



# MO LE SILAFIA



JAN - JUN 2022 // ISSUE 2 // VOLUME 4

## STATE OF HUMAN RIGHTS REPORT 2022 – COVID-19 AND THE CASE OF SAMOA SUBMITTED TO PARLIAMENT.

### COVID-19 & HUMAN RIGHTS: THE CASE OF SAMOA

State of Human Rights Report



JUNE 2022

Mandated under s40 of the Ombudsman Act 2013, the Ombudsman is to report to Parliament every June 30 on the status of human rights in Samoa. The report contains recommendations informed by submissions from members of the public and various groups and organizations including the Government about reforms and other measures to prevent or redress any human rights issues arising to ensure the continuous promotion and protection of rights and freedoms of all Samoan citizens.

The [Report](#) for 2022 focused on COVID-19 and the impact on human rights – the case of Samoa. The report's focus on COVID-19 is not only a result of the issue being one of great relevance and significance but also because the Office has received several complaints and submissions from individuals and members of the public regarding the impact of COVID-19 on rights and freedoms.

### OFFICE CONCLUDES INTERNAL GENDER AUDIT AND ISSUED REPORT

The Office carried out a [gender audit](#) of its internal operations and external activities between February – May 2022. A pioneering exercise for NHRI in the Pacific was facilitated by the Asia Pacific Forum for National Human Rights Institutions (APF) which supported the Office to examine and understand how effectively, it includes gender equality in its internal operations (such as its structure, organization culture and practice, policies and procedures, funding and resourcing) and its external work (across all its functions and work divisions).

As a result of the audit, it identified where the Office is doing well to promote gender equality and where it could improve and 19 recommendations were made towards 5 focus areas of the audit. The Office hopes to implement and incorporate these recommendations into its ongoing work.

### In this Issue

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### MESSAGE FROM THE OMBUDSMAN



Warm greetings to you all. There is no doubt that the start of this year has been a tough one with COVID-19 finally making its way to our shores altering every aspect of our lives and work. However, as we learn to live with Covid-19, we continue to remain in our unwavering faith and personal responsibility to overcome the challenges the first few months of the year brought with it.

Welcome to Issue 2, Volume 4 of "Mo le Silafia", the Ombudsman/NHRI Office official newsletter. This provides an update of my Office's activities and works from Jan to June 2022 as well as a snapshot of upcoming work for the fiscal year, 2022/2023.

A key achievement in these 6 months is our ability to adjust to a new working experience from home in the first few months of the year. It was not an easy adjustment for staff but organizational support and ongoing connection through the advance in technology made it possible. There were many benefits not only in health risk protection, saving on daily commuting time and offering more flexibility for staff to take care of sick loved ones.

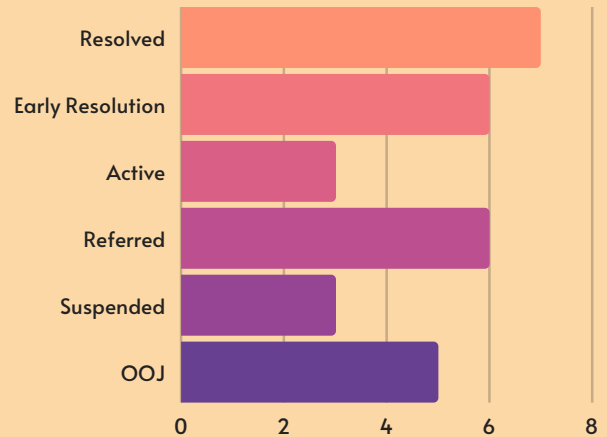
Even with this slight disruption, the Office was able to achieve its target work set for this highlighted period - the submission of our 7th State of Human Rights Report on COVID-19 and its impacts on human rights, completion of our Gender Audit and continuation of investigations and inspections of prisons and much more.

We recognize the importance of our role entrusted to us by our legislation so we strive to ensure we take special care to meet and exceed our targets in the promotion and protection of human rights and good governance.

