

Office of the Ombudsman

Publication Scheme

Effective: 1 February 2021

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1. About this publication scheme

Each public authority in the Cayman Islands has a legal duty to maintain a publication scheme under section 5 of the [Freedom of Information Act \(2021 Revision\)](#) (FOIA).

The purpose of this publication scheme is to inform members of the general public about:

- the functions of the Office of the Ombudsman, and related information; and,
- the types of records and information held by the Office of the Ombudsman.

We are committed to proactively providing records and information to the public as part of our normal business activities. To that end, we invite members of the general public to visit our website (www.ombudsman.ky) for further information.

2. About the Office of the Ombudsman

The Ombudsman is an impartial and independent office of Parliament that acts as the Cayman Islands' guardian of fairness, transparency and accountability. The office investigates complaints about government services and police misconduct and decides appeals dealing with requests for government records. The office also receives both public and private sector reports of personal data breaches and whistleblower disclosures, as well as deciding appeals concerning personal data misuse.

The Ombudsman conducts confidential and impartial investigations and makes recommendations or issues decisions to resolve situations where an authority is (or is perceived as) unfair in the conduct of its business, or where information rights are not appropriately granted.

The Office of the Ombudsman was created out of the merger of the Office of the Complaints Commissioner and the Information Commissioner's Office. Ms. Sandy Hermiston was appointed as the Ombudsman for the Cayman Islands on 13 September 2017.

Contact Details

Physical Address: Office of the Ombudsman
5th Floor, Anderson Square, Shedden Road
George Town, Grand Cayman

