster positive relationships with Ministries, Crown Agencies, and Civil Society Organizations (CSOs), it is important to work closely with these groups. This collaboration will help them understand our role and the purpose of our mandates, which aim to improve government functions. Engaging with CSOs is particularly beneficial, as they are closely connected to the community and can complement our efforts effectively.

11.4 Promoting Public Awareness, Including the Pa Enua

To foster public awareness, especially in the Pa Enua, it is crucial that the public is informed about the role of the Ombudsman. This awareness will encourage individuals to engage with our Office and to feel confident in bringing forward their concerns or complaints, knowing that they will be recognized and treated fairly.

11.5 Strengthening Regional and International Relationships



Ombudsman Niki Rattle exchanging gifts with NZ Ombudsman Peter Boshier during the 40th year anniversary celebration for the Cook Islands Ombudsman Office.

Building regional international and relationships is vital for a small country like ours, particularly through the Australasian Pacific Ombudsman Region (APOR). Last year, at the retirement of the Victorian Ombudsman, Deborah Glass, during the APOR Conference, I was elected as the President of APOR and as a Director of the International Ombudsman Institution (IOI). This position was officially recognized at the IOI's four-yearly conference in The Hague. I am fortunate to have the support of the New Zealand Ombudsman team in this new role.

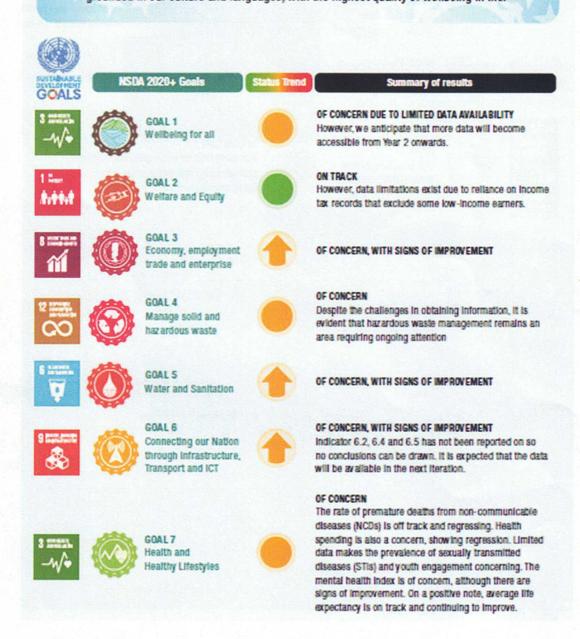
The Office of the Ombudsman Cook Island, Ombudsman Niki rattle was privileged to host the side meeting in the margins of the Pacific Islands Leaders Forum held in the Cook Islands 6-10 November 2023 on the topic was on the "Universal Declaration Human Rights and the 2050 Strategy for the Blue Lagoon Pacific Continent" A partnership of Hon. Prime Minister Fiame Naomi Mata'afa of Samoa Government, Hon. MP Akaiti Henry of the Cook Islands Government, Hon. Minister of Republic of Micronesia Islands Hon Minister Jack Ading, UNHR Pacific Region resident Coordinator Mr Jaap van Hierden, with Regional Representatives Ms Heike Alefsen, Mr Ahmed Shahid of Asia Pacific Forum, Dr Kararina Sumeo New Zealand Huma Rights Commissioner, Mr Mauala Pepe Seiuli Acting Ombudsman Samoa and Ms Leanne Smith of the Australian Human Rights Commission presented to the public on their country and Organization role on Human Rights for everyone.

12. APPENDICES

. Appendix 1: NSDA 2020+

OUR VISION OF WELLBEING

An empowered, innovative and environmentally conscious people who are grounded in our culture and languages, with the highest quality of wellbeing in life.







GOAL 8 Education and Innovation



ON TRACK, WITH POSITIVE PROGRESS TOWARDS GOAL





GOAL 9
Our Inclusiveness Gender, Equity and
Social Inclusion



OF CONCERN, AND CONTINUES TO REGRESS

The accessibility of public facilities for people with disabilities remains a pressing concern that requires attention, as it has been reported as "off track". On a positive note, the government support provided to NGOs is "on track".