We welcome the new fiscal year and look forward to working with our partners and stakeholders in serving the people of Samoa.

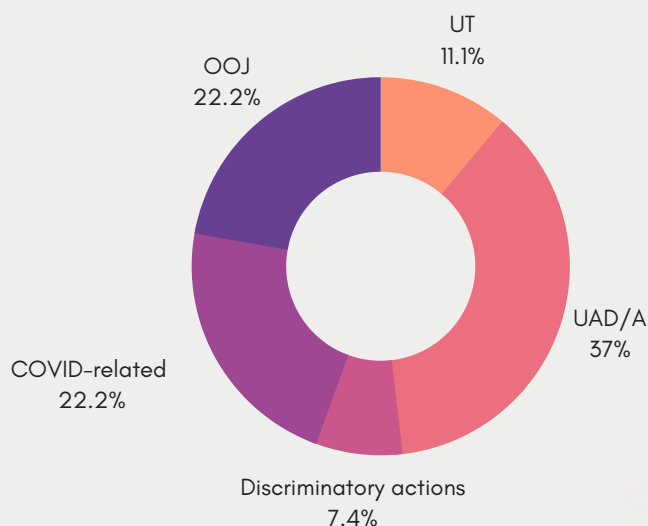
## GOOD GOVERNANCE: COMPLAINTS JAN - JUL 2022

In addition to the 5 active cases pending from December 2021, GGU received a total of 27 cases between January - June 2022. Thus, a total of 32 cases were worked on by GG in the period of Jan - June 2022. Of the 32 cases, 9 have been resolved which includes 2 cases from December 2021. 6 early resolutions, 5 out of jurisdiction (OOJ), and 6 referred to relevant agencies. Of the 5 active cases from December 2021, 3 of those cases have been suspended with no further investigations due to the lack of complainants' correspondence and the complainant wanting to withdraw the complaint lodged.

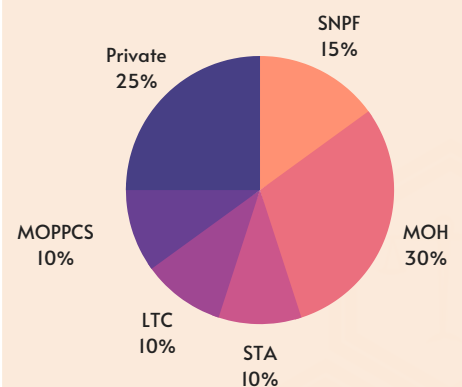


## GOOD GOVERNANCE: NATURE OF COMPLAINTS

The most common administrative complaints received during the period Jan - June 2022 were unreasonable administrative decisions/actions (UAD/A) (10) and unfair termination (UT) (3). Complaints of discriminatory decisions/actions towards persons (2) and against the COVID-19 vaccination programme (6) also emerged from this period. The OOJ complaints received were mostly on contribution issues and entitlements against private employers/businesses. These complaints were referred to SNPF and MCIL as the relevant authorities. Other OOJ complaints were court-related such as LTC decisions, land disputes and domestic matters (Family Court).



Complaints received in the Jan - June 22 period were mostly against these Government Agencies.



## PROFESSIONAL DEVELOPMENT INITIATIVES

Tupuola Tuia, Principal Investigations Officer completed the Certified Fraud Examiners course and is now one of the 3 Certified Fraud Examiners within the Office. Senior Investigator Officers for Good Governance and SIU, I'uogafa So'oalo and Nepa Papali'i, are undergoing both Investigations Certificate IV and CFE courses.

