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2017

OMBUDSMAN Annual Report

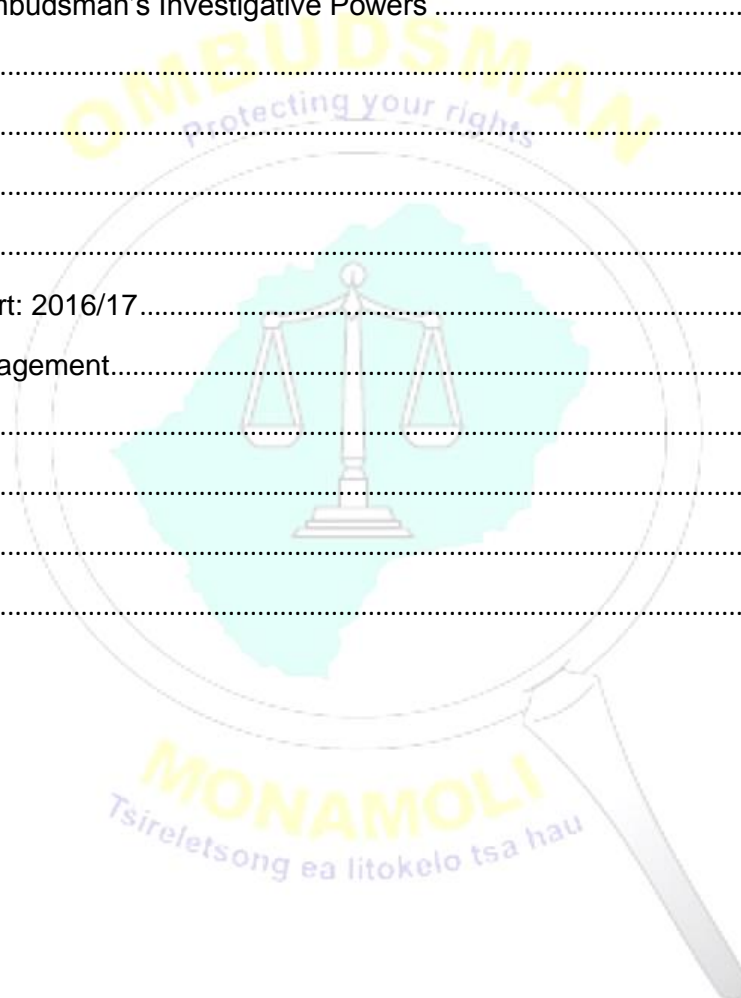


2016 -2017

Floor Six
Moposo House
1/1/2016

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List of Acronyms



AAO	Assistant Administration Officer
ASSO	Assistant System Support Officer
AOMA	African Ombudsman Mediators Association
B/F	Brought Forward
C/F	Carried Forward
CBL	Central Bank of Lesotho
CIU	Complaints Intake Unit
CLO	Chief Legal Officer
CPRO	Chief Public Relations Officer
CDGG	Consolidation of Democracy and Good Governance
DMA	Disaster Management Authority
DDPR	Directorate of Disputes Prevention and Resolution
EP	Economic Planner
PIO	Principal Investigations Officer
SIO	Senior Investigations Officer
GOL	Government of Lesotho
HRO	Human Resources Officer
HIV/AIDS	Human Immuno Virus / Acquired Immunodeficiency Syndrome
HR/ENV	Human Rights/ Environment
HRV	Human Rights Violation
LDF	Lesotho Defence Force
LAA	Land Administration Authority
LCC	Lesotho Cooperative College
LHDA	Lesotho Highland Development Authority

LHLDC	Lesotho Housing and Land Development Corporation
LMPS	Lesotho Mounted Police Service
LNDC	Lesotho National Development Corporation
LNIG	Lesotho National Insurance Group
LSPP	Land Survey and Physical Planning
MAFS	Ministry of Agriculture and Food Security
MCC	Maseru City Council
MOET	Ministry of Education and Training
MOU	Memorandum of Understanding
MPS	Ministry of Public Service
MSBDCM	Ministry of Small Business Development, Cooperatives and Marketing
N/Assembly	National Assembly
NHRI	National Human Rights Institutions
NMDS	National Manpower Development Secretariat
PC	Police Constable
P/Bank	Post Bank
S/Dev	Social Development
STD/Bank	Standard Lesotho Bank
SLIS	Strengthening Lesotho Justice Sector
TSD	Teaching Service Department
TB	Terminal Benefits
UK	United Kingdom
UN	United Nations
WASCO	Water and Sewerage Company

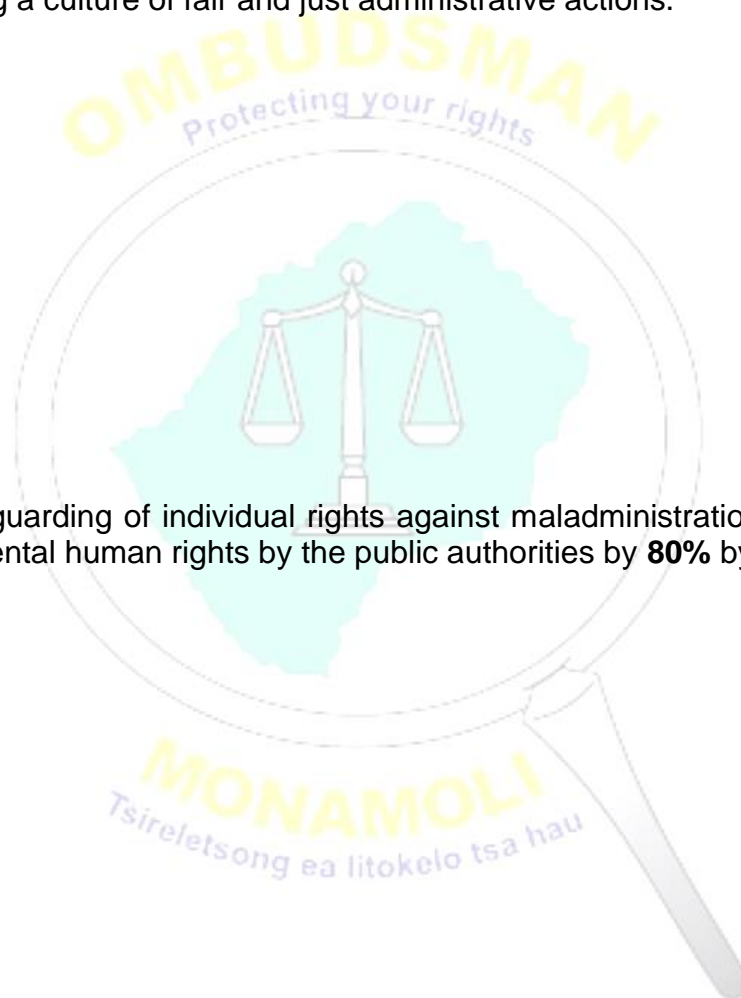
Vision: By 2020, the Office of the Ombudsman will be a well-known, effective, responsive and preferred alternative mechanism for speedy and effective resolution of complaints against the public sector and parastatals; a champion in moulding the public service into a transparent and an accountable institution.

Mission: The Office shall strive to build good governance in the public service and parastatal sectors by inculcating a culture of fair and just administrative actions.

Values:

- Confidentiality
- Responsiveness:
- Transparency
- Independence
- Quality services
- Innovative
- Impartiality
- Informality
- Fairness.