GOAL 10 Agriculture and Food Security



ON TRACK, WITH SIGNS OF REGRESSION





GOAL 11 Our Biodiversity and Natural Environment



OF CONCERN

Achieving Goal 11 is a significant challenge, particularly on Rarotonga, where the development pressures are greatest.







GOAL 12 Climate Change, Resilience, Renewable Energy and Energy Efficiency



OF CONCERN, WITH SIGNS OF IMPROVEMENT





GOAL 13 Cultural Heritage, History, Identity and Language



OF CONCERN

There is limited information about progress towards the goal.





GOAL 14 A Sustainable Population



OF CONCERN, WITH SIGNS OF IMPROVEMENT

This goal gives limited information about progress towards the goal and a couple of indicators have not been reported on.







GOAL 15 Our Security, a Peaceful and Just Society



OF CONCERN

There are limited information about the progress towards the goal.

Appendix 2: Financial Audit Report

COOK ISLANDS



COOK ISLANDS AUDIT OFFICE

P.O. Box 659 Avarua, Rarotonga Cook Islands Phone: (682) 21-231 Fax: (682) 25-231 Email: perca@cookislands.gov.ck

http://www.auditoffice.gov.ck/



Excellence in

Independent Auditor's Report

To the readers of the financial statements of the Office of the Ombudsman for the year ended 30 June 2023.

Report on the audit of the financial statements

Unmodified Opinion

In my opinion, the accompanying financial statements of the Office of the Ombudsman ("Office") on pages 7 to 23:

- i. present fairly in all material respects the Office's financial position as at 30 June 2023 and its financial performance and cash flows for the year ended on that date; and
- ii. comply with generally accepted accounting practices as defined by the Ministry of Finance and Economic Management Act 1995-96 and International Public Sector Accounting Standards (IPSAS) issued by the International Public Sector Accounting Standards Board.

We have audited the accompanying financial statements which comprise:

- the statement of financial position as at 30 June 2023;
- the statement of financial performance, the statement of changes in equity, the statement of appropriations and cash flow statement for the year then ended; and
- o notes to the financial statements, including a summary of significant accounting policies and other explanatory information.

My audit was completed on 21 June 2024. This is the date on which my opinion is expressed.

The basis for my opinion is explained below. I outline the responsibilities of the Ombudsman and my responsibilities for the financial statements and audit of the Office. I also comment on other information.

Basis for opinion

I carried out my audit in accordance with International Standards of Supreme Audit Institutions (ISSAI), which incorporate ISSAI 130 Code of Ethics issued by the International Organization of Supreme Audit Institutions (INTOSAI Code of Ethics). My responsibilities under those standards are further described in the *Auditor's responsibilities for the audit of the financial statements* section of this report.

I have fulfilled my responsibilities in accordance with ISSAI. Other than in my capacity as auditor I have no relationship with, or interests in, the Corporation. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Responsibilities of the Ombudsman for the financial statements

The Ombudsman, on behalf of the Office is responsible for:

- the preparation and fair presentation of the financial statements in accordance with IPSAS;
- implementing necessary internal control to enable the preparation of a set of financial statements that is fairly presented and free from material misstatement, whether due to fraud or error; and
- assessing the ability to continue as a going concern. This includes disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless they either intend to liquidate or to cease operations, or have no realistic alternative but to do so.

The Ombudsman is responsible for overseeing the Office's financial reporting process.



Appendix 2: Financial Audit Report

Auditor's responsibilities for the audit of the financial statements

My objectives are to obtain reasonable assurance about whether the financial statements of the Office as a whole are free from material misstatement, whether due to fraud or error, and to issue an audit 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 ISSAI will always detect a material misstatement. Misstatements are differences or omissions of amounts or disclosures, and can arise from fraud or error. Misstatements are considered material if, individually or in the aggregate, they could reasonably be expected to influence the decisions readers make based on the financial statements of the Office.