## SIU & GG MEETINGS

ACFE Women's Summit - Virtual Conference for anti-fraud professionals - March 2022

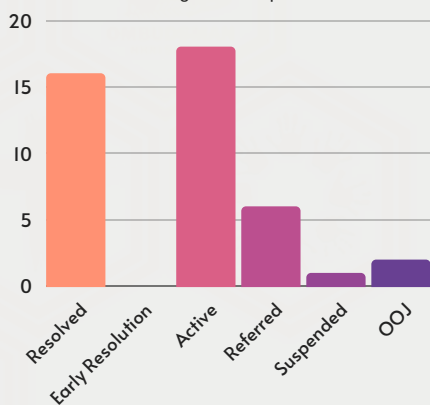
African Ombudsman Research Centre: Managing Evidence - Webinar which discussed techniques for processing and managing evidence correctly to support good quality investigative reports - April 2022

Commonwealth Ombudsman Complaints Handling Forum - Embracing Challenges & Change - June 2022

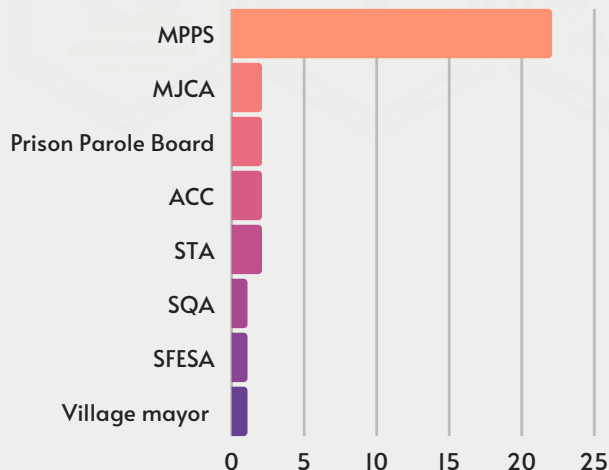
**ALL OUR SERVICES ARE FREE OF CHARGE**

## SPECIAL INVESTIGATIONS: COMPLAINTS JAN - JUL 2022

SIU received 35 cases within this period; 45% (16 complaints) have been resolved, 51% (18 complaints) remain active, and the remaining 1 case has been suspended as the complainant is reconsidering whether to continue with his complaint. Of the resolved complaints, 6 were referred to relevant agencies and 2 were out of the Ombudsman's jurisdiction (ie. One complaint was in relation to the private sector and the other was related to a village decision). The majority of the pending cases are due to complainants having yet to return with required documents for assessment as well as pending investigations at prison.



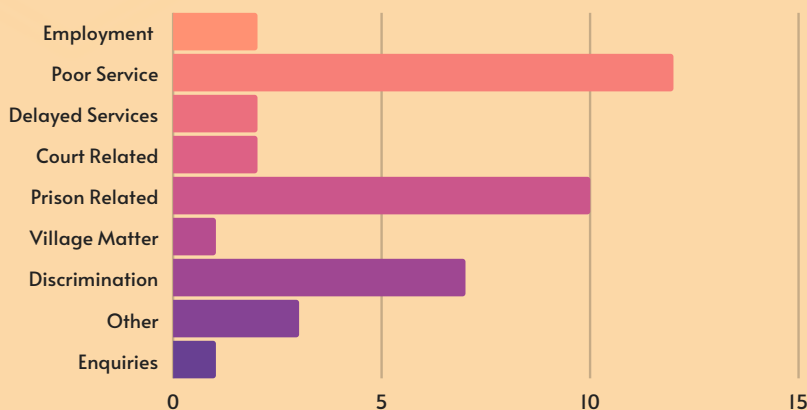
## Complaints received in this period were against the following entities



**NOTE:** SIU continues to receive the highest number of complaints against MPPCS (22 complaints) and continues to work hand in hand with the said disciplinary force in building effective ways to dispose and resolve complaints as most effectively and efficiently as possible.

## SPECIAL INVESTIGATIONS: NATURE OF COMPLAINTS

The majority of complaints are in relation to poor service (12 complaints), followed by complaints from prisoners (10) and those relating to discrimination (7). SIU also received a few enquiries for assistance (5).