Goal: Improve Safeguarding of individual rights against maladministration, abuse of power or violations of fundamental human rights by the public authorities by **80%** by 2017.

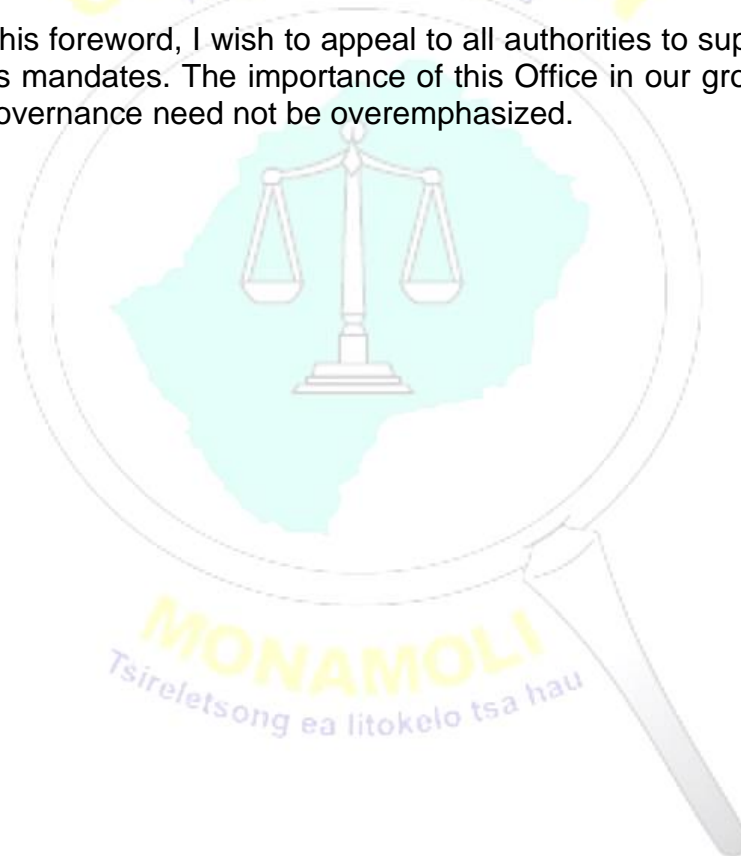


Foreword

In pursuance of Section 135(3) of the Constitution read with Section 16 of the Ombudsman Act 1996. The Ombudsman is required to submit an annual report to Parliament about the activities of his office. It is in line with this requirement that I hereby report the activities of my office for the Financial Year 2016/17.

During the period under review, a total of 128 complaints were received. Out of these, 100 complaints were sustained while 28 of them were un-sustained. There is a significant increase in the number of received cases as compared to 2015/16. This increase may be attributed to intensified awareness campaigns that my Office embarked on.

In the conclusion of this foreword, I wish to appeal to all authorities to support this noble Office to enable it to fulfil its mandates. The importance of this Office in our growing democracy and pursuance of good governance need not be overemphasized.



Duties, Functions and Powers of The Ombudsman

Duties

The duties and functions of the Ombudsman as stipulated under section 135 of Constitution of Lesotho 1993, and section 7 of the Ombudsman Act 1996 are as follows:

- To receive and investigate complaints from aggrieved persons against Government agencies and statutory corporations and /or officials and employees of such agencies and organizations, and to recommend remedial action where a complaint is found to be justified.
- To initiate an investigation where it is alleged, or it has come to his/her notice that there is an instance or threat of degradation, depletion, destruction or pollution of the natural resources, environment or ecosystem.

Powers of the Ombudsman

To carry out his duties and functions, the Ombudsman has been given, in terms of the Lesotho Constitution 1993 and section 9, 10 of the Ombudsman Act 1996, powers to:

9. (1) (a). To initiate investigations or inquiries upon a complaint or request, or on his/her own initiative if he/she deems that the public interest so requires.
9. (1) (e). To summon and subpoena in writing and compel any person to appear before him and give evidence or explanation, and to produce any books, records or any documents in custody, possession or control of that person, which the Ombudsman may deem necessary in his/her investigation.
9. (4). To temporarily restrain a specified authority or officer thereof, from taking any action or doing anything connected with an investigation or inquiry which he considers likely to inconvenience or adversely affect the conduct or the outcome of that investigation or inquiry, pending the final determination of that investigation or inquiry.
9. (1) (b) To hold and conduct a formal inquiry and hear evidence on the matter in question.

10. (b). To enter and inspect police, military or prison cells, government hospitals, asylums,
or any other places or centres where any person is detained or kept,
whether for
safe custody or in terms of the law.
9. (2). To decline, initiate or proceed with an investigation where it appears to him/her
that:
- a. The subject matter of a complaint is trivial, frivolous or was not being made in good faith.
 - b. Where the complainant has no sufficient interest in the subject matter of a complaint.
 - f. Where a complaint relates to any action or a decision of which the complainant had had knowledge for more than a year and there are no special circumstances or reasons upon which the delay might be condoned.

Limitations to the Ombudsman's Investigative Powers

In terms of section 19 (1) of the Ombudsman Act 1996 the following offices are not subject to investigation by the Ombudsman:

- The King,
- Parliament,
- Cabinet,
- Courts of law,
- Statutory tribunals; and the Public Service Commission.

The Ombudsman may, however, investigate courts of law, statutory tribunals and the Public Service Commission for their failure to perform, or for unreasonable delay in the performance of their functions.

Specific Investigations

The table below shows the selected cases classified by mandate areas.

Table 1: Selected Cases by Mandate Areas

Case Number	Classification/Mandate Area
OMB/2016/17/0063	Injustice
OMB/2015/16/0093	Injustice
OMB/2016/17/0081	Injustice
OMB/2006/0566	Injustice
OMB/2016/17/0065	Injustice
OMB/2013/0099	Injustice
OMB/2016/17/0045	Injustice
OMB/2016/17/0038	Maladministration
OMB/2016/17/0008	Maladministration
OMB/2015/16/0090	Maladministration
OMB/2015/16/0070	Maladministration
OMB/2016/17/0035	Maladministration
OMB/2014/15/0157	Maladministration
OMB/2013/0051	Maladministration
OMB/2016/17/0089	Maladministration

Injustice

Case Number: OMB/2016/17/0063

Complaint against Independent Electoral Commission

On the 11th November 2016, the office of the Ombudsman received a complaint from RAD leader and two other party representatives. They alleged that they registered their party with Law Office in June 2014. Thereafter, they made an application to register with Independent Electoral Commission (IEC) in September the same year, after which they were provided with a list of documents required for them to be awarded a certificate by IEC. They reported that despite submitting the said documents and numerous follow-ups, they did not obtain the certificate. Instead, they got worried when they realised that parties that had registered after them had received certificates. They then approached the office of the Director of Elections, who promised to assist.

They further reported that while waiting to hear from the Director they received a letter stating that IEC had run out of time as it was preparing for the upcoming national elections and for that reason registration of new parties had to be put on hold until March 2015. As a result, they could not compete in the 2015 elections. They escalated the matter to the commission and the Chairman of the commission reportedly ordered the concerned IEC officer to process their file. They alleged that nothing happened until they decided to approach the Ombudsman for intervention.