Mailing Address: P.O. Box 2252
Grand Cayman KY1-1107
CAYMAN ISLANDS

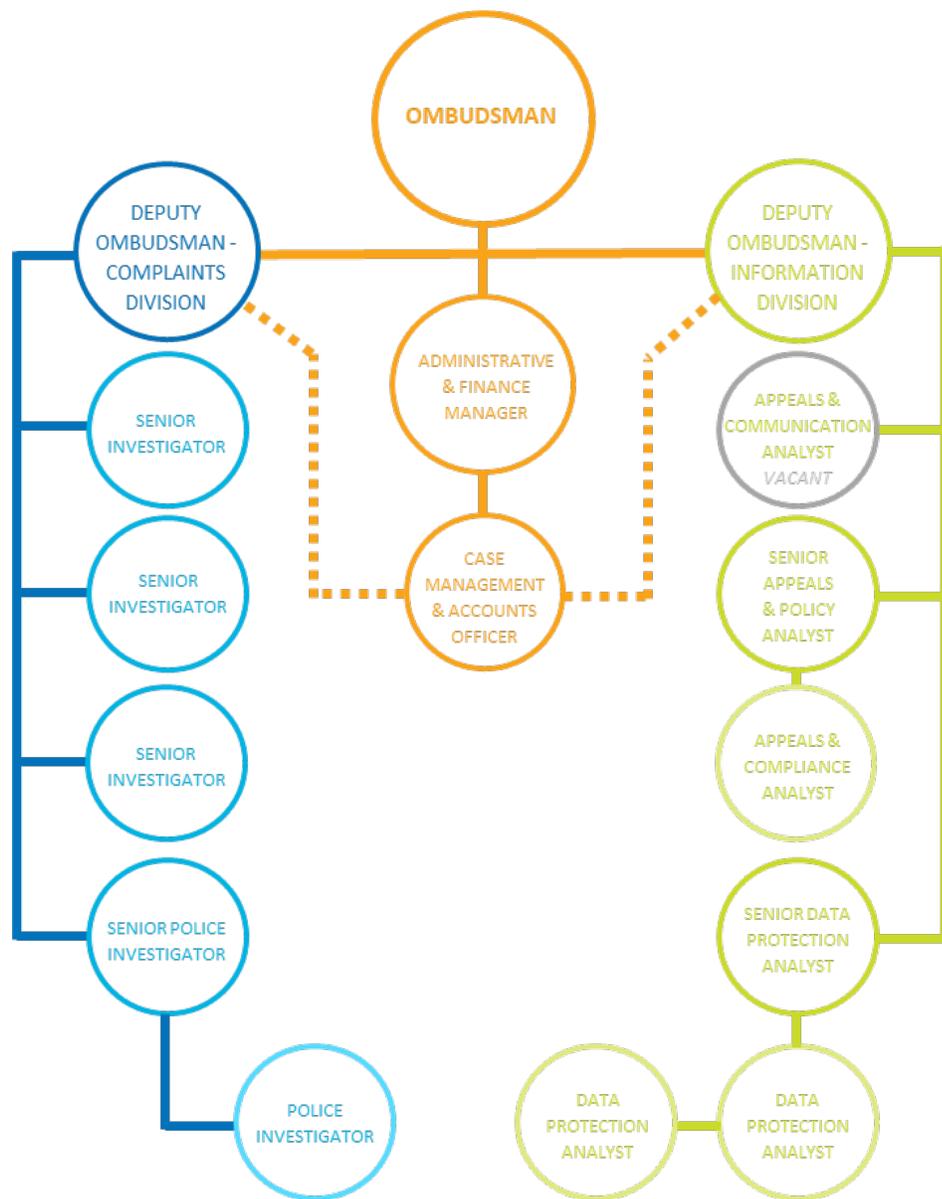
Telephone: (345) 946-6283

Email: info@ombudsman.ky

Hours: Monday to Friday, 8:30am - 4:30pm

Organizational Structure

The Ombudsman has a legal mandate to provide oversight in several broad areas of responsibility in the public and private sectors, as explained below. The Complaints Division deals with maladministration complaints, public complaints against the Police and whistleblowing, and the Information Rights Division deals with freedom of information appeals and data protection complaints and breach notifications.



Functions of the Ombudsman

Freedom of Information

What is it?

Individuals have a general right of access to records held by public authorities in the Cayman Islands public sector, except where certain records are wholly or partially exempted.

What is our role?

We investigate, hear and rule on appeals, monitor compliance and publicize individuals' rights under the FOIA. Most of our appeals are resolved informally, but the Ombudsman is also empowered to issue binding decisions.

We are also subject to the FOIA, although the Act does not apply to records we obtained or created in the course of executing our functions. To make a request, please contact our Information Manager on rene.lynch@ombudsman.ky and complete the [FOI request form](#).

How does it work?

Anyone can request information under the FOI Act, regardless of their nationality, physical location or age. Requests should be directed in writing to the Information Manager ("IM") of the public authority that holds the records. If you are not satisfied with the response you receive, in most cases you can ask for an internal review of the IM's decision by the Chief Officer. If you are still dissatisfied after the internal review (or if there was no response) you may make an appeal to us.

To make an appeal about an FOI matter, please use the [FOI appeal form](#).

You must supply a name when you make a request or an appeal, but a pseudonym is acceptable in most cases. You do not have to provide any reasons for your request, or how you intend to use the information. You can ask that a copy of the records be sent in a particular format, for instance in the form of an email attachment in pdf format.

Where do I find out more?

For more information on all aspects of the FOI process, including FAQs, timelines, fees, internal reviews and appeals, please see the [FOI page](#) on our website.

Maladministration Complaints

What is it?

If you believe you have been treated unfairly by the government, you can complain to the public authority in question, and subsequently also to us if the matter remains unresolved.

What is our role?

We investigate complaints that are not resolved through a public authority's own internal complaints process. If we uphold your complaint, we can make recommendations about how to make things right. We always consider whether action should be taken to stop the same thing happening to others.

We also use what we learn to recommend improvements to public services.

How does it work?

Each public authority has an internal complaints process to deal with complaints from people who feel they have been treated unfairly. You should complain there first. Only if your complaint remains unresolved, can you complain to us.

