



OMBUDSMAN
— NHRI SAMOA

ANNUAL REPORT

2017/2018 & 2018/2019



Fax: (0685) 21 822

Telephone: (0685) 23 636

*Office of the Prime Minister
Apia, Samoa*

06 April 2020

The Clerk of the Legislative Assembly
Legislative Assembly
MULINUU

REPORT TO PARLIAMENT - OFFICE OF THE OMBUDSMAN

I attached herewith the Report of the Office of the Ombudsman covering its activities for the years ended 30 June 2018 and 30 June 2019.

The Office of the Ombudsman will provide directly to you the number of copies required for your use.

Tuila'epa Sa'ilele Malielegaoi

PRIME MINISTER /

MINISTER - OFFICE OF THE OMBUDSMAN

Attached.

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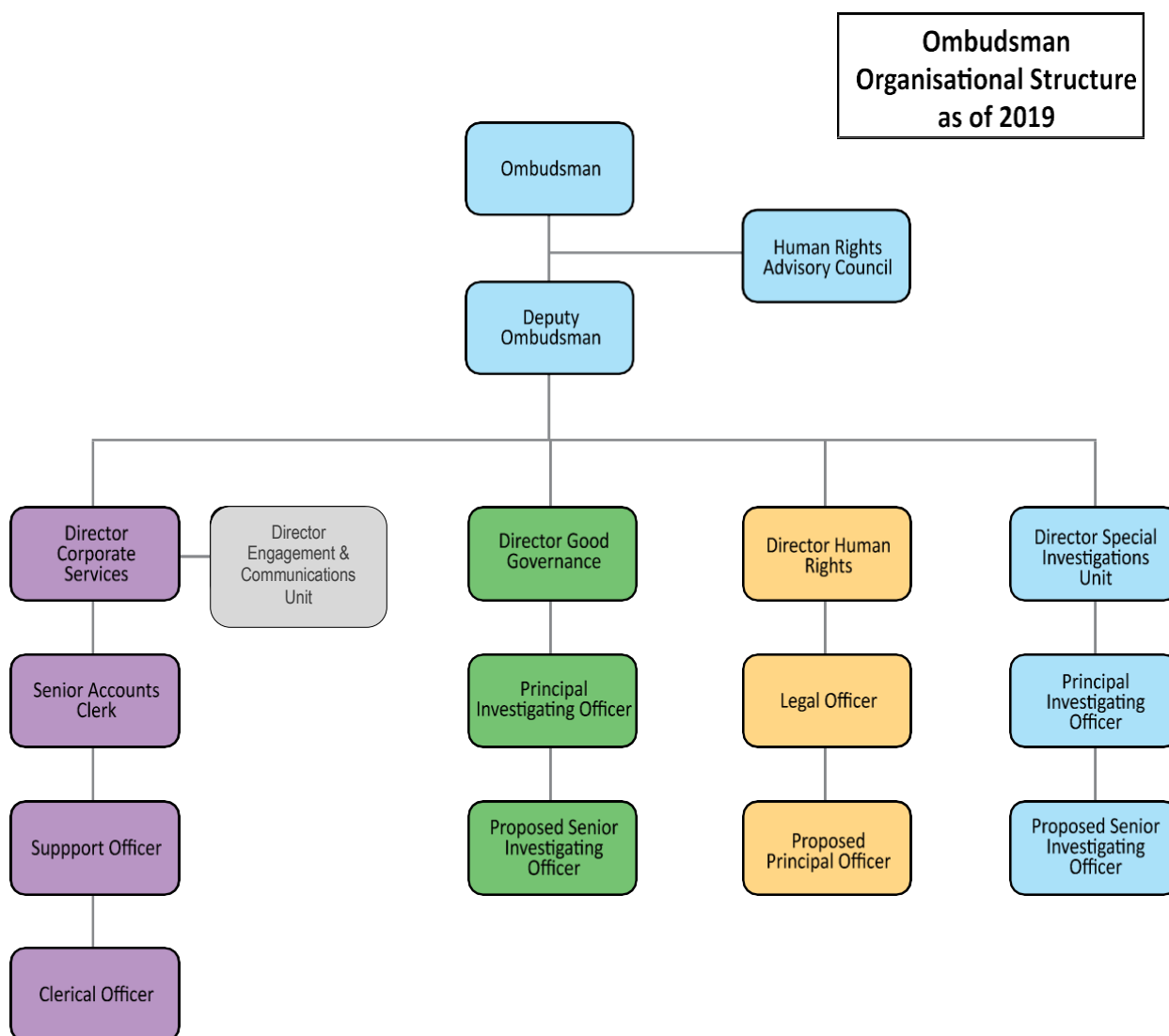
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1. ABOUT US

1.1 Organizational Structure

Below is the revised organizational structure of the Office as of 2019.

Figure 1: Organizational Structure of the Office of the Ombudsman/National Human Rights Institution as of 2019



1.2 The Ombudsman

Under the *Ombudsman (Komesina o Sulufaiga) Act 2013* (the Act), the Ombudsman has a role:

- to promote transparency, accountability and integrity in the administration and decision making of Ministries and public organizations; and
- promote and protect the dignity of humankind enshrined in the Constitution, international human rights law, as the foundation of a fair, just and peaceful society.

The Ombudsman is an independent Officer of Parliament who may, on complaint or own initiative, investigate any administrative decision or act that affects anyone in their personal capacity by a Ministry or an organization.

1.3 The Office

The Office of the Ombudsman is a statutory body independent from Government, originally set up under the *Ombudsman Act 1989*. Under this Act the Office deals with matters of good governance i.e. to investigate and resolve complaints about the administrative actions, decisions or omissions of Samoa government ministries and agencies.

In 2013, the Office was given additional functions and the 1989 legislation was replaced by the *Ombudsman (Komesina o Sulufaiga) Act 2013*. The additional mandates of the Ombudsman Office include the role of the National Human Rights Institution (NHRI) and the carrying out of Special Investigations in relation to misconduct of law enforcement officials, prison officials and any other disciplined force.

The three mandates of the Office are therefore as follows;

1.3.1 Good Governance

As the conventional Ombudsman, his major function is to foster good administration. This function is implemented by the Good Governance Unit (GGU) through the investigation of complaints about administrative decisions¹ of public agencies (government ministries and public enterprises) usually to ascertain whether they were:

- contrary to law;
- unreasonable, unjust, oppressive, or improperly discriminatory;
- in accordance with a rule of law or a provision of any enactment or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory; and
- based wholly or partly on a mistake of law or fact; or
- wrong.

¹ Section 2, Ombudsman (Komesina o Sulufaiga) Act 2013.

The Ombudsman may also investigate referrals from the Prime Minister if necessary or conduct investigations on his own initiative.

The Ombudsman is not an advocate for a complainant but a neutral entity that endeavours to form an independent opinion on complaints based on reasonableness and fairness.

The Ombudsman does not investigate complaints about:

- Ministers and Cabinet
- Courts and tribunals
- Private individuals, businesses and non-governmental organizations'

The Ombudsman may refuse to investigate a complaint if:

- there is an adequate alternative remedy or right of review available
- having regard to all circumstances of the case, he considers any further investigation unnecessary
- the administrative decision complained of is more than twelve months
- the matter is trivial
- the complainant does not have a personal interest in the matter

The Ombudsman cannot direct remedial action. He may only recommend remedies he considers appropriate to the agencies concerned:

- that a matter be referred to the appropriate authority for further consideration;
- that an omission be rectified;
- that a decision be cancelled or varied;
- that any practice on which a decision, recommendation, act, or omission was based be altered;
- that any law on which a decision, recommendation, act, or omission was based be reconsidered;
- that reasons be given for a decision; and
- that any other steps be taken.

Whether or not the review of actual matters examined results in remedial action, the investigations and interaction with the Ombudsman that is generated by complaints, serve to bring openness and transparency into the operations of public agencies.

Therefore, in delivering its legislative mandate and purpose the conventional Ombudsman seeks:

1. to ensure that the people of Samoa are given explanations of decisions particularly affecting them; and
2. to improve the quality of public sector administration, by examining and where appropriate recommending changes to particular practices and procedures in public sector agencies.

1.3.2 The National Human Rights Institution (NHRI)

The NHRI mandate of the Office is carried out by the Human Rights Unit. The objective is to “promote and protect human rights and freedoms in Samoa”.

The Human Rights Unit works to monitor the enjoyment of the rights of individuals and to encourage appropriate actions by the State to that end through the following:

- Monitoring Samoa's performance in meeting its international human rights commitments through its State of Human Rights reports and places of detention inspections report;
- Reviewing existing and proposed legislation to ensure consistency with human rights law;
- Providing advice to the Samoan Government so that it meets the domestic and international human rights commitments;
- Conducting visits to all public places of voluntary and involuntary confinement or detention (e.g. prison facilities, custodies, mental health institutions etc.);
- Undertaking human rights education awareness and training programs into villages and the community;
- Engaging with the international human rights partners to raise pressing issues and advocate for recommendations that can be made to the Samoan Government;
- Participating in judicial proceedings as a friend of the court or as a party where human rights issues arise;
- Providing information to the International Human Rights Council and other treaty monitoring bodies through shadow reporting and submissions;

All of this is achieved through the celebration and protection of the Samoan culture, dignity and respect ingrained in the FaaSamoa.

1.3.3 Special Investigations Unit (SIU)

This function is carried out by the Special Investigations Unit (the SIU) with the objective of addressing misconduct in agencies exercising the coercive powers of the State and to conduct special investigations as maybe authorized.

The Unit is responsible for “receiving, investigating and determining any complaints about a police officer, prison officer or officer of any other prescribed disciplined force”.

The SIU *does not* investigate a matter that is being investigated or inquired into by the Police, Prisons or prescribed force under their respective Acts, *unless* an exception applies which include situations where the Ombudsman has reasons to believe that;

- there is an abuse of process by the Police, Prisons or prescribed disciplined force; or
- there has been an unreasonable delay in the investigation; or
- the matter has not been appropriately investigated;

1.3.4 Corporate Service Unit

In addition to the three core functions of the Office, there is the Corporate Service Unit responsible for ensuring high standards of corporate governance is observed at all times in pursuit of the Office's statutory functions to promote integrity in governance, the protection and promotion of human rights in Samoa and equal and fair treatment of people.

The Unit is responsible for;

- Finance, budget formulation, management and monitoring
- Administration of Procurement and Payment services
- Management of Office Assets and Equipment
- Administrative Services

- Secretarial Services to the Ombudsman
- Records Management Services
- Transportation Services
- Reporting and Planning Services (formulations of plans for Office strategic directions)
- Human Resource Management and Performance Development

1.4. Office Strategic Plan 2016 – 2020

1.4.1. Our Vision

“The promotion of integrity in governance, the protection and promotion of human rights in Samoa and equal and fair treatment of people”.

1.4.2. Our Purpose

To meet the expectations inherent in the Ombudsman (Komesina o Sulufaiga) Act 2013 by;

- Providing good leadership, management of systems, processes, efficient support and coordination for the successful implementation of the Office’s work program;
- Enhance the lawful delivery of State Agency mandates to the reasonable satisfaction of member of the public;
- Promote and protect human rights and freedoms as the National Human Rights Institution (NHRI);
- Provide effective oversight and address misconduct of agencies exercising the coercive powers of the State and to conduct special investigations as me be authorized.

1.4.3. Our Objective

- The Office is an accountable organization with a capable and engaged workforce;
- Has a robust and transparent monitoring and evaluation of the implementation of projects and budget targets;
- Effective outreach and educational programs/ events targeting the communities;
- Effective financial management system and compliance with accounting procedures and reporting;
- Best practice in administration and conduct;
- A culture of continuous improvement;
- Effective complaints handling mechanisms.

1.4.4. Our Values

Honesty, Integrity and Impartiality

- We are ethical, honest and law-abiding in everything we do;
- We respond to complaints without bias and we do not take sides;
- We provide impartial advice without fear or favour and make decisions on their merits;
- We are independent.

1.4.5. Ethics, Fairness and Dignity

- We treat people equitably;
- We respect and value diversity;
- We have the highest ethical standards.

1.4.6. Accessibility, Accountability and Transparency

- We are accessible to people;
- We are transparent and accountable for our actions.

1.4.7. Consistency, Responsiveness and Diligence

- We respond to complaints quickly. If we can't help, we'll explain why, and if possible, suggest alternative action;
- We produce timely and high quality work;
- We develop our skills to improve service and become a catalyst for change in promoting good governance and human rights.

1.4.8. Culture and Rule of Law

- We respect and value Fa'aSamoa;
- We operate within the laws of the Independent State of Samoa.

2. WORK HIGHLIGHTS FOR THE FINANCIAL YEARS 2017-2018 AND 2018-2019

Ombudsman Foreword

I am pleased to present a combined Annual Report of my Office for financial Year Ended 30 June 2018 and 30 June 2019.