Investigations

The Ombudsman convened the meeting where IEC elaborated on the procedure followed to register the party. It was discovered that RAD submitted the fraudulent documents: sub-lease and A14. The following irregularities were discovered by the IEC officer when verifying the documents:

- The attached last page of sub-lease with signatures seemed to be a photocopy of another sub-lease.
- The initials on the bottom of each page of the sub-lease looked different.
- The office was already occupied by Prosperity Accounts, a financial services company.
- No person represented RAD in that office.
- Similar handwriting from page 1 to 36 of the form.
- Three names in the form had invalid registration numbers.
- Three names differed with registration numbers.
- Eight names were repeated.
- There were blank spaces in the columns of postal address and contact details.

Outcome

After looking at the evidence provided by IEC and failure by the complainant to prove otherwise, the case was reported to the Police and closed.

Case Number: OMB/2015/16/0093

Complaint against the Ministry of Local Government

The complainant is a former acting chief of Seleso Ha Seng. He approached the Office of the Ombudsman and complained that the Ministry of Local Government and Chieftainship Affairs had unfairly stopped payment of his chieftainship allowance for July to December 2015. He requested the Ombudsman to intervene so that his allowance for the said months could be paid.

Investigations

The Ombudsman requested the Ministry of Local Government to shed light on the matter. In response, the Ministry stated that the complainant was appointed to act as a chief of Seleso Ha Seng in Semonkong in 2011 and acted as such until June 2015 when he was removed from the position and replaced with another person. It said that he had been removed following an outcry by residents of the same area who complained that he was no longer serving them well and was often not in the office.

The Office of the Ombudsman then decided to visit Ha Seleso in Semonkong to gather evidence. The team from the Ombudsman's Office met some residents of Seleso. Some of them stated that the complainant was fairly removed because he was no longer performing his duties. They alleged that he spent most of his time in Maseru and had left his father to perform chieftainship duties on his behalf. They added his father was rarely in the office to serve the residents of Seleso. It must be mentioned that there were a few villagers who claimed that the complainant was maliciously removed due to bad influence of **mongoli oa mabeisi** who enjoyed badmouthing people appointed to act in the office of the chief of Seleso

In its investigations, the Office of the Ombudsman called upon Chief Maama Mojela (the substantive chief of Seleso and Lebohang). Chief Maama Mojela stated that he had been informed that the complainant was no longer performing his duties well and had agreed and concurred with his removal. He said that the only mistake that was made during his removal was that the chief of Lebohang wrote the letter initiating the removal of the complainant as if it was him (Chief Mojela) who wrote it. He reiterated that he otherwise agreed with his removal and replacement by another person.

Outcome

My Office found the claim of the complainant to be baseless and frivolous. The case was closed.

Case Number: OMB/2016/17/0081

Complaint against Lesotho Electricity Company

On the 24/11/16, Mr K complained to the Office of the Ombudsman against Lesotho Electricity Company, seeking compensation for his cow that was allegedly electrocuted by LEC wires. The said electric wires traversed his property where he had planted tall trees. Upon realization that the trees were almost reaching LEC wires, he decided to cut them. Accidentally one of the trees fell on the electric wires and cut them off. He immediately called LEC to inform them, but no one attended the matter. He approached LEC for compensation, but his claim was denied. LEC denied liability because the complainant was the cause of the accident that killed his cow.

Investigations

Upon receiving this case the office looked at the defence LEC raised which was that of contributory negligence. This concept is used to characterize conduct that creates an unreasonable risk to one's self or property. When a person does not act reasonably and an injury occurs, that person may be held entirely or partially responsible for the resulting injury, even though another party was involved in the accident.

Using the objective test that says 'how would a reasonable man have acted under the conditions prevailing at the time of the accident', the Office assessed the conditions of Mr.K as follows. It was by his actions that the electric wires were cut knowing that those were live electricity wires. The above-mentioned details would compel a reasonable man to take necessary steps to ensure that lives of the people and animals passing near those wires were protected. But Mr. K did not do that, thereby creating an unreasonable risk to himself and his property.

Outcome

My office found him responsible for the resulting injury/loss of his cow even though LEC did not attend the matter as swiftly as it was demanded. It was regarded as contributory negligence and his claim was declined.

Case Number: OMB/2006/0566

Complaint against Lesotho Highlands Development Authority

Abia Multipurpose Society complained against LHDA in 2006 aggrieved that LHDA failed to pay compensation for communal assets which they undertook to pay in 2004.

Investigations

According to LHDA's compensation policy, host community and a relocated household/s were to form a society for income generation purposes and also to identify key activities they would wish to undertake to qualify for a communal compensation payment.

The investigations revealed that LHDA advised the host community and resettled households from Likalaneng Ha Mohale to form and register a society and to open a bank account wherein compensation for communal assets in respect of those resettled would be deposited. The Society was given M1,000.00 by LHDA to open the said bank account. This was explained to society by LHDA as a prerequisite for payment of communal compensation. LHDA informed the Ombudsman that payment of compensation for communal assets was put on halt due to verification exercise that was going on at that time. LHDA said the exercise was for verification of individual files and payments made to each household affected by LHDA's activities. It also made an undertaking to inform all affected communities about that state of affairs.

In January 2008, LHDA informed the Ombudsman that the individual audit of payments was completed, though it took longer than it was expected. Payment of communal assets and arrears were projected to be paid in March 2008. Since the matter at hand took longer than expected, LHDA adopted the Ombudsman's recommendations in the case of Matala resettlers against LHDA, where the Ombudsman had recommended that since host communities in Maseru urban had nothing to offer to the relocated households, payment of communal compensation be made per relocated household.

Outcome

The payment was effected in the year 2016/17 to the households as was decided and the case was closed.

Case Number: OMB/2016/17/0065

Complaint against the Ministry of Health

Mr. V sought an intervention between himself and the National Health Training College following his dismissal from the college. He alleged that he was suspended on the 30th October 2015 for having participated in the ill-treatment of the first-year students by the senior students. He stated that he immediately wrote a letter of apology to the college management. The NHTC management decided to recall him to attend classes pending investigations on the matter. He wrote his examinations and proceeded to the third year which was his final year in 2016 and also wrote examinations of which he passed.

At the end of 2016, he got a letter from management that he was suspended from the college for two years. He sought clarification from the Director Academic NHTC and he was told that the management had decided that he would come back after two years

and repeat the last year of his studies. This meant that the complainant would not get his last year results and would not graduate.

Investigations

The investigations revealed that some students had taken legal action against the management decision to suspend all the students who were found guilty of the ill-treatment of other students. The judgment was in their favour and the High Court had ordered that they be reinstated and they be given their results. The management decided to reinstate all the students and excluded the complainant. They argued that his name did not appear amongst the list of students who sought judicial intervention and therefore their decision remained that he be suspended for two years.

Outcome

The Office of Ombudsman made a recommendation that the Principal Secretary in the Ministry of Health as the head of the College Board, that the judgment applied across to all the students who were suspended by the school including the complainant who sought a different intervention. Therefore, the Office recommended that the complainant be reinstated and be given his results so he could graduate. The Principal Secretary complied to the recommendation and on the 6th November and his results were given to him and he was able to graduate, therefore the case was closed on the same date.



Case Number OMB/2013/0099

Complaint against the Ministry of Health

On the 20th September 2013, the Office of Ombudsman received a complaint from Mr. T who was an office assistant at the Ministry of Health in Mokhotlong Hospital. He alleged that he had been office assistant from 2003 to 2006 at a mortuary in Mokhotlong Hospital. He alleged that he never received mortuary allowance until in 2006 when he was told not to report to work until he could be recalled by the Human Resources Office. Therefore, he waited and was never recalled back to duty. He added that he suspected that he became infected with HIV as a result of working in the mortuary without proper protective clothing.