Of the 35 cases, SIU received 2 enquiries for the assistance of the Ombudsman, namely to support requests for parole, provide legal aid and to meet for an interview. These have all been responded to and acted upon.

## KEY CASE HIGHLIGHTS

SIU completed 1 investigation during this period. The final report is being drafted and will be submitted after final comments from the Ombudsman. SIU also received 2 referrals from MPPCS and the Public Service Commission during this period and is currently the subject of an ongoing investigation.

## OTHER WORK

Induction Course for new OMB employee – March 2022 (Senior SIU IO)

Investigation Skills & Technique for PSC Investigator Forum – 21 June 2022 (Director, SIU)

## UPCOMING WORK

Ombudsman Liaison Officers Basic Investigations Training – September

Ombudsman Proactive Statement Rollout with Government Agencies – August

**Special FA'AFETAI LAVA to the Commonwealth Ombudsman for its continuous support through financial and technical support to build the capacity of the Ombudsman Investigations Arm through trainings and resources.**

The majority of complaints received by SIU have been through the Ombudsman Complaint Boxes and walk in.



Walk in 15



By Writing 4



By Phone 4



OMB-Prison Box 12





*Community Consultations on the State of Human Rights Report with Youth Group in Lefaga*

## COMMUNITY CONSULTATIONS ON THE IMPACTS OF COVID-19 ON RIGHTS AND FREEDOMS FOR ITS STATUS OF HUMAN RIGHTS REPORT 2022.

To inform the analysis and recommendations of the State of human rights Report 2022 on the impacts of COVID19 on rights and freedoms, the Office held community consultations on the 15 and 17 March 2022. The community consultations covered the districts of Fa'asaleleaga No 1 in Savaii and Lefaga and Falease'ela in Upolu. Views from these consultations were gathered in addition to submissions from the business community, civil society, government, children, and individuals who have been consulted on the matter. We acknowledge the usual support and partnership of the Ministry of Women, Community & Social Development through the participation of villages, Sui o Nu'u and Sui Tamaitai in this process. Fa'afetai lava.

## OMBUDSMAN MAKES INTERVENTION AT THE 49TH HUMAN RIGHTS COUNCIL SESSION DURING THE ADOPTION OF THE SAMOA'S 3RD UPR OUTCOME

As an accredited 'A' status national human rights institution, the Ombudsman had the opportunity to make an intervention and present before the Human Rights Council (HRC) via video statement during the adoption of the outcome of Samoa's 3rd Universal Periodic Review (UPR) on Wednesday 23 March 2022 in Geneva at 9.00 pm Samoa local time. She commended the Government for its continuous commitment to the promotion and protection of rights and freedoms of all Samoans, and also highlighted specific human rights issues supported by the Government requiring urgent attention. She also welcomed the State's support for measures to be taken for NHRI Samoa to be adequately resourced to carry out its functions effectively in accordance with the Paris Principles. Out of the 145 recommendations issued by member states, the Government supported 112 and noted 33.

## CSOS BEGIN GROUNDWORK IN PREPARATION FOR UPR 2026

The Office in collaboration with the UN Human Rights Pacific (OHCHR Pacific) jointly conducted a follow-up workshop with Civil Society Organizations (CSOs) in February 2022 on the outcome of Samoa's third Universal Periodic Review (UPR). A total of 11 CSOs took part in the workshop all of which participated in the UPR process in 2021 by providing alternative reports. The alternative reports which contained various recommendations from CSOs greatly influenced recommendations issued by UN member states and consolidated in a report by the UPR Working Group (WG).

A total of 8 submissions from more than 15 local CSOs. At the end of the workshop participants were able to identify UPR recommendations that were consistent with the recommendations they made in their alternative reports and with their mandates. CSOs were also able to put together a roadmap that will help guide their monitoring and follow-up work from now to 2026.

The Office would like to acknowledge the support and technical assistance of UN Human Rights Pacific (OHCHR Pacific) and all CSOs who participated.