The Office has continued to play its proper role in the sector to champion fair and accountable decision making – an essential characteristic of an open and transparent public administration. Whether through handling complaints, promoting Human Rights, preparing major reports for tabling in Parliament or training Ombudsman liaison officers in Ministries complaints management systems, the Office has helped to ensure fairness and accountability for citizens in their dealings with Government Ministries, Corporations and State Owned Enterprises.

Outlined in this report are the achievements for the fiscal years under review in the performance of my Office, mandates to investigate and resolve complaints against Government agencies and Corporations; to oversee or to investigate where appropriate complaints about law enforcement officials; and as the National Human Rights Institution (NHRI) of Samoa to promote and protect human rights.

As Ombudsman, I commend the Government for its continuing responsiveness through various initiatives to promote Good Governance and Human Rights.

My Office remains committed to the impartial discharge of its mandates to the best of its ability will continue to serve Samoa by promoting dignity, protection and equality of all.



Maiava Iulai Toma
Ombudsman

2.1 GOOD GOVERNANCE UNIT

2.1.1 Snapshot of the Strategic Framework Overview²

Output 1: Good Governance		
Objective: To enhance the lawful delivery of State Agency mandates to the reasonable satisfaction of members of the public.		
Outcome	Key Projects	Performance Measure
Individuals are empowered to resolve complaints with State Agencies	Outreach and education	Increased reach and relevance of the role of the Office
The fair treatment of people and improved decision making and public administration by and within State Agencies	Ministry consultations	Effectiveness of working arrangements with Government Agencies to realize principles of good governance and administration Critical good governance issues are investigated and reported on effectively and efficiently Effective analysis of State Agency complain Management Systems
Complaints are investigated and reviewed effectively and independently	Complaint handling	Effective and efficient investigation and resolution of complaints
An effective and accountable PSU	PSU oversight and monitoring Own motion investigations	Improved complaints handling within the Police

2.1.2 Highlights for Financial Year 2017/2018 & 2018/2019

Staff

Currently in the Unit there are two (2) staff: Director of Good Governance and a Principal Investigating Officer. As per the revised organizational structure, the Unit is requesting in this Financial Year to engage 1 senior investigating officer to cater for the increased number of complaints handled by the Unit.

For 2017-2019 (1 July 2017 – 30 June 2019), the Good Governance (GG) team effected its complaints management through its standard investigations that included referrals from the Prime Minister with one of them being a public report. Only one (1) own motion investigation was conducted during this period. The following is a breakdown of these complaints:

- 70% were complaints against public agencies (government ministries and public enterprises)
- 10% were complaints assessed as out of jurisdiction and referred to the appropriate agency
- 20% were general enquiries seeking information and/or assistance

Telephone remains the most common way of initiating contact with the Office.

² Strategic Plan 2016-2020

The Unit measured its complaints management by the timeliness of number of complaints and other contacts finalized within service standards. The duration of an investigation varies depending on the seriousness and complexity of the complaint. For that period, our service standards were as follows:

Type of complaint	Service standard
Complaints finalized in a single contact (where the matter was out of jurisdiction or was referred to the agency to investigate prior the Ombudsman)	Within 3 working days
Complaints requiring further analysis, but not formal investigation	Within 14 days
Complaints requiring investigation, including engagement with the agency concerned	Within 90 days
Complex complaints requiring detailed investigation, including multiple engagements with the agency concerned	Within 180 days
Complaints resulting in a formal report to the agency and minister	Within 12 months

There were a number of highlights achieved by the Good Governance Unit (GGU) for the period 1 July 2017 to 30 June 2019:

New appointment

- GG welcomed its new Principal Investigation Officer in February 2018.

Practice Statement

- GGU and SIU (Special Investigations Unit) teams being the “investigation arm” of the Office embarked on its planned Practice Statement initiative with Government Ministries and Public Enterprises. The intention is twofold:
 - for each agency to nominate an Ombudsman Liaison Officer (OLO) for easier access in relation to enquiries concerning the agency.
 - assist agencies where necessary in providing efficient, effective and accessible complaint handling services to the public.

Conferences, Trainings, Workshops

- GGU officers were fortunate to travel overseas to Australia and Thailand during this period for conferences, advanced investigation trainings and workshops supported by the Office of the Commonwealth Ombudsman Australia (OCO).

Certified Fraud Examiner

- GGU officer was fortunate enough to qualify as a Certified Fraud Examiner, an initiative in partnership with the Samoa Audit Office and funded by OCO.

The Unit is guided by the principles of good governance:

- Independence
- Transparency
- Accountability
- Integrity
- Effectiveness
- Responsiveness

Work

Case Summaries 2017 - 2019

The Office continues to receive and deal with various types of cases under our good governance function. The following selection of cases is indicative of the kind of problems ranging from the very simple to complex that ordinary people face and for which they seek assistance. The following are some of the reviews that may be of interest:

Development Bank of Samoa (DBS)

Unreasonable decision/action

Background

Complainant A (“A”) claimed that the decision and subsequent action by DBS concerning a loan repayment was unreasonable. “A” was initially granted a loan for a school project and had been consistent with the repayments. “A” then requested for an additional loan and to refinance the initial loan, which was granted on the advice from the attending loan officer that the estimated amount would be used on the project and the remaining balance, would pay off the initial loan. When “A” went to repay the second loan and obtain a loan statement, the initial loan was still active with an outstanding interest charge.

Examination

The Office enquired DBS on the matter and found that the agency did not refinance loans and that “A” was given the wrong advice from the attending loan officer who was no longer a DBS employee. The former Officer did not explain the terms and conditions properly to “A”, giving a false assurance that the remaining balance of the initial loan would be settled by the second loan, which unfortunately was not DBS policy.

Outcome

The Office suggested that DBS meet with “A” to try and resolve the matter, which the agency agreed to. “A” was then informed of the meeting. No further action was taken and DBS’s willingness to assist was acknowledged.

Electric Power Corporation (EPC)

Unfair Treatment

Background

Ms B enquired on how best to deal with her concern alleging unfair treatment by EPC field staff in the disconnection and reconnection of her electricity.

Examination

Ms B was advised to lodge her grievance first with EPC, which she did. Ms B contacted the office again stating that EPC had not responded to her concern. the office wrote to EPC requesting their assistance in Ms B’s complaint in a manner that reflected good governance.

Outcome

EPC wrote to Ms B apologising for the delay in response to her concern and that they were already looking into the circumstances surrounding the issues raised. No further action was taken as Ms B’s complaint was being addressed by EPC.

Ministry of Education, Sports & Culture (MESC)

Unreasonable decision/action

Background

Mr C, a Year 12 student, complained to the Office against a decision by the Principal of his former College to expel him and other students for allegedly dancing inappropriately during the National Secondary Schools Athletics, which Mr C strongly denied.

Examination

Mr C appealed that his studies for the final year examinations had been affected by the Principal's decision. Mr C was advised to seek assistance from MESC, being the relevant agency. However, given Mr C's situation and his determination to return to school to complete his studies, a notice of intention to investigate was forwarded to MESC.

Outcome

MESC had conducted an internal investigation and provided the Office with a report. It was found that although the Principal may have been justified in expelling Mr C, he had failed to seek the CEO endorsement as required by Ministry policy/Act. MESC also confirmed that Mr C was attending another College with all the necessary assessments and paperwork transferred to his current school. The CEO applied a discretionary power under the Education Act 2009 to overturn the Principal's decision to expel Mr C's and if he wished to do so, could return to his former College. Mr C's uncle informed the Office that his nephew was content with the new College he was attending. MESC was subsequently informed of Mr C's decision. From MESC's investigation, it was found on this matter alone that the Principal did not follow process and that the decision to expel Mr C was unjustified and unreasonable.

The Office acknowledged MESC's assistance in offering alternative steps for Mr C to ensure that his studies were not disadvantaged. MESC was advised that no further would be taken and that the matter was considered resolved.

Ministry of Natural Resources and Environment (MNRE)

Unreasonable Delay

Background

Ms D complained to the Office via email alleging MNRE's failure to act and unreasonable delay in the process for the publication of notice for customary land lease. A notice of intention to investigate the complaint was forwarded to MNRE.

Examination

The Office found that there was a lapse in the process between MNRE and the Savali Newspaper in the transferral of public notices for publication. MNRE accepted its oversight in the delayed publication as a simple miscommunication between the two agencies (MNRE and Savali) which had been addressed. MJCA had also confirmed that there was no objection to the application for lease.

Outcome

The Office was satisfied with MNRE's explanation and that the matter had progressed to the next stage in the lease process. When informed of the situation, Ms D had no further queries and was satisfied with the outcome of her complaint. MNRE was subsequently advised and its continued assistance and cooperation was also acknowledged. The matter was considered to be resolved.

Ministry of Health (MOH)

Unreasonable Decision/Action

Background

This was a referral from the Prime Minister under s19(3) of the Ombudsman (Komesina o Sulu-faiga) Act 2013. Ms E complained against MOH alleging unreasonable decision and action in the appointment process for a contract officer position.

Examination

The Recruitment and Selection process for the position based on the four merit factors of – skills and abilities; qualifications; experience and past work performance; personal attributes was thoroughly scrutinised. The application of a Cabinet Decision on these contract positions was reviewed.

Outcome

The Office considered all the information provided by both Ms F and MOH. and found that MOH's decision and action in the R & S process was reasonable. The Cabinet Decision had not yet been enforced and therefore did not apply to the complaint. The investigation report was forwarded to the Prime Minister.

Ministry of Customs and Revenue (MCR)

Failure to act/Delayed action

Background

Ms F sought the assistance of the Office alleging some unpaid overtime allowance against MfR. According to Ms F, she had initially reported the matter to the Public Service Commission (PSC) where an investigation was carried out. PSC advised MfR to facilitate with the outstanding allowances.

Examination

PSC is the responsible authority tasked with facilitating policy decisions and working conditions of Government Ministries including employees. Ms F was advised that since PSC had already acted on her issue and had informed MfR, it was probably better to follow through with PSC's counsel.

Outcome

The Office received a phone call from Ms F requesting the withdrawal of the matter as she had reconciled the full payment of her outstanding allowance with MCR. The office considered the complaint resolved.

Public Trust Office (PTO)

Delayed Action

Background

The Office received a complaint from Ms G against PTO alleging the unreasonable delay in the administration of an estate. The issue was a transferral of title to Ms G.

Examination

A notice of intention to investigate was sent to PTO, who responded that the delay was due to Ms G. PTO had advised Ms G to provide addresses of the other estate beneficiaries residing overseas for a letter of consent, failing which, a Notice of Potential Heirs would be published for a 3 month period to locate the other beneficiaries so that PTO could determine its next course of action in distributing the estate land. PTO denied any delay in expediting the administration of the estate.

Outcome

PTO informed our Office that the other claimants to the estate were located and they had agreed to provide a letter of consent confirming transferral of estate to Ms G. The Office updated Ms G and referred her back to PTO. No further action was required as the matter seemed to have been addressed. PTO was acknowledged for its usual cooperation and assistance.

2.2 HUMAN RIGHTS UNIT

2.2.1 Snapshot of Strategic Framework Overview

Output 2: Human Rights				
Output: To promote and protect human rights and freedoms in Samoa as the National Human Rights Institution (NHRI)				
Inputs/Critical Success Factors	Outcome	Key Projects	Performance Measure	SDG / Sector Goal
Effective monitoring of domestic and international human rights law	Improved compliance of domestic legislation, policy and practice with international human rights standards.	Legislative and Policy Review. Regional and international engagement and reporting. Coordination and application of human rights. Detention inspections.	Improved compliance of domestic legislation and policy with international human rights standards Increased Government consideration of treaty ratification Office capacity built to deliver Amicus Curiae function Improved coordination of human rights across government, civil society and the private sector.	SDG 15 L&JS Goal 3
Reporting of human rights abuses				
Best practice protection and promotion of human rights				
Effective outreach and Education	Violations of human rights are investigated and reported on effectively and efficiently.	Thematic Investigations State of Human Rights report.	Critical human rights issues are investigated and reported on effectively and efficiently Informative reporting on human rights issues.	
	Enhanced awareness and understanding of human rights, the role of and access to the office.	Awareness raising, promotion & outreach. Public education.	Increased understanding and acceptance of the value of human rights in Samoa Informative and timely reports submitted to international treaty bodies and mechanisms Increased partnerships, cooperation and information sharing with regional and international bodies Standards of detention facilities are improved in line with human rights standards.	

³ Strategic Plan 2016-2020

2.2.2 Highlights for Financial Year 2017-2018

Staff

The Legal Officer for the Unit, not a year into employment left the Office due to personal commitments. Two months later, an appointment was made to occupy the Legal Officer position.

All of the Unit's positions are currently filled (Director & Legal Officer).