Investigations

Numerous correspondences were made to the Ministry of Health regarding the complaint with no response, and this delayed the matter for some years due to a change of Management at that time. In March 2016 meeting, it was disclosed that the complainant did not qualify for mortuary allowance as he was working as an office assistant in the mortuary premises and did not perform post-mortems with the doctors as he alleged and therefore his allegations that he might have been infected with HIV due to lack of protective clothing was disputed. They further explained that such allowance was only paid to the mortuary officers at Queen II Hospital as they were understaffed and had to work overtime due to heavy workload. The Ministry further revealed that his file was audited, and he was only owed mountain allowance, and Human Resources Office would go back and verify how much the Ministry was supposed to reimburse him. It was also revealed that the complainant was never promised to be recalled but instead he had not reported for duty for three months and

efforts were made to call him for disciplinary measures but he never showed up and therefore he was taken to have deserted from work.

Outcome

My office found out that the complainant did not qualify for the mortuary allowance, hence the case was closed.

Case Number: OMB/2016/17/0045

Complaint against Directorate of Corruption and Economic Offences

The complainant alleges that he was discriminated on the following:

- Not being shortlisted yet he met the specification though he was eligible
- Use of Memorandum of Understanding against him. The MoU stated that the Complainant ought to have left DCEO for not less than six (6) months before he could qualify for consideration for appointment
- Age restriction

Investigations

Upon receipt of the complaint, the Ombudsman issued out a Restraining Order to DCEO directing the DG to suspend all activities relating to the filling of the position in the issue. An inquiry letter was issued to DG requesting DCEO's side of the story. DCEO's responses were as follows:

- The complainant was above the required age, 25-40 years as per job specification
- DCEO stated that MoU required the complainant to have left the institution for not less than six months before he could be eligible for appointment. The DG went on to say that even if DCEO released the Complainant as he had earlier requested, he would still not meet the timeframes as provided for in the MOU
- The DG referred to the advert requiring a person with at least two years' experience in white-collar crime investigation. In this case, the Complainant had only one-year experience
- There were more qualified applicants than the complainant.
- They alluded that the complainant is incompetent
- On the issue of Mr. N and Mr. M, the CIO stated that he only recalls that Mr. N was shortlisted before he could be attached to DCEO.

The following findings were made:

- The complainant was shortlisted by Human Resource based on experience and qualifications however but his name was removed because CIO felt he did not meet the requirements. The CIO and HRO could have discussed the draft shortlist.
- They disqualified him about his age citing regulations which they could not submit
- The fact that the Complainant had been allowed to work with and "mentor" an unseasoned investigator went to show just how much faith the CIO had in the Complainant

- DCEO's management was discriminatory in the use of MoU because it only became strict in adhering to the MOU when it came to the Complainant. The Ombudsman was thus inclined to conclude that DCEO had previously not been so adamant to follow the provisions of the MOU as they were seeking to do in the present case.
- DCEO failed to give a reasonable explanation as to why it had failed to pay to the Complainant the difference between his salary in the Police Service and that of an Investigations Officer at DCEO according to the MOU.
- There was also no explanation as to why no appraisal concerning Complainant's performance as stipulated in the MOU took place.

Outcome

The Ombudsman recommended thus;

- That the Complainant should be included in the shortlist and interviews start from the beginning.
- Terms of reference for officers must be stipulated
- DCEO management would have to follow the MOU as it was not picked to follow articles that favoured it. This would help prevent complaints such as this one by Mr. X.

The DG wrote to the Ombudsman airing his dissatisfaction with the latter's findings and recommendations. Ombudsman advised the DG to approach the High Court for review as a matter of Administrative Law. He, however, proceeded with recruitment that compelled the Ombudsman to write a special report to Parliament.

Maladministration

Case Number: OMB/2016/17/0038

Complaint against Standard Lesotho Bank

Ms NM complained on the 18th August 2016, alleging that Standard Lesotho bank continued to withdraw money from her account even though she had finished repaying the loan.

She took a loan from Standard Lesotho bank in January 2013 and was to repay it for four years. After paying the first six months she decided she wanted to increase her monthly instalment to reduce the period of repayment. She wanted to pay not more than two thousand Maloti (2000.00) per month. She approached the bank about that but was informed that it was not possible to do that. She was rather advised to revolve her loan so that her instalment could be increased, and she agreed to that. She was given an additional loan of fourteen thousand Maloti (M14, 000).

She further reported that she was given two repayment schedules which both showed that the payment of the loan would stop in May 2016, but she was surprised when the bank continued to withdraw the money after May. Upon inquiry, she was told that her loan repayment was supposed to end in 2018, hence she decided to lodge her complaint with the Office of the Ombudsman.

Investigations

Standard Lesotho bank was contacted, and a meeting was arranged, wherein the complainant was also invited. In the meeting, the bank admitted knowing Ms NM's complaint and reported that she was given an erroneous repayment schedule, which according to them was a genuine human error. The bank further informed the meeting that it was not true that shortening time by increasing instalment could not be allowed. They apologised for misinformation.

Outcome

In trying to find the solution for Ms MM's complaint, Standard Lesotho bank stated that they discussed the matter and came up with suggestions that could be taken to resolve the matter and those were;

- Restructure the loan in a manner that would increase monthly instalment and reduce the period of payment
- Pay the difference between what she was supposed to pay and what she was paying, which amounted to seventeen thousand Maloti (M17,400).
- Leave out interest and insurance, which would then give an amount of seven thousand, nine hundred and seventy-seven Maloti and sixty Lisente (M7,977.60).

The complainant opted for the third proposal. Later on, they reported that they had reached a consensus with the complainant and the loan had been written off. The case was then closed

Case Number: OMB/2016/17/0008

Complaint against Land Administration Authority

The complainant approached the Office of the Ombudsman complaining that the Land Administration Authority (LAA) was refusing to grant him a lease for his site that is located in Moselinyane Ha Nyenye Maputsoe. The site was allocated to him by family members and he had documents to prove ownership.

Investigations

The Office of the Ombudsman wrote a letter of enquiry to LAA and the response from it was that as LAA knew about it. In response to the enquiry, LAA informed the Ombudsman that there were two applications made on the site, and the first application was processed into a lease. LAA explained that this was a dispute of title and needed legal intervention. The Ombudsman referred the complainant to LAA for guidance on this matter. The complainant was advised to go to Legal Aid because the matter wanted legal intervention.

Outcome

Since the complainant was advised accordingly, the case was closed.

Case Number: OMB/2016/17/0035

Complaint against Ministry of Tourism

In August 2016 the Ombudsman received a complaint from two laid-off employees of Kome Information Centre who complained about the following issues:

- They were laid off from work without terminal benefits
- They were not given notice for their termination
- They worked for ten years through fixed-term renewable contracts but their remuneration remained the same throughout the years, their salaries were never reviewed
- They were not paid for work they did during weekends and holidays
- At the end of their contracts, they were not paid gratuities
- Mrs. M. worked as both a cleaner and a cashier without proper remuneration

Investigations

That Kome Information Centre was one of the LTDC's tourism attractions which were, since 2008, leased out to the private sector under management contracts to run for their business gains while paying monthly rentals to LTDC. The CEO alleged that since 2008 the Centre had had three different management contractors, namely DIO Investments, Mrs. 'Mampinane Teba and Litema Designs and Tangerine Consultancy Joint Venture. These management contractors employed their own staff members that included the complainants. All management contractors' contracts were terminated before the expiry of their contracts. LTDC had to run the Centre in between the contracts through the engagement of the Kome community individuals on fixed-term contracts with the maximum duration of six months and a minimum of one month. CEO explained that the complainants were among the members of the community who were engaged on fixed-term contracts in the interim periods referred to.