## ASIA & PACIFIC REGIONAL HELD CONSULTATION OF THE DRAFTING GROUP FOR THE UNITED NATIONS COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (CESCR).

The Office virtually took part in the Asia & Pacific Regional Consultation of the Drafting Group of the United Nations Committee on Economic, Social and Cultural Rights (CESCR) in April 2022. The feedback from the consultations will go towards the development of a new General Comment on Sustainable Development and economic, social and cultural rights (ESC rights). The Office would like to thank the CESCR and the German NHRI for the opportunity to be consulted and looks forward to the outcome.

## INFORMATION POINTS AND KEY MESSAGES ON STATE OF EMERGENCY ORDERS, HUMAN RIGHTS-BASED APPROACHES AND HUMAN RIGHTS DURING COVID-19 PANDEMIC AND LOCKDOWN.

Throughout the lockdown period, the Office continued to support the work of the Government by issuing key messages and information point on various issues to help inform and aid public understanding on human rights and how they can be impacted. As a result helped misspelled some common misconceptions around the application of human rights in times of emergencies. These information points and key messages included:

1. State of Emergency orders and human rights
2. Vaccine mandates and human rights
3. Access to information, privacy & COVID19
4. Non-Discrimination and COVID-19



COVID-19 Preparedness, prevention and control in places of detention assessment inspections in March 2022

## COVID-19 PREPAREDNESS, PREVENTION AND CONTROL IN PLACES OF DETENTION ASSESSMENT REPORT PUBLISHED

Empowered by section 33(e) of the Ombudsman Act 2013, the Office conducted its COVID-19 preparedness, prevention and control in places of detention assessment for the Tanumalala Detention Facility on 28 April 2022. The Assessment was to evaluate preparedness, prevention and control of COVID-19 in places of detention in Samoa specifically the Tanumalala Detention Facility. The assessment focus included: Human rights, Risk assessment and management, Referral system and clinical management, Contingency planning, Training, Risk communication, Prevention measures, and Case management.

The [report](#) issued 16 [recommendations](#) for the Ministry of Police and Prison Services (MPPS) to consider to ensure that the rights of inmates and custodies (as well as staff) continued to be protected and safeguarded from vulnerability to COVID-19.



Advisory Council Members during the Planning Session earlier in the year.

## PLANNING EXERCISE FOR THE HUMAN RIGHTS ADVISORY COUNCIL

The Office's Human Rights Advisory Council engaged in a 2-day planning exercise in June. The Advisory Council is enacted under the Ombudsman Act 2013 specifically to assist the Office with its work including its monitoring role, enlarging Office knowledge and awareness on human rights issues in Samoa. This also includes advising on matters referred to by the Ombudsman including best practices in the promotion and protection of human rights and to provide comments on work (where necessary) carried out by the Office.

The Human Rights Advisory Council made up of 7 sitting members was selected through the expression of interest. Each representative represents various groups in the community or a human rights area of focus. The 7-member council represent Children and Youth, Persons with Disabilities, Churches, Community, Diversity, Women and Girls and Equal Opportunity. The planning session concluded with laying out of activities that the Council hope to implement within the 3 years of their tenure and also collective projects in collaboration with the Office they see will enhance the promotion and protection efforts of human rights in Samoa.

## OFFICE ISSUES COVID-19 & HUMAN RIGHTS GUIDE

In light of concerns and ongoing monitoring by NHRI Samoa throughout the pandemic, the NHRI Samoa issued a guide relating to covid-19 and human rights. The purpose of the [guide](#) was to inform and aid public understanding of human rights and how they can be impacted; and to provide overview guidance for policymakers, parliamentarians and the private sector in applying a human rights lens and considerations to responses and measures relating to COVID-19.

As the nature of COVID-19 continues to evolve, so too will the Government response. Therefore, information in this guidance and notes may change. The information is only intended as a guide and is not legal advice.