We investigate written complaints made by individuals against government departments, ministries, portfolios, authorities, statutory boards, government companies and agencies. However, some offices fall outside our jurisdiction: we cannot investigate alleged maladministration by the Governor or the Auditor General.

We conduct an impartial, independent and thorough examination of allegations and objectively analyze the matters raised by the complainant as well as the actions of the government department or staff member. We also identify the salient issues and make recommendations.

To make a maladministration complaint, please use our [complaint form](#), or contact us to make arrangements to meet with one of our team members.

In normal years we also make frequent visits to the Sister Islands. Contact us to find out when.

What can you complain about?

Complaints may focus on relevant topics of maladministration such as injustice, unreasonable or improper conduct, or inefficient, bad or improper administration, including:

- Bias, lack of impartiality
- Neglect, inattention
- Abuse of power
- Poor or delayed service
- Refusal to answer reasonable questions
- Incompetence, ineptitude
- Rudeness
- Neglecting to inform a complainant about their rights or entitlements, or appeals routes
- Knowingly giving misleading or inadequate advice
- Failure to adequately monitor compliance with procedures

Where do I find out more?

For more information on making a maladministration complaint, see the [complaints page](#) on our [website](#).

Complaints against the Police

What is it?

If you believe you have been treated unfairly by a police officer, you can complain to the Police at any police station, or to the Office of the Ombudsman.

What is our role?

We attempt to resolve the complaint informally. We can investigate the complaint ourselves, or refer it to the Professional Standards Unit or another investigatory body. A final investigation report will be produced with the final conclusions reached.

How does it work?

Complaints against the Police must be made in writing within six months from the alleged acts or omissions. If the complaint is made at a police station, a senior officer is encouraged to resolve the complaint informally. To make a complaint, please use the [police complaint form](#).

What can you complain about?

You can complain about any alleged unsatisfactory conduct by a police officer.

Where do I find out more?

For more information on making a maladministration complaint, see the [complaints page](#) on our [website](#).

Data Protection

What is it?

The Data Protection Act (DPA) gives individuals control over their personal data and protects against its misuse in both public and private sectors. If you believe that personal data is not being processed in compliance with the provisions of the Data Protection Act, you can make a complaint on behalf of yourself or another person.

What is our role?

We are the supervisory authority for data protection related matters. This means we investigate, mediate and decide your complaints about your rights and how your personal data is being used. We also receive and investigate data breach notifications.

How does it work?

If you believe your data is not being processed in accordance with the eight data protection principles, or any other part of the DPA, you can make a complaint using our [data protection complain form](#). We investigate complaints and attempt to resolve them informally, or issue a binding enforcement order. The Ombudsman can also issue a monetary penalty order.

What can you complain about?

You can complain about personal data processing that is not being carried out in compliance with the DPA, including processing involving your own data or the data of another individual (with written authorization from the aggrieved person).

Where do I find out more?

Our website contains extensive guidance, tools and FAQs relating to data protection. Guidance is available for [individuals](#), [small entities](#) and [organizations/businesses](#). We also have guidance on [monetary penalties](#) and other [resources](#) available.

Whistleblowing

What is it?

The Whistleblower Protection Act encourages, helps and protects employees who choose to report improper conduct by their employer.

What is our role?

We can investigate your disclosure and decide whether it's protected by The Whistleblower Protection Act. If your disclosure is protected, and you have been subject to detrimental action, we can make recommendations to compensate you for any loss you may have suffered.

How does it work?

You can make a whistleblower disclosure using the [disclosure of improper conduct form](#). Before you come to us, please make sure you have:

- a summary of the nature of the improper conduct
- the name of the person you believe is committing the improper conduct
- the time and place where the alleged improper conduct took place
- the full name, address and description of a person (if any) who witnessed the commission of the improper conduct

What can you complain about?

A whistleblower complaint can relate to any improper conduct, including:

- a criminal offence
- a failure to carry out a legal obligation
- conduct that is likely to result in a miscarriage of justice
- a human right violation
- conduct that is likely to result in a threat or damage to the environment
- gross mismanagement, impropriety or misconduct involving the use of public funds
- willful concealment of the above acts

Where do I find out more?