CEO informed the Ombudsman that a meeting was held between LTDC and the Kome community where employees of the Centre were informed that LTDC had agreed with the community that community members would be hired on a rotational basis while LTDC reconsidered repackaging of the Centre for prospective investors. He further informed the Ombudsman that severance pay for the interim periods was paid to the complainants and proof thereof was provided and so was proof that they were allowed to take leave during their engagements.

Outcome

The complainants were informed accordingly of the response from LTDC. They were satisfied with the explanation as they claimed they were not privy to such. The case was closed.

Case Number: OMB/2015/16/0090

Complaint against Judiciary

On the 2nd February 2016, Mrs M approached the Office of the Ombudsman alleging that she was ill-treated and unjustly judged by her superior (her salary was stopped) even before her disciplinary case could reach finality.

Investigation

My Office wrote the letter of inquiry to the Registrar who referred the case to the Assistant Registrar. It was discovered that salary stoppage was done without even following proper procedures.

Outcome

The Ombudsman felt that this could be considered as passing judgment to the complainant. According to him, it was untimely, procedural and unjust to have given out judgment before the conclusion of the hearing. To top it all, this was not done by the rightful person.

The Office of the Ombudsman recommended that the complainant be given leave of absence pending the outcome of the hearing considering the unhealthy relationship between the complainant and her superior. Also that the complainant's salary should be reinstated and be paid from the time of its stoppage to date.

Case Number: OMB/2016/17/0089

Complaint against Ministry of Small Business, Cooperatives and Marketing

On the 21st December 2016, Mr. M approached the Office of Ombudsman complaining that the authorities in the Ministry of Small Business, Cooperatives and Marketing (MSBCM) refused to pay him salaries for the period (October 2014 to July 2015) where he worked as a lecturer at Lesotho Cooperative College. According to the complainant, his first engagement with the College was in April 2014 when he applied for a teaching position on voluntary terms. In October 2014 one lecturer was granted study leave and the management decided that he fill in the vacant position. He was also informed that arrangements were being made to formally engage him on casual terms until the lecturer came back from study leave. The complainant also alleged that he performed the lecturing duties without any payment until he began putting pressure on the management of Lesotho Cooperative College (LCC) demanding payment. He was again promised a formal contract but later, he was written a letter terminating his services at LCC.

Investigations

My Office wrote a letter to MSBCM requesting their position on the matter. The Ministry did not respond until February 2017 when the Office of Ombudsman decided to call for a meeting with the Human Resources Manager MSBCM. It was in this meeting that the Ministry's position was pronounced. The HRM stated that they could not pay the complainant because there was no vote against which he could be paid. Furthermore, the MSBCM did not have the authority to engage the complainant as the Ministry of Public Service was the only authority that hired graduates by way of placements.

His file confirmed that he joined the LCC on voluntary terms on 17th September 2014 and it was clear from his letter of engagement that he would not be paid. On the 1st of October 2014, the LCC management decided to engage the complainant to fill in place of a lecturer who was granted study leave. There were also copies of duty roster signed by the complainant and students to confirm that he performed lecturing duties from 1st October 2014 to 31st July 2015. Later on, the then Principal Secretary of MSCM offered him retrospective appointment contract on casual terms which he signed on the 23rd September 2016.

Outcome

The Ombudsman recommended that the complainant be compensated at an appropriate rate for the period (7th October 2014 to 30th November 2016). He worked as a substitute teacher whose substantive holder was on study leave. The Recommendation was made on the 14th July 2017 and it was to be complied with within two months from the date of the determination. The Office of Ombudsman was still awaiting compliance as the MSCM had requested that they should be given more time as consultations with the Ministry of Finance were still being made.

Case Number: OMB/2015/16/0070

Complaint against Office of the Auditor General

On November 25, 2015, the Ombudsman received a complaint from Miss T. M. who was aggrieved that since she resigned from the public service in January 2011 she had not received her terminal benefits.

She informed the Ombudsman that she joined the civil service in 2004 as Assistant Auditor placed at the Office of the Auditor-General and that she was later promoted to the position of Auditor at Grade G. she resigned in 2011 having gotten a job in the Republic of South Africa. She has since been pestering the Office of the Auditor-General for her terminal benefits but in vain hence her decision to approach the Ombudsman to intervene.

Investigations

On receipt of the complaint, the Ombudsman sought the Auditor General's side of the story. In her response, the Auditor General explained to the Ombudsman that her office was not aware of the outstanding payment owed to the complainant and undertook to instruct her office to work on it with immediate effect. After a few days, the Ombudsman received a progress report that the audit had computed complainant's gratuity and that her file had been submitted to the Pension Fund for payment. The Ombudsman was asked to advise the complainant to open a bank account into which her terminal benefits would be deposited. The complainant was informed accordingly.

Outcome

A few weeks later the complainant called to inform the Ombudsman that her terminal benefits had been paid. The case was closed.

Case Number: OMB/2014/15/0157

Complaint against the Ministry of Local Government and Chieftainship Affairs

Mr. R complained against the Ministry of Local Government on the 13th November 2014 where he alleged that the Ministry of Local Government through the department of Chieftainship denied him his allowance of being a Chief at Ha Rasekila from October 2012 to January 2014. He claimed that he was a rightful Chief of Ha Rasekila but he appointed his late uncle to be an interim chief while he was still employed at some agency in Maseru. Upon his return in 2012, after his uncle had passed on, he wrote several letters to the Director of Chieftainship Local Government informing him of the death of his interim chief at Ha Rasekila, and his return to being in office.

He indicated that regardless of the letters he had written to the Director Chieftainship, the deceased still got paid for the whole year and yet he was no longer in office. On the other side, he was never paid his allowance.

Investigations

A letter of inquiry to the Principal Secretary Local Government on the 19th November 2014. There was no response from the said Ministry for eight months. The meeting was convened in August 2015 where it was established that the complainant's claim was legitimate and that the Ministry of Local Government ignored his notice of death. Then it was agreed that the Ministry would go back and resolve the matter internally and that the report would be issued to the Ombudsman. However, the Ministry did not attend to the matter as agreed. On the 10th August 2016, the investigator had a meeting with the Director of Chieftainship who agreed that indeed the complainant deserved his pay, however, it would have been best if the Ombudsman wrote a determination on the matter.

Outcome

The Ombudsman recommended that;

- The Ministry of Local Government pays him chieftainship allowance for the period from October 2012 to January 2014.
- The Ministry surcharges the officers responsible for the loss (due to their negligence).

The Ministry complied with the recommendation to pay the complainant his allowances and arrears in full. The case was closed.

Case Number: OMB/2013/0051

Complaint against Ministry of Agriculture and Food Security

Mr. SJ was an officer at the Ministry of Agriculture who was nominated to pursue his studies in the United Kingdom (UK) sponsored by the British Council to study in the UK through NMDS. He completed his studies and claims that NMDS had unfairly billed him. Five years later, his wife wanted to further her studies with the University of Natal and was surprised when he was told that he had to go to NMDS to sign a contract about his studies in the UK. He claims that his wife was denied sponsorship because according to him, he does not owe NMDS.