## HUMAN RIGHTS ADVICE & STATEMENTS PROVIDED BY THE OFFICE

1. Samoa Digital Identification Bill 2022
2. SQA Medicament Bill 2022
3. Income Tax Amendment Bill 2021
4. One Government Digital Platform Policy
5. Samoa National Employment Policy
6. Freedom of Information Policy
7. COVID-19 National Alert Level Classification Review

**WANT TO REPORT A HUMAN RIGHTS ISSUE/VIOLATION?**

PLEASE USE OUR HUMAN RIGHTS ISSUE REPORTING TEMPLATE FOUND ON OUR WEBSITE

Go to [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws) > click the 'Resources & Publications tab' > hover over the 'Human Rights documents tab' and wait for the drop down bar > click the last option which is the 'Human Rights Issue Reporting Template'

**COMPLETE FORM AND SUBMIT TO US VIA EMAIL PROVIDED IN THE TEMPLATE**

## UPCOMING WORK

1. Launch of the VFSC Pilot Project Toolkits in August
2. HURIDOCs Ombudsman database system training in August
3. Parliamentary Dialogue in September
4. Follow-up Children's Dialogue in September
5. Human Rights Advisory Council Meeting
6. Human Rights Day in December

## MEETINGS

1. Complaints Handling Training Course - Jan, Feb 2022
2. Asia & Pacific Regional Consultation by the UN CESCR - May 2022
3. Consultations UN Sustainable Development Cooperation Framework UNSDCF 2023-27 - May 2022
4. IHL Additional Protocols briefing series - May 2022
5. Roundtable on the Human Right to a Clean, Healthy and Sustainable Environment Implications for Business - April 2022
6. Regional Meeting of Experts from Pacific on General Recommendation on the rights of indigenous women and girls - May 2022
7. NHRI Tech Alliance meetings - March, April, May 2022
8. GANHRI Climate Change Cucus meetings - June 2022



## AWARENESS TRAINING SESSION WITH POLICE RECRUIT

In March, the Office delivered a half-day awareness training session with Police Recruit as part of its ongoing partnership with the Ministry of Police and Prisons for the Police Recruits Course. The Ombudsman, Afioga Luamanuvao Katalaina Sapolu addressed the 36 Police Recruits in attendance and congratulated them for their courage to take up this important field. In her remarks, she reiterated the principles and values of leadership, honesty, moral courage, selflessness, and community engagement in the role of law enforcement Officers. The Office presented its key mandates and functions that are relevant to Police work, shared fundamental human rights standards to consider in practice when carrying out its duties, and on its role as an oversight agency. The Office acknowledges the continuous partnership and support of the Ministry of Police and Prisons and wishes the recruits well on their quest.



Ombudsman, Luamanuvao Katalaina Sapolu delivering her remarks to the Recruits in attendance



Police Recruits Participants taking part in the training

## STANDARD RESPONSE GUIDE TO FREQUENTLY ASKED QUESTIONS ABOUT THE OFFICE ISSUED

The Office has issued a response guide to frequently asked questions to assist Office frontline staff and anyone who is fielding calls and walk-ins for the Office during the covid-19 lockdown period; and be used in situations when the relevant staff are unavailable to take queries and appointments by members of the public relating to the mandated role of the Office and services.

This guide is also for general information about the roles and functions of the Office, what we can and cannot investigate processes and how to make a complaint to the Ombudsman. This will ensure that the public is served in a professional manner but also ensure that the information relayed is informed, accurate and relevant. As the nature of Office work and processes continues to evolve, so too will the Office responses to some of the questions. Therefore, this guidance may change. The following information is only intended as a guide and is not legal advice.

## PACIFIC REGIONAL COMMUNITY OUTREACH PROJECT

The Office joins other Ombudsman Offices in the Pacific region on the Community Outreach Project spearheaded by Ombudsman New Zealand. This project focuses on bringing together Pacific Ombudsman to share on the development of an engagement strategy to encourage more Pacific engagements with Ombudsman services not only in New Zealand but also around the Pacific Region.