As part of an audit in accordance with ISSAI, I exercise professional judgement and maintain professional skepticism throughout the audit. Also:

- I identify and assess the risks of material misstatement of the financial statements of the Office, 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, because fraud can involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- I 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 internal control used by the Ombudsman
 to prepare the financial statements of the Office.
- I evaluate the appropriateness of accounting policies used, and the reasonableness of accounting estimates and related disclosures made by the Ombudsman.
- I conclude on the appropriateness of using the going concern basis of accounting that has been used by the Ombudsman to prepare the financial statements of the Office, up to the date of my auditor's report, based on the audit evidence I have obtained.
- I evaluate the overall presentation, structure, and content of the financial statements of the Office including the disclosures, and
 whether the financial statements of the Office represent the underlying transactions and events in a manner that achieves fair
 presentation.

I communicate with the Ombudsman, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal controls that I identify during my audit.

I am responsible for expressing an independent opinion on the financial statements of the Office and reporting that opinion to you based on my audit. My responsibility arises from the Public Expenditure Review Committee and Audit Act 1995-96.

Other Information

The Ombudsman is responsible for the other information. The other information comprises the information included on pages 1 to 23 but does not include the annual financial statements of the Office and my auditor's report thereon.

My opinion on the financial statements of the Office does not cover the other information and I do not express any form of audit opinion or assurance conclusion on that information.

In connection with my audit of the financial statements of the Office, my responsibility is to read the other information. In doing so, I consider whether the other information is materially inconsistent with the financial statements of the Office or my knowledge obtained in the audit or otherwise appears to be materially misstated. If, based on my work, I conclude that there is a material misstatement of this other information, I am required to report that fact. I have nothing to report in this regard.

Independence

While carrying out this audit, my staff and I have complied with ISSAI 130 Code of Ethics issued by the International Organization of Supreme Audit Institutions (INTOSAI Code of Ethics), and we have fulfilled our other ethical responsibilities in accordance with these requirements.

Desmond Wildin Director of Audit

Rarotonga, Cook Islands



OFFICE OF THE OMBUDSMAN

STATE OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2023

In New Zealand Dollars	Notes	Actual 2023 \$	Budget 2023 \$	Actual 2022 \$
Revenue				
Funding from the Crown	2	301,000	301,000	301,000
Aid Revenue		900		-
Total Revenue		301,900	301,000	301,000
Expenditure				
Personnel Expenses	3	240,556	233,000	233,740
Depreciation Expenses	9	4,861	6,000	4,791
Aid Expenses		900		
Other Expenses	4	48,203	62,000	48,107
Total Expenditure		294,521	301,000	286,638
Operating Balance before Gains and Losses (OBEGAL)		7,379	**************************************	14,363
Other Gains / (Losses)				
Total Other Gains / (Losses)				
Net Surplus / (Deficit)	181 1101	7,379	- Tag - 1	14,363

Explanations of major variances against the budget are provided in Note 15.



OFFICE OF THE OMBUDSMAN

STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2023

		Actual 2023	Actual 2022
In New Zealand Dollars	Notes	\$	\$
Assets			
Current Assets			
Cash and Equivalents	5		(170)
Debtors and Other Receivables	6	150,769	126,675
Aid Receivables		900	•
Total Current Assets		151,669	126,505
Non-Current Assets			
Property, Plant, and Equipment	9	4,750	9,612
Total Non-Current Assets		4,750	9,612
Total Assets		156,419	136,117
Liabilities			
Current Liabilities			
Creditors and Other Payables	7	118,880	105,667
Employee Entitlements	8	28,130	16,180
Total Current Liabilities		147,009	121,848
Total Liabilities	net esstes behave a value	147,009	121,848
Net Assets		9,409	14,270
Equity			
Contributed Capital		21,166	21,166
Accumulated Surplus / (Deficit)		(11,757)	(6,896)
Total Equity	10	9,409	14,270