Work

The human rights Unit undertakes a wide range of activities in pursuit of its statutory obligations and mandate. One of the main focus of this year was the completion of the Office's first National Inquiry into family violence as mandated under s.34 of the Ombudsman Act 2013.

As highlighted in the last Annual report, consultations undertaken in 2014 while producing its first SHRR⁴, as well as ordinary news reporting, showed convincingly violence to be the most urgent systemic and widespread violation of human rights among the Samoan population. The Unit decided to initiate an Inquiry which would be a 'national dialogue' on all aspects of the worsening family violence situation in Samoa. The objective was to understand the gravity of the problem and to formulate a strategy through activities in which the people of Samoa can engage under the leadership of their National Government to combat violence in the Samoan family. The exercise called for extensive public consultations because remedial activities would need to rely heavily on the effective utilization of traditional institutions.

A significant educational and awareness raising component intended to flow from the Inquiry which will be the focus of work for the next two years.

The Unit's work priorities are set through an annual planning process framed by the three outcomes in the Office Strategic Plan 2016-2020. In addition, the Unit ensures its work helps achieve the outcome articulated in the Budget Statement⁵, being:

“A recognized leader in promoting human rights in Samoa through independent investigations of violations of human rights issues, improved compliance of domestic legislation, policy, and practice with international human rights standards and enhanced awareness and understanding of human rights.”

This section highlights the ways in which the Unit has met its purpose through activities. These are reported in relation to the Unit's three outcomes provided in the Office Strategic Plan. The three outcomes also corresponds to the Performance Indicators in the Office's Budget Statement 2017-18. In this way, a clear line of sight is maintained between our Budget Indicators and work plans.

In reporting against these indicators, we have focused on a couple of key case studies and exemplary activities to demonstrate our performance.

⁴ State of Human Rights Report 2015

⁵ Budget Statement entails the Office's approved budget estimates for the fiscal year

Table 3. Snapshot of NHRI Activity: An overview of the Unit's key outputs in 2017-18

Public Education/Engagements	<ul style="list-style-type: none"> • 3 Village Outreach Programs across Upolu and Savaii reaching 350 participants in total • 4 Friendly School Outreach Programs across Upolu and Savaii reaching 280 students in total • 14 Public Hearing sessions across Upolu and Savaii reaching 890 participants in total • 10 Human Rights related Presentations • 1 Major Event (Human Rights Day Celebration)
HR Education & Training	<ul style="list-style-type: none"> • 1 Staff Internal Training on conducting an Inquiry (the process) • 1 Media Training Human Rights based approach reporting on cases of violence • 1 Staff Capacity Building Training on the Convention on the Rights of the Child • 1 Basic Human Rights Training for Police Recruit with 120 participants
Reports & Awareness Promotion/Resources	<ul style="list-style-type: none"> • 1 Statutory Report - State of Human Rights Report (National Inquiry into Family Violence) • 2 Promotional Banners for the National Inquiry • 2 Inquiry Advertisement Resources developed (e.g. Inquiry Information Sheets and pamphlets)
Legislative/Treaty Analysis	<ul style="list-style-type: none"> • 4 Legislations Reviewed during the National Inquiry • Submission to Government to ratify UN Convention Against Torture (UNCAT)
Media Engagements	<ul style="list-style-type: none"> • 17 Press Releases • 6 Media Interviews • 843 Facebook Likes • 839 Facebook Followers • 30 Facebook Posts • 15 Radio Spot Shows (Talofa FM, Malo FM, 2AP) • 1 Current Affair Show (E te Silafia)
HR Advisory Engagements	<ul style="list-style-type: none"> • 1 Advisory Council Meeting
Regional/International/Local Engagements	<ul style="list-style-type: none"> • 5 Local engagements (NUS, SFA, SVSG, NOLA, NCC) • 8 Regional Engagements (UNWOMEN, UNICEF, APF, SPC- RRRT, Comm Sec, UNFPA, UNDP, OHCHR) • 1 Written Submission to UN Human Rights Council Independent Expert Group

Outcome 1: Enhanced awareness and understanding of human rights, the role of and access to the Office.

Performance Indicator: Increase understanding and acceptance of the values of human rights in Samoa.

Our human rights education awareness seeks to increase understanding about human rights and to lay the foundation for positive change in attitudes and behavior towards human rights by children and members of the general public. We do this by delivering community awareness and training programs as well as public engagements via media and other methods.

National Public Inquiry – Phase 2: Public Hearings

Led by the Ombudsman and Commissioners of the Inquiry, phase 2 of the National Inquiry process was hearing from individuals and agencies/organizations/offices which include Alii and Faipule of villages, experts on the issues of family violence as well as church ministers. A total of 14 hearing sessions took place across Samoa on the 18 September – 6th October 2017. A national written submission process was also part of this phase. A significant awareness work including radio spots, TV talk shows, and constant media presence accompanied this work to call on the public to participate. To ensure wide coverage of awareness, three radio station was used. Every session included a Q&A to allow the public to call in questions regarding the role of the Office and any other information they wanted to understand about the Office.

As a result, 104 individuals came forward to participate including victims and perpetrators of family violence in both open and closed sessions and written submissions. The sessions were attended by 890 participants across the country. The views from these sessions assisted the Commissioners and the Office to analyze information and inform the direction of the Inquiry report.

Phase 2 of the project was funded by UNWOMEN.

Community Engagements

Unpacking Misconceptions of Human Rights in Community

Aside from community awareness as part of the National Inquiry, the Office engaged in 6 community awareness programs which included 3 village fa'asoa programs (Vavau, Talaelefaga Fagaloa, Apolima uta). Unfortunately considering budget constraints meant we aren't able to do more, however with many consultation opportunities under other work, the Office utilizes these avenues to raise awareness of human rights and the role of the Office. The community programs focus solely on unpacking misconceptions and deeply rooted perceptions about human rights as foreign concepts through discussions of core values and principles of fa'asamoa and how they interrelate with each other. An important outcome of these sessions was a consensus by the public in using of various terms to refer to human rights. It was noted that some preferred to use Fa'amanuiaga Fa'avae, Fa'amanuiaga Tatau/Talafeagai. The Office took into consideration these various terms and have incorporated in future community sessions giving the people the freedom to decide on the term they prefer to ensure that discussions of human rights are well received. The 3 sessions in total were participated by more than 300 participants.

Creating Friendly Schools in Samoa

In the month of March 2018, the Office under its human rights education mandate carried out 4 friendly school program in partnership with the Ministry of Education, Sports and Culture and Ministry of Police. The 2018 program covered both colleges and primary levels which included Avele College, Sauniatu Primary School, Satapuala Primary School, and Aana 1 College. The Friendly School Outreach Program aims to work towards **building a positive understanding** among children and teachers about the value of understanding and respecting human rights and also the **responsibilities and the limitations** that come with it through the provision of education and information. The Programme also focuses on promoting an overall school-wide atmosphere of equality, non-discrimination, inclusion, respect, dignity, and participation in schools. The Programme also hopes to assist the work of various organizations to tackle the school violence problem where schools are encouraged to explore what it truly means to be a friendly school. The program for this year was able to reach 280 students, not including teachers and parents who also observed the programmes.

Human Rights Education & Training

Building Internal Capacity for Child Rights

The Office with the kind assistance of UNICEF Pacific carried out a 2 day training on the United Nations Convention on the Rights of a Child (CRC). The purpose was to not only strengthen the understanding of the staff on the Convention itself but most importantly to build capacity regarding the application of the Convention to the local context and how to better respond to issues pertaining to the Convention articles. For instance, promoting the rights of children in Samoa has always been a challenge due to deeply rooted beliefs with regard to child rights to express views and the disciplining of children. The staff was fortunate to learn from the experiences and knowledge of our very own, Justice Vui Nelson a United Nations CRC Committee member on issues relating to substantive articles of CRC. Representatives from the Child Protection Unit of the MWCSO also took part and shared their knowledge and expertise with the staff on the issue and ways to collaboratively work together.

Advocating for proper reporting on violence

In ensuring the successful coverage of the National Inquiry, a one day workshop with media was funded by UNWOMEN and UNFPA which focused on ethics and proper reporting of violence in families as well as the need to take into consideration human rights standards in relation to reporting. A total of 15 participants from various media outlets in Samoa participated in this workshop.

Human Rights Sensitization with Police

In addition to these training, the Office in this period completed its usual Basic Human Rights Training as part of the 20 week Police Recruit course in partnership with Ministry of Police and UNWOMEN. A total of 102 students participated in the 2 day training. The training covered topics including what are human rights, the international human rights standards, and relevant national laws, the application of these to their work, human rights and diversity as well as police accountability. A representative from UN Women also spoke about the importance of understanding gender equality and gender stereotyping to ensure that gender-sensitive approaches are taken into consideration in all areas of their job when dealing with women, men, girls, and boys.

The working partnership between the Office and the Ministry of Police has been running for 3 years now in addition to police outpost's refresher training. The Office believes that raising awareness of gender issues and human rights among officers not only helps foster a culture of respect for these issues but also ultimately lead to better-informed decisions when carrying out their roles. To this effect, it has been noted from the SIU and Good Governance functions of complaints coming through recently involving breach of human rights of children. For instances there has been two cases which involved the unlawful detention of young children.

Human Rights Day 2017 "Stand up for someone's rights today"

Every year on the 10th December, the world including Samoa celebrates Human Rights Day. It celebrates the adoption of the Universal Declaration of Human Rights in 1948 by the United Nations. In Samoa, it is a day in which we celebrate the fundamental principles of human rights which are respect, non-discrimination, equality, peace, and love for each other as well as our responsibilities in its application.

In line with this year's Human Rights Day which builds on the 2016's theme "Stand up for someone's rights today" the Office implemented various activities to commemorate the day. Considering it fell on a Sunday, the focus was mainly on working in collaboration with church congrega-

tions by dedicating their church service to this day. Accordingly the 'Preach for Peace' program was participated by 3 churches (EFKS Salua Manono-Tai, SISDAC Taufusi, and Catholic Church Faleu Manono-Tai). The church services were attended by more than 300 people and were broadcast on 3 national televisions (Upumana, TV1, and TVEFKS) which meant a wider coverage of audience was achieved. The church sermons highlighted values of human rights, its importance to everyday life and how critical it is to understand human responsibilities and limitations to be able to successfully apply it.

Media Engagements

A substantial awareness via media engagements accompanied many of the activities carried out by the Office including the activities noted above. This year as part of human rights day the Office produced a promotional video in light of the theme of human rights day. The Office produced an E Te Silafia documentary on the Inquiry including information on the role of the Office, what an inquiry is, the scope and purpose of the inquiry, and contact details for any member of the public who wanted to access the services provided. The Office's Facebook page was often updated on activities of the Office and shared other information for public knowledge. Since the creation of the Office's Facebook page in late 2016, a total of 839 followers recorded to date. Unfortunately, we are not equipped to constantly monitor Facebook reach and conduct a full analysis of its impact due to capacity issues, however, human rights day 2017 post was able to reach more than 3,000 viewers which gives an indication of coverage. The Office continues to carry out awareness utilizing other media forums such as radio and press releases.

Our public presence helps us reach large and diverse audiences and to facilitate informed discussions. In this period, we have been invited to present to 10 different workshops and events related to human rights and our role, this have engaged substantial audiences and generated significant awareness and debate through positive media coverage. This includes activities by our external partners and community outreach discussions.

Outcome 2: Violations of human rights are investigated and reported on effectively and efficiently.

Performance Indicator: Critical human rights issue are investigated and reported on State of Human Rights Report 2018

A core function of the Office is delivering independent and robust research and analysis on human rights issues and providing relevant and usable recommendations to improve highlighted issues. In achieving this outcome, the Office submitted the National Public Inquiry report to Parliament as its State of Human Rights Report for the fiscal year. The report set out the evidence received from the public conversations held throughout 2017/18, analysis of the situation of family violence and recommendations addressed to Government, non-government organizations (NGOs), other relevant stakeholders and institutions that exercise power and influence within the community.

E-copies of the report can be found on our website as follows:

https://ombudsman.gov.ws/wp-content/uploads/2019/01/2018_-SHRR-2018-National-Public-Inquiry-into-Family-Violence_-English.pdf

<https://ombudsman.gov.ws/wp-content/uploads/2019/01/National-Inquiry-into-Family-Violence-Report-SAMOAN.pdf>

Outcome 3: Improved compliance of domestic legislation, policy, and practice with international human rights targets.

Performance Indicator: Legislations Reviewed

The Office during its Inquiry process undertook a review of several local legislation and laws to not only assess whether they comply with efforts to address family violence but also to see whether they are human rights friendly. These laws included the:

- Family Safety Act 2013 looking at reporting of family violence cases and strengthening of protection orders;
- Infants Ordinance 1961 looking at the right of parents and teachers to administer reasonable punishment to the child; and
- Village Fono Act 1990 looking at considering specifically including family violence as an area of concern for the village Fono as well as empowering provision for the village council to make bylaws that fight family violence.