Investigations

The Ombudsman wrote a letter of inquiry to Director NMDS on the matter. The Ombudsman received a reply from Director NMDS requesting the written complaint that was presented before the Ombudsman. After that Director NMDS furnished the Ombudsman with a copy of Loan Bursary Fund Regulations No. 20 of 1978 quoting Section 6 (2) which provided that "*Where a bursary is funded by a body other than Government, the sums awarded to a student by that body shall, whether or not they have been paid into the fund, be deemed to have been paid out of the fund*". The provisions of the Loan Bursary Regulations were explained to him and understood their application on the spouse's application for sponsorship.

Outcome

The case was duly closed.



Communication

Lesotho has ten districts, divided into three regions: south, north and central. The office of the Ombudsman is centralized in Maseru. Most of the population in Lesotho is not aware of the Office's existence and the services it provides. To publicise itself, the Office holds outreach programmes and radio programmes to inform the public about its existence and services rendered. The following table shows the activities and programmes that were undertaken in the year 2016/17:

Table 2:

Date	Place/Institution	Number of People	Type of people	Number of flyers/pamphlets distributed
15/4/2016	Lerotholi Polytechnic College	856	Students and Staff	2,856
09/06/2016	Ntlafatso Skills and Training Centre	104	Students and Staff	1,000
13/07/2016	Maluti Nursing College	47	Students and Staff	2,000
08/08/2016	Mohale's Hoek CBD	80	Public Servants	1,000
07/11/2016	Hlotse High School		Staff and Pupils	2,000
29/11/2016	Quthing, Sebapala	50	Chiefs	2,000
27/01/2017	Maseru CBD		Public	9,000
13/02/2017	Thaba-Tseka Technical Institute	225	Students	2,000
13/02/2017	Matheko Training Centre		Students	1,000
13/02/2017	Thaba-Tseka Prison		Prisoners and Staff	1,000
	Thaba-Tseka High School		Students and Staff	1,000
17/03/2017	Thetsane Industrial Area		Factory Workers	3,500

Table 3: Radio and Television Programmes

Date	Radio/Television	Programme
24/08/2016	Lesotho Television	Ntataise
25/08/2016	Harvest FM	Khetsing
29/08/2016	Radio Lesotho	Ho Tloha Tele

Annual Financial Report: 2016/17

During the Financial Year 2016/17, Approved Estimates were M 7,845,804.00 and Released Warrants were M 6,834,808.54, below the Approved Budget by M 1,010,996 (Approx.12.9%). Breakdown of Approved and Released Budgets vs Actual Expenditure in monetary and percentage units:

Table 4: Financial Report

SUB-HEAD	APPROVED BUDGET	RELEASED BUDGET	ACTUAL EXPENDITURE	VARIANCE	% OF EXPENDITURE	% OF APPROVED BUDGET	% OF RELEASED BUDGET
PERSONAL EMOLUMENTS	4,473,454.00	3,871,993.69	3,728,938.72	143,054.97	96.3	57.0	56.7
TRAVEL AND TRANSPORT	879,000.00	666,114.89	661,885.63	4,229.26	99.4	11.2	9.7
OPERATING COSTS	2,493,350.00	2,296,691.96	2,291,537.96	5,154.00	99.8	31.8	33.6
TOTALS	7,845,804.00	6,834,800.54	6,682,362.31	152,438.23	97.8	100	100.0

Out of M 6,834,800.54 released, M6, 682,362.3 was spent (97.8%) of the total funds is released.

M 152,458.23 was left unspent at the end of 2016/17 Financial Year (2.2%) of the total funds released.

Human Resource Management

Appointment of Officers/Movement of Staff

- **Principal Investigations Officer, Grade H**
Mrs. Teboho Letsie Sesinyi was appointed on promotion to hold the vacant position of Principal Investigations Officer, Grade H in October 2016.
- **Driver, Grade C**
Mrs. Mafatima Tinte was offered an appointment on probation to hold the vacant position of Driver, Grade C in October 2016.
- **Finance Officer, Grade G**
Mr. Lekhotla Matamane was transferred on promotion from Ministry of Public Works and Transport to Office of the Ombudsman to hold the vacant position of Finance Officer, Grade G, with effect from 1st December 2016.
- **Office Assistant, Grade A**
Mr. Khotso Motsoela was offered an appointment on probation to hold the vacant position of Office Assistant Grade A, in November 2016.
- **Procurement Officer, Grade G**
Mrs. Masekoati Motšetšero was transferred on promotion from the National Assembly to Office of the Ombudsman to hold the vacant position of Procurement Officer, Grade G and assumed her full duties in January 2017.
- **Senior Investigations Officer, Grade G**
Mr. Leboea Letele was appointed on promotion to hold the vacant position of Senior Investigations Officer, Grade G in March 2017.

Acting Appointment

Adv. Matšelis Machai-Ndumo (Chief Legal Officer, Grade I) was appointed to act in the vacant position of Assistant to Ombudsman, Grade K with effect from 18th January 2017 until 30th March 2017.

Confirmation into Appointment

Mrs. 'Maneo Rotheli Nthejane (Investigations Officer, Grade F) completed her one-year probationary period on the 1st July 2016 and was therefore admitted into the establishment and confirmed into the appointment.

Training and Development

Long Term Training

Miss. Matšelisio Moleleki, Procurement Assistant, Grade E was granted a two-year study leave to pursue B.Tech Business Administration with the Central University of Technology for a period starting from 01st January 2017 to December 2018.

Short Term Training

The following officers attended a training course on Report Writing and Minute Taking at the Institute of Development Management:

- 1) Mrs. 'Mathabiso Phelane (Chief Public Relations Officer, Grade G)
- 2) Miss. Matšelisio Moleleki (Procurement Assistant, Grade E)
- 3) Mrs. 'Mareamohetsoe Letooane (Assistant Administration Officer, Grade F)
- 4) Mrs. 'Maretšepile Motanyane (Senior Investigations Officer, Grade G)
- 5) Mrs. Teboho Letsie-Sesinyi (Principal Investigations Officer, Grade H)
- 6) Mrs. 'Masenate Letsie (Senior Investigations Officer, Grade G)
- 7) Mr. Leboea Letele (Senior Investigations Officer, Grade G)
- 8) Miss. Nteboheng Motšoane (Assistant Personal Secretary, Grade D)

Change of Names and Surnames

Previous Name	Previous Surname	New Name	New Surname
Bonang	Mokhele	'Mathabiso	Phelane
'Masebetsa	Shale	'Masebetsa	Taoli
Mamello	Monokoa	'Mareamohetsoe	Letooane
Khopotso	Molapo	'Maretšepile	Molapo-Motanyane

Re-designation of Positions

Mr. Lebohang Tholeng's position of Chauffeur, Grade D, was re-designated to Senior Chauffeur, Grade F, with effect from 01st June 2007, following the re-designation of his substantive position.

Remunerations and Benefits

Upgraded Positions

Position of Assistant to Ombudsman, Grade J, was upgraded from grade J to Grade K in August 2016.

Retiring Officers

Mrs. Lebohang Ntoampe (Assistant to Ombudsman, Grade K) applied for early retirement and was as a result released on January 1st 2017.