The intention is to build on joint projects that Offices can do together to continue with knowledge and good practice sharing of ideas. Ongoing Community outreach workshops take place online with the Office facilitating workshop #3.

### UPCOMING EVENTS

- Ombuds Week Awareness Rollout
- Stakeholder Annual Survey
- 2 x Fa'asoa/Explainer Sessions
- Human Rights Day 2022

## OFFICE FACILITATES FAMILY LIFE EDUCATION MODULE 1&4

The Samoa Family Health Association, as chair of the OOS CSE, hosted its first local facilitator's training to equip facilitators with the relevant knowledge and skills to deliver CSE programs for young people in Samoa. The training was held in May.

The Office participated by facilitating Module 1 focused on rights, values and sexuality and Module 4 on mine, yours and ours.



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## ONE-OMBUDSMAN DATABASE SYSTEM

With support from SPC-RRRT and HURIDOCs, the Office continue developing an internal database for managing its complaints and monitoring human rights. It is anticipated that the database will contribute to greater efficiency in complaints handling and data management. The Office has completed consultations and a model of the system is expected to be ready in August 2022 with face-to-face training on the system to be carried out with staff and developers.

### COVID-19 TESTING BY STAFF

In line with the SOE orders issued by Government regarding Level 2 in April 2022, the Office reopened to usual business and staff and the public were required to do a R.A.T test before entering to ensure the safety of the public and staff. Usual protocols of wearing face masks, keeping a 2m distance and showing vaccine proof were enforced.

### FY2022/2023

The Unit was tasked with the timely preparations of the annual office budget estimates for FY2022/2023 to ensure continued implementation of all office scheduled activities and service delivery to 30 June 2023.



Mr Ropati Sitivi in charge of COVID-19 testing for staff and visitors during Level 2 restrictions

## POLICIES DEVELOPED

Covid19 Guide & Protocols & Remote Work Arrangements (in times of emergencies) Policy. To ensure the continuation of mandatory services during Covid19 National Lockdowns, the Office effectuated its Covid19 Guide and Protocols & Remote Work Arrangements Policy to ensure reduced risk of infection and protection of clients and staff. Further, the policies serve as a guide for all staff on the terms and conditions of remote work to ensure the wellbeing of employees and the continuation of mandatory services during a crisis.

### OCCUPATIONAL SAFETY AND HEALTH – HOSTED BY MCIL & PSC

The training was an opportunity to collectively engage aligning the existing OSH policy implementation or action in the workplace. The opportunity also enabled alignment of all public sector offices & constitutional offices OSH policies & implementation to reflect the OSH Act 2002, & OSH Regulations 2017 – Attended by Rosuweti Galuvao & Ieti Seiuli

## OFFICE SURVEYS

LET US KNOW WHAT YOU THINK - TAKE PART IN OUR 'STAKEHOLDER' AND 'CUSTOMER SATISFACTION' SURVEYS USING THE LINK:

[HTTPS://OMBUDSMAN.GOV.WS/CORPORATE-DOCUMENTS/ > GO TO "OFFICE SURVEYS"](https://ombudsman.gov.ws/corporate-documents/>go-to-office-surveys)

### REFRESHER WORKSHOP ON CABINET PROCESSES AND PROCEDURES

The training was attended by Rosuweti Galuvao focusing particularly on Cabinet Processes and procedures, submissions, requirements for official travels and reporting templates. the opportunity provided the CSU team with refresher workshop on all standing Cabinet processes and procedures, cabinet submissions requirements, official travel and reporting templates.

## HELLO



Introducing Mrs. Vaelei Apulu-loasa to the team. Vaelei joined the National Human Rights Institution (NHRI) team as the Senior Human Rights Officer in March. Welcome Vaelei.

### Lodging a Complaint



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Email us:  
[complaints@ombudsman.gov.ws](mailto:complaints@ombudsman.gov.ws)

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