Performance Indicator: Increased Government consideration of Treaty ratification

In October 2017, the Office called for the Government to ratify the UN Convention against Torture. Talks are currently underway between the Ministry of Foreign Affairs and relevant stakeholders to assess the context before further steps are taken to ratify.

Performance Indicator: Submissions to International Treaty Bodies and Mechanisms

The Office submitted a response to the UN Human Rights Council Independent expert group on the issue of discrimination against women in law and in. the group raised made the recommendation that the National Human Rights Institution should develop mechanisms to ensure protection for those who are speaking out against strongly held beliefs that undermine human rights, including in relation to acts of reprisal. The Office's submission was issued in June 2018.

Performance Indicator: Partnerships with Regional and International Bodies

The Office worked in collaboration with UNICEF Pacific to conduct an internal capacity building workshops for its staff on the articles of the Convention of the Rights of a Child. Furthermore other partnerships that were further strengthened through various projects included:

- Asia Pacific Forum – working with the Office on the advancing of the rights of Fa'afafine and Fa'atama project. Furthermore, provide support for staff and NHRI advisory council member to attend regional conference on human rights.
- Commonwealth Secretariat – to provide support with the preparation and launch of the Family Violence Inquiry Report.
- Australian Human Rights Commission – providing opportunity for staff to undertake a secondment to build capacity and raise awareness of operations and practices of the Australian Human Rights Commission.

Performance Indicator: Coordination of human rights locally

The Office partnered up with various local agencies to coordinate human rights in schools, universities, government agencies and also in the communities.

- NUS: Office worked with the Faculty of Education to deliver lectures to students on human rights and raise awareness of the different conventions and also responsibility associated with these Convention that Samoa need to follow and oblige to. This partnership is at its infancy stages and the Office hopes to build on this in future subject to resource availability and support from the Ministry of Education.
- SFA: In carrying out awareness in communities particularly on the rights of Fa'afafine and Fa'atama the Office also partnered up with SFA raise awareness of human rights and how to ensure that everyone including Fa'afafine and Fa'atama are respected and treated equally.
- POLICE: The Office has been working closely with the MOF over the past years to carry out awareness trainings for its police recruits as well as assist with refresher trainings for police outposts. This is a continuing partnership and the Office foresees that this will be extended to other law enforcement agencies such as prisons.
- MESCS: the Office with the support of the Ministry of Education carries out 3 friendly schools programmes in various schools in Samoa every year. This initiative came about as a result of the 2015 State of Human Rights Report provided by the Office where it identified the lack of awareness and also the misconceptions among people about what human rights are and especially opposition towards the rights of children.

Performance Indicator: Detention Facilities in line with human rights standards

The Office was not able to carry out inspection due to other priorities specifically the Inquiry Report, and considering the manpower of the Office, however the Office intends to continue with inspections as per schedule this financial year to conduct an audit of recommendations from previous inspections.

Training/Workshops

International

- Capacity building for stronger seasonal worker programs, 23-24 April, 2018, Sydney, Australia.
- Donor roundtable on National Human Rights Institution, 27 April, 2018, Suva, Fiji.
- International Conference on Sexual Orientation, Gender Identity and Intersex Status Research: Data Collection, Analysis, Social and Policy Engagement, 9-10 May 2018, Tsim Sha Tsui, Hong Kong
- 2nd Pacific Human Rights Conference “My Voyage, One Ocean, Our Journey”, 28 May – 01 June 2018, Nadi, Fiji

Local

- Conference on gender based violence against women in Samoa, 16 March, 2018
- Disability Analysis Workshop, SBS, 7-11 May, 2018, Apia.
- Faafafine & Faatama Trans Health Blueprint Trainings of Trainers Workshop, 16-18 May, 2018, Sogi

- YWCA Care for Young Women to Rise Up! Lecture, 25 May-5 June, 2018, Le Papaigalagala;
- Convention Against Corruption Workshop, UNDP, 12-13 June 2018, Apia.
- Legislative Drafting Training, Samoa Law Reform Commission, 22 June 2018, Apia

2.2.3 Highlights for Financial Year 2018 to 2019

Staff

A staff member of the Unit was fortunate to be a successful applicant to pursue a Masters Degree through the Chevening, a UK Government Scholarship. He left the Office on study leave in September 2019 to study in London UK for a year.

As a consequence of this, the Human Rights Unit now remains with 2 staff. For this reason, through the Roll Out Plan initiative for the National Inquiry Report, the Office engaged its donor partners to assist with funding a Senior Project Officer to help with the implementation of the said Roll Out plan. Fortunately, we managed to secure some funds from SPC-RRRT to fund the Senior Project Officer for a year (on a temporary basis).

As per the revised organisational structure, the Support Staff for the Unit has now been transferred to the Corporate Services Unit. The Communication and Education Office has now been promoted to a Director level and is in the process of becoming another Output of the Office. This means that the total staff for the Human Rights Unit will be two permanent – Director and Legal Officer and one temporary staff- Senior Project Officer.

This remains an issue for the Human Rights Unit, the lack of staff to ensure the full implementation of all functions of the Office. As per the revised organizational structure mentioned in section 1.1, the Unit is proposing 1 Principal Officer.

Work

As a brief overview, this year marks five years since the National Human Rights Institute was established within the Office of the Ombudsman with an extensive mandate to protect and promote the human rights of the people of Samoa. It has not been an easy voyage for the Office from the beginning given the strong views of our people against “human rights”. Despite these challenges, we persevered and slowly our people are starting to understand what human rights comprise. The Office has also become prominent in the Pacific and to some extent internationally on the work that it is doing specifically on how we contextualize human rights in Samoa. We have so far received requests and hosted two scoping missions from our Pacific neighbours (Tonga and Tuvalu) on our role as an NHRI and how they can adopt a similar model. Tuvalu is a recent addition to the existing two Pacific national human rights institutes (Samoa and Fiji).

With all this work, we hope to still maintain our A status accreditation as an NHRI come 2021 when we are due for review by GANHRI.

This year was yet another busy year for the human rights unit with all the attention it has attracted from around the world on the National Public Inquiry into Family Violence which we had conducted last year. As highlighted in our last annual report, the Office conducted extensive consultations across Samoa to understand the gravity of the problem and to formulate a strategy and activities in which the people of Samoa can engage under the leadership of its Government to combat vio-

lence in the Samoan family. This Report was launched in September 2018. Through the Inquiry, there has been an increase in opportunities (regional and international) for our Office to attend and participate in different forums to discuss the Inquiry Report. This has allowed not only a great deal of exposure for our staff, our Office, and Samoa as a country but particularly building staff capacity. Following the launch of the Inquiry Report, we started a 2 year roll-out plan full of activities/programmes to raise awareness of the Report and to encourage our stakeholders and community to start implementing recommendations of the Report. These activities are kindly supported by various donor partners such as SPC-RRRT, UNFPA, UNICEF, and UNWOMEN.

With much success, there are also challenges. The challenge that is faced by the human rights unit is the lack of staff with only 2 employees. This in turn impacts the full implementation of the office's functions as stipulated under its Act.

Despite such a challenge, the Office remains committed to implementing its functions. Below is a detail report of the work of the human rights unit throughout this year which are captured under 3 outcomes as provided in the Office Strategic Plan 2016-2020 and as noted in the Unit's Budget Outcome for this financial year.

Table 4. Snapshot of NHRI Activity- An overview of the Unit's key outputs in 2018-2019 Public Education/Engagements

Public Education/Engagements	<ul style="list-style-type: none"> 7 Community Engagements covering 40 villages across Upolu and Savaii reaching 1,200 participants in total 3 Friendly School Outreach Programs across Upolu and Savaii reaching 310 students in total 2 Events in collaboration with SFA & SVSG (Human Rights Day Celebration 2018)
HR Education & Training	<ul style="list-style-type: none"> 6 Trainings held with Police & Correctional Officers in Upolu and Savaii on developing Human Rights Standards in dealing with all vulnerable groups including Fa'afafine in Samoa. 1 Basic Human Rights Training for Police Recruit with 40 participants
Reports & Awareness Promotion/Resources	<ul style="list-style-type: none"> 1 Statutory Report – State of human Rights Report – looking back to 2015, 2016, 2017 Audit 1 Fesoasoani Calendar for Family Safety Promotion 1 developed book mark on human rights unit 1 Digital Video on CRC 1 Inspections Report 2 Office Newsletters
Legislative/Treaty Analysis	<ul style="list-style-type: none"> 1 Submission on the Education Bill Review
Media Engagements	<ul style="list-style-type: none"> 7 Press Releases 4 Media Interviews 1,293 Facebook Likes (450 more from last year) 1,318 Facebook Followers (479 more from last year) 41 Facebook Posts 5 Radio Spot Shows (Talofa FM, Malo FM, 2AP)
HR Advisory Engagements	<ul style="list-style-type: none"> 2 Advisory Council Meeting
Regional/International/Local Engagements	<ul style="list-style-type: none"> 1 Regional Engagements (UNWOMEN, UNICEF, APF, SPC- RRRT, Comm Sec, UNFPA, UNDP, OHCHR) 5 Written Submission to UN Human Rights Council Independent Expert Group

Outcome 1: Enhanced awareness and understand human rights the role of access to the office

Performance Indicator: Increase understanding and acceptance of the values of human rights in Samoa.

Human Rights Education awareness is the main component of our work. As uncovered in our first State of Human Rights Report (SHRR) in 2015, there is a vast misconception by our people of human rights where it's seen as a 'foreign thing'. As such, human rights are blamed for much of the social issues. One of them is the controversial rights of the child where it's viewed that such rights meant that children are no longer listening to their parents or children talk back to their parents because they have a right to do so. For this reason, we have invested a lot of our time and resources in our human rights education awareness to dispel these misconceptions. As an Office, we have been advocating strongly on the fact human rights is not a "foreign thing" but has always been embedded in our Fa'asamoa as reflected in our cultural values of respect, protection, dignity similar to that of the principles of human rights. Therefore, the relationship between human rights and the Fa'asamoa can be mutually reinforcing given they are both rooted in the same values/principles. Since 2015, we have seen changes in the mindsets of our people on their understanding of human rights. Children are starting to understand human rights and responsibilities that come with it, parents are understanding that the rights of a child do not necessarily mean taking the responsibilities away from parents to direct their children but they are simply there to ensure that children are being protected from any forms of harm. For example, the core principles of CRC is ensuring that children are free from violence, have access to education, proper health care, etc.

Therefore, we need to continue to clarify and raise awareness about human rights (and at most times in collaboration with our partners) through our school awareness, community awareness, training programmes and public engagement through the media.

Human Rights Education & Training

Friendly School: Empowering children through human rights education

The Office completed three (3) friendly schools in collaboration with MESC this period. The three sessions focused on exploring a basic understanding of children on rights in general particularly a heavy stance on responsibilities that coexist with children's rights. The Office acknowledges the ongoing support of the schools Principals, teachers and the Ministry in this important work. Schools that participated in this period included Solosolo Primary School, Vaimauga and Anoa-ma'a Colleges. The program will continue again in the next financial year.

Human Rights & Law Enforcements: Raising awareness amongst Police recruits

Police are the largest and the most important law enforcing agency, has, no doubt, a carries a responsibility for the protection of human rights. But its role as a protector of human rights takes a beating when the protectors themselves are accused of violating them.

With the rise of police/prison cases that our office has handled involving Police abuse of power, unlawful detention including children, it is the Office's vision that providing basic human rights training to police/prison new recruits is a perfect introduction for them to basic human rights and how they relate to their line of work. Through these trainings they will have a full appreciation and understanding of the importance of the application of human rights in the practice of their everyday work.

Therefore, we continue to work closely with the Ministry of Police to conduct human rights trainings in the past 4 years since inception. The Office in partnership with Police held a 2-day workshop for this financial year on understanding basic human rights as part of the 2019 Police Recruit training which consisted of about 40 recruits. The first half of the training covered topics including what human rights are, the international human rights standards and relevant national laws and how all these relate to their work. The second half of the training focused specifically on applying these standards to their everyday work. The Office continues to work in collaboration with UN-Women in delivering these sessions to look into the importance of understanding gender, diversity and various approaches to consider when dealing with women and girls. To ensure that these trainings are effective and useful to the participants a pre-post questionnaire is completed to gauge prior knowledge of participants and compared to after the trainings are completed. In analysing, it confirmed that before the training almost 80% of participants had no prior knowledge of the role of police as duty bearers in protecting and promoting human rights of the public. Around 90% were not aware of Rights of Police in the line of work and 85% were not familiar with other human rights standards other than Samoa's Constitution and principles applied to everyday work of police in times of first contact, arrest, investigations, detention, and use of force and firearms. At the end of the trainings, it saw a huge improvement in knowledge and understanding of these important aspects which confirms how these trainings are crucial as many of the issues faced by Police is due to the lack of knowledge on human rights standards that applies to their work affecting the practicality of their everyday duties.