Our [website](#) contains further information, including a copy of the legislation and FAQs.

3. Our records and information

The FOIA does not apply to records obtained or created by the Office of the Ombudsman in the course of carrying out our functions.

Our [website](#) contains extensive information about each of our functions, including legislation, FAQs, guidance and other resources, as well as informally resolved case summaries, and formal decisions and orders.

We aim to be as open as possible, but some information will be withheld where the FOIA permits it, or where we owe a duty of confidentiality to complainants, appellants or public authorities and organizations.

We never disclose “responsive records”, i.e. public authorities’ records provided to us to help us determine an appeal under the FOIA.

We will also generally not publish:

- information in draft form, where a final document is available;
- information that is not held by the Office of the Ombudsman, or which has been disposed of in accordance with a legally authorized disposal schedule;
- information that is not readily-available – for example: information that is contained in files that have been placed in archive storage, or is otherwise difficult to access;
- information that is exempt under the FOIA, or otherwise protected from disclosure – for example: personal or commercially sensitive information.

How to access our information

Online

Many of our records and information are routinely published on our website and can be downloaded or emailed in PDF format. You can search our website for the information you seek at www.ombudsman.ky.

Personal visit

[Let us know](#) if you would like to make an appointment to view information we hold in person.

Assistance

If you are having trouble locating information or need assistance, please contact us at (345) 946-6283 or by email at info@ombudsman.ky. You can also reach us by mail at the address provided above.

We provide information in a non-discriminatory manner and in the format requested, in accordance with section 10 of the FOIA, including to people with disabilities.

Information will be provided in the language in which it is held or in such other language that is legally required. We will make arrangements for translation, where appropriate.

Fees and charges

Records and information that are published online, downloaded through our website, or sent to you by email will be provided free of charge.

By law, a fee may be charged for providing information in other formats, reflecting the actual costs of reproduction and postage, as described in schedule 3 of the [Freedom of Information \(General\) Regulations \(2021 Revision\)](#). Reproduction costs may include a fee for photocopying, or physical media like CDs. The actual cost of postage or courier delivery will be passed on to the requester.

If a fee applies, you will be advised of the amount and how it was calculated.

Service delivery complaints

The Office of the Ombudsman strives to satisfy the needs of its visitors and clients, but recognizes that there may be occasions when actions carried out by the office or its staff will not meet the reasonable expectations of the public. The approach set out below and summarized on our website are used to deal with general customer service issues about the office or the services it provides. If you have a complaint and are not satisfied with the results you receive from our office you should complete the [Internal Complaints Form](#) on our website, or [contact us](#) for further advice. Please note that complaints regarding FOI requests to our office are handled through the FOI Process.

What is meant by a service delivery complaint?

A service delivery complaint is an expression of dissatisfaction that relates to the standard of service, actions or inaction by the Office of the Ombudsman or its staff. Complaints can be made by an individual or group, verbally or in writing. All complaints are formally recorded.

The Office of the Ombudsman does not accept complaints from third parties as issues of confidentiality may arise. An exception will be made for individuals who are unable to submit a complaint personally because of disabilities or otherwise, in which case complaints will be accepted from individuals acting on their behalf.

How to make a service delivery complaint?

Formal complaints can be made by completing the [Internal Complaints Form](#) or, alternatively, people may wish to submit a complaint in person or by mail. Verbal submissions may also be made by phone.

Written submissions must be clear and state the nature of the issue including the individuals involved, dates, times, etc. Contact details (mailing address, telephone numbers, email, etc.) are required and all such complaints must be signed and dated in order to be processed as promptly as possible.

If we are unclear about any part of the complaint we may need to contact you to provide further clarification before an investigation is started.

How does the Office of the Ombudsman handle service delivery complaints?