Administration

Transport

During the review period, the Government of Lesotho had implemented a six months short term hire contract with Bidvest Bank Limited from 1st October 2015 up to 31st March 2016 with the extension until October 2016. The following vehicles were allocated to the Office of the Ombudsman as shown below;

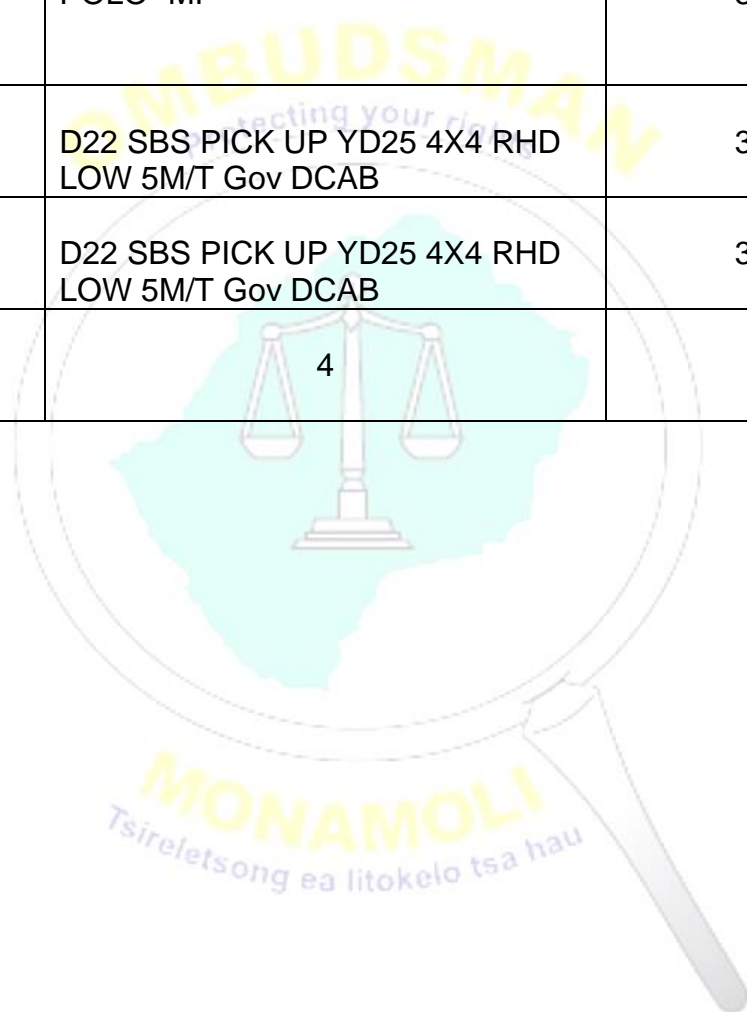
List of Ombudsman's Fleet- Bidvest: From October 2015 To October 2016

Registration	Make/ Model
Y5259/ CZ83NFGP	Ford Ranger 4X4 D/C
Y5260/CZ78HBGP	Ford Ranger 4X4 D/C
Y5262/CY20SZGP	Nissan Micra
DT81KDGP/X0036	Audi A4
DV06NTGP/X0036(Replacement to DT81KDGP)	Audi A4

The table below shows vehicles which replaced the above-mentioned vehicles within the same review period:

Table 5: LIST OF OMBUDSMAN'S FLEETS- BIDVEST: FROM SEPTEMBER/OCTOBER, 2016 TO 31st MARCH 2017

Registration no.	Make & Model	TAG NO.
FK64VSGP/X0036	Audi A4	
X6065	Polo Vivo 1.6 Trend Se m 77k 65- POLO- MP	32343
X6219	D22 SBS PICK UP YD25 4X4 RHD LOW 5M/T Gov DCAB	32239
X6279	D22 SBS PICK UP YD25 4X4 RHD LOW 5M/T Gov DCAB	32183
TOTAL	4	



Statistical Analysis

Table 6: 2016/17 Statistical Analysis of Complaints

Ministry/Agency	Brought Forward (15/16)	Close (15/16)	Previous Years Carried Forward (17/18)	Received (16/17)	Sustained (16/17)	Not Sustained (16/17)	Closed (16/17)	Current Year Carried Forward (17/18)	Total Carried Forward (17/18)
CBL	1	0	1	1	1	0	1	0	1
SLB	0	0	0	1	1	0	1	0	0
Prime Min	0	0	0	1	1	0	0	1	1
IEC	0	0	0	1	1	0	1	0	0
WASCO	1	1	0	0	0	0	0	0	0
Energy	0	0	0	1	1	0	0	1	1
Soc. Dev.	0	0	0	2	2	0	0	2	2
Gender	0	0	0	1	1	0	0	1	1
Dev. Pln.	1	0	1	1	1	0	0	1	2
Small Business	0	0	0	2	2	0	1	1	1
Public Works	2	1	1	6	6	0	0	6	7
Public Service	1	0	1	3	2	1	0	2	3
Private	0	0	0	5	0	5	0	0	0
Labour	6	1	5	2	1	1	0	1	6
Justice	8	3	5	1	1	0	0	1	6
Master of High Court	7	0	7	1	0	1	0	0	7
Foreign Affairs	1	0	1	1	0	1	0	1	1
Law	2	1	1	0	0	0	0	0	1
LEC	5	4	1	2	0	2	0	0	1
Defense	1	0	1	2	2	0	1	1	2
Judiciary	11	8	3	9	5	4	3	2	5
LNIG	0	0	0	1	1	0	1	0	0
Forestry	0	0	0	1	1	0	1	0	0
Education	14	6	8	25	24	1	18	6	14
MAFS	27	4	23	9	7	2	0	7	30
Finance	23	5	18	7	6	1	1	5	23
LHDA	48	25	23	3	2	1	0	2	25
Tourism	2	0	2	1	1	0	1	0	2
DCEO	0	0	0	1	1	0	0	1	1
Police	16	1	15	2	2	0	0	2	17
Local Gov.	35	11	24	13	9	4	2	7	31
LHLDC	2	0	2	1	1	0	0	1	3
Water	0	0	0	1	1	0	0	1	1
Trade	6	3	3	1	1	0	1	0	3
Home Affairs	5	4	1	1	1	0	1	0	1
LNDC	1	1	0	0	0	0	0	0	1
Health	11	3	8	14	10	4	2	8	16
National Assembly	0	0	0	1	1	0	0	1	1
Communications	0	0	0	2	2	0	2	0	0
Metolong	0	0	0	1	1	0	0	1	1
Total	237	82	155	128	100	28	38	63	218

Table 6 above shows that out of two hundred and thirty-seven (237) cases brought from previous years, we managed to close eighty-two (82) cases and carry forward one hundred and fifty-five (155) cases to the year 2016/17. In 2016/17, we received one hundred and twenty-eight cases (128), sustained one hundred cases (100), closed thirty-eight (38) cases and carried forward sixty-three (63) cases. Therefore, the total number of cases carried forward to 2017/18 is two hundred and eighteen (218). The number of cases carried forward from previous years to 2017/18 has decreased significantly by forty (40) cases.