Unpacking Misconceptions around CRC short video

As part of the Office's efforts to address misconceptions around CRC, the Office engaged the assistance of Asia Pacific Forum as part of its Communications Network to develop a 5min short video addressing some of the common misconceptions around CRC. The video centred around the views of the children themselves on human rights and the participation of one key prominent School Principal on his take of CRC. The short video was done in Samoa with subtitles in English. It was shared on the Office Facebook page and will be part of the Office resource during its community awareness programs henceforth. It is intended for the next financial year to develop more digital awareness to further promote key messages around controversial human rights issues including freedom of expression and human rights in general.

Office Social Media Communication

The Office in the past year has tried to utilise its social media to engage with the people of Samoa. It is forecasted that almost all households in Samoa has access to Facebook. This financial year alone has seen a huge rise in the number of likes to the page compared to last year. This is an indication that messages and updates of events by the Office also reaches out to social media users expanding further awareness and promotion of the Office.

Raising Awareness on National Public Inquiry into Family Violence Report Findings & Recommendations

Community Consultations- Taking back the Findings and Recommendations

Prior to the launch of the National Public Inquiry into Family Violence in Samoa, the Office carried out preliminary consultations in both Upolu and Savaii on the findings and recommendations of the Report. The 2-week long process was an opportunity for the Office to share the findings and recommendations of its report with the people whose opinions and views helped form and shape

the final outcome. More than 1,000 people including men, women, youth, and children took part. Villages consulted included Uafato, Taelefaga, Lona, Salimu, Maasina, Samamea, Apolima-uta, Mulifanua, Manonouta, Falelatai, Siufaga, Saoluafata, Luatuanuu, Eva, Fusi, Sapapalii, Lalomalava, Salelavalu, Asau, Vaisala, Gataivai and Vaitoomuli. The Office acknowledges the support of UN Women and thanks the Inquiry Commissioners for their hard work in taking the message out.

NHRI Complete Stakeholder discussions on national inquiry report findings and recommendations

Following the launch and publication of the National Inquiry into Family Violence Report in 2018, the Office began its 2-year rollout plan which focuses on achieving outcomes that include increasing visibility of the main findings and recommendations of the Report at all levels, and building momentum for action. An important part of achieving this outcome is to ensure that report findings and recommendations are well understood and received by stakeholders across all sectors. The Office met with key relevant stakeholders including the Ministry of Women, Police, Justice and SVSG, Education and others from 11th February – 1st March 2019. It held one-on-one discussions on the Inquiry Report findings and recommendations particular to each organisation, as well as a way forward and opportunities for partnership. The Office will continue to follow up on these conversations and work collaboratively and collectively with its partners to implement recommended actions contained in the Inquiry Report. The Office acknowledges the support of SPC-RRRT for their support in our stakeholder consultations.

Role of the Church in preventing violence, 21 November 2018

The Office in collaboration with UN Women hosted the annual Ending Violence in Samoa (EViS) Roundtable. The focus of the talks was to address recommendations from the Office's National Inquiry into Family Violence on Faith-Based Interventions. Of the 39 recommendations made by the Inquiry, over 25% of them referred to direct Faith-Based interventions or support from faith-based organizations. Recommendation number 10 is explicit in its call to engage with public theology and to incorporate a more comprehensive approach across denominations. Representatives from various denominations were invited to take part and share their views on the recommendations of the report directed to the church. The EViS Roundtable Panel members included Judge Talasa Saaga (Judge Family Violence Court), Rev. Kasiano Leaupepe (Chair of the National Council of Churches), Dr. Mercy Ah-Siu Maliko (Lecturer Piula Theological College), Maiava Iulai Toma (Ombudsman), and Afamasaga Faauiga Mulitalo (CEO MWCSO). The talks were facilitated by Mata'afa Keni Lesa (Editor Samoa Observer).

Celebrating Human Rights Day: Standing up for Human Rights, 10 December 2018

On the 10th of December every year "HUMAN RIGHTS DAY" is celebrated around the world to mark the day the Universal Declaration of Human Rights was signed. The Office took part in the celebrations and worked alongside various NGOs including SVSG, SFA, and NOLA to carry out various activities to ensure that freedoms and rights of vulnerable groups in our society are being celebrated and recognized. Activities included: 'BUDDYING UP' event (focusing at empowering child vendors) in collaboration with SVSG, the launching of the Fa'afafine/Fa'atama Report on gender based-violence in collaboration with SFA, and the Disability Week Awards & Launch of Human Rights Education Children's Book in collaboration with NOLA. The 2018 celebrations were an opportunity to further strengthen the working relationships of the Office with its key partners and to recognise the potential of NGO's as allies of NHRI in its rally to further advance understanding and acceptance of human rights in Samoa.

Outcome 2: Violations of human rights are investigated and reported effectively and efficiently

Performance Indicator: Critical human rights issue are investigated and reported on

State of Human Rights Report 2019: Recommendation Audit

We are mandated under our legislation to submit an annual state of human rights reports to Parliament. For this year, we have decided to do an audit of all recommendations from our 3 previous State of Human Rights Report - 2015, 2016 and 2017. The Audit Report titled “HOW FAR HAVE WE COME” assesses Government action to date towards implementing recommendations contained in the previous human rights reports and makes up the Office’s 2019 SHRR. The report has been submitted to the Speaker of the Legislative Assembly and currently awaiting discussions with Select Committee.

While noting the completion of the SHRR 2019, we have uncovered over the past 4 years that there seems to be a miscommunication or misunderstanding as to the process of discussing SHRR. For this reason, we have also taken the initiative to breakdown this process for everyone to better understand the process of discussing SHRR in Parliament as outlined in section 40 of the Ombudsman Act 2013.

E-copies of the report can be found on our website as follows:

English version: https://ombudsman.gov.ws/wp-content/uploads/2019/09/FINAL-SHRR-2019_-English-copy_-26.08.19.pdf

Samoan version: https://ombudsman.gov.ws/wp-content/uploads/2019/09/SHRR-2019_LIPOTI-FAAIU_Samoan-text_9.9.19.pdf

Outcome 3: Improved compliance of domestic legislation, policy, and practice with international human rights targets.

Performance Indicator: Legislations Reviewed

Submission to Parliamentary Committee: Education Amendment Bill 2018

Submission to the Parliamentary Social Committee on the introduction of the use of reasonable force in schools under section 23 of the Education Amendment Bill 2018.

Performance Indicator: Partnerships with Regional and International Bodies

Protecting and promoting the rights of Women and Girls in the Pacific, 4-5 September 2018

The Office in collaboration with the Asia Pacific Forum (APF) hosted the first Roundtable on the rights of women and girls in the Pacific. The Roundtable was attended by National Human Rights Institutions (NHRI) representatives from across the region to discuss and address issues that affect women and girls in the Pacific, as well as exchange ideas on how to promote gender equality.

Ombudsman Office/ NHRI Samoa Capacity Building Activity on Monitoring and Evaluation, 20-21 August 2018

Monitoring and Evaluation (M&E) is a process that helps improve performance and achieve results. It is used to assess the performance of projects, institutions, and programs set up by organisations/ institutions. As such is very much important in human rights work to assess the impacts of activities and projects implemented by institutions. This is one area where the Office is committed to strengthen. With the support of the Asia Pacific Forum on NHRIs, together we hosted a capacity building activity on M&E and have established an M&E framework catered for the individuals divisions and an Office as a whole.

Human Rights Training for Law Enforcements, April 2019

The Office in collaboration with the Samoa Faafafine Association Inc. (SFA) and Law Enforcement Agencies engaged in a two-week training held over two months for both SPCS and MOP. There were more than 120 correctional and police officers who took part. These included representatives from management and various units of the agencies. The training aimed at raising awareness of law enforcement agencies about the SFA community as well as refreshing their knowledge about human rights standards that law enforcement officers should consider when carrying out their work especially when they come in contact with members of the public including faafafine/ faatama and others. The project is part of a larger project to develop a guideline and standards for law enforcement when dealing with vulnerable members of the community. The Office acknowledges the Management of SPCS and MOP for their continuous support in this ongoing project and working together to ensure that human rights for all are realized and respected. Lastly, a great appreciation to the Asia Pacific Forum for NHRIs for their financial assistance.

Performance Indicator: Detention Facilities in line with human rights standards

After the busy schedule from the national inquiry, the human rights team finally had time to carry out its other important function which is conducting inspections of detention places. This function requires us to inspect and monitor the treatment of people who are, or maybe, deprived of their liberty in places of detention and making any recommendations considered appropriate to improve that treatment. The risk of ill-treatment exists in all situations where people are deprived of their liberty. The places need to be monitored to make sure the people living there are safe and are treated fairly.

This is the Office's fourth inspection of Tafaigata, Olaomanu and Vaiaata prisons. The purpose of the visit was to follow up on work undertaken by the Prison and Corrections Services to accommodate recommendations contained in the 2015, 2016, 2017 Detention Inspection Reports.

An e-copy of this report can be found at https://ombudsman.gov.ws/wp-content/uploads/2019/07/FINAL-REPORT_-DCIR-2019-No.-1.pdf

Performance Indicator: Submissions to International Treaty Bodies and Mechanisms

The Office has made a few submissions to international Treaty Bodies and mechanisms as follows:

- Submission of NHRI CEDAW Shadow Report to the UN Committee on CEDAW.
- Submission to the UN Human Rights Council Independent expert group on the issue of discrimination against women in law and practice in Samoa.
- Submission to GANHRI regarding Mapping of NHRIs roles, activities, experiences with regards to migration.

- Submission to GANHRI regarding NHRI's role in preventing and eliminating violence against women and girls - 63rd session of the Commission of the Status of Women.
- Submission to the OECD Development Centre on Data validation in Samoa- OECD Social Institutions and Gender Index Survey.

Training/Workshops

International

- Human rights and technology conference and consultation workshop, 24-25 July, 2018, Sydney, Australia.
- Fiji Human Rights Commission SOGIESC National Consultation, 26-27 July, 2018, Suva, Fiji.
- The Equal Rights Coalition Global Conference On LGBTI Human Rights & Inclusive Development, 5-7 August, 2018, Vancouver, British Columbia, Canada.
- 23rd Annual General Meeting of the APF of NHRIs, 18-19 September, 2018, Hong Kong. International Conference on Equality, 20-21 September, 2018, Hong Kong.
- APF Facilitators' Network (AFN) workshop, 24- 26 September, 2018, Bangkok, Thailand.
- 13th International Conference of NHRIs – expanding the civic space and promoting and protecting human rights defenders, with a specific focus on women: the role of NHRIs, 10- 12 October, 2018, Marrakech, Morocco.
- Implementation Of Domestic Violence Legislation: From Law To Practice Regional Consultations, 23-25 October 2018, Nadi, Fiji. Transformative Agenda Planning Meeting UNFPA, 15 November, 2018, Suva, Fiji. 9th International Conference on Human Rights Education, 26-29 November 2018, Sydney, Australia

Local

- Advisory Committee for the Samoa Disability Program (SDP): Phase 2 Design Consultations, 10-13 July 2018, Sogi.
- Legal Aid Workshop, UNDP, MJCA Conference Room, 27 July 2018, Mulinu
- 3rd ILGA Oceania Regional Conference - ILGA Oceania, Apia, 29 August- 1 September 2018
- Influencing and engaging with key stakeholders on Inquiry Recommendations Capacity Building Workshop, 13-14 September 2018
- Meet & Greet Session with SOGIESC groups in Samoa, 6, 7 and 12 October, 2018
- 2nd Quarterly SFA Stakeholder & Allies Informal Dialogue & launch of SFA Media Guide, 6 October 2018.
- CEDAW Reporting on Samoa's 6th Periodic Review Preparatory & Practice Session, 8-10 October 2018.
- Samoa Disability Partnership Program: Phase 2 Follow-Up Consultations, 22, 24, 26 October 2018, Tooa Hall, Sogi, Samoa. Child Care Protection Systems Workshop, 24-25 October 2018,
- SAMOA Pathway Interregional Meeting [Side Event - ICPD Implementation in PACIFIC SIDS: SAMOA Pathway Partnership Actions in Reproductive Health, Population Data, Gender and Youth], 29 October 2018.
- Community Development Sector 1st Annual Forum, 6-7 November 2018.
- SFA UPR 2nd reporting cycle – Mid-term review, 7 November 2018.
- Data Communication & Infographics Basics, 19- 23 November 2018.