When your complaint has been received it will be processed in the following manner:

- Upon receipt, the complaint form will be date stamped, logged and scanned into the Office's Case Tracker System as per standard office procedure.
- As the complainant you will receive a copy of your complaint. The original is kept by the Office of the Ombudsman.
- All complaints are forwarded to the Ombudsman within 24 hours of receipt. Within 5 days of receiving the complaint we will send an acknowledgement letter advising the complainant that the Ombudsman has received their complaint, and providing the timeline for a response.
- The Ombudsman endeavors to conduct her investigation and provide her findings within 30 calendar days. However, she may inform the complainant in writing of any delay and the reasons for it, as well as the expected length of the delay.

How is a service delivery complaint resolved?

- The Ombudsman will provide her written response not later than 60 days from receipt of the complaint, including any remedies and/or apologies, where appropriate.
- All lessons to be learned from complaints received, along with the outcomes, will be reviewed and discussed in a strictly confidential manner at staff case meetings of the Office of the Ombudsman as an effort to improve service delivery.
- Complaints may be resolved in various ways including:
 - Clarification of a misunderstanding;
 - Issuing a formal apology;
 - Provision of a particular service to client; and/or
 - Changing or implementing procedures to prevent similar issues arising in the future

Are anonymous service delivery complaints accepted?

Anonymous service delivery complaints are not accepted.

4. Categories of information

Strategic management

- Governance and legislation

Corporate management

- [Annual reports](#)
- [Quarterly statistical reports](#)
- Continuity of Operations Plan

Financial management

- Invoices
- Vendor files
- Petty cash reports
- Credit card statements
- Financial ledgers
- Financial reports
- Budget
- Audited financial statements

Administration

- Organizational chart
- Job descriptions
- Salary scale
- [Senior Management Remuneration](#)
- [Register of Interests](#)
- Appointment, payroll, pension and health insurance
- [Official travel](#)
- [Biographies](#)
- Recruitment/Employment opportunities (these are listed on our website and advertised when applicable)
- Timesheets
- File plan and disposal schedule
- Property leases
- [FOI Disclosure Log](#)

- ICT management

Policies and Procedures

- [FOI - Appeals Policy & Procedures](#)
- [FOI - Practical Guidelines for a Written Hearing](#)
- [Data Protection – Guide for Data Controllers](#)
- [Data Protection – Guide for Data Subjects](#)
- [Data Protection – Guidance on Monetary Penalty Orders](#)
- [Data Protection – Section 40 Guidelines](#)
- [Data Protection – Ombudsman Covid-19 Guidance Note](#)

Promotional management

- Presentation materials
- Outreach/Right to Know Day planning documentation
- [Press releases](#)

Regulatory Reform Management

- Notes, minutes of OMB participation in reform initiatives

Case Outcomes – Case Summaries and Decisions

- Freedom of Information
 - o [Decisions](#)
 - o [Informal Resolution](#)
- Maladministration
 - o [Early Resolution](#)
 - o [Investigation](#)
- Police Complaints
 - o [Informal Resolution](#)
 - o [Investigation](#)
- Whistleblower
- Data Protection
 - o [Informal Resolution](#)
 - o [Decisions](#)

Forms

- Freedom of Information
 - o [FOI - Request Form](#)
 - o [FOI - Appeal Form](#)
- Maladministration

- [Maladministration Complaint Form](#)
- Police Complaints
 - [Police Complaint Form](#)
- Whistleblowing
 - [Disclosure of Improper Conduct under the Whistleblower Protection Law](#)
- Data Protection
 - [Data Protection - Complaint Form](#)
 - [Data Protection - Section 40 Consultation Form](#)
 - [Data Protection - Breach Notification Form](#)
 - [Data Protection – Subject Access Request Model Form](#)
 - [Data Protection – Record of Processing Activities \(RoPA\) Model Template](#)
 - [Data Protection – Compliance Audit Sample Questionnaire](#)

Legacy Records

- Information Commissioner’s Office (ICO)
- Office of the Complaints Commissioner (OCC)