Table 7: Backlog from Previous Years and Disposal into 2016/17

Investigator	Cases Brought Forward From Previous Years	Cases Closed From Previous Years	Cases from Previous Years Carried Forward to 2017/18	% Number of Cases closed as per cases b/f from previous years	% Number of Backlogged Cases
CLO	22	4	18	18%	82%
PIO1	99	28	71	28%	72%
PIO2	11	5	6	45%	55%
PIO3	24	10	14	42%	58%
SIO1	17	12	5	71%	29%
SIO2	49	13	36	27%	73%
SIO3	2	1	1	50%	50%
IO	1	0	1	0%	100%
Total	225	73	152	32%	68%

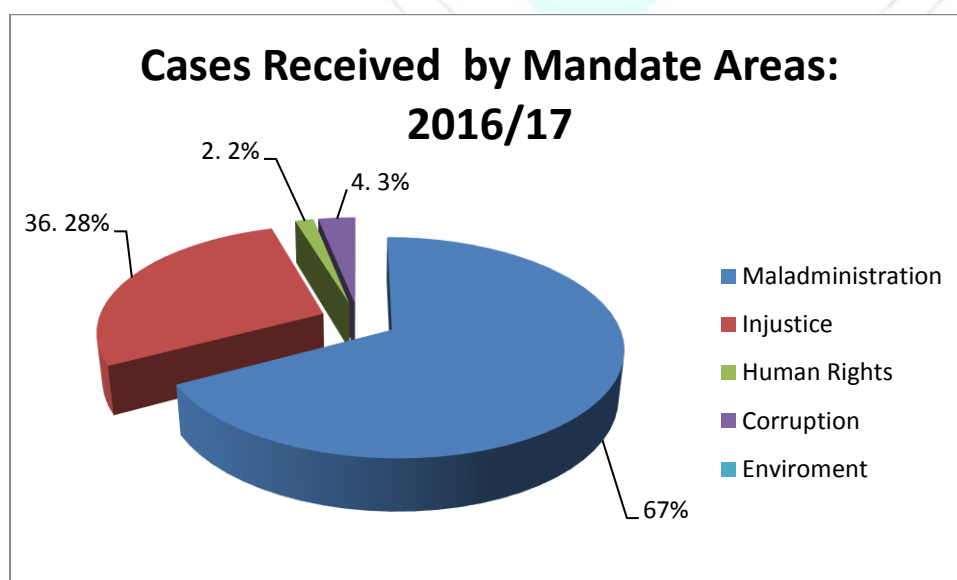
Table 7 illustrates that the number of cases brought forward from previous years was two hundred and twenty-five (225), closed cases from previous years were seventy-three (73) and cases carried forward from previous years were one hundred and fifty-two (152). Therefore, the overall number of cases closed in 2016/17 from previous years was thirty-two per cent (32%). While the overall number of cases backlogged was sixty-eight per cent (68%)

Table 8: Backlog from the Current Year and Disposed to the Following Year 2017/18

Investigator	Received Cases 2016/17	Cases Sustained	Cases not Sustained	Closed Cases 2016/17	Cases Carried Forward to 2017/18	% Number of Cases closed as per cases sustained	% Number of Backlogged Cases
CLO	10	2	8	0	2	0%	100%
PIO1	21	18	3	2	16	11%	89%
PIO2	25	24	1	18	6	75%	25%
PIO3	17	12	5	3	9	25%	75%
SIO1	15	9	6	6	3	67%	33%
SIO2	16	12	4	3	9	25%	75%
SIO3	14	13	1	0	13	0%	100%
IO	4	4	0	3	1	75%	25%
Total	122	94	28	35	59	37%	63%

Table 8 depicts that one hundred and twenty-two (122) cases were received, ninety-four (94) cases were sustained, thirty-five cases were closed and fifty-nine (59) cases were carried forward to the year 2017/18. Therefore, thirty-seven per cent (37%) of the sustained cases were closed, while sixty-three per cent (63%) cases were backlogged.

Figure 1: Cases Received by Mandate Areas: 2016/17



The Figure above shows that the majority of received cases fall under maladministration followed by injustice and there were zero (0) unreported environmental cases.

Challenges

1. Office Accommodation

Availability of adequate office accommodation remains a serious challenge for the office. For the past years to date, we have been unable to secure suitable premises.

2. Lack of financial commitment by management

The office is faced with the challenge of not having an operational plan. As a result, this leads to underutilisation of funds.

3. Accessibility

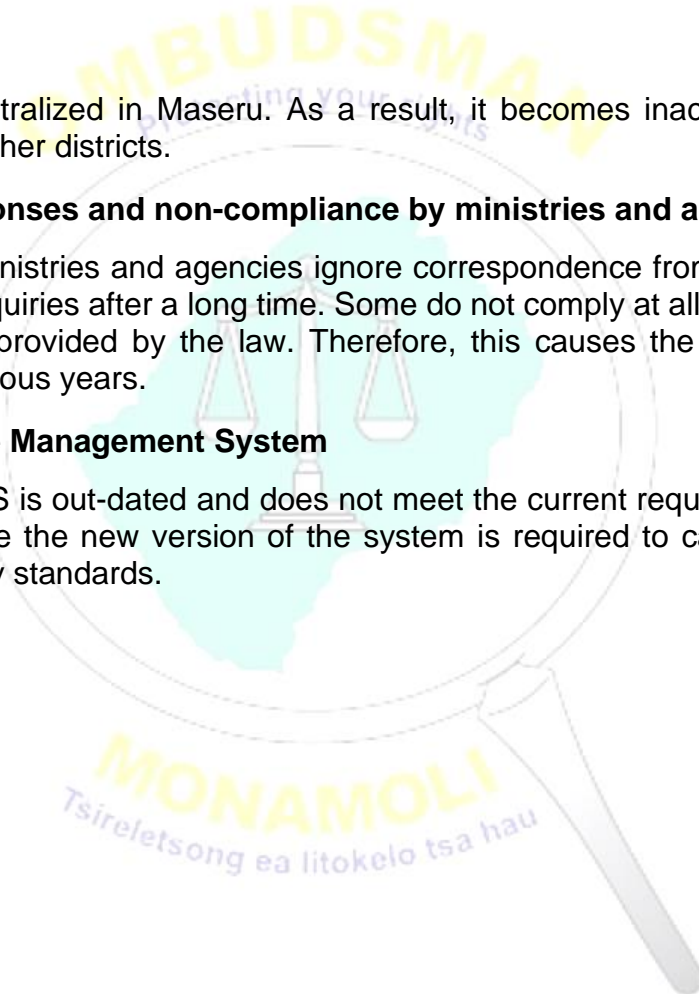
The office is centralized in Maseru. As a result, it becomes inaccessible to people living in other districts.

4. Untimely Responses and non-compliance by ministries and agencies

Some certain ministries and agencies ignore correspondence from the office or respond to inquiries after a long time. Some do not comply at all and do not utilise avenues provided by the law. Therefore, this causes the backlog of cases from previous years.

5. Out-dated Case Management System

The current CMS is out-dated and does not meet the current requirements of the office. Hence the new version of the system is required to cater for the latest technology standards.



Recommendations

The office proposes to address the challenges by:

1. Renting bigger office space for the confidentiality of complainants and investigators.
2. The office should have strategic and operational plans which will enable effective spending of funds.
3. The office should have Memorandum of Understanding (MoU) with the offices of District Administrators (DA). This will enable the complainants to submit their written complaints in their respective DA offices.
4. Vigorous sensitisation of Chief Executive Officers (CEO) and Principal Secretaries (PS) should be done regularly. This will improve their interaction with the office.
5. The CMS should be upgraded to cater for the latest needs and technologies