2.3 Special Investigations Unit (SIU)

2.3.1 Snapshot of Strategic Framework Overview⁶

Output 3: Special Investigations Unit				
Objective: To address misconduct in agencies exercising the coercive powers of the State and to conduct special investigations as maybe authorised				
Inputs/Critical Success Factors	Outcome	Key Projects	Performance Measure	SDG / Sector Goal
A well-managed referral system to deal with complaints and monitoring that encourages increased compliance of performance standards of policing.	An office that ensures effective and independent resolution of complaints against the police and other prescribed forces and any other matters that may be defined by law or regulations.	Independent Police force investigations Other disciplinary force investigations	Independent, credible and effective discharge of the functions of the Special Investigations Unit	SDG 15 L&JS Goal 3
A well-established Special Investigations Unit (SIU)	An informed Public on the scope and functions of this Unit The SIU has the necessary capacity to deliver its Services	Outreach and Awareness Building Ongoing establishment of Special Investigations Unit	Increased Public awareness of role of SIU demonstrated by biennial SBS survey Effective engagement with the Public on functions of the Special Investigations Unit An adequately resourced SIU with capable staff able to adequately deliver its functions	
Capability and standby capacity to conduct authorised investigations	An open and transparent relationship with Police	Active case consultations with Police Professional Standards Unit (PSU)	Improved Professional Standards Unit case handling	

2.3.2 Highlights for 2017 -2018

Staff

In May 2017, SIU bid farewell to its' former Director, who has pursued new career prospects with the Office of the Attorney General.

The Office then pooled together to assist the one (1) SIU officer (principal investigating officer) to carry out work under SIU for nine (9) months.

⁶ Strategic Plan 2016-2020

In March 2018, the Office welcomed its' new and current SIU Director, whom was also a former prosecutor at the Office of the Attorney General, to the role. This brings the total number of SIU officers to 2.

Work

Outcome 1: Independent, credible and effective discharge of the functions of the Special Investigations Unit

Performance Indicator 1.1: Regular monitoring and good control to improve Police handling of complaints

As per section 68(5) of the Police Service Act 2009, the SIU functions to review the Police Professional Standards Unit (PSU) on a regular basis. SIU reviews PSU on an annual basis, submitting reports to the Commissioner on the following scope:

- a) The complaints lodged in the PSU Complaints Register in comparison to the lists forwarded to SIU;
- b) PSU case management practices and procedures in compliance with PSU's Standard Operating Procedures;
- c) Quality of investigations (ie. Time frame of investigations, issues, concerns etc).

Between the 20th and 25th March 2017, SIU conducted an annual review of complaints received by PSU during the annual period commencing February 2016 to February 2017. **In total, PSU received 127 complaints against Police officers during this period.** Of the 101 files that were requested, 74 were forwarded to the team for review. The remaining 27, were either lost or with the Attorney General for prosecution.

SIU issued six (6) recommendations. Some of these recommendations included the need for the two officers already stationed at the PSU Register to be stationed there on a long term basis. This may not always be possible given the rotational work of the Police, but having people who are familiar with the system rather than re-orienting new people on skills they may not have, is counter-intuitive and further delays the progress of PSU in its record keeping systems. PSU officers are not following their own SOP on case management practices and procedures; continuous training was therefore recommended in ensuring quality and efficient investigations. SIU will follow up these recommendations in an effort to help Police improve the handling of complaints.

Performance Indicator 1.2: Independent investigations subject to serious complaints received

SIU did not conduct an independent investigation during this financial year as the number of serious complaints that the Unit did receive warranted alternative resolutions like further training or a simple alteration of a decision made by the CEO. There were no indications of systemic issues that required an own motion investigation.

The following, are summaries of the serious complaints received by SIU:

SIU01

Launched: September 2017

Summary: The Prime Minister referred a complaint by former employees of a Government Stand Alone Agency (GSA), against the decision of the Commissioner to deny them their right to appeal his decision to terminate their employment.

Findings: The former employees have a right to appeal the Commissioner's decision.

SIU02

Launched: February 2018

Summary: The Prime Minister referred a complaint from a former employee of a Government Public Enterprise (GPE) against an unfair recruitment and selection process of a contractual position he previously held as an employee.

Findings: The Office found that the recruitment and selection process was unfair.

Recommendation: The Office recommended that the complainant be reinstated to another senior management position given his long term tenure in the GPE.

Update: GPE reinstated complainant to another senior management position following recommendation from the Office.

SIU03

Launched: April 2018

Summary: The Prime Minister referred a complaint from a woman who alleged abuse of power by a senior officer of a Government Stand Alone Agency (GSA) against herself and her family in 2013.

Findings: The Office found that the officer involved did abuse his power and that he was rightfully disciplined through internal disciplinary procedures. He was stripped of his rank and fined.

Recommendations: The Office recommended warrants of arrest to be executed for those involved in an assault against the complainant.

Update: GSA has proceeded to track down warrants of arrest to be executed as per the Office recommendation. The Office continues to monitor developments during monthly visits.

SIU04

Launched: June 2018

Summary: A woman lodged a complaint alleging unreasonable/unfair treatment of herself and the unlawful detention of her two and half (2 ½) year old child in a GSA outpost.

Findings: Intervention by the officers involved to cancel the settlement agreed between the parties was wrong. The decision to hold the complainant and her 2 ½ year old child in custody was wrong. The complainant and her son were unfairly treated while under arrest and contrary to CO orders.

Recommendation: The Office recommended heavy disciplinary action against officers involved. The Human Rights Unit of the Office will also commence recruitment training and refresher courses on the rights of a child in the upcoming year.

Update: GSA have commenced internal investigations against officers involved and are liaising with SIU on developments.

Performance Indicator 1.3: Review of other disciplinary force complaints mechanisms continuing

The Office is in dialogue with SPCS on conducting reviews of its complaints mechanisms in the upcoming financial year.

Performance Indicator 1.4: Addressed matters referred to the office in a timely manner

All complaints received by SIU are given equal priority and are assigned an ‘informal complaint’ status while an SIU investigator reviews the complaint. This review takes a minimum of 14 working days depending on the complexity of the case.

If following a review, it is clear that the matter falls outside of the Ombudsman’s jurisdiction (eg. Court decision or a complaint against a private company etc) as per the Ombudsman Act 2013, then the complainant is advised to seek professional legal advice or directed to other avenues of redress.

If following a review it is clear that the complainant has yet to approach the Government agency complained of, or there is an adequate remedy available to him or her, then the matter is referred to the relevant agency.

An SIU investigator will also contact the agency complained of, for further information or clarification of the issue raised by the complainant. If the matter can be resolved (eg. Complainant was finally given an opportunity to meet the Police Commissioner for his case) at this stage, then it becomes an Early Resolution case. If no satisfactory answer is given by the agency complained of, then a formal investigation⁷ is warranted.

In total, SIU received 29 complaints against disciplinary forces this year and were addressed as tabled below:

TOTAL	Out of Jurisdiction	Referred to Relevant Agencies	Early Resolution	Formal Investigations
29	5	9	11	4

Most of the matters referred to SIU were resolved through its’ early resolution process. This not only strengthens the confidence of the public in law enforcement services, it is indicative of a productive working relationship between the Office of the Ombudsman and the Government’s disciplinary forces.

Outcome 2: Effective engagement with the public on the functions of SIU

Performance Indicator 2.1: Improve understanding and knowledge of role of SIU

SIU is spreading awareness of its role through social media (eg. Facebook, Twitter) and the Ombudsman Quarterly Newsletter. There is however still some pushback from public agencies when SIU follows up cases and requests documents.

⁷ A formal investigation is when the investigation team notifies both parties that it intends to do so and thereby proceeds to conduct interviews, request documents, site visits, and write a formal investigation report with findings and recommendations.

SIU is now working on developing a Proactive Ombudsmanship Rollout with the Good Governance Unit to engage individual public agencies and propose arrangements between the Office of the Ombudsman and State Agencies in order to establish closer working relationships, spread awareness of the functions of the Office of the Ombudsman, and initiate dialogue and discussions on issues that may cause pushback from public agencies.

Outcome 3: An adequately resourced SIU with capable staff able to deliver all functions of SIU

Performance Indicator 3.1: Adequate manpower to carry out functions of SIU

SIU is currently staffed by two (2) members, the SIU Director and a Principal Investigation Officer. There are other functions of SIU that have yet to gain traction because of the limited human capacity, like the Ombudsman Tribunal and the review of other disciplinary force complaint mechanisms (eg. SPCS, LTA etc). There is a need for more staff to actively deliver all the functions of SIU.

Performance Indicator 3.2: Ongoing training for SIU staff in order to effectively deliver functions of SIU

The SIU Director and the Director of Good Governance are currently studying to become certified fraud examiners with the globally renowned Association of Certified Fraud Examiners. This was an opportunity borne out of one of the Samoan Integrity Network's (SION) projects of which our office is an integral member. These additional skills will be beneficial in the investigation of cases that have elements of corruption. On another important note, SIU continues to actively look for training opportunities for the set up and activation of its prosecutorial function.

2.3.4 Highlights for 2018 – 2019

Staff

SIU continues operation with two (2) staff members. With the increase of investigations, reviews, and awareness programs, there is a growing need for an additional staff member. SIU is requesting during this financial year, a Senior Investigation Officer that can assist with report writing and SIU's prosecution function.

Work

Outcome 1: Independent, credible and effective discharge of the functions of the Special Investigations Unit

Performance Indicator 1.1: Regular monitoring and good control to improve Police handling of complaints

As per section 68(5) of the Police Service Act 2009, the SIU is to review the PSU on a regular basis. SIU reviews PSU on an annual basis, submitting reports to the Commissioner on the following scope:

- a) The complaints lodged in the PSU Complaints Register in comparison to the lists forwarded to SIU;
- b) PSU case management practices and procedures in compliance with PSU's Standard Operating Procedures;
- c) Quality of investigations (ie. Time frame of investigations, issues, concerns etc).

In March 2019, SIU conducted its first bi-annual review of PSU for the period of July to December 2018. Given the rising numbers in complaints against Police officers, SIU will be conducting a progress review every 6 months, leading up to the annual review report. This is an effort by SIU to work closer with PSU to control and improve the handling of complaints.

From that bi-annual progress review, it was confirmed that PSU received a total of 80 complaints. This is an increase in complaints compared to the PSU List from the last 6 months (PSU received 70 complaints from January to June 2018). **In total, PSU received 150 complaints in 2018, compared to the last annual review (128 complaints received in February 2016- February 2017); this is a 15.3% increase in complaints against Police officers.**

The top 3 most commonly filed charge against Police Officers are negligence in the performance of duty, bringing discredit to Police and failing to obey lawful order under section 50 of the Police Service Act 2009. This is some indication of the collective genre of misconduct occurring and recurring at SPCS but it is not very helpful in ascertaining what the misconduct in itself is. This makes it difficult for SIU to pinpoint and recommend solutions like the need for training in ethics, anger management, disciplinary action or alternative intervention. SIU recommended the consideration of charges under the Police Service Regulations as a stepping stone towards the effective indication and monitoring of trends of complaints at SPCS.

Of the 80 complaint files received by PSU, SIU reviewed 59 files as 18 files were with the Commissioner for sentencing, 2 were with the Attorney General and 1 file was lost. The majority of the reviewed files did not have Investigation Plans or follow prescribed checklists as required by PSU's Standard Operating Procedures Manual.

Overall, SIU congratulates the Commissioner and PSU on implementing the majority of recommendations in its last review report and the gradual improvement in their complaint handling systems. SIU will continue to work with PSU to increase the confidence of the public in their services.

Performance Indicator 1.2: Independent investigations subject to serious complaints received

SIU has embarked on one (1) independent investigation this financial year, namely on the arrest procedures of Police. This was prompted by the facts of SIU01 below where a mother was unreasonably detained with her 2 ½ year old child at a Police Station. This is not the first case in which Police have locked up a child with his or her parent and it hints of a systemic issue that requires an own motion investigation. Unfortunately, SIU has also taken a number of serious complaints this year, including those referred by the Prime Minister that require an urgent and strict timeline. In effect, this has resulted in the postponement of this own motion investigation for the upcoming financial year.

Some of SIU's serious and public interest investigations this year are summarized as follows.

SIU01:

Launched: June 2018

Summary: A woman lodged a complaint alleging unreasonable/unfair treatment towards her and the unlawful detention of her two and a half (2 ½) year old child in GA outpost.

Findings: Intervention by the officers involved to cancel the settlement agreed between parties was wrong. The decision to hold the complainant and her child in custody was wrong. The complainant and her son were unfairly treated while under arrest and contrary to CO orders.

Recommendation: SIU recommended heavy disciplinary action against the officers involved and for the agency involved to undergo extensive trainings on the Convention on the Rights of Child with the assistance of the Human Rights Unit of the Office

Update: Both officers have been charged and are awaiting sentences by the Commissioner. Human Rights are continuing human rights training for recruits and are now negotiating funding for the drafting of a guideline for law enforcement when children are involved during their processes.

SIU02:

Launched: August 2018

Summary: Employee of agency made a complaint in person, alleging physical assault, workplace bullying and general unfair treatment (which led to the non-renewal of her contract) of herself by employees and general management.

Findings: Agency failed to formally address the complaints of assault, workplace bullying and unfair treatment of the complainant.

Update: The complainant's contract has been renewed. SIU and GG will work towards creating complaint handling workshops to address the gaps in complaint handling by government agencies.

SIU03:

Launched: September 2018

Summary: Two employees of a government agency made complaints in person, alleging unfair termination.

Findings: Agency was wrong in its decision to terminate the employees as it was based on irrelevant considerations.

Recommendation: Agency to reinstate the employees or forward their matters to a Tribunal

Update: Both employees have been reinstated with back-pay and new probationary conditions

SIU04: Power Struggle at the National University of Samoa

Launched: May 2019

Summary: The Prime Minister referred to SIU, internal employment issues revolving around the Vice Chancellor and the Deputy Vice Chancellor.

Findings: The Vice Chancellor was wrong to fire the Deputy Vice Chancellor and in opposition to recommendations from the NUS Council.

Update: The Vice Chancellor has resigned from his position.

SIU05: Dehumanizing Treatment at Tafaigata Prison

Launched: June 2019

Summary: The complainant lodged a complaint on behalf of his son who was alleged to have been assaulted and stripped naked over the course of his detainment at Tafaigata Prison.

Findings: The complainant's son was not hero as he intended to cause bodily harm to make good his unlawful escape. In so doing he provoked physicality upon himself. The treatment of escapees including the complainant's son however was purposefully dehumanizing.

Recommendations: Management to address lack of policies and protocols, discipline appropriate COs for unlawful beating and dehumanizing treatment.

Update: The Prime Minister has responded and advised agency to implement Ombudsman recommendations. SIU will follow up recommendations during a scoping mission in November 2019.

Performance Indicator 1.3: Review of other disciplinary force complaints mechanisms continuing

Following the discovery of a plethora of issues during a recent investigation into Tafaigata Prison (SIU05 as above), SIU will conduct a scoping review mission into this disciplinary force and commence annual reviews in the upcoming financial year.

Performance Indicator 1.4: Addressed matters referred to the office in a timely manner

All complaints received by SIU are given equal priority and are assigned an 'informal complaint' status while an SIU investigator reviews the complaint. This review takes a minimum of 14 working days depending on the complexity of the case.

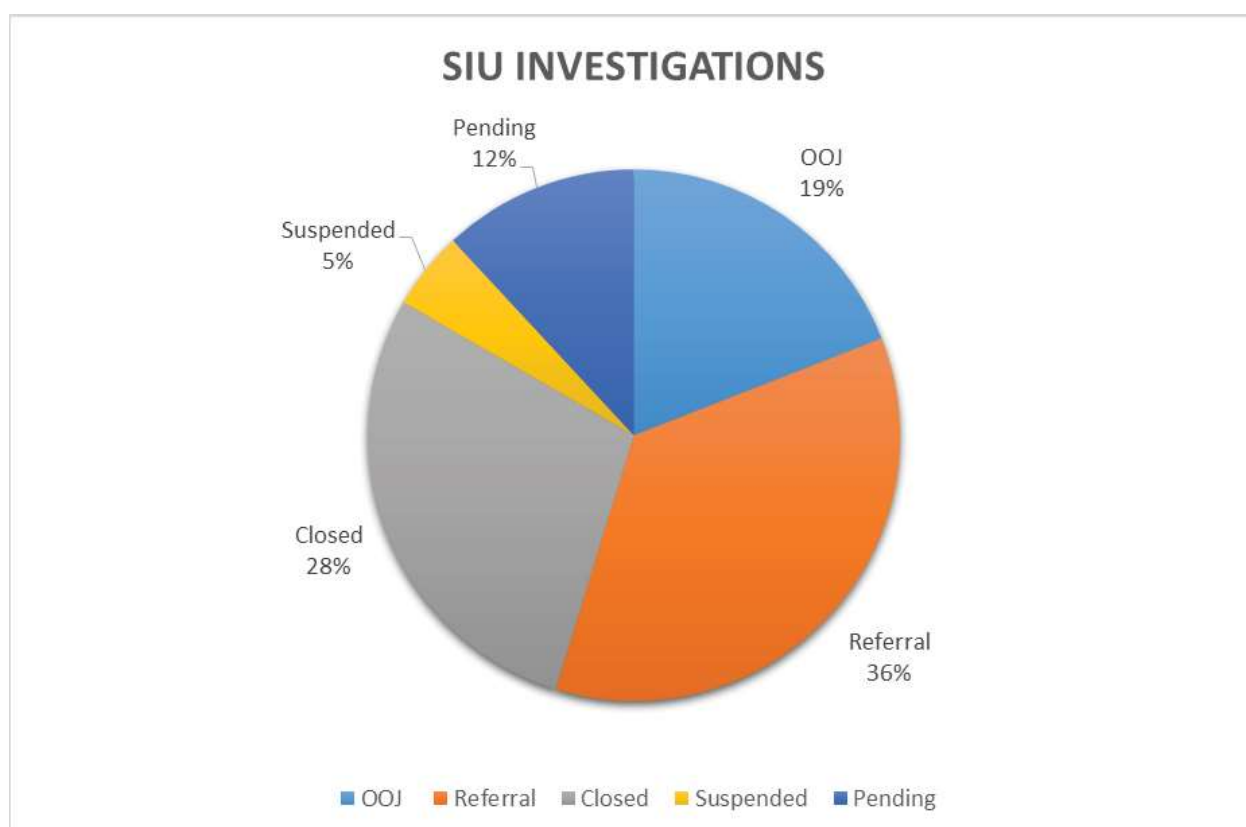
If following a review, it is clear that the matter falls outside of the Ombudsman's jurisdiction (eg. Court decision or a complaint against a private company etc) as per the Ombudsman Act 2013, then the complainant is advised to seek professional legal advice or directed to other avenues of redress.

If following a review, it becomes clear that the complainant has yet to approach the Government agency complained of, or there is an adequate remedy available to him or her, then the matter is referred to the relevant agency.

An SIU investigator will also contact the agency complained of, for further information or clarification of the issue raised by the complainant. If the matter can be resolved (eg. Complainant was finally given an opportunity to meet the Police Commissioner for his case) at this stage, then it becomes an Early Resolution case. If no satisfactory answer is given by the agency complained of, then a formal investigation⁸ is warranted.

During this financial year, SIU received a total of 43 complaints. This is a 48.2% increase in complaints against disciplinary forces compared to the last financial year. This can be an indication of increased awareness of SIU's role the Proactive Ombudsmanship Rollout initiated by the Investigation Arm (Good Governance/GG and SIU) of the Office in October 2018 (discussed in detail below). Posters have been put up in every Ministry that the Investigation Arm has visited during this financial year, detailing what kind of complaints the Ombudsman receives and how to lodge one.

⁸ A formal investigation is when the investigation team notifies both parties that it intends to do so and thereby proceeds to conduct interviews, request documents, site visits, and write a formal investigation report with findings and recommendations.



Of the 43 complaints received, 88% of SIU matters have been resolved in the sense that they have either been referred to the relevant agency, suspended for lack of contact (ie. complainants who did not come back for second meetings after 6 months with Investigating Officers irrespective of follow ups), closed following investigations or early resolution processes or dubbed as out of the Ombudsman's jurisdiction. The pending 12% cases are the newest cases received by SIU, which are currently undergoing a first review.

The majority of these complaints were against the Ministry of Police (MOP) for unfair treatment, unreasonable delay and unfair dismissals or decisions. This is followed by complaints regarding unfair recruitment processes and decisions of Samoa Prison and Corrections Services (SPCS). SIU continues to work with disciplinary forces to improve and monitor the handling of complaints against them.

Outcome 2: Effective engagement with the public on the functions of SIU

Performance Indicator 2.1: Improve understanding and knowledge of role of SIU

On top of continuous updates on social media of SIU's role, in October 2018, the Investigation Arm sent out a Practice Statement (ie. Phase 1 of the Proactive Ombudsmanship Rollout) to Government Ministries and scheduled individual meetings with respective members of management. The idea was to sit down with each Government Ministry or agency to reintroduce the conventional investigative functions of the Office through brochures and posters, discuss the nomination of Ombudsman Liaison Officers for investigations, distribute resources for effective complaint handling and establish referral procedures and policies during Ombudsman investigations. **So far, SIU and GG have visited 18 Ministries.** There has been some good positive feedback from those Ministries visited including requests for workshops on complaint handling. The Investigation Arm will look into putting together a complaint handling workshop for Government agencies in the upcoming financial year as Phase 2 of their Proactive Ombudsmanship Rollout.

Outcome 3: An adequately resourced SIU with capable staff able to deliver all functions of SIU

Performance Indicator 3.1: Sufficient manpower to carry out functions of SIU

SIU is requesting for more staff as the work for SIU continues to grow from investigations to bi-annual reviews of disciplinary forces, Practice Statement engagements to complaint handling workshops and the anticipated prosecution work for the Ombudsman Tribunal.

Performance Indicator 3.2: Ongoing training for SIU staff to effectively deliver functions of SIU

The Ombudsman is fortunate to be in partnership with the Commonwealth Ombudsman that provides assistance in the form of training, leadership mentoring, conferences and other areas of need requested by the Office. In June 2019, the partnership between our office, the Audit Office and the Commonwealth Ombudsman was renewed and extended to a three year period. This means that for the next three years, more opportunities will be provided for the continuous investigation up skilling of SIU and other Ombudsman officers.

These are the trainings taken on by SIU during this financial year:

- a) In March 2019, SIU and GG Principal Investigation Officers attended a 2 week attachment with the Commonwealth Ombudsman in Canberra. They implemented new templates and investigation procedures that will benefit the investigation arm of the office.
- b) In March 2019, the Directors of SIU and GG attended a 1 week Advanced Investigation training that was delivered by the Ontario Ombudsman in Brisbane. Training materials for complaint handling workshops were requested and apprehended to assist with the conducting of Samoa Ombudsman's own complaint handling workshops.
- c) In May 2019, the Directors of SIU and GG officially became certified fraud examiners following an intense 12 month online course offered by the globally renowned Association of Certified Fraud Examiners. This is beneficial for the identification and investigation of future corruption cases that are brought into the Office.
- d) Between May 27 and June 6, the Directors of SIU and GG underwent a Certificate IV in Government Investigations that was delivered by ICETS in Canberra, Australia. They are now completing the final online leg of the course.
- e) Between 31 July and 1st August 2019, SIU attended a workshop conducted by the New Zealand Ombudsman and the International Ombudsman Institute in Fiji. The objective of the training was to build investigation capacity in a Pacific way. New Investigation techniques, resources, procedures and templates were obtained and implemented as an outcome of this training.

2.4 Capable and Accountable Organization

2.4.1 Corporate Service Unit

CSU 1: Corporate Services				
Objective: To provide good leadership, management of systems, processes, efficient support and coordination for the successful implementation of programmes				
Inputs/Critical Success Factors	Outcome	Key Projects	Performance Measure	SDG / Sector Goal
A capable and engaged workforce and an effective Human Resources Management System	<p>An office with the necessary capacity to fulfil its mandate</p> <p>An aligned organizational structure delivering on its mandates and responsibilities</p> <p>Well managed staff who deliver their KPI's and constantly strive to improve their performance</p>	Human Resources Management	<p>Improved management & efficient support for service delivery</p> <p>Ensure adequate human resource efficiency and development of staff</p> <p>Improved Organizational Performance</p>	SDG 15 L&JS Goal 3
An effective Financial Management System and compliance with accounting procedures and reporting	Sound financial management systems and reporting	Budget and Finance	<p>Maintenance of efficient systems & processes</p> <p>High levels of budgetary control and adherence to Treasury Instructions</p>	
Monitoring implementation of projects and budget targets	Regular updating of Strategic Plans and Team and Individual Performance Plans using robust Monitoring and Evaluation reporting	Monitoring implementation of staff work-plans	<p>Simple Strategic Plan easily understood by staff and external audience</p> <p>Monitoring and evaluation framework that is easily implemented</p>	
Efficient coordination and logistical support	<p>An organization that is well supported by a relevant and responsive Information and Communications System</p> <p>Establishment & maintenance of an effective records management programme/system</p>	Office and Records Management	<p>Improved business operations & ready access to applications and information</p> <p>Provision of adequate coordination and logistics for efficient programme delivery</p> <p>Best practice records management that address the needs of staff</p>	

2.4.2 Highlights for 2017– 2018

Staff

During the year, the two membered Corporate division endeavored to meet its functions with the support of all units of the Office as it operated without a manager to oversee and lead the Unit. The position was later filled with appointment made towards the end of the Financial Year on 21 May 2018 to equip the Unit to provide administrative support, management and monitoring of Office budget and accounts, administer procurement and payment services, transportation and records management services, reporting and planning to name but a few.

In all, there were four (4) additional staff which included the Legal Officer NHRI, Director Special Investigations Unit (SIU) , Legal Investigation Officer for Good Governance Unit (GG) and the Manager Corporate Service Unit (CSU). For the same period, two staff members resigned due to personal and family commitments.

Work

The increased number of staff employed by the Office to cater to the additional mandates necessitated the procurement of a shared network in June 2018. This enabled creation and migration of old filing records onto the shared platform. The Office with the assistance of the IT division of the Office of the Electoral Commission Office successfully installed its shared network which permitted migration of Office records onto the shared platform.

Additionally, the increase in staff numbers had further challenged the two membered team due to the volume of support work required. Despite this, the collective support from other Units of the Office saw the effective operation of the Office.

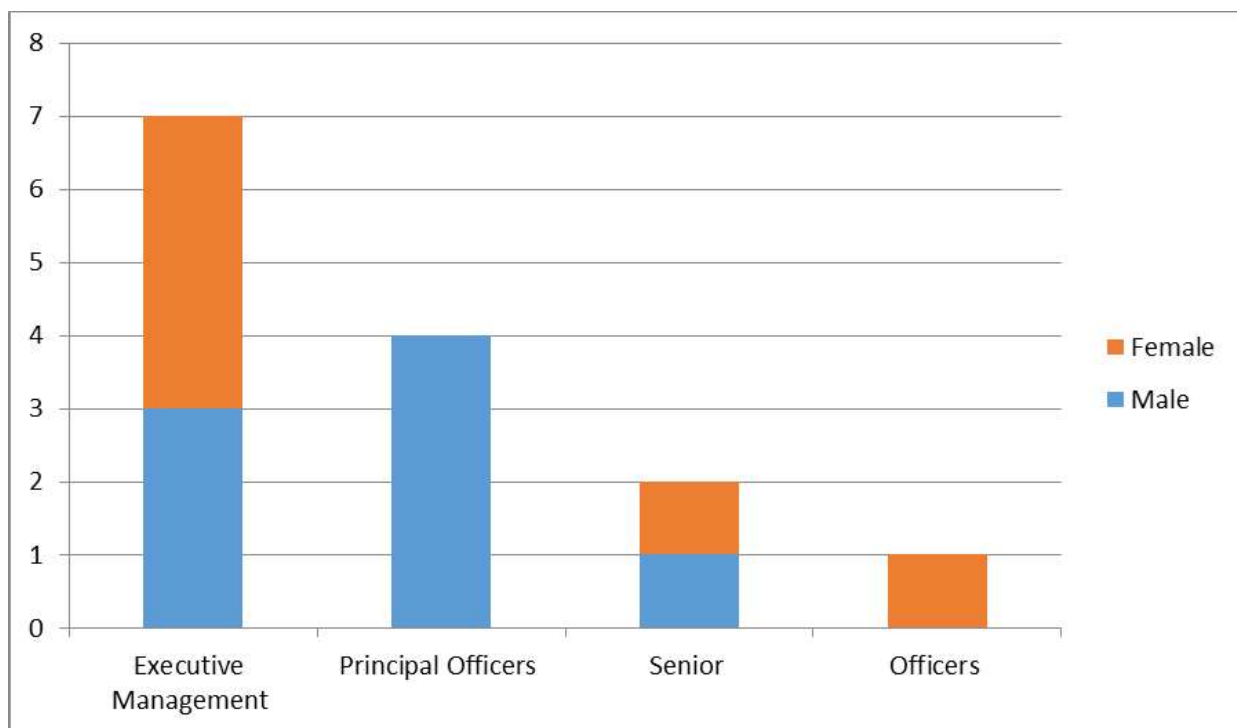
2.4.3 Highlights for 2018 – 2019

Staff

As at 30 June 2019, fourteen (14) Officers were employed by the Office on a full-time part-time basis.

The Ombudsman Officers come from diverse professional backgrounds, including law, finance, public administration and teaching. Women make up 43% of the Office's workforce.

Figure 5: Gender profile at 30 June 2019



There was no staff turnover recorded for the period under review, maintaining all 14 staff under employment.

2.4.4 Performance

Office Retreat 2019 Strategizing for a more productive Office

In April 2019, the Ombudsman through financial assistance of the Asia Pacific Forum (APF) and with the collaborating support of SPC-RRRT, undertook a second Capacity Assessment Review (CAR) of the Office Strategic Plan of 2016 – 2020 to determine the extent to which the recommendations of the 2018 CAR were implemented and to identify the Offices' most pressing capacity needs to fulfil its priorities by 2020 Financial Year End to formulate a Strategic Plan for 2021 – 2024.

The CAR 2019 in result found the Office developments and achievements commendable, however to fully meet all elements of the 2016 – 2020 Strategic Plan it must further build and strengthen Office capacity.

The outcomes of the aforementioned 2019 CAR informed recommendations proposed to Government through the Ministry of Finance which highlights areas that gravely require increased resources and gaps such as short staff and limited funding which are at this stage pending a decision.

2.4.5 Accountability (Planning for the Future)

As mentioned above, the Office currently operates under its Strategic Plan 2016-2020. This Plan ensures the Office is well placed to carry out its three mandates. The Plan incorporates Office key performance indicators and align core Office and special projects to each responsible Unit.

A full review of the current Strategic Plan is scheduled for November 2020 to inform and formulate a continuous effective organization strategy for 2021 – 2024.

2.4.6 Ombudsman Executive Management Team

The Ombudsman Management team consists of each Unit Director, the Deputy Ombudsman and the Ombudsman. It is the Principal strategic and tactical body that considers the Office's significant statutory and accountability related responsibilities. The key focus and responsibility is to ensure for accountability, transparency, high performance and compliance with statutory requirements. Other responsibilities include;

- Monitoring and reviewing Office budget and expenditure;
- Endorsing Office policies and procedures
- Identifying and overseeing the implementation of Office improvement initiatives
- Monitoring performance to achieve planned outcomes
- Monitoring strategic and operational risks
- Promoting Office-wide ownership of, and involvement in, major projects

2.4.7 Financial Summary 2017/2018 & 2018/2019

The Office as of 30 June 2019 ended the period in a secure financial position.

The Office received a total budget of \$1,119,496 for FY2017/ 2018. A slight decrease of .04% from that received for FY 2016/17. Of the total budget received, 89% was utilized. The remaining 11% of unutilized funds was attributed to two director level vacancies within the reviewed period.

For FY 2018/19, the Office received a total budget of SAT\$1,110,777 tala. This in comparison to 2017/18 reflects a marginal drop of .78%. Despite of this, the endorsement by Cabinet of additional staff enabled full operation of all three units of the Office allowing 98.86% approved budget to be utilized.

Funding of the Office budget is received as appropriation from the State Government. It does not in any form generate revenue from services provided to the general public.

During the period under review, the most substantial cost to the Office in delivering service is employee expenses, which combined with payments to the National Provident Fund and the Accident Compensation Corporation accounts for more than half of total expenditure of the Office. Remaining percentage is expended on general operating costs, including Office rent, information and telecommunications costs.

International Funding

2017/2018

The Office in September 2017 was providential to have received from the Commonwealth Secretariat financial assistance in the amount of £25,000 in support of the National Public Inquiry into Family Violence in Samoa. We are glad to report that the Office succeeded in utilizing 100% of the full amount received for purposes of the Inquiry.

2018/2019

Financial Assistance of SAT\$50,780 received from the United Nation Population Fund (UNFPA) permitted the Office to implement Recommendation 12 of the National Inquiry into Family Violence in Samoa Report. The project sought to engage youth (ages 18 – 45) in the public sector

to encourage Family Safety Education through the promotion of healthy relationships and was deemed a success by participants.

In addition, the Office received from the Pacific Community (SPC RRRT) an Award of Small Grant for the National Public Inquiry Awareness Rollout Strategy of €48,860 (SAT\$146,000) for implementation of activities related to its recent National Public Inquiry into Family Violence. A financial report shall be furnished upon completion of the Project.

The audited financial statements are available at Appendix A & B

Appendices

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Appendix B:Statement of Receipts by Reporting Category and Expenditure by Output, Appropriation Account for the FY ended 30 June 2019	47

GOVERNMENT OF SAMOA

SCHEDULE 2.17

STATEMENT OF MINISTRY RECEIPTS BY REPORTING CATEGORY AND EXPENDITURE BY OUTPUT APPROPRIATION ACCOUNT *for the financial year ended 30 June 2018*

	2018 \$	Original Estimate \$	Final Estimate \$	(Over)/Under \$	2017 \$
OMBUDSMAN'S OFFICE					
PAYMENTS					
Outputs					
1.0 Administrative Justice (Investigation and Resolution of Complaints about Government Ministries)	245,555	267,286	267,286	21,731	265,842
2.0 Human Rights	344,368	406,839	406,839	62,471	398,541
3.0 Special Investigation Unit	230,244	284,486	284,486	54,242	224,095
Total Outputs	820,167	958,611	958,611	138,444	888,478
Transactions on Behalf of State					
Membership Fees					
International Ombudsman Institute	2,500	2,500	2,500	(0)	2,415
Asia Pacific Forum of National Human Rights Institutions	3,568	3,600	3,600	32	3,600
Government Policies and Initiatives					
National Human Rights Day	14,814	15,000	15,000	186	15,000
Rents and Leases	97,095	97,095	97,095	0	97,095
VAGST Output Tax	52,699	42,690	42,690	(10,009)	43,170
Total Transactions on Behalf of State	170,676	160,885	160,885	(9,791)	161,281
TOTAL PAYMENTS - OMBUDSMAN'S OFFICE	990,843	1,119,496	1,119,496	128,653	1,049,759
GOVERNMENT DEVELOPMENT PROJECTS					
	2018 \$	Original Estimate \$	Receipts \$	Payments \$	Opening Balance \$
Grants - GDP					
Support for Human Rights Education & Outreach Activities Project (UNDP)	9,613		0	40,423	50,036
National Public Inquiry on Family Violence Project (Other)	86,087		170,319	155,891	71,658
Sexual Orientation, Gender Identity and Sex Characteristics Project (SOGISC) (Other)	18,956		28,206	9,250	0
TOTAL GOVERNMENT DEVELOPMENT PROJECTS	114,656	0	198,525	205,564	121,694

GOVERNMENT OF SAMOA

SCHEDULE 2.17

STATEMENT OF MINISTRY RECEIPTS BY REPORTING CATEGORY AND EXPENDITURE BY OUTPUT APPROPRIATION ACCOUNT *for the financial year ended 30 June 2019*

	Notes	2019 \$	Original Estimate \$	Final Estimate \$	(Over)/Under \$	2018 \$
OMBUDSMAN'S OFFICE						
PAYMENTS						
Outputs						
1.0 Administrative Justice (Investigation and Resolution of Complaints about Government Ministries)		233,977	221,114	233,819	(158)	245,555
2.0 Human Rights		427,369	398,685	423,663	(3,707)	344,368
3.0 Special Investigation Unit		332,589	330,982	343,942	11,353	230,244
Total Outputs		993,935	950,781	1,001,424	7,488	820,167
Transactions on Behalf of State						
Membership Fees						
International Ombudsman Institute		2,500	2,500	2,500	(0)	2,500
Asia Pacific Forum of National Human Rights Institutions		3,630	3,600	3,600	(30)	3,568
Government Policies and Initiatives						
National Human Rights Day		14,966	15,000	15,000	34	14,814
Rents and Leases		97,095	97,095	97,095	0	97,095
VAGST Output Tax		36,103	41,801	41,801	5,698	52,699
Total Transactions on Behalf of State		154,294	159,996	159,996	5,702	170,676
TOTAL PAYMENTS - OMBUDSMAN'S OFFICE		1,148,229	1,110,777	1,161,420	13,190	990,843
GOVERNMENT DEVELOPMENT PROJECTS						
		2019 \$	Original Estimate \$	Receipts \$	Payments \$	Opening Balance \$
Grants - GDP						
National Public Inquiry on Family Violence Project (Other)		120,520	330,395	145,449	111,015	86,087
Sexual Orientation, Gender Identity and Sex Characteristics Project (SOGISC) (Other)		5,562	0	36,724	50,118	18,956
National Public Inquiry Report (SRH/Support Implementation of Recommendation) (UNFPA)		50,780	0	50,780	0	0
Support for Human Rights Education & Outreach Activities Project (UNDP)	<i>a</i>	9,613	0	0	0	9,613
TOTAL GOVERNMENT DEVELOPMENT PROJECTS		186,475	330,395	232,953	161,133	114,656

Notes

a No movements during current financial year 2019

